



Redwood Coast Energy Authority

633 3rd Street, Eureka, CA 95501

Phone: (707) 269-1700 Toll-Free (800) 931-RCEA Fax: (707) 269-1777

E-mail: info@redwoodenergy.org Web: www.redwoodenergy.org

MEETING AGENDA

**Redwood Coast Energy Resource Center
633 3rd Street, Eureka, CA 95501**

**August 15, 2016
Monday, 2:00 p.m.**

Redwood Coast Energy Authority will accommodate those with special needs. Arrangements for people with disabilities who attend RCEA meetings can be made in advance by contacting Katie Koscielak at 269-1700 by noon the day of the meeting.

SPECIAL MEETING 2:00 p.m.

I. ROLL CALL

II. ORAL COMMUNICATIONS

III. CLOSED SESSION - Pursuant to Government Code section 54956, Executive Director Annual Performance Evaluation.

IV. REPORT OUT FROM CLOSED SESSION

REGULAR MEETING 3:15 p.m.

V. ROLL CALL

VI. REPORTS FROM MEMBER ENTITIES

VII. ORAL COMMUNICATIONS

This time is provided for people to address the Board or submit written communications on matters not on the agenda. At the conclusion of all oral & written communications, the Board may respond to statements. Any request that requires Board action will be set by the Board for a future agenda or referred to staff.

VIII. CONSENT CALENDAR

All matters on the Consent Calendar are considered to be routine by the Board and are enacted on one motion. There is no separate discussion of any of these items. If discussion is required, that item is removed from the Consent Calendar and considered separately. At the end of the reading of the Consent Calendar, Board members or members of the public can request that an item be removed for separate discussion.

- A. Approve Minutes of June 20, 2016 Board Meeting.**
- B. Approve Minutes of July 18, 2016 Board Meeting.**
- C. Approve attached Warrants.**
- D. Accept attached Financial Reports.**
- E. Adopt Resolution No. 2016-1 Adopting a Conflict of Interest Code.**

IX. REMOVED FROM CONSENT CALENDAR ITEMS

Items removed from the Consent Calendar will be heard under this section.

X. NEW BUSINESS

- A. Citizens Advisory Committee Report**

B. Community Choice Aggregation Operational Services Contracts

Approve a contract with The Energy Authority, including Task Order 1 and Task Order 2 with control agreement exhibits, for Community Choice Aggregation Program development, launch, and operational services, and authorize the Executive Director to act as Contract Administrator with responsibility and authorization to administer the agreement including authority to transmit instructions, receive information, and implement the agreement on behalf of RCEA.

Approve a contract with Local Energy Aggregation Network (LEAN Energy US), including all exhibits, for Community Choice Aggregation Program development and launch services and authorize the Executive Director to act as Contract Administrator with responsibility and authorization to administer the agreement including authority to transmit instructions, receive information, and implement the agreement on behalf of RCEA.

C. State Legislation: AB 1110

Consider directing staff to submit a letter opposing Assembly Bill 1110.

XI. ADJOURNMENT

***The next RCEA Board of Directors meeting
will be a special workshop meeting, scheduled for
Monday, September 12, 2016 at 5:30pm (light dinner available at 5pm)***



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MEETING MINUTES

Redwood Coast Energy Resource Center
633 3rd Street, Eureka, CA 95501

June 20, 2016
Monday, 3:15 p.m.

Redwood Coast Energy Authority will accommodate those with special needs. Arrangements for people with disabilities who attend RCEA meetings can be made in advance by contacting Katie Koscielak at 269-1700 by noon the day of the meeting.

I. ROLL CALL

Board Chair Atkins called the meeting to order at 3:15 pm

Present: Linda Atkins, Sheri Woo, Jean Lynch, Susan Ornelas, Jack Thompson

Absent: Doug Brower, Ryan Sundberg, Tiara Brown, Dwight Miller

II. REPORTS FROM MEMBER ENTITIES

There were no reports from member agencies.

III. ORAL COMMUNICATIONS

There were no oral communications.

IV. CONSENT CALENDAR

A. Approve Minutes of May 16, 2016 Board Meeting.

B. Approve attached Warrants.

C. Accept attached Financial Reports.

M / S / C: Ornelas, Lynch: Approve consent calendar items A, B, and C

V. REMOVED FROM CONSENT CALENDAR ITEMS

D. Approve 2 new Program Assistant positions.

Vice Chair Woo removed item D to ask whether the positions were associated with the CCA program. Executive Director Marshall clarified that one position is for additional administrative functions and the other is for a receptionist.

M / S / C: Woo, Ornelas: Approve consent calendar item D

VI. NEW BUSINESS

A. Community Choice Aggregation

Executive Director Marshall provided an update on the status CCA program development and adoption of participation ordinances by member-jurisdictions.

Director Ornelas asked whether residents in a municipality that does not sign a CCA ordinance will be able to opt-in to the CCA program. Executive Director Marshall reported that those residents will not have the option to participate until their municipality passes an ordinance and is added into the CCA program.

Executive Director Marshall reviewed a timeline of CCA program activities in the next few months, includes Board decision points.

The Board discussed the prospective Board decision that pertain to CCA, and RCEA Legal Counsel Nancy Diamond clarified that the entire Board will continue to vote on RCEA matters, including contracts, but only CCA participating members will vote on CCA program specific decisions like power rates and power content.

Executive Director Marshall suggested two joint special meetings with the Board of Director and the Citizens Advisory Committee to function as public engagement workshops on July 28, 2016 and September 12, 2016.

M / S / C: Woo, Ornelas: Approve RCEA Board Special Meetings for the evenings of July 28 and September 12.

RCEA Consultant Mary Gelinas provided an overview of the Citizens Advisory Committee Charter and explained the function of the Citizens Advisory Committee members in the public engagement process. The Citizens Advisory Committee will not have decision-making authority and each RCEA Board Director will nominate one person to the Citizens Advisory Committee.

The Board discussed the process of nominating a person to the Citizens Advisory Committee and quorum definition in the charter.

Vice Chair Woo asked whether any Board Directors would be required to attend the Citizens Advisory Committee meetings. RCEA Legal Counsel Nancy Diamond clarified that any RCEA Board Directors in attendance of the Citizens Advisory Committee meetings would not weigh in to Citizens Advisory Committee decisions, but rather acts as a witness and liaison of the RCEA Board.

M / S / C: Ornelas, Woo: Approve Citizens Advisory Committee Charter upon revision of a 2/3 quorum and appointing Vice Chair Woo as the Board liaison, with Board Chair Atkins as alternate liaison.

The following Citizens Advisory Committee members were nominated: Heidi Otten (nominated by Vice Chair Woo), Kathy Srabian (nominated by Board Chair Atkins), Richard Johnson, with Ellen Golla as an alternate (nominated by Dwight Miller), and Norman Bell (nominated by Susan Ornelas). Five remaining vacancies to be filled by remaining member agencies. Board Chair Atkins suggested that, with only four appointed Citizens Advisory Committee members out of the 7-9 needed to form the Citizens Advisory Committee, the Public Engagement subcommittee can consider add additional nominees to the committee provided by Directors that have not yet made nominations, and then the subcommittee could fill additional remaining vacancies.

Public Comment:

Community member Ellen Golla mentioned that a reduced number of Board Directors nominating several Citizens Advisory Committee members provides an avenue to imbalance the committee toward certain perspectives.

Directors Atkins, Woo, and Ornelas replied that their nominations were selected to specifically address this concern by choosing community members that didn't have any particular interest or stake in a specific outcome, and reinforced that the two upcoming special meetings will be held in a larger venue and geared towards public input.

M / S / C: Ornelas, Woo: Approve the four appointed Citizens Advisory Committee Members, with the remaining nominations to be provided by Board members to Executive Director Marshall, with the Public Engagement

Board Subcommittee authorized to fill remaining vacancies if not all Board members provide nominations by the end of the week.

John Putz of TEA presented a progress update of the Technical Study.

Executive Director Marshall introduced the idea of RCEA pursuing a line of credit to cover RCEA internal costs during the ramp-up of CCA operations prior to beginning service, to be repaid with program revenue after power sales begin.

M / S / C: Woo, Thompson: Authorize developing an application to the Headwaters Community Investment Fund for a line of credit up to \$700,000 for CCA launch-period working capital.

B. Proposition 39 update – this item was deferred to future meeting.

C. Organization Chart Update

Executive Director Marshall introduced a draft of a new RCEA organizational chart that incorporates growth due to CCA program operations.

D. RCEA Fiscal Year 2016-17 Annual Budget

Executive Director Marshall provided an overview of the fiscal year 2016-2017 budget, noting that it was generally the same as the previous fiscal year. CCA program budget items will be address with a future budget revision once the details of the program timeline and budget are more fully developed.

M / S / C: Ornelas, Woo: Adopt RCEA FY16-17 Annual Budget.

VII. ADJOURNMENT

Board Chair Atkins adjourned the meeting at 5:30 p.m.



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MEETING MINUTES

Redwood Coast Energy Resource Center
633 3rd Street, Eureka, CA 95501

July 18, 2016
Monday, 3:15 p.m.

Redwood Coast Energy Authority will accommodate those with special needs. Arrangements for people with disabilities who attend RCEA meetings can be made in advance by contacting Katie Koscielak at 269-1700 by noon the day of the meeting.

I. ROLL CALL

Board Chair Atkins called the meeting to order at 3:15 pm

Present: Linda Atkins, Jean Lynch, Susan Ornelas, Tim Marks, Dwight Miller, Tiara Brown, Michael Sweeney, Virginia Bass

Absent: Sheri Woo

II. REPORTS FROM MEMBER ENTITIES

Director Lynch reported that the City of Blue Lake is still in contract negotiations with the Blue Lake biomass plant.

III. ORAL COMMUNICATIONS

There were no oral communications.

IV. CONSENT CALENDAR

A. Approve attached Warrants.

B. Accept attached Financial Reports.

M / S / C: Bass, Brown: Approve consent calendar items A and B

V. REMOVED FROM CONSENT CALENDAR ITEMS

There were no items removed from the consent calendar

VI. NEW BUSINESS

A. Community Choice Aggregation

John Putz of TEA presented the Draft Technical Study, and the Board discussed local energy generation possibilities.

Public Comment:

Community member Michael Winkler responded to the Technical presentation, noting that Humboldt is a winter-peaking area, which should take special consideration with local renewable generation project development. Mr. Winkler also mentioned that he recommends the power comparison charts to be in the form of pie charts.

Community member Ellen Golla expressed to the Board that the expected price per megawatt of local biomass energy is very expensive and she is concerned about spending community dollars wisely.

John Putz commented on energy price comparisons, noting that the price of renewable energy can't be directly compared to the base price of wholesale "system power" electricity because the State of California mandates renewable energy content, which does come with a price premium.

M / S / C: Miller, Bass: Approve beginning CCA program implementation phase II to proceed with launching the program in 2017.

RCEA Consultant Mary Gelinis reviewed the agenda for the July 28th special meeting, and Executive Director Marshall provided a brief outline of the presentation and workshop topics.

The Board discussed their roles as table facilitators and confirmed that the Citizens Advisory Committee members would also serve as table facilitators at the event.

VII. ADJOURNMENT

Board Chari Atkins adjourned the meeting at 4:25.

Redwood Coast Energy Authority

Warrants Report

As of August 10, 2016

Type	Date	Num	Name	Memo	Amount
Jul 9 - 31, 16					
Bill Pmt -Check	07/13/2016	6725	Eureka Woman's Club	VOID: Venue rental: CCA Community Advisory W	0.00
Bill Pmt -Check	07/18/2016	EFT	Staples Credit Plan	June Statement	-54.97
Check	07/19/2016	Debit	Costco	Office/Janitorial supplies, EUC Workshop supplies	-164.88
Bill Pmt -Check	07/21/2016	Debit	City of Eureka-Water	Water service, 5/25/16 - 6/27/16	-122.06
Liability Check	07/21/2016	E-pay	EDD	DE88 Q3 2016 SDI/PIT July QB Tracking # 36428	-1,499.39
Liability Check	07/21/2016	E-pay	EDD	DE88 Q3 2016 ETT/ UI July QB Tracking # 36428	-141.65
Liability Check	07/21/2016	E-pay	Internal Revenue Service	941 Q3 2016 July QB Tracking # 364286067	-9,596.50
Liability Check	07/21/2016	6756	Calvert	July IRA Deposit	-4,727.26
Paycheck	07/22/2016		Payroll	July Net Payroll	-26,508.11
Liability Check	07/22/2016	6754	Umpqua Bank	July HSA Deposit	-558.36
Liability Check	07/22/2016	6755	Calvert	VOID: 74-3104616 July IRA Deposit	0.00
Bill Pmt -Check	07/25/2016	6728	ABC Office Equipment	July print charges/service contract	-250.07
Bill Pmt -Check	07/25/2016	6729	Action Rentals	Table & easel rentals for CCA Workshop.	-266.41
Bill Pmt -Check	07/25/2016	6730	AM Conservation	Shower timers w/ Energy Upgrade logo.	-674.65
Bill Pmt -Check	07/25/2016	6731	APP Imprints, LLC	Promotional products for events	-1,111.34
Bill Pmt -Check	07/25/2016	6732	AT&T	July Telephone Service	-352.12
Bill Pmt -Check	07/25/2016	6733	Brant Electric	Gregory Mellon DDS Rebate / Audit 4319.	-316.06
Bill Pmt -Check	07/25/2016	6734	Diamond, Nancy	June Legal Services.	-5,045.70
Bill Pmt -Check	07/25/2016	6735	Eureka City Schools	Lafayette School self-install rebate / Audit 4142	-8,513.00
Bill Pmt -Check	07/25/2016	6736	Eureka Woman's Club	Venue rental: CCA Community Advisory Worksho	-140.00
Bill Pmt -Check	07/25/2016	6737	Goddard, G.	July Mileage	-52.33
Bill Pmt -Check	07/25/2016	6738	Hilfiker Pipe Company, Inc.	Hilfiker Pipe Co. self-install rebate / Audit 4242.	-1,201.57
Bill Pmt -Check	07/25/2016	6739	Jackson & Eklund	Accounting service Jan - June 2016.	-472.00
Bill Pmt -Check	07/25/2016	6740	Lighting Research Center	Lighting Technology online course - Goddard & Ov	-250.00
Bill Pmt -Check	07/25/2016	6741	Mission Uniform & Linen	Mat service/janitorial supplies	-11.49
Bill Pmt -Check	07/25/2016	6742	North Coast Cleaning	June Cleaning Service	-402.00
Bill Pmt -Check	07/25/2016	6743	Pacific Paper Company	Furniture and Equipment-Task chair	-139.08
Bill Pmt -Check	07/25/2016	6744	PG&E EV Account	McKinleyville EV / Totem Pole Rd - June	-21.55
Bill Pmt -Check	07/25/2016	6745	PG&E Utility Account	July utilities/lighting upgrade financing	-646.82
Bill Pmt -Check	07/25/2016	6746	Pierson's	DI hardware and materials	-41.39
Bill Pmt -Check	07/25/2016	6747	Pryor Learning Solutions, Inc.	VOID: "HR Law 2016" seminar registration / Halvo	0.00
Bill Pmt -Check	07/25/2016	6748	SDRMA P&L	Cert #23 - Redwood Acres Fair/P&L EV Stations	-74.62
Bill Pmt -Check	07/25/2016	6749	Shafer's Ace	DI hardware and materials	-23.82
Bill Pmt -Check	07/25/2016	6750	Winzler, John	Office Lease - August	-4,100.00
Bill Pmt -Check	07/25/2016	6751	Halvorsen, Nicole	July expenses	-31.53
Bill Pmt -Check	07/25/2016	6752	CiviSMTP	June listserve	-15.00
Check	07/25/2016	6753	Redwood Coast Energy Authority	Chase Direct Deposit Payroll Advance-August	-46,000.00
Check	07/25/2016	6753	Redwood Coast Energy Authority	Chase Direct Deposit Payroll Advance-August	46,000.00
Bill Pmt -Check	07/25/2016	6757	Pryor Learning Solutions, Inc.	"HR Law 2016" seminar registration / Halvorsen	-199.00
Check	07/28/2016	Debit	Staples Store	Easel Pads / CCA meeting	-55.77
Jul 9 - 31, 16					-94,288.61
Aug 1 - 10, 16					
Check	08/01/2016	EFT	CoPower	August Premium	-208.20
Liability Check	08/07/2016	E-pay	EDD	499-0864-3 DE88 Q3 2016 SDI/PIT August QB T	-1,423.49
Liability Check	08/07/2016	E-pay	EDD	499-0864-3 DE88 Q3 2016 ETT/UI August QB Tr	-146.78
Liability Check	08/07/2016	E-pay	Internal Revenue Service	74-3104616 941 Q3 2016 August QB Tracking #	-9,534.48
Bill Pmt -Check	08/08/2016	EFT	VISA	July Statement 6/21/16 - 7/20/16	-766.05
Bill Pmt -Check	08/08/2016	Visa	City of Eureka-Water	Water service, 6/27/16 - 7/25/16	-143.45
Bill Pmt -Check	08/10/2016	EFT	Staples Credit Plan	July Statement	-581.45
Paycheck	08/10/2016		Payroll	August Net Payroll	-25,525.08

Redwood Coast Energy Authority
Warrants Report
As of August 10, 2016

Type	Date	Num	Name	Memo	Amount
Bill Pmt -Check	08/10/2016	6758	AM Conservation	LED/CFL stock	-6,171.64
Bill Pmt -Check	08/10/2016	6759	AMEX	July Statement 7/25/16	-401.49
Bill Pmt -Check	08/10/2016	6760	Bailey Electric	Cloney's Red Cross Pharmacy Rebate / Audit 378	-53.54
Bill Pmt -Check	08/10/2016	6761	Bishop, M.	July mileage and expenses	-116.49
Bill Pmt -Check	08/10/2016	6762	Brightwave Energy	Prop 39 auditing services / 50% payment	-9,000.00
Bill Pmt -Check	08/10/2016	6763	Campbell, A.	July mileage	-29.81
Bill Pmt -Check	08/10/2016	6764	CiviSMTP	July listserv	-15.00
Bill Pmt -Check	08/10/2016	6765	Clayton, C.	Floorstanding Velcro Display Board (2)	-511.98
Bill Pmt -Check	08/10/2016	6766	Gelinas James, Inc.	Consulting & recording services re: Public Engage	-5,310.00
Bill Pmt -Check	08/10/2016	6767	Green, M.	July mileage	-142.88
Bill Pmt -Check	08/10/2016	6768	HireRight	Background Check: Owen, Alstone.	-171.12
Bill Pmt -Check	08/10/2016	6769	HSU Fdn FCEV ARV-14-055	March services - ARV14-055 000163/SP29675.	-561.00
Bill Pmt -Check	08/10/2016	6770	HSU Fdn EVI ARV-14-046	Contract services ARV-14-046	-13,349.90
Bill Pmt -Check	08/10/2016	6771	Humboldt Furniture	Humboldt Furniture self install rebate / Audit 4271	-145.95
Bill Pmt -Check	08/10/2016	6772	Humboldt Lock & Safe	Facility maintenance	-47.63
Bill Pmt -Check	08/10/2016	6773	Martin, Des.	July mileage	-89.80
Bill Pmt -Check	08/10/2016	6774	Means, M.	July mileage	-16.69
Bill Pmt -Check	08/10/2016	6775	Mission Uniform & Linen	July mat service/janitorial supplies	-69.86
Bill Pmt -Check	08/10/2016	6776	North Coast Cleaning	July Cleaning Service	-402.00
Bill Pmt -Check	08/10/2016	6777	Pacific Paper Company	Office supplies/mobile pedestal files	-1,268.78
Bill Pmt -Check	08/10/2016	6778	Petrella, A.	July mileage	-86.94
Bill Pmt -Check	08/10/2016	6779	PG&E EV Account	July electric service	-96.12
Bill Pmt -Check	08/10/2016	6780	Pierson's	DI hardware and materials	-77.18
Bill Pmt -Check	08/10/2016	6781	Quill	Office furniture/task chairs	-217.48
Bill Pmt -Check	08/10/2016	6782	SDRMA Dental	August Premium	-906.76
Bill Pmt -Check	08/10/2016	6783	SDRMA Medical	September premium	-12,778.56
Bill Pmt -Check	08/10/2016	6784	Shafer's Ace	DI Tools	-9.47
Bill Pmt -Check	08/10/2016	6785	Sonoma County Office of Education	Professional Services/Prop 39 RFP-CPRA request	-539.00
Bill Pmt -Check	08/10/2016	6786	Terry, P.	July Mileage	-38.56
Bill Pmt -Check	08/10/2016	6787	Tolley, M.	July mileage	-68.61
Bill Pmt -Check	08/10/2016	6788	WCP Solutions	Office Supplies-Copy Paper.	-636.19
Paycheck	08/10/2016	6789	Jacobson, Lou N.		-1,705.90
Aug 1 - 10, 16					-118,890.39
TOTAL					-213,179.00

5:27 PM

08/03/16

Redwood Coast Energy Authority
Reconciliation Detail
 2007 · American Express, Period Ending 07/25/16

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						946.25
Cleared Transactions						
Charges and Cash Advances - 4 items						
Credit Card Charge	05/24/16	4HNB...	Enterprise	X	-110.63	-110.63
Credit Card Charge	06/22/16	4GS8...	Enterprise	X	-143.26	-253.89
Credit Card Charge	06/22/16	XZCA...	Enterprise	X	-135.60	-389.49
Credit Card Charge	08/02/16		Travel Store	X	-12.00	-401.49
Total Charges and Cash Advances					-401.49	-401.49
Payments and Credits - 1 item						
Bill	06/25/16	June	AMEX	X	946.25	946.25
Total Cleared Transactions					544.76	544.76
Cleared Balance					-544.76	401.49
Uncleared Transactions						
Charges and Cash Advances - 1 item						
Credit Card Charge	05/23/16	12300...	Sir Francis Drake		-241.93	-241.93
Total Charges and Cash Advances					-241.93	-241.93
Total Uncleared Transactions					-241.93	-241.93
Register Balance as of 07/25/16					-302.83	643.42
Ending Balance					-302.83	643.42

Redwood Coast Energy Authority**Visa****As of July 20, 2016**

Type	Date	Num	Name	Memo	Amount	Balance
						21.74
Credit Card Charge	06/22/2016	June	U-Verse	June DSL service	92.89	114.63
Credit Card Charge	06/25/2016	June	Uberconference	Conference call subscription	11.06	125.69
Credit Card Charge	06/30/2016	P1-24525593	Intuit	QuickBooks 2016 / 3 user package	559.95	685.64
Credit Card Charge	07/01/2016	Visa	Square	July Card Reader Fee	15.00	700.64
Credit Card Charge	07/13/2016	4650338415	Shafer's Ace	Tools	87.15	787.79
Total 2006 - VISA-3751					766.05	787.79
TOTAL					766.05	787.79

Redwood Coast Energy Authority
Profit & Loss Budget vs. Actual
 July 2015 through June 2016

	Jul '15 - Jun 16	Budget	% of Budget
Ordinary Income/Expense			
Income			
Total 4 GRANTS AND DONATIONS	5,000.00	5,000.00	100%
5 REVENUE EARNED			
Total 5000 · Revenue - government agencies	697,763.34	792,198.00	88%
Total 5100 · Revenue - program related sales	12,416.33	17,500.00	71%
Total 5300 · Revenue - investments	1,004.88	200.00	502%
Total 5400 · Revenue-nongovernment agencies	1,332,648.64	1,549,150.00	86%
Total 5 REVENUE EARNED	2,043,833.19	2,359,048.00	87%
Total Income	2,048,833.19	2,364,048.00	87%
Gross Profit	2,048,833.19	2,364,048.00	87%
Expense			
7 EXPENSES - PERSONNEL			
7101 · Screening/Testing Services	81.79	600.00	14%
7102 · Safety	235.33	1,000.00	24%
7103 · Staff Training and Development	1,479.00	4,000.00	37%
7200 · Salaries, Wages & Benefits			
7210 · Salaries - staff	640,573.86	694,500.00	92%
7220 · Wages - interns	63,626.39	58,800.00	108%
7230 · Pension Plan Contributions	19,569.96	22,500.00	87%
7240 · Employee Benefits-Insurance	191,515.90	230,200.00	83%
7250 · Payroll Taxes Etc.	72,929.71	77,000.00	95%
7255 · Worker's Comp Insurance	6,978.99	13,700.00	51%
Total 7260 · Paid Time Off	93,076.14	108,000.00	86%
7265 · Jury Duty	332.41		
Total 7200 · Salaries, Wages & Benefits	1,088,603.36	1,204,700.00	90%
Total 7 EXPENSES - PERSONNEL	1,090,399.48	1,210,300.00	90%
8 NON-PERSONNEL RELATED EXP			
8100 · Non-Personnel Expenses			
8110 · Office Supplies	3,514.23	5,000.00	70%
8111 · Furniture & Equipment	563.46	2,800.00	20%
Total 8120 · Information Technology	13,617.32	15,000.00	91%
Total 8130 · Telephone & Telecommunications	6,272.78	6,500.00	97%
8140 · Postage & delivery	1,394.46	1,800.00	77%
Total 8170 · Printing & copying	6,500.65	7,500.00	87%
Total 8180 · Books, subscriptions, edu matls	915.13	1,000.00	92%
8190 · Exhibits & displays	271.85	800.00	34%
8195 · Tool bank	2,283.60	4,000.00	57%
8100 · Non-Personnel Expenses - Other	10.00		
Total 8100 · Non-Personnel Expenses	35,343.48	44,400.00	80%
8200 · Facility Expenses			
8210 · Office Lease	49,200.00	49,200.00	100%
Total 8220 · Utilities	9,149.50	10,000.00	91%
8230 · Janitorial	6,080.99	6,500.00	94%
8240 · Facility repairs & maintenance	1,017.22	3,500.00	29%
8250 · EV Station Repairs & Maintenananc	2,430.39	1,200.00	203%
Total 8200 · Facility Expenses	67,878.10	70,400.00	96%
Total 8300 · Travel & Meeting Expense	18,374.31	17,000.00	108%
Total 8320 · Meetings, workshops & events	6,268.99	6,500.00	96%
8500 · Other Expenses			
8513 · Organizational Development	504.76	500.00	101%

Redwood Coast Energy Authority
Profit & Loss Budget vs. Actual
 July 2015 through June 2016

	Jul '15 - Jun 16	Budget	% of Budget
8520 · Insurance P&L	9,156.45	8,400.00	109%
8530 · Dues & Memberships	2,686.01	3,500.00	77%
Total 8560 · Website Expenses	386.90	500.00	77%
Total 8570 · Advertising & Marketing Expense	8,488.06	10,000.00	85%
8591 · Use Tax	0.00	300.00	0%
8592 · Service Charge	0.75	200.00	0%
8593 · Bank Charges	70.00	200.00	35%
8595 · Credit Card Processing Fees	380.88	500.00	76%
8596 · Flex Billing Service Fee	201.65		
8597 · EV Site Host Pmts	1,510.53		
Total 8500 · Other Expenses	23,385.99	24,100.00	97%
8600 · Capital Development - Facility			
8615 · EV Station Equip-Svcs-Supplies	113,162.52	115,000.00	98%
8600 · Capital Development - Facility - Other	0.00	1,000.00	0%
Total 8600 · Capital Development - Facility	113,162.52	116,000.00	98%
8700 · Professional Services			
Total 8710 · Contracts - Program Related Ser	353,331.31	478,440.00	74%
8720 · Accounting	2,895.00	30,000.00	10%
8730 · Graphic Design	800.00		
8740 · Legal	34,479.72	40,000.00	86%
8760 · Temporary Services	3,433.50		
Total 8700 · Professional Services	394,939.53	548,440.00	72%
Total 8 NON-PERSONNEL RELATED EXP	659,352.92	826,840.00	80%
Total 9 INCENTIVES & REBATES	326,963.69	359,000.00	91%
Total Expense	2,076,716.09	2,396,140.00	87%
Net Ordinary Income	-27,882.90	-32,092.00	87%
Other Income/Expense			
Total Other Income	1,320.00		
Total Other Expense	1,908.48	1,908.00	100%
Net Other Income	-588.48	-1,908.00	31%
Net Income	-28,471.38	-34,000.00	84%

Redwood Coast Energy Authority

Balance Sheet

As of June 30, 2016

	<u>Jun 30, 16</u>
ASSETS	
Current Assets	
Checking/Savings	
1062 · Chase DD Checking	54,622.62
1060 · Umpqua Checking-9271	27,323.11
1000 · COUNTY TREASURY 3839	103,911.55
1010 · Petty Cash	125.00
Total 1050 · GRANTS & DONATIONS 3840	<u>15,037.26</u>
Total Checking/Savings	201,019.54
Total Accounts Receivable	404,228.51
Other Current Assets	
1102 · Paypal Account Balance	19.87
1120 · Inventory Asset	47,232.14
1202 · Prepaid Expenses	12,939.00
1205 · Prepaid Insurance	10,420.37
Total 1210 · Retentions Receivable	<u>69,328.73</u>
Total Other Current Assets	<u>139,940.11</u>
Total Current Assets	745,188.16
Fixed Assets	
1500 · Fixed Asset	93,591.39
1600 · Accumulated depreciation	<u>-26,492.00</u>
Total Fixed Assets	67,099.39
Other Assets	
1700 · Retained Deposits	<u>4,100.00</u>
Total Other Assets	<u>4,100.00</u>
TOTAL ASSETS	<u>816,387.55</u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Total Accounts Payable	11,288.95
Total Credit Cards	1,317.06
Other Current Liabilities	
2001 · Accounts Payable-Other	12,939.00
2012 · PG&E Deferred Revenue	7,379.67
Total 2100 · Payroll Liabilities	62,178.65
Total 2210 · Retentions Payable	<u>19,253.79</u>
Total Other Current Liabilities	<u>101,751.11</u>
Total Current Liabilities	114,357.12
Long Term Liabilities	
Total 2700 · Long-Term Debt	<u>10,337.57</u>
Total Long Term Liabilities	<u>10,337.57</u>
Total Liabilities	124,694.69
Equity	
2320 · Investment in Capital Assets	49,700.66
3900 · Fund Balance	673,632.54
Net Income	<u>-31,640.34</u>
Total Equity	<u>691,692.86</u>
TOTAL LIABILITIES & EQUITY	<u>816,387.55</u>

Redwood Coast Energy Authority
Profit & Loss
June 2016

	<u>TOTAL</u>
Ordinary Income/Expense	
Income	
5 REVENUE EARNED	
Total 5000 · Revenue - government agencies	39,099.13
Total 5100 · Revenue - program related sales	756.31
Total 5400 · Revenue-nongovernment agencies	85,507.72
Total 5 REVENUE EARNED	<u>125,363.16</u>
Total Income	<u>125,363.16</u>
Gross Profit	125,363.16
Expense	
7 EXPENSES - PERSONNEL	
7103 · Staff Training and Development	1,200.00
7200 · Salaries, Wages & Benefits	
7210 · Salaries - staff	57,355.48
7220 · Wages - interns	5,875.58
7230 · Pension Plan Contributions	1,710.47
7240 · Employee Benefits-Insurance	15,314.05
7250 · Payroll Taxes Etc.	5,659.65
7255 · Worker's Comp Insurance	597.17
Total 7260 · Paid Time Off	5,115.28
7265 · Jury Duty	0.00
Total 7200 · Salaries, Wages & Benefits	<u>91,627.68</u>
Total 7 EXPENSES - PERSONNEL	<u>92,827.68</u>
8 NON-PERSONNEL RELATED EXP	
8100 · Non-Personnel Expenses	
Total 8120 · Information Technology	6,500.25
Total 8130 · Telephone & Telecommunications	582.46
8140 · Postage & delivery	21.74
Total 8170 · Printing & copying	217.08
Total 8100 · Non-Personnel Expenses	<u>7,321.53</u>
8200 · Facility Expenses	
8210 · Office Lease	4,100.00
Total 8220 · Utilities	584.39
8230 · Janitorial	518.74
8240 · Facility repairs & maintenance	201.72
Total 8200 · Facility Expenses	<u>5,404.85</u>
Total 8300 · Travel & Meeting Expense	2,758.87
Total 8320 · Meetings, workshops & events	38.49
8500 · Other Expenses	
8520 · Insurance P&L	74.62
Total 8560 · Website Expenses	134.40
8592 · Service Charge	0.75
8595 · Credit Card Processing Fees	28.75
8596 · Flex Billing Service Fee	19.11
Total 8500 · Other Expenses	<u>257.63</u>

Redwood Coast Energy Authority
Profit & Loss
June 2016

	<u>TOTAL</u>
8700 · Professional Services	
8710 · Contracts - Program Related Ser	4,446.50
8720 · Accounting	472.00
Total 8700 · Professional Services	<u>4,918.50</u>
Total 8 NON-PERSONNEL RELATED EXP	20,699.87
Total 9 INCENTIVES & REBATES	<u>9,572.54</u>
Total Expense	<u>123,100.09</u>
Net Ordinary Income	2,263.07
Other Income/Expense	
Total Other Expense	<u>159.04</u>
Net Other Income	<u>-159.04</u>
Net Income	<u><u>2,104.03</u></u>



REDWOOD COAST EnergyAuthority

STAFF REPORT

AGENDA DATE:	August 15, 2016
TO:	Board of Directors
PREPARED BY:	Executive Director
SUBJECT:	Conflict of Interest Code

SUMMARY:

California Government Code section 87300 requires all public agencies to adopt and promulgate a Conflict of Interest Code enumerating employee and consultant positions within the Authority who are involved in the making or participation in the making of decisions which may have a material effect on any financial interest of their own; identifying disclosure categories for such employees and consultants; and identifying disqualification requirements for such employees and consultants.

RCEA Legal Counsel Nancy Diamond developed the attached conflict of interest code, which staff recommends the Board adopt through the accompanying resolution.

RECOMMENDED ACTIONS:

1. Adopt Resolution No. 2016-1 Adopting A Conflict Of Interest Code.

ATTACHMENTS:

1. Resolution No. 2016-1 Adopting a Conflict of Interest Code
2. Proposed Redwood Coast Energy Authority Conflict of Interest Code

**RESOLUTION NO. 2016-1
OF THE
REDWOOD COAST ENERGY AUTHORITY
ADOPTING A CONFLICT OF INTEREST CODE**

WHEREAS, California Government Code section 87300 requires all public agencies to adopt and promulgate a Conflict of Interest Code enumerating employee and consultant positions within the Authority who are involved in the making or participation in the making of decisions which may have a material effect on any financial interest of their own; identifying disclosure categories for such employees and consultants; and identifying disqualification requirements for such employees and consultants;

WHEREAS, specified public officials identified in California Government Code section 87200, including Authority Board members and the Executive Director are subject to the conflict of interest disclosure and disqualification requirements set forth in Government Code sections 87200 et seq.; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of the Redwood Coast Energy Authority hereby adopts as its Conflict of Interest Code those provisions set forth in Appendix A, attached hereto and incorporated herein.

Adopted this ____ day of ____, 2016

ATTEST:

Linda Atkins, RCEA Board Chair

_____, Clerk

Date: _____

Date: _____

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Resolution No. 2016-1 passed and adopted at a regular meeting of the Redwood Coast Energy Authority, County of Humboldt, State of California, held on the ____ day of ____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Clerk of the Board, Redwood Coast Energy Authority

APPENDIX A
REDWOOD COAST ENERGY AUTHORITY
CONFLICT OF INTEREST CODE

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate Conflict of Interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sec.18730) which contains the terms of a standard Conflict of Interest code, which can be incorporated by reference in an agency's code. After public notice and hearing, it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix of designated officials and employees and establishing disclosure categories, shall constitute the Conflict of Interest code of the Redwood Coast Energy Authority.

Designated employees shall file their statements with the Redwood Coast Energy Authority who will make the statements available for public inspection and reproduction (Gov. Code Section 81008). Upon receipt of the statements of the Board of Directors and the Executive Director, the Redwood Coast Energy Authority shall make and retain a copy and forward the original of these statements to the Fair Political Practices Commission. Statements for all other designated employees shall be retained by the Redwood Coast Energy Authority.

Public Officials Who Manage Public Investments

The following positions are NOT covered by the Conflict of Interest code because they must file under section 87200 and, therefore, are listed for informational purposes only:

- Governing Board Members
- Executive Director

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by section 87200.

CONFLICT OF INTEREST CODE FOR THE REDWOOD COAST ENERGY AUTHORITY

<u>Designated Positions</u>	<u>Disclosure Category</u>
Programs Manager	1
Operations Manager	1
Business Manager	1
* ¹ Consultants:	
General Counsel	1

Disclosure Category

Category 1

Designated employees in Category 1 must report:

- a) Investments and business positions in any business entity and sources of income, including gifts, loans and travel payments, of the type which within the last years has contracted with the Authority to provide services, supplies, materials, machinery or equipments.
- b) Investments and business positions in any business entity and sources of income, including gifts, loans and travel payments, of the type which engages in or may engage in activities which come under regulation by the Authority.
- c) Investment and business positions in any business entity and sources of income, including gifts, loans and travel payments, of the type which engages in the acquisition, disposal or development of real property by the Authority.
- d) Investments and business positions in any business entity and sources of income, including gifts, loans and travel payments, of the type which engages in the preparation of environmental impact report or statements.
- e) All interest in real property.

^{*1} Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the Code subject to the following limitations: "The Executive Director may determine in writing that a particular consultant, although a 'designated position', is hired to perform a range of duties that is limited scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict-of-Interest code.

Category 2

Designated employees in Category 2 must report:

- a) Investments and business positions in any business entity and sources of income, including gifts, loans and travel payments, of the type which within the last two years has contracted with the Authority to provide services, materials or equipment.
- b) Investments and business positions in any business entity and sources of income, including gifts, loans and travel payments, of the type which engages in or may engage in activities which come under regulation by the Authority.

Workshop Notes

July 28, 2016 RCEA Public Meeting

The notes below were transcribed and synthesized from the participants' comments charted by table hosts during small group conversations. A (number) after a comment indicates the number of times that idea was expressed by different participants.

Community Choice Energy Goals

Local Control/Priorities

Like

- Like the idea of community taking control (3)
- Local control of procurement
- Choice → being able to keep resources local!!
- Create out own fuel mix (choice)
- Third priority for 1 table

Concerns

- Would like to see community-owned resources (long-term goal)
- Transparent contracts

Environmental Quality (Responsibility?)

Like

- Environmental quality; Improve carbon footprint (2)
- Like "environmental responsibility" versus "quality"
- Opportunity to create clean, renewable energy – but emphasis on biomass is a concern
- Get as much renewable energy as possible

Questions

- Should we be able to set our own environmental goals?

Economic Development

Like

- Money is kept local; reinvest (3)
- More jobs needed to implement program
- Increased job potential (solar/wind installation, biomass plants)
- Resources stay in Humboldt

Concerns

- Program should focus on energy efficiency/sustainability first...not economic development and rate savings
- Ensure zero economic development driving the decisions

Questions

- Will green energy reduce employment?

Energy Independence

Like

- Energy Independence
- Second priority for 1 table

Rate-Savings, Choice + Customer Programs

Like

- Reduce rates
- Top priority for 1 table
- Better rate for buyback (?)
- Additional customer programs

General Comments

Like

- All goals are good, hard to prioritize
- Good priorities
- Long term sustainability (Reserve fund) (2)
 - Buffering rates
 - Q: Reserve fund spur innovations? Just for security?

Energy Resource Options

Biomass

Like

- Regulating and utilizing existing resource/structures/technology; efficient; local; economic development (5)
- If biomass, use Scotia and Fairhaven – close to mill sites, better community record (2)
- Biomass burned in environmentally friendly way
- Biomass keeps saw mills in operation; waste product of mills
- Tops and limbs left in forest; waste from mill is feedstock
- Fairhaven Biomass:
 - Most of the product burned at Fairhaven is saw mill residuals, not forest products
 - Bio-ash from Fairhaven biomass plant goes to ranches, etc.
 - Biomass (Fairhaven) produce power for 16,000 residents

Concerns

- CO2 output from biomass (4)
 - 15% local biomass emissions
 - Don't like cutting redwoods and other trees; trees are good at sequestering carbon
 - Contributes to greenhouse gas emissions and climate change, and has potential effect on watersheds (a concern—and liked having the discussion about it)
- Biomass is too expensive; \$30/megawatt-hr: EIA.gov but biomass much more expensive (3)
- Blue Lake Biomass plant (3)
 - Don't like Blue Lake Power past practices- Clean Air Act violation and management; lack of care for community
 - Blue Lake Power biomass plant? Built as coal plant, not good technology
- Biomass and fuel reductions and net benefits
 - Trucking fuels (need to be calculated into net costs/benefits); Problem if biomass has to be transported (2)
 - Control on smoke stack/environmental control
- Biomass particulate matter
- Operating in compliance
- Phase down biomass
- Worried about the impact on humans of cutting down trees
- NIMBY for biomass
- More wind—less biomass!
- Noise concerns

Questions

- Is biomass really a viable long-term option? What are the emissions?
- How much redwood is harvested?
- Are there carbon emissions from biomass?
- Biomass? Is it renewable or not?

- How much is local fuel stock?
- Where do the chips come from?
- What are the pros and cons of biomass?
- How much biomass is available without hurting the environment?
- CCE vehicle to increase biomass? Timber subsidy?
- Will having biomass encourage more intensive logging?
- Do we want our energy agency to less efficiently/more costly to subsidize timber waste disposal?

Off-shore wind and wave energy

Like

- Interested in the off-shore wind energy production (5)
- Wave and offshore wind → most environmentally responsible
- Has long-term potential
- More wind—less biomass!

Concerns

- Can't happen fast enough (funding and permitting)
 - More research needed
 - Ecological impact
 - Fishing impact

Community-scale solar

Like

- New solar (4)
- Low hanging fruits: Utility and small-scale solar

Concerns

- Space for solar – not much, use land
- No mention of new energy storage to compensate for times when less solar energy is available

Questions

- Development for solar inland?

On-shore wind

Like

- Viable option (2)
- Timber industry untapped resource for wind energy
- More wind—less biomass!

Concerns

- What about PR for next company; environment (birds) local angle
- Wildlife impacts
- Noise

Questions

- Micro-wind sites?

Small hydroelectric

Like

- Small scale options, especially hydro (2)

Concerns

- Micro-hydro – without fish issues. May be good for smaller, rural communities
- Hydro (need more info): want to know more

Questions

- Viability of Ruth Lake hydro?

Distributed generation

Like

- Small and medium systems → good return on home solar
- Distribution and generation
 - Roof top solar – utilize the space
 - Support EV incentives?
- Food waste and digestion

Questions

- Is it possible to have decentralized distributed wind (big turbine around different places)?

Customer programs

Like

- Funding for programs – new opportunities

Concerns

- Customer program (Why a concern? Not captured in notes.)

Questions

- More info needed on customer program and its overall importance to RCA
- Maintain beneficial programs like rebates?

General Comments

Like

- Reduces carbon footprint, ecological impact; reduction of non-renewables (3)
- Movement towards local generation
- More renewable and more local (2)
 - Commitment to 5% more renewable and 5% less GHG emissions
- Natural gas use reduced (2)
- Ambitious; exciting (2)
 - Inspiring for the future that its happening
- Technical report (2)
 - Looking forward to technical report to really inspect numbers and assumption
 - Technical report and implementation reusability/strategies
- Nuclear energy not used; down with nuclear (2)
- Marketing (2)
 - CCE better than CCA
 - RCE name is more succinct and marketable
- Diversity of power
- Capacity for phased plan – wind and wave in the future
- Cost of transmission is crucial – keep costs down
- Good power purchase agreement
- Better storage
- Residential inverters that allow for emergency systems

Concerns

- “SPAM” or System Power (4)
 - What is ‘spam’ really made of? What is system power?
 - How clean is it?
 - 29% “system power”? Seems like too much potential dirty energy and the 12% increase is concerning!
- Large hydro is out of state (4)
 - Hydro – British Colombia

- Where to get large hydro? Is it coming from an environmentally responsible area?
 - Environmental quality of large hydro
- Renewable portfolio – how clean is it? System power, biomass, lack of local source
- Only 19% local energy sources in 2018
- Set-up/construction challenges
- Would like to see more focus on non-carbon/combustion based
- “Shell game” – public perception that CCA is not really bringing new renewables into the mix – (example: Sonoma Clean Power and Geysers geothermal)
- Dishonestly in presentation (windmills, solar) but biomass
- Growing pains of the RCE governance?
- RCE vs. RCEA vs. RCAA vs. RDEC
- Who makes the final say in power procurement? TEA or RCEA?
- Zero impact
- How to keep moving it forward

Questions

- Will the rate for buy back change and who will decide the price? (2)
- Funding (2)
 - Grants? Money for new transmission lines to new projects
 - Seems like a good program, but where does funding come from?
- Is anyone working on using electric car batteries as battery backup for residential use?
- Battery storage programs?
- How long do the power procurement contracts last? How long is the “initial” portfolio?
- Are there other programs that the CCA can partner with? Is that necessary?
- Does a local CCA make local renewable energy more financially feasible than before the CCA (example: Bear River Ridge)
- Climate change – large hydro may be effected?
- Humboldt Bay 2%...where is the other 4% coming from?
- Utility scale?
- Bottom line rates of proposed power mix?
- Renewable Energy Certificates? Is this a hustle? Not helping long term?
- What about natural gas? What will happen to that power plant?

Other comments/surprises

- CCAs are relatively rare – surprising
- Large number of cities with public utility responsibility
- PG&E not yet motivated to use more renewable energy
- Curious about it
- Timeframe
- REPOWER – environmentally viable
- Part of community mindset

Prioritizing Goals

Rating Goals	Don't Understand	1 Not Important	2	3 Somewhat Important	4	5 Extremely Important
Local Control/ Priorities	0	0	3	4	8	21
Environmental Quality Responsibility	0	0	0	2	4	30
Economic Development	2*	3	2	10	7	11
Energy Independence	0	0	5	11	6	15
Rate-Savings, Choice + Customer Programs	1**	3	1	6	7	13

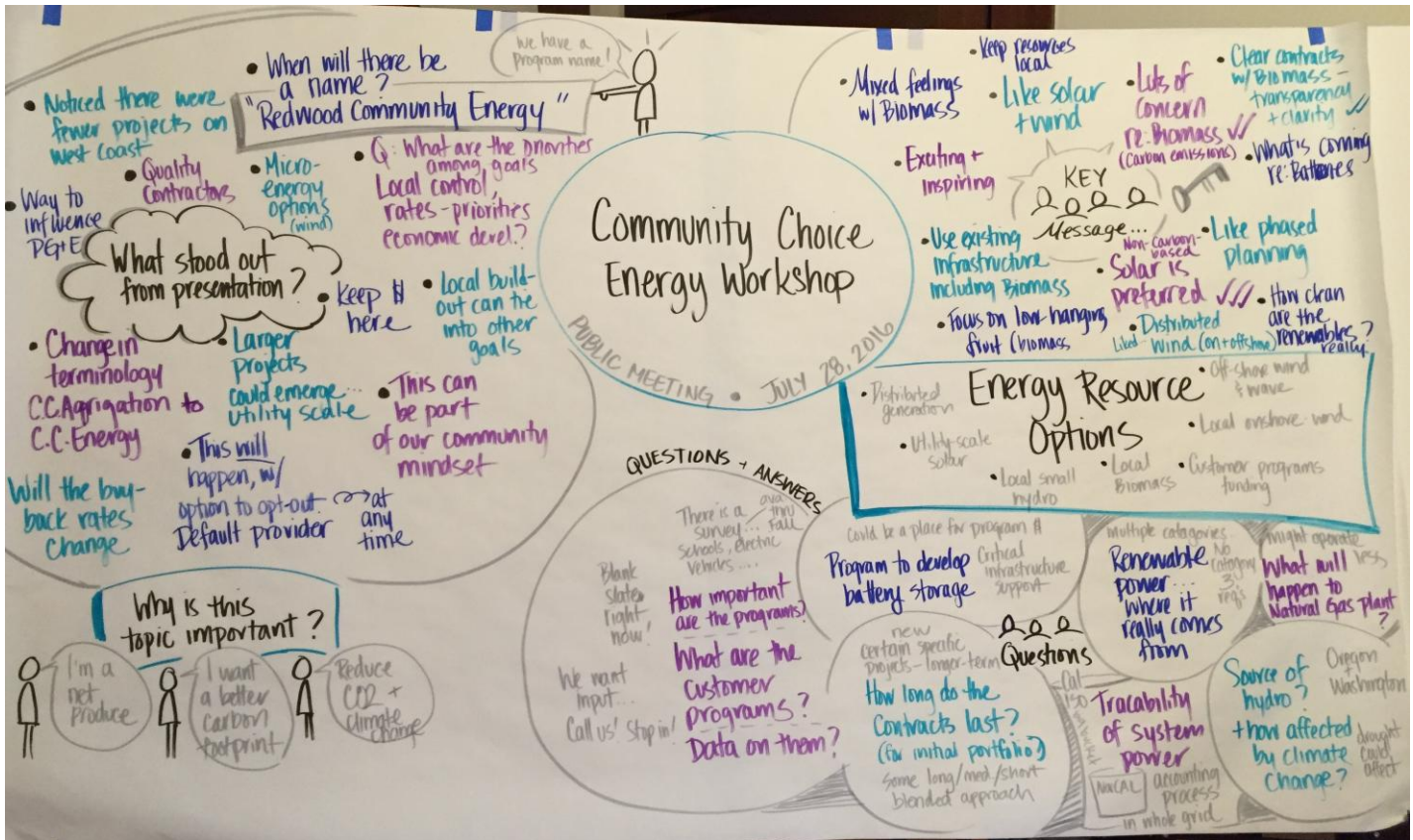
Comments:

*Economic Development (Don't Understand) – By economic development, do we mean support the timber industry, or do we mean real, broad economic development?

**Rate-Savings, Choice + Customer Programs (Don't Understand) – the wholesale electric rate for Northern California was \$30 million (?) in May according to official statistics. How can we have discounted rates if we plan to potentially sign contracts with the biomass plants for as much as \$85 Mw/hr?

Meeting Overview

The image below reflects the comments made by participants during large group "report-out" times during the meeting. A list of the comments follows.



Why is this topic important?

- "I'm a net produce"
- "I want a better carbon footprint"
- "To reduce CO2 and climate change"

What stood out from the presentation?

- Keep money here
- Local build-out can tie into other goals
- This can be part of our community mindset
- Larger projects could emerge... utility scale
- This will happen, with option to opt out at any time default provider
- Will the buy back rates change
- Change in terminology CCAggregation to CCEnergy
- Way to influence PG&E
- Noticed there were fewer projects on west coast
- Quality contractors
- Micro-energy options (wind)
- Question: What are the priorities among goals – local control, rates – priorities economic development?
- When will there be a name?
- We have a name –Redwood Community Energy—

Energy Resource Options

- Distributed generation
- Utility-scale solar

- Local small hydro
- Local biomass
- Offshore wind and wave
- Local onshore – wind
- Customer programs funding

Key Message...

- Keep resources local
- Mixed feelings about biomass
- Exciting and inspiring
- Use existing infrastructure including biomass
- Focus on low hanging fruit (biomass)
- Distributed wind (on and offshore) is well liked
- Non carbon based solar is preferred
- How clean are the renewables really?
- Like phased planning
- What's coming re: batteries?
- Clear contracts with biomass – transparency and clarity
- Lots of concern re: biomass (carbon emissions)
- Like solar and wind

Questions and Answers

- What will happen to natural gas plant?
 - Might operate less
- Source of hydro? + how affected by climate change?
 - Oregon and Washington; drought could affect
- Renewable power...where it really comes from
 - Multiple categories. No category 3 req's
- Trace-ability of system power
 - NorCAL accounting process
- Program to develop battery storage
 - Could be a place for program money critical infrastructure support
- How long do the contracts last? (for initial portfolio)
 - New, certain specific projects – longer term; some long/medium/short blended approach
- How important are the programs? What are the customer programs? Data on them?
- There is a survey available now through the Fall: schools, electric vehicles...
 - Blank slate right now!
 - We want input...Call us! Stop in!



REDWOOD COAST Energy Authority

STAFF REPORT

AGENDA DATE:	August 15, 2015
TO:	Board of Directors
PREPARED BY:	Executive Director
SUBJECT:	CCA Operational Services Contracts

Attached are proposed contracts with The Energy Authority (TEA) and LEAN Energy. The contract with Noble Americas Energy Solutions is still under development and we be brought to the Board in September; this will not result in any delay to program rollout since the launch schedule has Noble beginning the bulk of their work in October.

The contract scopes of work are structured in three phases, as defined in RCEA's original RFP (it should be noted that there is some overlap in the timelines of the three phases):

Phase I, Program Development: Refinement of core messaging and branding, review of RCEA governance and organizational documents to support operations, energy analytics to determine financial feasibility, rate competitiveness and environmental attributes, and passage of local ordinances to determine which cities will participate in the program at launch.

Phase II, Program Launch: Development and certification of the implementation plan, customer engagement and enrollment, full website build out and launch of the call center, selection of power options/supply mix and energy contracts, submission of the utility service agreement and PG&E service payments, bond posting and other regulatory certifications necessary to begin serving customers.

Phase III, Program Operations: Customer enrollment, commencing wholesale power procurement and retail power sales, and longer-term operational activities including institutional capacity building, integrated power resource planning, regulatory engagement, and energy program design and implementation.

As outlined in their proposal, TEA, LEAN and Noble will provide services in the following areas:

- **TEA:** Technical services, power procurement and supply management, power purchase agreement negotiation assistance, rate design, risk management, financial planning, scheduling coordination and related services.
- **LEAN:** CCA formation, strategy, and operations management, communications and marketing, legal support, legislative and regulatory affairs.

- **Noble:** Data management/back office services, call center, risk reporting and technical support.

The scopes of work for the TEA and LEAN contracts are outlined below.

TEA's scope of work includes:

- Phase I
 - Load Study and Forecast.
 - Rate Analysis.
 - Supply Scenarios.
 - Economic Impacts Assessment.
 - Sensitivity Analysis.
 - Financial Analysis.
 - Risk Analysis.
 - Technical Study summarizing the above analyses.
- Phase II
 - Implementation Plan Development.
 - Performing Regulatory Functions.
 - Support with Developing Organizational Infrastructure.
 - Financial Services assistance.
 - Negotiation and Contracting Services assistance.
 - Procurement Services.
 - Rate Setting, including policies to encourage distributed generation.
- Phase III
 - Power Purchasing.
 - Policies and Guidelines.
 - Regulatory and Legal Compliance.
 - Ongoing Communications and Outreach to CCA Customers.
 - Accounting Support Services.
 - Wholesale Power Procurement Operations.
 - Long-term Power Procurement.
 - Financial Planning.
 - Undertaking Continual Risk Management.
 - Integrated Resource Plan.

LEAN's Scope of Work includes:

- Phase I:
 - Community Engagement Support.
 - Communication and Program Strategies / Core Messaging.
 - Creation/Design of Program Collateral.
 - Engage local officials, community stakeholders, key customer groups and press.
 - Technical, Financial and Risk Analysis.
- Phase II:

- Implementation Plan Development.
- Regulatory Functions.
- Support with Organizational Infrastructure.
- Support with Procurement/Vendor Engagement.
- Customer Engagement Support.
- Assistance with Rate Setting, including policies to encourage distributed generation.
- Phase III:
 - Program Administration and Compliance.
 - Regulatory and Legislative Monitoring/Participation.
 - Policy and program development.
 - On-going communications and outreach to CCA customers.

TIMELINE

Phase I (program development):	April 1, 2016
Phase II (program launch):	July 18, 2016
Phase III: (program operations):	The later date of either Implementation Plan certification by the CPUC or January 1, 2017
Power Start Date (electricity sales begin):	May 1, 2017
TEA Services Contract end date:	April 1, 2021

LEAN is prepared to remain involved with RCEA's program for the full five-year term of the partnership's involvement if requested; however, the current scope and budget covers only the first full year of Phase III operations, supporting RCEA's efforts in developing and expanding its staff team to assume many or all of the functions that LEAN is providing in the early stages of the program.

FINANCIAL IMPACTS

The costs of services performed by TEA, LEAN, and Noble will be fully covered by retail power sales revenue. Payment for phase I and II costs are deferred until after the program is operational and will also be covered by revenue from power sales.

Some costs are scaled by customer participation and energy-sales volumes and so will vary from projections, but the anticipated total value of the three contracts will be approximately \$10 million over the 5 year term. This is about \$2.4 million below the team's proposal cost proposition, resulting from the refinement of the team's scope of work. TEA's contract amounts to about \$5.5 million and LEAN's to \$752,325.

FPPC ADVICE LETTER

A question was raised during the RFP process regarding a potential LEAN conflict of interest arising from LEAN's limited/unpaid early input on the RFP language. Based off of advice from RCEA Counsel Nancy Diamond, when selecting the TEA/LEAN/Noble proposal the RCEA Board issued a finding that LEAN did not have a conflict. To get additional confirmation of this finding, staff and Counsel requested a formal advice letter from the CA Fair Political Practices Commission (FPPC).

The FPPC advice letter confirms the finding that "because LEAN was never hired or compensated by RCEA and LEAN did not exert considerable influence on the contracting decisions of RCEA, LEAN would not be considered a public office or employee of RCEA for purposes of Government Code Section 1090. Since LEAN is not subject to Section 1090 under these facts, neither LEAN or RCEA will have a conflict of interest." The full FPPC advice letter is attached.

RECOMMENDED ACTIONS:

1. Approve a contract with The Energy Authority, including Task Order 1 and Task Order 2 with control agreement exhibits, for Community Choice Aggregation Program development, launch, and operational services, and authorize the Executive Director to act as Contract Administrator with responsibility and authorization to administer the agreement including authority to transmit instructions, receive information, and implement the agreement on behalf of RCEA.
2. Approve a contract with Local Energy Aggregation Network (LEAN Energy US), including all exhibits, for Community Choice Aggregation Program development and launch services and authorize the Executive Director to act as Contract Administrator with responsibility and authorization to administer the agreement including authority to transmit instructions, receive information, and implement the agreement on behalf of RCEA.

ATTACHMENTS:

1. TEA Contract, comprised of:
 - a. Resource Management Agreement (primary contract document)
 - b. Task Order 1 for Phases I & II
 - c. Task Order 2 for Phase III
 - d. Exhibit A to Task Order 2
 - e. Exhibit B to Task Order 2
2. LEAN Contract, comprised of:
 - a. Services Agreement (primary contract document)
 - b. Exhibit A - scope of work
 - c. Exhibit B - budget
3. FPPC advice letter

*** Subject to approval of RCEA and TEA Boards of Directors.*

**RESOURCE MANAGEMENT AGREEMENT
BETWEEN
THE ENERGY AUTHORITY, INC.
AND
REDWOOD COAST ENERGY AUTHORITY**

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EXHIBITS, SCHEDULES, and ATTACHMENTS:

Task Order 1 – Statement of Work for Phase I and Phase II Core Services.

Task Order 2 – Statement of Work for Phase III Core Services.

Exhibit A to Task Order 2 - Deposit Account Control Agreement

Exhibit B to Task Order 2 - Deposit Account Control Agreement (Reserve Account)

This RESOURCE MANAGEMENT AGREEMENT (this “Agreement”), dated this First day of April, 2016 (the “Effective Date”), is made and entered into by and between THE ENERGY AUTHORITY, INC., (“TEA”), a Georgia non-profit corporation and REDWOOD COAST ENERGY AUTHORITY, including its successors and assigns (“RCEA”), a joint powers authority comprised of the County of Humboldt, the Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, Trinidad, and the Humboldt Bay Municipal Water District (the “RCEA Members”). TEA and RCEA are sometimes referred to herein individually as a “Party,” or collectively as the “Parties.”

Recitals

WHEREAS, RCEA seeks to develop, finance, implement, and operate a Community Choice Aggregation (“CCA”) program for its RCEA Members and their respective residents (the “Project”) and has solicited proposals from qualified entities to provide services related to the Project;

WHEREAS, TEA in partnership with Noble Americas Energy Solutions LLC (“Noble Solutions”) and LEAN Energy US (“LEAN”) (collectively, Noble Solutions, TEA, and LEAN shall be referred to herein as the “Core Team”) submitted a proposal responsive to RCEA’s solicitation (“Proposal”);

WHEREAS, TEA, Noble Solutions, and LEAN are each separately qualified by virtue of experience, training, education and expertise to provide the services specified in the Proposal;

WHEREAS, TEA, Noble Solutions, and LEAN have been selected by RCEA to provide specified services that are consistent with the Proposal, to be provided under individual contracts entered into concurrently herewith by RCEA directly between TEA, Noble Solutions, and LEAN, respectively;

WHEREAS, consistent with the Proposal, the Core Team has divided completion of the Project into three separate phases with designated services and time periods (each a “Phase”);

WHEREAS, Phase I services (referred to as “Program Development”) will be completed by TEA and LEAN; Phase II services (referred to as “Program Launch”) and Phase III services (referred to as “Program Operations”) will be completed through the collaboration of the Core Team as more specifically set forth in the respective agreements between each of the members of the Core Team; and

WHEREAS, TEA is willing to provide RCEA with those services specified herein, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby mutually agree as follows:

1. **Recitals.** The foregoing Recitals are true and correct.
2. **Scope of Work.**
 - 2.1 **Task Orders.** Pursuant to the provisions of this Agreement, TEA shall provide certain services (the “Services”) to RCEA as described in two task orders (“Task Order 1” and “Task Order 2,” respectively, each a “Task Order”) to be executed by the Parties and attached hereto. Each Task Order by this reference is incorporated as part of this Agreement. The services provided pursuant to such Task Orders are outlined and described in individual “Scope of Services,” attached hereto and incorporated herein as “Task Order 1, for Phase I and Phase II Services,” and “Task Order 2 for Phase III Services.”
 - 2.2 **Phases of Work.** The Scope of Services shall be divided in three separate phases with designated services and time periods (each a “Phase”), and proceed in chronological order, as appropriate. Accordingly, Task Order 1 will coincide with the services which are anticipated to be provided by TEA during Phase I (referred to as “Program Development”) and Phase II (referred to as “Program Launch”). Task Order 2 will coincide with the services which are anticipated to be provided by TEA during Phase III (referred to as “Program Operations” or “Operational Services”).
 - 2.3 **Subcontractors or Sub-consultants.** For any individual phase, the Parties agree that the services contemplated under this Agreement, may be provided by a subcontractor or sub-consultant of TEA upon the advance approval by RCEA, which services may be described in an individual TEA Task Order. However, for the convenience of the Parties, services not covered by this Agreement or an individual Task Order may be provided through a direct agreement between RCEA and the appropriate third party.
 - 2.4 **Core Team.** During the Initial Term (as defined herein), TEA acknowledges the existence of contracts between RCEA and Noble Solutions and between RCEA and LEAN, both of which are intended to complement the Services provided by TEA hereunder pursuant to the joint proposal for services submitted by the Core Team. TEA similarly acknowledges that the TEA Services provided hereunder are intended to complement those of Noble Solutions and LEAN. In performing its Services hereunder, and as applicable TEA shall coordinate its efforts with Noble Solutions and LEAN in order to support the Core Team members’ performance under the respective agreement with RCEA.
3. **Term and Effective Date.**
 - 3.1 This Agreement shall become effective on the date written in the first paragraph of this Agreement (the “Effective Date”) and shall remain in effect for a period of five (5) years terminating on April 1, 2021 (the “Initial Term”), unless terminated as allowable in the Events of Termination Section herein. At the end of the Initial Term, the Agreement shall renew on an annual basis for successive one (1) year terms (each, a “Renewal Term”), unless otherwise agreed to by the Parties or terminated pursuant to the Events of

Termination Section. Notwithstanding the aforementioned date, the commencement of services under this Agreement shall not occur prior to the date this Agreement is executed by both Parties.

- 3.2 Task Order 1 and Task Order 2 shall be executed by the Parties and become effective on the same Effective Date as this Agreement. However, the provision of Task Order 2 Services by TEA shall not commence until the later date of either Implementation Plan certification by the California Public Utilities Commission or January 1, 2017 (the “Phase III Commencement Date”). The provision of Services pursuant to any additional Task Order shall commence, and terminate, as provided in each respective Task Order.

4. **Events of Termination.**

- 4.1 By RCEA. After the commencement of Phase I and before the start of Phase II (“Program Launch”), RCEA may terminate this Agreement, with or without cause, and without financial liability or payment of any kind, by providing TEA with advance written notice, as follows:

- 4.1.1 Delivery of notice to TEA within thirty (30) business days after TEA's completion and delivery to RCEA of TEA's Phase I Technical Study (the “Termination Window”).

Notwithstanding the foregoing, if RCEA provides notice of termination after the Termination Window, RCEA shall pay to TEA, TEA's charges, determined by multiplying TEA's 2016 hourly billing rate by the time TEA's staff incurred in the provision of Services during Phase I.

By TEA. After the commencement of Phase I and before the start of Phase II, TEA may terminate this Agreement due to an Event of Default (as defined herein) which is not remedied by RCEA, as provided in Section 25 (“Default”) of this Agreement.

- 4.2 By RCEA. During the period of time spanning the commencement of Phase II and before the designated start of Phase III (referred to as “Program Operations”), RCEA may terminate this Agreement, with or without cause, by providing TEA with forty-five (45) days advance written notice, only if the all of following conditions are met by RCEA:

- 4.2.1 Delivery of notice to TEA is given at least forty-five (45) days before the Phase III Commencement Date; and
- 4.2.2 RCEA has not received certification of RCEA's Implementation Plan from the CPUC; and
- 4.2.3 TEA has not executed any agreement or incurred any obligation to procure power, or committed to other financial obligations on behalf of RCEA.

If RCEA provides notice of termination to TEA in compliance with Sections 4.2.1 and 4.2.2, then RCEA shall pay to TEA the lesser of (i) TEA's charges, determined by

multiplying TEA's 2016 hourly billing rate by the time TEA's staff incurred in the provision of Services during Phase I and Phase II and prior to TEA's receipt of the notice of termination under this Agreement, or (ii) a pre-determined fee to exit the Agreement in the amount of \$164,000.00 (the "Termination Fee").

By TEA. During the period of time spanning the commencement of Phase II and before the Phase III Commencement Date, TEA may terminate this Agreement due to an Event of Default (as defined herein) which is not remedied by RCEA as provided in Section 25 ("Default") of this Agreement.

- 4.3 Neither Party may terminate this Agreement after the Phase III Commencement Date for the remainder of the Initial Term, unless (i) there is an Event of Default which is not remedied by the Defaulting Party as required by Section 25 ("Default"), or (ii) a Party's performance under this Agreement is prohibited due to a Change in Law (as defined in Section 32 herein). Either Party may elect to not renew this Agreement by providing a minimum of 180 days' advance written notice prior to the end of the Initial Term (or any Renewal Term) to the other Party (the "Termination Notice Period") provided, however, that the termination date provided in a termination notice shall be selected to be the same date as the date that the CAISO makes the change in its official records to remove TEA as RCEA's Scheduling Coordinator ("SC"). During the Termination Notice Period, the Parties agree to cooperate with each other to terminate TEA's SC relationship with CAISO in an orderly manner and to protect the interests of the Parties consistent with the terms of this Agreement; including but not limited to, preparation and timely filing of notices and any other documents required by CAISO to affect such termination, including the provision of a replacement SC by the RCEA, if required for termination of TEA's SC representation of RCEA. To the extent that TEA has executed on behalf of RCEA forward market transactions that extend beyond the termination date, RCEA agrees to reimburse TEA for any charges incurred in the reasonable liquidation of such transactions.
- 4.3.1 During the Termination Notice Period, RCEA shall continue to make payments to TEA as outlined in the Compensation section of the Task Order(s) in effect for the Services provided consistent with the payment provisions set forth herein. During the Termination Notice Period, TEA shall perform its services in a manner reasonably calculated to effect such termination in an orderly manner and to protect the interests of the Parties consistent with the terms of this Agreement.
- 4.4 Task Orders for services referred to in Section 2 ("Scope of Work") hereof may have shorter terms and different termination provisions than the Agreement. Termination of this Agreement shall serve to terminate any Task Order hereunder; provided that any such termination shall not relieve a Party from its obligations incurred prior to such termination.

- 4.5 The Parties' rights to terminate this Agreement provided in this Section 4 are in addition to the Parties' rights to terminate this Agreement as provided in the Default provisions contained herein.

5. Compensation.

5.1 Professional Services.

The basis for and amount of compensation due TEA for the services (the "Compensation") shall be as stated in each Task Order.

5.2 Expenses.

Unless otherwise agreed to in writing in accordance with a Task Order, RCEA shall reimburse TEA for reasonable out-of-pocket expenses incurred or accrued by TEA in connection with the provision of Services. Out-of-pocket expenses include, but are not limited to, reasonable travel, business meals or per diem, transportation, lodging, and any other usual and customary business expenses ("Expenses"). Subject to RCEA's pre-approval of such expenses, RCEA shall also reimburse TEA for special or unusual expenses incurred by TEA in connection with TEA's performance of Services. TEA agrees to manage all Expenses in a prudent manner and will provide RCEA with a reasonable accounting for all monthly out-of-pocket Expenses, if any, upon written request.

5.3 Taxes and Fees

Notwithstanding any terms or provisions in this Agreement or the Scope of Work to the contrary, RCEA shall be responsible for and shall reimburse TEA for any taxes, including without limitation, sales, use, property, excise, value added and gross receipts levied on the services or Trading Products (as defined herein) provided under this Agreement, except taxes based on TEA's net income.

6. Relationship of the Parties.

6.1 Independent Contractor.

TEA shall perform the Scope of Work as an independent contractor and shall not be treated as an employee of RCEA for federal, state, or local tax purposes, workers' compensation purposes, or any other purpose. The Parties acknowledge and agree that nothing contained in this Agreement shall be deemed to create or constitute an employer-employee relationship, a partnership, or a joint venture between the Parties.

6.2 Contract Administrators.

RCEA and TEA shall each appoint a contract administrator that will be responsible for administering this Agreement, including having the authority to transmit instructions, receive information, and implement the Agreement on behalf of each respective party

(the “Contract Administrator”). The Contract Administrators for RCEA and for TEA shall be identified in this Agreement. Either Party may change its respective Contract Administrator by giving advance written notice to the other Party, consistent with the terms of the Notice Section of this Agreement.

6.3 Cooperation of Parties.

RCEA shall cooperate with TEA in effecting the Scope of Services under each Task Order, and shall make authorized personnel of RCEA available to TEA on reasonable notice and at reasonable times to assist in accomplishing the Scope of Services.

6.4 Non-Exclusive Relationship.

6.4.1 RCEA hereby expressly acknowledges that part of the value of the services to be provided by TEA comes from TEA providing the same or similar services as contemplated under this Agreement to other entities. RCEA acknowledges that the expertise and business plan of TEA requires that it be able to represent multiple parties and that the services rendered thereby are and may be beneficial to RCEA.

6.4.2 Notwithstanding the nature of the Scope of Work, RCEA specifically acknowledges that TEA is not precluded from representing or performing similar or related services for, or being employed by, other persons, companies or organizations.

6.4.3 RCEA further acknowledges that TEA, from time-to-time, has established, or may establish, contractual relationships with users of power resources or natural gas, and generators or producers of such power resources or natural gas. Notwithstanding the existence of such contractual relationships, RCEA desires the assistance of TEA as provided in this Agreement. RCEA specifically represents to TEA that the existence of such contractual relationships does not in and of itself create a conflict of interest unacceptable to RCEA.

6.4.4 The Parties specifically recognize and accept that there may be purchases and sales of power, natural gas, and financial instruments between and among TEA clients, including RCEA, and that such transactions are the normal course of business in providing the services and that such transactions do not create any conflict of interest for TEA in carrying out its obligations pursuant to this Agreement.

6.4.5 RCEA agrees to consult with TEA prior to entering into any transactions for wholesale energy products relating to the services provided hereunder, including but not limited to energy, capacity or transmission service and CAISO services or products.

6.5 Allocation of Trading Products.

- 6.5.1 RCEA recognizes that from time to time the Trading Products (as defined in Section 6.6.1 of this Agreement) that TEA purchases or sells for RCEA and other entities may require allocation of amounts available among all such entities including RCEA. Decisions by TEA to transact RCEA's Trading Products in the market will be made on a non-discriminatory basis and will be based on the same methods and procedures used to purchase or sell Trading Products on behalf of TEA's other clients that hold agreements similar to this Agreement.

6.6 Provision of Trading Services – TEA as principal in the transaction.

- 6.6.1 TEA shall provide trading services on behalf of RCEA with TEA acting as principal in the transaction utilizing trading agreements between TEA and its counterparties (referred to herein as TEA "trading as principal"), including, but not limited to, transacting as principal in the transaction with third parties for electricity products or with the CAISO. Trading as principal shall include electric power, renewable energy credits, resource adequacy capacity, CAISO services, associated transmission, Transactions (as defined in Section 2 of Task Order 2) and other related or ancillary services (collectively, "Trading Products") between TEA and its counterparties. In performing such trading services, TEA will, on the terms and subject to the conditions set forth in this Agreement, be entitled to enter into matching purchase or sale transactions with RCEA and third party transaction counterparties ("Transaction Counterparties") under which TEA may purchase Trading Products from RCEA for resale to one or more Transaction Counterparties, or may purchase Trading Products from one or more Transaction Counterparties for resale to RCEA (any such transaction with a Transaction Counterparty, a "Matching Transaction").
- 6.6.2 Unless otherwise mutually agreed to by the Parties, any Trading Products purchase or sale transaction between TEA and RCEA under a Matching Transaction shall be on the same terms and conditions (except for billing and payment, which shall be pursuant to this Agreement) as the terms and conditions of the applicable Matching Transaction between TEA and the applicable Transaction Counterparty. In the event that TEA purchases Trading Products on behalf of RCEA in a Matching Transaction, TEA shall resell such Trading Products to RCEA at the same price as TEA paid for such Trading Products, and RCEA shall pay TEA the amount payable by TEA to the Transaction Counterparty and the amounts payable to any third parties related to the purchase of Trading Products, including, but not limited to, transmission service charges, transmission loss payment costs, CAISO fees and assessments, and the like, incurred by TEA. In the event that TEA purchases Trading Products from RCEA for purposes of resale to a Transaction Counterparty under a Matching Transaction, TEA shall pay to RCEA the amount paid by the Transaction Counterparty to TEA less the amounts payable to any third parties related to the purchase of Trading Products from the RCEA and resale to the Transaction Counterparty, including, but not limited to, transmission service costs,

transmission loss payment costs, CAISO fees and assessments, and the like, incurred by TEA.

- 6.6.3 Notwithstanding any other provision of this Section to the contrary, if the Transaction Counterparty to a Matching Transaction is another TEA client for which TEA is providing trading services, the price of the transaction shall be set at market.
- 6.6.4 Notwithstanding any terms of this Agreement or the Scope of Work, nothing contained in this Agreement or the Scope of Work hereto shall be construed as requiring TEA to execute any transaction as principal in the transaction where such transaction or traded commodity or instrument is regulated under regulations promulgated pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”).
- 6.6.5 RCEA agrees to provide credit enhancement to support RCEA-specific transactions executed by TEA as principal in the transaction, as more particularly described in Section 2 of Task Order 2. In the event that RCEA is unable to provide such requested credit enhancement, TEA will attempt to source supply from CAISO, but only to the extent of TEA’s credit limit with CAISO related to RCEA transactions. In the event that TEA is unable to source supply from CAISO, then TEA shall have no obligation to proceed with any transaction in regard to which the enhancement was requested. To the extent that RCEA prefers to enter directly into a contract with the counterparty, TEA may execute the transactions as RCEA’s agent, provided the counterparty’s credit requirements are met by RCEA. In any such case, RCEA becomes the principal to the transaction with the counterparty and the counterparty relies on RCEA’s credit.
- 6.6.6 TEA shall not be liable to RCEA for the failure of any counterparty, including but not limited to any Transaction Counterparty (i.e. when TEA is trading as principal in the transaction), to pay or perform on its obligations. In the event of such failure by a Transaction Counterparty, TEA shall pursue any action against such defaulting entity at the direction of RCEA, at RCEA’s sole cost and expense.
- 6.6.7 Under no circumstances shall TEA be liable to RCEA for the failure of CAISO to pay, or for assessments made by the CAISO for any of the CAISO’s Scheduling Coordinators’ failure to pay or perform, related to transactions with the CAISO performed on RCEA’s behalf by TEA as principal in the transaction (i.e. TEA acting as Scheduling Coordinator on RCEA’s behalf), unless such failure to pay or assessments result from TEA’s breach of this Agreement, subject in all cases to the limitations contained in Section 8 hereof.
- 6.6.8 If RCEA interrupts a financially firm sale transaction without the contractual right to do so, TEA shall use reasonable efforts to purchase replacement capacity and

energy in the wholesale market place and deliver it. RCEA shall receive any resulting gain or be responsible for any resulting loss on the transaction.

- 6.6.9 Unless otherwise mutually agreed to by the Parties in writing, TEA shall have no obligation to enter into transactions on behalf of RCEA utilizing TEA's trading agreements that extend beyond the current termination date of this Agreement, which termination date shall be the last day of the current (i) Initial Term or (ii) if applicable, Renewal Term. If the term of this Agreement is terminated early due to an Event of Default other than bankruptcy, then for existing transactions, TEA and RCEA will continue to operate under the terms of this Agreement with regard to such transactions until such time as the individual transactions terminate or are fully settled. Nothing in this Agreement shall prevent TEA and RCEA from agreeing to settle any such transaction prior to the previously agreed settlement date of the transaction. Obligations between the Parties to pay for transactions or other Services effected or rendered hereunder shall remain in force notwithstanding the termination of this Agreement.

6.7 Provision of Trading Services – TEA as agent in the transaction.

As mutually agreed to in writing by the Parties, TEA will provide trading services pursuant to this Agreement by trading as agent for RCEA utilizing trading agreements between RCEA and its counterparties. RCEA agrees that effecting a change from TEA trading as principal to TEA trading as agent under transactions made on RCEA's behalf, does not release RCEA from its obligations to TEA resulting from obligations incurred by TEA under transactions made while trading as principal.

6.8 Conditions Precedent to the Procurement of Power

- 6.8.1 TEA shall have no obligation to enter into an agreement to purchase (or deliver) power pursuant to the RMA or any individual Task Order, unless and until (i) the conditions contained in sub-section (a) through (e) below have been satisfied (such conditions shall each be referred to as a "Condition Precedent"), and (ii) any additional Conditions Precedent identified by the Parties in Task Order 2 have been met. The Conditions Precedent, include the following:

(a) RCEA has entered into a Community Choice Aggregator Service Agreement with Pacific Gas & Electric Company ("PG&E") on the terms and conditions that are similar, in TEA's reasonable discretion, with the draft of such agreement provided by RCEA to TEA;

(b) RCEA has complied with all regulatory or statutory requirements necessary for the procurement of power by a CCA;

(c) As more particularly described in Task Order 2, RCEA has established a banking relationship with a commercial bank, including a secured account with (i) sufficient ability to receive all funds and payments due to the CCA from CCA customers, PG&E,

or other sources (hereinafter, the “CCA Revenue”), and (ii) with account control or similar agreements executed by the Parties with terms and conditions necessary for the establishment of sufficient collateral reserves;

(d) If RCEA has a loan or line of credit related to the operation of the CCA with a commercial bank (the “Financier”), either (i) or (ii) below:

(i) If the Financier requires a primary security interest in RCEA’s accounts or assets, TEA and the Financier have perfected a security interest in RCEA’s collateral accounts, and executed an intercreditor agreement that, in TEA’s sole discretion provides TEA with a pari passu security interest, with the Financier, to funds paid by RCEA’s electricity customers for sales of electricity by RCEA and established reserve account(s);

(ii) If the Financier does not require a primary security interest in RCEA’s assets and accounts, TEA has perfected a first position security interest in RCEA’s collateral account(s) and the Financier has executed a subordination agreement, that in TEA’s sole discretion, subordinates any claim the Financier may have to RCEA’s assets or accounts to claims held by TEA and restricts enforcement against RCEA’s assets and accounts after TEA has ceased delivery of commodity under the RMA until all financial obligations to TEA (or counterparties related to the CCA) under the RMA are satisfied; and

(e) RCEA has received certification from the CPUC of RCEA’s Implementation Plan.

7. Indemnification.

7.1 Subject to the limitations contained in Section 8 hereof, TEA and RCEA, to the extent permitted by applicable law, agree to indemnify, hold harmless and defend the other Party and its respective officers, directors, regents, members, subsidiaries, affiliates, partners, and employees from any and all liabilities, claims, actions, legal proceedings, demands, damages, losses, penalties, forfeitures and suits, and all costs and expenses incident thereto (including, but not limited to, costs of defense, settlements and reasonable attorneys’ fees), which the other Party may here after incur, become responsible for, or pay out as a result of the death or bodily injury to any person or the destruction or damage to any tangible property to the extent caused in whole or in part by, and in proportion to, any negligent or wrongful act or omission of the indemnifying Party, its employees, officers, directors, or agents in the performance of this Agreement. Neither Party shall be required to indemnify the other Party for liabilities, claims, suits, actions, legal proceedings, demands, damages, penalties, forfeitures and suits, and all costs and expenses incident thereto (including, but not limited to, costs of defense, settlements and reasonable attorneys’ fees), to the extent caused by the negligence or wrongful act or omission of the other Party.

- 7.2 Notwithstanding the foregoing provisions of this Section, if either Party is prevented by operation of applicable law from obligating itself in any way described in this Section, then the same limitation shall be made applicable to the other party hereto, all to the end that the obligations of the one to the other with respect to the matters mentioned in this Section shall be identical.
8. **Limitation of Liability.**
- 8.1 TEA shall not be liable to RCEA for errors made in the provision of the Services under each Task Order unless such errors are the result of gross negligence or willful misconduct on the part of TEA.
- 8.2 The cumulative maximum amount of TEA's liability in any 12-month term, if any, arising from any and all claims, lawsuits, actions, other legal proceedings by RCEA or any other person or entity arising out of or in connection with TEA's performance or nonperformance hereunder, whether based upon contract, warranty, tort, strict liability, or any other theory of liability, shall be no more than the Compensation for actual work performed by TEA for Services hereunder (excluding payments made for (i) power supply and related credit support, (ii) electric transmission, and (ii) Expenses) for the preceding six (6) months in which the event leading to the claim occurred; provided, if the amount of Compensation for the subject year is not fully known at the time payment of such claim is due, then the payment will be based upon an estimate of the Compensation for the preceding six (6) months and the payment amount will be trued up to actual Compensation when such Compensation is fully known. For the period of time spanning Phase I and Phase II, TEA's liability calculation under this Section 8.2 shall be limited to one-half of the amount of the Termination Fee. If TEA should be liable to RCEA pursuant to the provisions of this Section 8, payments shall be effected by offsetting monthly amounts due from RCEA to TEA as set forth in the provisions relating to Compensation in the Scope of Services. If TEA terminates this Agreement during the period in which its liability payments to RCEA are being offset against monthly amounts due from RCEA to TEA, TEA shall be obligated to pay any remaining liability payments upon the effective date of such termination.
- 8.3 Neither RCEA nor TEA shall be liable to the other Party for any indirect, consequential, incidental, special or punitive damages, of any kind or nature whatsoever, including but not limited to lost profits or revenues, lost savings, loss of use of a facility or equipment, or loss by reason of increased cost or expense; provided, however, that the foregoing shall not limit the enforceability of any provisions in any trading agreement that may apply to transactions between RCEA and TEA. The provisions of this Section take precedence over any conflicting provision of this Agreement, any Task Order, or any document incorporated into or referenced by this Agreement or any Task Order.
- 8.4 In providing Services under this Agreement, in no event shall TEA be liable to RCEA or RCEA Members for losses which RCEA may incur by reason of engaging in risk management strategies recommended by TEA, whether or not implemented by RCEA, or due to recommendations not made by TEA in the provision of risk management services.

9. **Notices.**

Any notices, requests, demands or other communications required to be given shall be in writing (“Notices”) and shall be deemed to have been duly given if (i) delivered by hand, (ii) mailed by registered or certified mail, postage prepaid, or sent by a reputable overnight carrier such as FedEx, or (iii) sent by facsimile equipment providing evidence of successful facsimile transmission, and addressed to the Contract Administrator, with copies of legal Notices to the individual designated by each Party, at the address included in this Agreement, or such changed name or address as may be forwarded to the other Party, consistent with the terms of this Section of this Agreement.

10. **Proprietary Interest.**

TEA shall retain sole ownership of any patent, copyright, trade secret, trademark, or service mark that TEA has developed or acquired in providing the services under this Agreement. RCEA acknowledges and agrees that TEA shall be the sole owner of any intellectual property rights developed by TEA under this Agreement and except as specifically set forth below in this Section, RCEA is not receiving any license to use any of those intellectual property rights. TEA shall have the right to use, license and receive royalties or fees for the use of any of the intellectual property rights developed by TEA under this Agreement. To the extent RCEA is required to use any of TEA’s intellectual property described above in this Section in connection with the matters described in this Agreement or in any Task Orders or Matching Transactions, then TEA hereby grants to RCEA a non-exclusive, non-transferable, fully paid up limited license to use such intellectual property solely for those purposes, which license shall automatically expire on the later of termination of this Agreement, any outstanding Task Orders or Matching Transaction, as applicable. Notwithstanding the above, RCEA retains sole ownership of any RCEA data provided to TEA and RCEA deliverables that TEA provides to RCEA, with respect to obligations under this Agreement. In addition, to the extent not already provided during the Term of this Agreement, at the termination of this Agreement, TEA shall provide to RCEA the RCEA data and deliverables in an electronic format as kept in the ordinary course of business, and as reasonably agreed to by the Parties. RCEA shall be responsible for any additional or non-commercially reasonable expense related to TEA providing this information to RCEA. RCEA represents and warrants that no state or federal funds or other support is being allocated or expended in connection with its performance under this Agreement which may provide any federal or state government, agency, or other entity any ownership, rights, licenses or other claims to any intellectual property developed by TEA under this Agreement. RCEA expressly waives and disclaims any rights it may obtain to any intellectual property developed by TEA under this Agreement under any applicable federal or state laws, rules, regulations or other enactments.

11. **Billing and Payment.**

- 11.1 Billing and payment terms shall be as provided in each Task Order. Payments shall be made by electronic transfer as either an Automated Clearing House (“ACH”) or wire transfer in United States Dollars. Each Party’s banking information is provided in

exhibits to this Agreement and a Party's account information may be amended by providing the other Party advance written notice.

- 11.2 Payments owed pursuant to this Agreement and not received when due shall be considered overdue. Interest will accrue on any unpaid amounts as of the day after the due date at a rate equal to the prime interest rate as established by PNC Bank, N.A. plus 300 basis points (the "Interest Rate").
- 11.3 In the event that any portion of an invoice related to a Matching Transaction is in dispute, then the dispute shall be governed by the dispute provisions of the market rules or contracts governing the specific transaction with the Transaction Counterparty.
- 11.4 In the event that any portion of an invoice for TEA's Compensation is in dispute, the undisputed amount shall be paid when due and payment may be withheld on the disputed amount. RCEA shall notify TEA immediately of the reason for the dispute and the Parties shall cooperate to resolve the dispute. If either Party, after payment is made, discovers an error that is discernible from the terms of the invoice, the disputing Party has the right to dispute the error within one hundred eighty (180) days from the date of invoice or within one hundred eighty (180) days from termination of this Agreement, whichever comes first. Upon determination of the correct billing amount, if the disputed amount is found owing to the other Party, it shall promptly be paid to the other Party after such determination. For disputed amounts or billing errors that are discovered through the exercise of the audit rights pursuant to this Agreement, the other Party must receive written protest within one hundred eighty (180) days from completion of an audit conducted pursuant to Section 22 herein.

12. Reserve Account.

The Parties agree that based on reasonable financial projections for the anticipated purchase and sale of power, RCEA shall retain, fund, or otherwise set-aside monies from CCA Revenue into a designated commercial bank account at least equal to the required amount of reserves or capital necessary, as agreed upon by the Parties and described in Task Order 2, in order for TEA to perform under Phase III (referred to as "Program Operations").

13. Provision of Services by Third Parties.

Unless expressly provided by the terms and conditions of this Agreement or a Task Order, TEA's business partners or other third parties (collectively, "Third Parties") which have been retained by RCEA to provide services to RCEA, are independent of TEA and not TEA's agents. The Parties hereby agree that TEA shall not be liable for (i) the performance of any services provided by Third Parties to RCEA, or (ii) RCEA's obligations to Third Parties.

14. Standard of Care.

The standard of care applicable to the provision of the services will be that of “Prudent Utility Practice.” Prudent Utility Practice shall mean any of the practices, methods and acts that would be followed by a significant portion of the electric utility industry during the relevant time period, and in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could reasonably have been expected to produce the desired result consistent with good business practices, reliability, safety and expedition. Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a range of acceptable practices, methods or acts. Prudent Utility Practice does not exclude the possibility of unintentional errors, mistakes, or other foibles of human nature. Nothing in this Agreement shall be construed to create any duty to or any standard of care with reference to any person not a party to this Agreement.

15. Successors and Assignment.

15.1 Unless otherwise provided in the Scope of Services, neither Party shall assign nor delegate performance of its duties under this Agreement to any person or entity without the written consent of the other Party, such consent not to be unreasonably withheld, conditioned, or delayed.

15.2 Notwithstanding Section 15.1, this Agreement and any executed Task Orders may be assigned by RCEA to a Community Choice Aggregation entity existing under the laws of the State of California and operating in Humboldt County, California, provided that RCEA, TEA, and such CCA entity agree and execute a written assignment, assumption, and ratification agreement.

15.3 Subject to the foregoing restrictions in this Section, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective permitted successors and permitted assigns.

16. Severability.

If any provision of this Agreement shall be deemed invalid or unenforceable in any respect for any reason, the validity of any such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired.

17. No Waiver.

A provision of this Agreement may be waived only by a written instrument executed by the Party waiving compliance. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision.

18. **Further Assurances.**

From time to time, each of the Parties shall execute, acknowledge and deliver any instruments or documents necessary to carry out the purposes of this Agreement.

19. **No Third Party Beneficiaries.**

Nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties, any right or remedy of any nature whatsoever, except for persons entitled to indemnification pursuant to Section 7.

20. **No Legal Services.**

No Provision of Legal Services by TEA. RCEA acknowledges that, with respect to the services rendered or to be rendered by TEA under this Agreement: (i) TEA is not authorized to give legal advice and (ii) TEA does not intend to give and has not given RCEA legal advice. RCEA represents to TEA that RCEA (i) has obtained and shall obtain legal advice from RCEA's own legal counsel regarding the legal aspects of any advice given or services performed by TEA under this Agreement and (ii) has not relied and shall not rely on TEA for the giving of legal advice. RCEA hereby waives and releases any claim that RCEA may now or hereafter have that RCEA has relied, directly or indirectly, on any advice given by TEA, or to be given by TEA, in connection with this Agreement as being in the nature of legal advice, and further waives and releases any claim for damages resulting therefrom.

21. **Resettlement.**

- 21.1 From time-to-time transactions that may have otherwise been fully completed and settled may be required to be resettled due to market rules (often in the case of RTO markets) or order of a court, regulatory authority, or other entity with jurisdiction to order such. If such resettlement related to any transaction performed by TEA on behalf of RCEA results in a refund to TEA from a third party, TEA shall pay to RCEA any such refund received by TEA. If such resettlement related to any transaction performed by TEA on behalf of RCEA results in TEA owing an amount to a third party, RCEA shall pay to TEA any such amount owed by TEA. This provision shall survive the termination of this Agreement.

22. **Audit Rights.**

During the term of this Agreement, and for twenty-four (24) months following the effective date of termination, each Party may audit the other Party's books and records for the most recently past twenty-four (24) months for the sole purpose of verifying the calculation of payments made or received, including the calculation of pricing or Compensation due pursuant to this Agreement; provided that neither Party may conduct more than one such audit during any consecutive six-month period; and further provided that the Parties' audit rights under this Section shall not extend the period of any audit rights identified in a Task Order. Furthermore, following termination of this Agreement, neither Party may conduct more than one such audit during the twenty-four (24) month period referred to above. Any such audit shall be conducted at the audited Party's offices

during its normal business hours, at the auditing Party's own expense. Copies of audit reports shall be provided to the non-auditing Party upon such Party's payment of copying and delivery costs. If following such audit, the Parties agree that any billing or payment in the previous year was incorrect, or it is otherwise found that such is the case, the Party owed such amount shall submit an invoice to the owing Party and the owing Party shall make payment of any undisputed amount no later than thirty (30) days after receipt of such invoice. Any such payments shall include applicable interest at the Interest Rate, accrued as of each payment's original due date.

Each Party shall maintain the confidentiality of the other Party's accounting records and supporting documents in compliance with the Confidentiality Section herein and shall use them only for the purpose of confirming the accuracy of billings and payments under this Agreement. In the event such information is required to be disclosed in a legal or regulatory proceeding, or otherwise required to be disclosed by law, the affected Party shall notify the other Party at the time of the request so that the affected Party may seek at its own expense to preserve the confidentiality of the information.

23. Force Majeure Event.

- 23.1 For purposes of this Agreement, "Force Majeure Event" means an event that prevents the claiming Party from performing any of its obligations under or in connection with this Agreement, that is not within the reasonable control of, or the result of the negligence of, the claiming Party, and that by the exercise of due diligence the claiming Party is unable to avoid, cause to be avoided, or overcome. Force Majeure Events may include, but are not restricted to: acts of God; acts of the public enemy, war, blockades, insurrections, civil disturbances and riots; epidemics; landslides, lightning, earthquakes, firestorms, hurricanes, tornadoes, floods, washouts, and extreme weather conditions; fire, explosion, breakage, freezing or accidents to machinery or lines of pipe; strikes, lock-outs or other industrial disturbances or labor disputes; labor or material shortage; sabotage or terrorism; and order or restraint by governmental authority (so long as the claiming Party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such order or restraint).
- 23.2 Except as otherwise provided in this Section, neither Party to this Agreement shall be considered to be in default in performance of any obligation hereunder if failure of performance shall be due to a Force Majeure Event. A Party shall not, however, be relieved of liability for failure of performance if such failure is due to events arising out of removable or remediable events which it fails to remove or remedy with reasonable dispatch. Any Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall exercise due diligence to remove such inability with all reasonable dispatch. Nothing contained herein, however, shall be construed to require a Party to prevent or settle a strike or labor disagreement against its will. Notwithstanding the provisions of this Section, payment of liquidated damages or penalties due to nonperformance under the terms and conditions of transactions entered into on RCEA's behalf shall not be excused because of a Force Majeure Event.

23.3 If the claim of Force Majeure Event is in respect to any Matching Transaction or Trading Product, the Force Majeure provisions of the TEA trading agreement under which such Matching Transaction or Trading Product is provided shall govern such claim.

24. **Recording.**

24.1 Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation between RCEA and TEA, each Party (i) consents to the monitoring of, and creation of a tape or electronic recording (“Recording”) by TEA of, all telephone conversations between the Parties to this Agreement, but only related to those individuals conducting RCEA Transactions under this Agreement, (ii) agrees that any such Recordings will be owned by TEA, retained in confidence, secured from improper access, and (iii) acknowledges that such Recordings may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers, employees, and agents of such monitoring or recording and to obtain any necessary consent of such officers, employees, and agents. The Recording, and the terms and conditions of a transaction discussed by the Parties in such Recording, if admissible, shall be the controlling evidence of the Parties’ agreement with respect to a particular transaction between the Parties in the event a confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of a confirmation, such confirmation shall control in the event of any conflict with the terms of a Recording.

25. **Default.**

25.1 Each of the following shall constitute an “Event of Default” with respect to a Party (the “Defaulting Party”) under this Agreement:

25.1.1 the failure to make, when due, any payment or funding obligation required pursuant to this Agreement if such failure is not remedied within three (3) business days after written notice of such a breach;

25.1.2 any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;

25.1.3 the failure to perform any material covenant or obligation set forth in this Agreement if such failure is not remedied within three (3) business days after written notice of such as breach;

25.1.4 the failure to perform any other obligation (i.e., other than a material or payment obligation) set for this Agreement, if such failure is not remedied within thirty (30) days after written notice of such as breach;

25.1.5 a Party becomes Bankrupt. For purposes of this Agreement, “Bankrupt” means with respect to either Party, the Party (i) 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, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

- 25.2 If an Event of Default with respect to a Defaulting Party has occurred, and if the Event of Default is not caused by a Force Majeure Event as described in Section 23 hereof, then the non-defaulting Party shall have the right to (i) suspend performance, (ii) designate an early termination date, or (ii) immediately terminate this Agreement subject to any surviving obligations. Both Parties shall continue to make payments then due or becoming due with respect to performance or payment obligations which arose prior to the date of termination.

26. Dispute Resolution.

- 26.1 Except as otherwise provided herein, the Parties shall act in good faith to first seek resolution of any dispute arising hereunder through negotiation between the operating personnel of each Party. If the dispute cannot be settled through such negotiations within a period ending no longer than thirty (30) days of the date on which one Party notifies the other in writing of a dispute, the senior executive officers (or their designees who shall be empowered with the same authority as the senior executive officers to settle such dispute) of each Party will personally and in good faith seek to resolve the dispute through negotiation one with the other for a period ending no longer than ten (10) days after the end of the 30-day period described above before resorting to any other dispute resolution procedure.
- 26.2 After the expiration of the periods described in Section 26.1, either Party may submit any disputes arising under this Agreement, which cannot be resolved by the Parties, to binding arbitration pursuant to the procedures in the Commercial Arbitration Rules of the American Arbitration Association (the "Rules"), which Rules shall apply to the extent not inconsistent with the following; provided, however, that the arbitration shall not be conducted under the auspices of the American Arbitration Association if the total amount in controversy, as of the date of serving the Demand for Arbitration, exceeds \$300,000.
- 26.2.1 The arbitration process shall be initiated after the expiration of the forty (40) day period described in Section 26.1 by either Party delivering to the other a written notice pursuant to R-4 of the Rules.
- 26.2.2 The Parties shall select a single arbitrator with at least ten (10) years of professional experience in connection with similar transactions and who has not previously been employed or retained by either Party and who does not have a direct or indirect interest in either Party or the subject matter of the arbitration. Such arbitrator shall either be mutually agreed by the Parties within thirty (30) days after written notice from either Party requesting arbitration, or failing

agreement, either Party may petition any Court with jurisdiction over the controversy to appoint such an arbitrator.

26.2.3 A preliminary hearing, by telephone only, may be conducted upon the agreement of both Parties. No preliminary hearing or administrative conferences shall take place unless by telephone. During any preliminary hearing or administrative conferences, the arbitrator shall direct the Parties' exchange of information contemplated by R-21 of the Rules.

26.2.4 The arbitration shall be held at a site to be determined by the arbitrator.

26.2.5 The arbitration shall be conducted according to the following procedures: (i) each Party shall divide equally the cost of the arbitrator and the arbitration and each Party shall be responsible for its own expenses and those of its counsel and representatives; and (ii) the details of any negotiation or offer of settlement made prior to arbitration and the cost to the Parties of their representatives and counsel shall not be admissible as evidence in the arbitration.

26.2.6 The decision of the arbitrator shall be final and binding on the Parties, enforceable in any court with jurisdiction.

26.3 Notwithstanding anything to the contrary contained herein, and regardless of any procedures or rules of the American Arbitration Association to the contrary, the Parties expressly agree that the following shall apply and control over any other provision in this Section:

26.3.1 The arbitrator shall have no authority to award punitive damages or attorneys' fees.

26.3.2 The Parties may, by written agreement signed by both Parties, modify any time deadline, location(s) for meeting(s), or other dispute resolution procedures set forth in this Section or in the Rules.

26.3.3 Time is of the essence for purposes of the provisions of this Section.

27. Certain Representations.

27.1 RCEA represents that (i) RCEA is authorized to enter into and execute this Agreement in connection with the Purposes stated herein; and (ii) RCEA is either not subject to federal income tax or its income is exempt under Section 115 of the Internal Revenue Code.

27.2 Each Party represents and warrants to the other Party that it is and will remain duly organized, validly existing, and in good standing under the laws of the state of its organization throughout the term of this Agreement, and that the execution, delivery and performance of this Agreement are within its express or implied statutory powers, have been duly authorized by all necessary action, and do not violate any of the terms or conditions in its governing documents or applicable laws.

28. **Confidentiality.**

The Parties acknowledge that certain information and materials exchanged during the term of this Agreement may contain proprietary and Confidential Information of the disclosing Party. Confidential Information is defined by state law. To the extent not otherwise defined by state law, “Confidential Information” means any and all information including, without limitation, trade secrets, analyses, compilations, forecasts, studies, techniques, plans, designs, cost data, pricing data, financial data, customer information and employee information, disclosed by a Party to the other party before, on, or after the Effective Date which relates in any manner, directly or indirectly, to the disclosing Party and/or its business, whether such information is disclosed in writing, verbally, electronically, or otherwise. Confidential Information shall specifically include, but not be limited to any information disclosed in written form and clearly marked “Confidential.” The receiving Party agrees that such Confidential Information shall be held confidential, to the extent permitted by law, under the same safeguards as it treats its own confidential information and that it will not use, copy or disclose the Confidential Information other than for the sole purpose of supporting or performing the services in connection with this Agreement. The Confidential Information may be disclosed to officers, directors, employees, agents, representatives or consultants (who shall agree to be bound by the terms of this Section) of the receiving Party on a need to know basis and shall not be disclosed to any such third party without first having obtained the written permission of the disclosing Party. Confidential Information shall specifically exclude any information which the receiving Party can show (i) was known to or was independently developed by the receiving Party without access to or use of the Confidential Information of the disclosing Party; (ii) was disclosed to the receiving Party in good faith by a third party who had the right to make such disclosure; (iii) was made public by the disclosing Party, or was established to be part of the public domain other than as a consequence of a breach of the Agreement by the receiving Party; or (iv) is independently developed by the receiving Party without use of the disclosing Party’s Confidential Information as shown by documents and other competent evidence in the receiving Party’s possession.

If the receiving Party is requested or required by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand, regulatory proceeding or similar legal or regulatory process to disclose any Confidential Information supplied to the receiving Party by the disclosing Party, the receiving Party shall provide the disclosing Party with prompt notice of such request(s) so that the disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Agreement. However, disclosure pursuant to a legal order or statutory obligation shall not constitute a breach of this Section. The Parties acknowledge that RCEA and the RCEA Members may be subject to the California Public Records Act and may be compelled to disclose records in the absence of an applicable exemption or order of the court.

29. **No Immunity.**

RECA is not entitled to claim immunity on the grounds of sovereignty or other similar grounds with respect to itself or its revenues from (i) suit alleging breach of this Agreement, (ii) jurisdiction of any court (unless RCEA is not subject to jurisdiction of courts of another state), or (iii) execution or enforcement of any judgment to which it or its revenues might otherwise be entitled in any proceedings nor may there be attributed to RCEA any such immunity (whether or not claimed).

30. **Entire Agreement.**

This Agreement supersedes any and all prior or contemporaneous agreements, whether written or oral, between the Parties hereto with respect to the subject matter of this Agreement. Each Party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made with respect to the subject matter of this Agreement that are not embodied in this Agreement, including any Task Order or exhibits or schedules attached hereto.

31. **Governing Law and Forum.**

This Agreement shall be subject to and construed under the laws of the State of California without resort to its conflicts of laws principles. Subject to the requirements and conditions precedent of Section 26 (Dispute Resolution), any dispute relating to this Agreement may be brought in any court of competent jurisdiction.

32. **Compliance with Law.**

Notwithstanding any other provision of this Agreement, TEA and RCEA shall at all times during the term of this Agreement comply with all applicable laws, regulations, orders and decrees of governmental authorities with jurisdiction. If there occurs a material change in any law, order, or regulation (each a "Change in Law") which prohibits performance by a Party (the "Affected Party") under this Agreement beyond the effective date of such Change in Law, the Affected Party shall give the other Party (the "Non-Affected Party") at least thirty (30) days' prior written notice (the "Notice Period"). During the Notice Period, the Parties shall make a good faith effort to resolve the issue and minimize any such economic impact caused by the Change in Law. If a mutual agreement is not reached, then early termination shall take effect as of the effective date of such Change in Law.

33. **Amendment.**

This Agreement may be amended only by an instrument in writing signed by the authorized representatives of both Parties. Task Orders, exhibits or schedules to this Agreement may be amended as set forth in such Task Order, exhibit or schedule.

34. **Counterparts.**

This Agreement may be executed by the Parties in one or more counterparts, each of which, when executed and delivered shall be an original, but all of which shall constitute one and the same instrument.

35. **Nuclear Free Certification.**

The Parties certify by the authorized signature below that that RCEA and TEA are not nuclear weapons contractors, and not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear Free Humboldt County Ordinance. The Parties shall notify Humboldt County immediately if either Party becomes a nuclear weapons contractor, or engages in any of the activities listed in this Section. In such event, or if this certification is false, and notwithstanding any other provision of this Agreement, Humboldt County may immediately terminate its participation and withdraw from the RCEA and this Agreement, subject to any existing obligations contained in (i) this Agreement (and Task Order), and (ii) the California Public Utilities Code.

36. **Consent to Relief from the Automatic Stay.**

RCEA AGREES AND CONSENTS TO AN IMMEDIATE LIFTING OF THE AUTOMATIC STAY IMPOSED BY SECTION 362 OF THE UNITED STATES BANKRUPTCY CODE IN ANY BANKRUPTCY CASE FILED BY RCEA WITH RESPECT TO TEA'S RIGHT TO PURSUE ITS REMEDIES AGAINST ANY COLLATERAL, SECURED ACCOUNTS, OR LETTER OF CREDIT SECURING THE INDEBTEDNESS FOR THE PROCUREMENT OF POWER.

37. **Task Orders, Exhibits, Schedules, and Controlling Terms.**

All Task Orders, exhibits, schedules and related attachments which are attached to this Agreement are incorporated by reference, as if set out in full herein. The provisions of each Task Order including exhibits, schedules and related attachments are subject to the Terms and Conditions of the RMA between the Parties. If any provisions of any Task Order including any exhibit, schedule or related attachment conflicts with any provisions in the RMA, the provisions of the RMA shall take precedence. If any provisions of Task Order 1 conflict with those of Task Order 2, the provisions of Task Order 2 shall take precedence over the Terms of Task Order 1.

38. **Authorization.**

The Parties hereby warrant that the persons executing this Agreement are authorized to execute and obligate the respective Parties, its successors and assigns, to perform under this Agreement in accordance with its terms. Each Party represents and warrants to the other Party that it is and will remain duly organized, validly existing, and in good standing under the laws of the state of its organization throughout the term of this Agreement, and that the execution, delivery and performance of this Agreement are

within its express or implied statutory powers, have been duly authorized by all necessary action, and do not violate any of the terms or conditions in its governing documents or applicable laws.

39. **Acknowledgement of Parties.**

By executing this Agreement, each Party acknowledges having read this Agreement, and that, after a full opportunity to discuss the terms of this Agreement with any representative or counsel of the Party's choice, fully understands the Agreement and voluntarily enters into this Agreement.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names by their respective duly authorized representatives as of the date written in the first paragraph of this Agreement.

**REDWOOD COAST ENERGY
AUTHORITY**

THE ENERGY AUTHORITY, INC.

By: _____

Name: Linda Atkins

Its: Chair of the Board

Date: _____

ATTEST:

Name:

Board Clerk

Date: _____

By: _____

Name: Joanie C. Teofilo

Its: President and CEO

Date: _____

Contract Administrator:

Matthew Marshall, Executive Director
(707) 269-1700 (Phone)
mmarshall@redwoodenergy.org

with a copy of legal notices to:

RCEA, Legal Counsel
Nancy Diamond, Esq.
822 G. Street, Suite 3
Arcata, CA 95521
(707) 826-8540 (Phone)
ndiamond@ndiamondlaw.com

Contract Administrator:

Jeff Fuller, Director Client Services
(425) 460-1110 (Phone)
jfuller@teainc.org

with a copy of legal notices to:

The Energy Authority, Inc.
Daren Anderson, Director of Contracts
301 W. Bay Street, Suite 2600
Jacksonville, Florida 32202
(904) 356-3900 (Phone)
danderson@teainc.org

Task Order 1 for Phase I and Phase II Core Services

TEA and RCEA agree that the following terms and conditions constitute Task Order 1 for Phase I and II Core Services (“Task Order 1”).

Section 1. Scope of Services for Phase I (Program Development)

During Phase I, TEA shall provide to RCEA certain technical and analytic services (hereinafter, the “Development Services”) on a time and materials basis. For purposes of this Task Order 1, the Development Services offered by TEA are separated into and described in Section 1.2 (Technical Analysis), Section 1.3 (Financial Analysis), Section 1.4 (Risk Analysis) and Section 1.5 (Support Tasks):

Section 1.1 *This section is reserved.*

Section 1.2 Technical Analysis

1.2.1 Load Study and Forecast

TEA will develop a load forecast model that forecasts both total energy usage and peak demand by customer load class using a two-step process. The first step will be to incorporate incremental adjustments for known changes to recent historical energy usage. The second step will be to apply an annual growth factor that can be adjusted to account for the effects of variables such as the following: (i) growth in overall energy usage due to population and economic growth; (ii) declines in per person electricity demand due to increased efficiencies; (iii) growth in electricity demand due to fuel switching towards electric cars and heating; (iv) declines in grid electricity usage due to rooftop solar, distributed battery storage adoption; and (v) changes in the hourly shape of electricity usage due to all of the above. The load forecast will also incorporate transmission and distribution level losses for the California Independent System Operator (“CAISO”) and Pacific Gas & Electric Company (“PG&E”), respectively.

The load forecasting model will output results into an Excel-based template that will be integrated with the Pro Forma Model discussed later in this section. The template will include (i) toggles to adjust for the variables described in the preceding paragraph, (ii) selections to allow the incorporation or exclusion of direct access loads, if applicable, (iii) toggles to adjust opt-out rates and inclusion/exclusion of RCEA member communities, if applicable, and (iv) charts to visualize the load data.

1.2.2 Rate Analysis

TEA will use the Pro Forma Model, with specific reserve accumulation objectives, to determine overall revenue requirements. Included as part of this task will be an analysis of future PG&E rates based on the scenarios described in the request for proposal (“RFP”). TEA will then use the PG&E rate structures, current rates, and projected future rate growth as the basis for constructing a rate structure for RCEA and determining an expected discount or premium to PG&E’s rates through time. Toggles will be available in the Pro Forma Model to modify supply portfolios and other key variable to determine the rate discount or premium under a variety of scenarios. This will help inform RCEA reserve targets with the goal of maintaining rate stability and rate parity in the future. Finally, there will be the capability to define multiple service levels with different renewable or carbon attributes and different rates, and determine the impact on overall revenue based on assumptions about adoption levels for each service.

1.2.3 Supply Scenarios for CCA

The Pro Forma Model will have the ability to select three different resource portfolios, as requested. The portfolio selections will determine the percentages of: California qualified renewables; renewables procured locally; renewable supply from each REC category; zero-carbon but non-renewable qualified supply (i.e., large hydro); with the balance being assumed to be system power. TEA will also work with RCEA staff and local officials during this task to determine the appropriateness of utilizing “bucket 2” and “bucket 3” RECs in meeting renewable portfolio standard (“RPS”) and greenhouse gas (“GHG”) reduction goals. The ultimate objective is for TEA and RCEA to establish and model the supply portfolios that best meet the desired cost, environmental attributes, and GHG levels sought by RCEA.

1.2.4 Economic Impacts

TEA will provide estimates of direct and indirect job impacts under each power supply scenario using the National Renewable Energy Laboratory’s Jobs and Economic Development Impact (“JEDI”) model. The JEDI model projects both construction-related job years and on-going permanent operations jobs, including various occupational classifications.

1.2.5 Sensitivity Analysis

The Pro Forma model will have the flexibility to examine the impacts of the changes in variables listed in the RFP. The Pro Forma will be combined with simulations of market prices derived using a production cost model. Market prices will be simulated under a variety of market and policy scenarios as per those requested in the RFP, which will be correlated with the PG&E rate forecast scenarios, and the cost of RCEA’s supply portfolio. All of the assumptions as discussed in the Pro Forma section will be able to be modified to determine the impact of deviations from assumptions on CCA rates and rate competitiveness.

Section 1.3 Financial Analysis

The Pro Forma model will capture base case and alternative scenario results of the significant drivers of RCEA’s financial performance including, but not limited to, the following:

- Load forecasts;
- Wholesale power prices;
- Contracted or owned power supply costs;
- Resource Adequacy charges;
- REC charges;
- Rooftop and community solar penetration and net-metering and feed-in-tariff rates;
- Administrative, start-up and operating costs;
- PCIA charges;
- PG&E rates under the current and the new California Public Utilities Commission (“CPUC”) approved 2-tier rate design;
- GHG emissions for each supply scenario;
- Energy efficiency, net metering and feed-in-tariff programs;
- Opt-out and participation rates by rate class;

- Participating jurisdictions; and
- Reserve accumulation and debt service coverage ratios through time.

Section 1.4 Risk Analysis

The technical study will identify the primary risks a RCEA CCA will face and the means of managing these risks including:

- Financial Risk - this risk primarily consists of the CCA's ability to maintain adequate cash flow, particularly during the early stages of the program;
- Competitive Rate Risk - this risk primarily consists of whether the CCA can provide power with the desired renewable mix and GHG concentration at rate levels competitive with PG&E;
- Wholesale Market Risk - this risk primarily consists of (1) a supplier default, which would force the CCA to procure replacement supplies at a higher cost; and (2) balancing the cost certainty of long-term fixed cost supply against the potential risk and rewards of procuring a portion of its supply in shorter-term markets at potentially lower or higher cost;
- Regulatory Risk - this risk primarily consists of the California Public Utilities Commission ("CPUC") ratemaking and policy-making functions that can affect CCA viability including items such as Exit Fees, Cost Allocation, and Rate Design, among other issues;
- Political Risks - this risk primarily consists of opposition during the CCA's formation at a macro level from the CPUC and California Legislature.

Section 1.5 Additional Phase 1 Support Tasks

TEA will provide additional Phase 1 tasks to support early formation efforts and prepare for Phase 2 launch to include the following:

- Coordinate and refine, with RCEA and the Core Team, a project timeline and detailed project plan for CCA formation and launch. This will include a spreadsheet mapping all of the steps and timing of CCA formation through customer enrollment and into early operations.
- Assist RCEA and LEAN, as necessary, with review of RCEA's Joint Powers Agreement and suggested CCA-related policy additions to support long-term program operations and governance. This may include consideration of certain JPA subcommittees and policies specific to the CCA program.
- Assist RCEA and LEAN, as necessary, with drafting a report of results from a technical study, and other reports related to governance and community outreach; and participate in RCEA Board and other community meetings to present results of the technical study
- Implement a weekly calls and/or WebEx meetings with RECA and the Core Team, as necessary, to ensure all TEA tasks are assigned and major milestones are being met.

Section 1.6 TEA's Phase I Technical Study

1.6.1 Summary

The final technical analysis will provide a clear assessment for RCEA of the overall feasibility of its CCA program as it relates to meeting key goals, such as environmental benefits and cost competitiveness ("TEA's Phase I Technical Study" or "Study"). The Study will show, *inter alia*, the different supply scenarios and how they compare to PG&E in terms of GHG content of the energy mix;

an estimation of the percentage of renewable energy content that can be procured from locally-generated electricity (and the potential economic and/or job impacts of local project development), as well as the potential rate savings (or rate increases) of each scenario compared to PG&E over the forecast period.

1.6.2 TEA's Phase I Technical Study Timeline

TEA anticipates that it will take approximately sixty (60) days after receipt of load data to complete a first draft of the Study. The time to incorporate comments received on a draft of the Study and prepare a final Study is likely to take an additional 30 to 45 days depending upon the amount of time and discussion requirements of coordinating with prospective RCEA Members.

1.6.3 TEA's Phase I Technical Study Process and Deliverables

The following deliverables will be provided during the course of the compiling the Study:

- Weekly updates with RCEA staff. TEA will provide a summary level status report, as well as, a standing 30 minute call.
- Verification of completeness of load data request of PG&E and identify additional follow-up with PG&E, if needed.
- Written description of the three power supply scenarios to be considered in the Study.
- A working draft of the Study for review and comments by RCEA.
- A final draft of the Study that incorporates feedback from RCEA.
- A final PowerPoint presentations of:
 - The draft Study results;
 - The final Study results; and
 - All Excel-based analysis and models developed in completing the Study.

Section 2. Scope of Services for Phase II (Program Launch)

During Phase II, TEA shall provide to RCEA certain implementation services (hereinafter, the "Launch Services") on a time and materials basis. For purposes of this Task Order 1, the Launch Services offered by TEA are separated into and described in Section 2.1 (Implementation Plan and Regulatory Functions), Section 2.2 (CCA Organizational Infrastructure), Section 2.3 (Procurement and Vendor Engagement), and Section 2.5 (Rate Setting and Policies).

Section 2.1 RCEA Implementation Plan and Regulatory Functions

2.1.1 RCEA Implementation Plan

The RCEA Implementation Plan (the "Plan") is a California Public Utilities Commission ("CPUC") requirement that covers the main aspects of the CCA plan of operations. It must be certified by the CPUC (within 90 days of submission) before the CCA can begin serving customers. TEA, in coordination with the Core Team, will draft the Implementation Plan in accordance with all CPUC requirements and established best practices. The RCEA Implementation Plan will include a description of the following:

- Communities participating in the program, as determined by the passage of the necessary CCA ordinance;
- CCA's organizational structure, including the program's operations and funding;
- CCA's rate setting or pricing strategy, and other costs to participants;

- Disclosure and due process requirements in setting rates and allocating costs among participants;
- General description of CCA service offerings, including default supply product, voluntary green pricing option(s), and others, if applicable;
- Identification of customer programs that will likely be developed, including net metering, feed-in-tariffs, demand response, energy storage, or others;
- Description of CCA organizational structure;
- Methods for entering and terminating agreements with other entities;
- Participant rights and responsibilities;
- Procedure for termination of the program; and
- Description of third parties that will be supplying electricity under the program, including information about financial, technical, and operational capabilities.

2.1.2 RCEA Regulatory Functions

The Parties agrees that certain regulatory steps must be facilitated during the Launch Phase and prior to Phase III (Program Operations) of the CCA. Accordingly, TEA will assist RCEA with the completion of the following:

- Prepare for CAISO market participant requirements, including identifying agreements between RCEA and CAISO necessary to prepare for Program Operations;
- Submitting a Statement of Intent with the California Public Utilities Commission (“CPUC”);
- Additional registration requirements with the CPUC;
- Execution of CCA Service Agreement with PG&E;
- Posting of credit collateral with PG&E;
- Submitting a Binding Notice of Intent with PG&E;
- Registration with California Air Resources Board (including CITSS registration); and
- Registration with Western Renewable Energy Generation Information System (“WREGIS”).

Section 2.2 CCA Organizational Infrastructure

In order to implement an optimal organization that meets RCEA’s requirements, TEA will collaborate with RCEA staff to ensure that RCEA is well positioned for program launch and operations. This will include the development (or refinement) of a business operations plan, review of operational policies and procedures, committee structures and a staffing plan to ensure that all core functions are in place, either outsourced through the Core Team’s services or augmented by existing RCEA staff and administrative infrastructure.

Section 2.3 Financial, Negotiation, and Procurement Services Engagement.

2.3.2 Financial Services

RCEA will require accounting, banking and auditing services for the CCA program in order to maintain separation of duties and fiduciary oversight. TEA, working in cooperation with the Core Team,

is able to assist RCEA in contracting for these services, to the extent such support does not create a conflict of interest.

2.3.2 Negotiation and Contracting Services

TEA will provide assistance with negotiations and contracting with existing or new local generation facilities, which RCEA may elect to pursue. At the appropriate time, TEA will work with RCEA to procure the legal services required, if any, to supplement this effort.

2.3.3 Procurement Services

TEA is a power marketer and certified CAISO Scheduling Coordinator. TEA has established credit facilities and contracts in place with an extensive list of market participants in California and Western energy markets that it will utilize in procuring all of the initial power supply needs of RCEA including energy, resource adequacy and RPS. RCEA will have full transparency into procurement efforts including the counterparties from whom TEA receives bids on behalf of RCEA and the ultimate prices paid by TEA for the different components of RCEA's power supply. The Parties agree that a separate Task Order 2 will need to be executed between the Parties prior to TEA beginning to procure power and negotiate any contracts needed to enable such power procurement.

Section 2.4 *This section is reserved.*

Section 2.5 Rate Setting and Policies

2.5.1 Rate Setting, including policies to encourage distributed generation.

TEA will assist RCEA with evaluating the factors involved in rate setting and rate policy making. TEA will assist RCEA with a determination of (i) its overall revenue requirements, (ii) rates based on a method (or methods) of allocating the cost of providing service to support viable rates, (iii) development of the actual rates, and (iv) a verification method that the rates as designed will generate revenues sufficient to satisfy the overall revenue requirement for RCEA.

2.5.2. Development of Retail Rates (First Step).

As a first step, TEA will assist RCEA with evaluating all relevant cost data, including all applicable operating cost, capital cost, loan repayment, credit and reserve requirements. The revenue requirements will be allocated via a cost of service analysis to the appropriate customer classes, which are currently expected to include the following classes (the "Customer Classes):

- Residential
- Residential CARE
- Small Commercial
- Medium Commercial
- Large Commercial
- Agriculture

Within the first step, load, sales and load factor estimates developed as part of the initial load study will be used as input for each of the Customer Classes in order to facilitate allocation of the cost of service. The list of Customer Classes may be updated after receiving customer load data.

Rates will be designed for each of the customer rate schedules that are consistent with the methodology employed by PG&E so as to be comparable to PG&E rates (including move to two-tiered

system as well as summer and winter rates). Testing will be conducted in order to verify that the rates will generate sufficient revenues to achieve the revenue requirements.

2.5.3 Development of FIT and NEM Rates (Second Step).

As a second step, TEA will assist with developing Feed in Tariff (“FIT”) and Net Energy Metering (“NEM”) rates that will be calculated using power cost data developed by TEA. A 100 percent renewable voluntary “opt-up” option may also be considered. TEA will work with RCEA and other local parties to design FIT and NEM rates align with the goals and objectives of RCEA and the local community.

Within the second step, renewable rates will be developed for each of the Customer Class rate schedules identified in the initial step. TEA will provide the cost data for the resources used to meet these requirements, as well as estimated sales and load information to facilitate rate development.

Section 3. Term and Termination of Task Order 1.

Section 3.1 Term of Task Order 1.

This Task Order 1 shall become effective and Services pursuant to this Task Order 1 shall commence on the Effective Date of the Agreement, and shall continue until the Power Start Date (as defined in Task Order 2) (hereinafter, the “Task Order 1 End Date”). The expiration or termination of this Task Order 1 shall not affect the term of the RMA.

3.1.1 Term of Phase I.

Phase I shall commence on the Effective Date of the Agreement and continue through the date on which the RCEA Board of Directors approves the Phase I Technical Study prepared by TEA pursuant to this Agreement.

3.1.2 Term of Phase II.

Phase II shall commence on July 18, 2016 and continue until the Task Order 1 End Date.

Section 3.2 Termination.

Either Party may terminate this Task Order 1 by either (1) terminating the RMA; or (2) terminating this Task Order 1 pursuant to the terms of RMA Sections 4 (“Events of Termination”) or RMA Section 25 (“Default”).

Section 4. Compensation for Services Provided in Task Order 1.

Section 4.1 Compensation for Phase I Services.

For the Development Services defined in Section 1 of this Task Order 1, TEA will record the hours expended on a time and materials basis for all activities associated with Section 1 based on TEA’s Billing Rates (as provided in Section 8 herein) per hour incurred by TEA staff (the “Phase I Fees”). In consideration for the Development Services performed by TEA hereunder, RCEA shall pay TEA the amount of Phase I Fees.

Notwithstanding the foregoing, and provided there is no RCEA Event of Default for either the RMA or this Task Order 1, the Parties agree to defer the amount owed to TEA for the Phase I Fees until Phase III. The amount owed by RCEA for deferred Phase I Fees shall be calculated using a five percent

(5.0%) per annum interest rate and be amortized for payment in equal monthly amounts during the first 48 months of Phase III operations, unless otherwise mutually agreed by the Parties. Furthermore, the Parties agree that if there is an Event of Termination in compliance with the RMA Section 4.1 and 4.1.1 during the Termination Window (as described in the RMA), then RCEA shall not owe for the amount of the Phase I Fees.

Section 4.2 Compensation for Phase II Services.

For the Launch Services defined in Section 2 of this Task Order 1, TEA will record the hours expended on a time and materials basis for all activities associated with Section 2 based on TEA's Billing Rates (as provided in Section 8 herein) per hour incurred by TEA staff (the "Phase II Fees"). In consideration for the Launch Services performed by TEA hereunder, RCEA shall pay TEA the amount of Phase II Fees.

Notwithstanding the foregoing, and provided there is no RCEA Event of Default for either the RMA or this Task Order 1, the Parties agree to defer the amount owed to TEA for the Phase II Fees until Phase III. The amount owed by RCEA for deferred Phase II Fees shall be calculated using a five percent (5.0%) percent per annum interest rate and be amortized for payment in equal monthly amounts during the first 48 months of Phase III operations, unless otherwise mutually agreed by the Parties. Furthermore, the Parties agree that if there is an Event of Termination in compliance with the RMA Section 4.2 and 4.2.1 during Phase II, then RCEA shall owe TEA the Termination Fee (as defined in the RMA) in lieu of the amount of the Phase II Fees.

During the term of the RMA and this Task Order 1, compensation and fees owed to TEA, excluding the deferred Phase I Fees and Phase II Fees, will be adjusted on an annual basis by the greater of (i) 3% or (ii) the U.S. Government Consumer Price Index for All Urban Consumers (the "CPI-U") beginning on the second anniversary of the RMA Effective Date.

Section 5. Controlling Terms and Conditions.

The provisions of this Task order 1 are subject to the Terms and Conditions of the RMA between the Parties. If any provisions of this Task Order 1 conflict with any provisions in the RMA, the provisions of the RMA shall take precedence. Capitalized terms found in this Task Order 1, and not defined herein, shall have the meaning assigned to such terms in the RMA.

Section 6. Expenses and Reimbursement.

Actual out-of-pocket expenses for travel and participation in on-site meetings are in addition to the compensation outlined in Sections 1, 2 and 4 of this Task Order 1. Travel costs such as airfare, hotel, ground transportation, per diem or meals (hereinafter, "Expenses") will be billed in the amount incurred by TEA for actual out-of-pocket cost, without any additional mark-up by TEA. Any Expenses incurred shall be billed for the month in which the Expenses are incurred. Air travel will be purchased at coach class fares, with advance purchase discounted tickets used when scheduling permits. Expense reports detailing all Expenses, along with receipts, will be presented to RCEA for reimbursement.

Section 7. Payment Terms.

Section 7.1 Billing and Payment.

TEA billable hours will be traced and itemized for each month for TEA services performed under Task Order 1. TEA will submit to RCEA an invoice for such hours, plus Expenses, if any, on a monthly

basis (the "Invoice"). Except as provided in Section 4 (deferred fees) of this Task Order 1 or otherwise agreed to by the Parties, RCEA shall pay each Invoice for services provided by TEA under this Task Order 1 within thirty (30) days from the receipt of each Invoice, and will send payment either via electronic funds transfer or mail payment to:

The Energy Authority, Inc.
301 W. Bay Street, Suite 2600
Jacksonville, Florida 32202
Attention: Lisa Bailey, Accounting

Section 7.2 RCEA Failure to Pay.

RCEA's failure to make timely payments to TEA hereunder shall be considered a breach. In the event such breach is not cured within three (3) days following written notice by TEA, then RCEA shall be in default (an "Event of Default"). Upon the occurrence of an Event of Default, TEA may, without prejudice to any other remedies:

- (a) Apply any revenues or payments received by TEA for the benefit of RCEA from any third party, if any, towards the outstanding amount owed to TEA;
- (b) Apply any monies from security posted by RCEA, if any, towards the outstanding amount owed to TEA;
- (c) Defer collection or provide an extension of outstanding amounts owed to TEA; and/or
- (d) Terminate this Task Order 1 and all services provided for herein pursuant to the process outlined in RMA Section 25.2.

Section 7.3 Late Payments.

Any payment that is not received (exclusive of deferred Phase 1 Fees and Phase II Fees) by TEA on or before the date required shall incur a monthly late fee, which shall be the total undisputed outstanding balance due multiplied by the 1.5% per month, or as allowable by state law (the "Late Fee").

Section 8. Billing Rates.

The TEA 2016 Billing Rates are applicable to any work performed by TEA in calendar year 2016 for which TEA is compensated on the basis of actual hours worked by TEA staff. Billing Rates are subject to annual adjustment and modification by TEA, and TEA agrees to provide RCEA with written notice of any such revisions.

TEA 2016 Billing Rates

TEA 2016 Billing Rates⁽¹⁾	
Job Group	Billing Rate \$/hour
Principal Consultant	\$290
Senior Consultant/Project Manager	\$250

Consultant	\$190
Analyst	\$150
Clerical	\$95
⁽¹⁾ <i>Billing rates are subject to change after December 31, 2016.</i>	

From time to time, RCEA may request, and TEA may provide RCEA with, additional services not enumerated here, and specifically described in a separate scope of work agreed to in writing by RCEA and TEA.

Section 9. Functions Performed by RCEA.

Unless otherwise mutually agreed to by the Parties, activities not expressly provided for herein are considered not within the scope of services for Task Order 1 and shall be performed by RCEA or other third party, unless otherwise addressed in a separate Task Order.

Section 10. Amendment.

This Task Order 1 may be amended by an instrument in writing signed by each Party's authorized representative.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Task Order 1 to be executed in their respective names by their respective duly authorized representatives as of the date written in the first paragraph of this Task Order 1.

REDWOOD COAST ENERGY AUTHORITY

THE ENERGY AUTHORITY, INC.

By: _____

Name: Linda Atkins

Its: Chair of the Board

Date: _____

By: _____

Name: Joanie C. Teofilo

Its: President and CEO

Date: _____

ATTEST:

By: _____

Name:

Its: Board Clerk

Date: _____

Task Order 2 for Phase III Core Services

TEA and RCEA agree that the following terms and conditions constitute Task Order 2 for Phase III Core Services (“Task Order 2”).

Section 1 Scope of Services for Phase III (Program Operations).

During Phase III, TEA shall provide to RCEA certain program operation services (hereinafter, the “Operational Services” or “Program Operations”) as more particularly described herein. For purposes of this Task Order 2, the Operational Services provided by TEA are separated into and described in Section 1.1 (Power Purchases and Policies), Section 1.2 (Program Administration and Compliance), Section 1.3 (Integrated Resource Plan) and Section 1.4 (Support Tasks):

Section 1.1 Power Purchases and Policies.

1.1.1 Power Purchases.

Subject to RMA Section 6.6, TEA shall provide trading services on behalf of RCEA with TEA acting as principal in the transaction utilizing trading agreements between TEA and its counterparties, including but not limited to, transacting as principal in the transaction with third parties or with CAISO for electricity products, including energy, resource adequacy capacity, ancillary services and renewable energy credits. Except as otherwise agreed to by the Parties, RCEA will transact with TEA for all of its wholesale power requirements. An agreed exception is electricity products procured from specific generators, such as biomass generation located in Humboldt County, which the Parties agree will be procured directly by RCEA (hereinafter, “Direct RCEA Counterparties”). Other exceptions may be agreed upon by the Parties in writing.

1.1.2 Policies and Guidelines.

TEA will work with RCEA to establish prudent power procurement policies, risk management policies, credit policies, and long-term hedging guidelines. RCEA policies will include the following:

- Minimum and maximum hedge volumes by tenor which are dependent on expected headroom and opt-out rates;
- Maximum hedge tenor;
- Credit exposure metrics with policies to remediate exposure when necessary;
- Minimum financial reserve targets held by RCEA once operations commence and traditional commercial bank credit facilities become available; and
- Other policies as deemed appropriate through discussions between the Parties.

Section 1.2 Program Administration and Compliance.

1.2.1 Regulatory and Legal Compliance.

TEA will coordinate with the Core Team to provide the following:

- Relevant regulatory and legislative monitoring as it affects CCAs in California;
- Monthly and annual Resource Adequacy (“RA”) showings to the California Public Utility Commission (“CPUC”); and

- Monthly and annual load forecasts to the CPUC and/or California Energy Commission (“CEC”).

In addition, TEA will coordinate with the Core Team to prepare and submit compliance filings to the appropriate regulatory bodies as follows:

- Annual Renewable Portfolio Standard (“RPS”) Progress Reports and RPS Procurement Plans;
- Additional CPUC reporting including Annual EPS Attestation and Annual SSP filing;
- Additional CEC reporting including Historical load, Year-Ahead load forecasts, Integrated Energy Policy Report (“IEPR”) as applicable, routine quarterly reporting and annual power mix report;
- Greenhouse Gas (“GHG”) Annual Summary;
- Storage Biennial Progress Report; and
- Re-certification of CCA Implementation Plan, as needed.

TEA will monitor regulatory and compliance obligations and requirements associated with operating in the CAISO market. This effort includes performing a cross audit of supplier RA plans on a monthly basis. As Scheduling Coordinator (as defined by CAISO), TEA will collect all RA Supply Plans from the market and will settle any disputes in the RA showings with the supplier, CAISO and/or CPUC, as needed. This process is repeated monthly. As the SC, TEA will also perform the same cross audit function for the annual RA plan.

RCEA and TEA recognize that the regulatory and legal compliance tasks outlined in this Section 1.2.1 will require the collective efforts of the Core Team.

1.2.2 Policy and Program Development.

TEA will work with RCEA and the Core Team to design and expand programs appropriate for the customer base and load profile for RCEA Members in Humboldt County. These programs will build on RCEA’s existing offering, and may include local renewable energy procurement, demand response, energy efficiency, energy storage, and other financially sound energy-related programs.

1.2.3 Ongoing Communications and Outreach to CCA Customers.

During the term of this Task Order 2, TEA will support efforts by RCEA and the Core Team to develop promotional outreach materials, enroll additional cities, and expand RCEA service to new communities by providing requested RCEA data and information in the possession of TEA regarding energy services.

1.2.4 Accounting Services.

During the term of this Task Order 2, TEA will support RCEA and the Core Team by providing requested RCEA data and information in the possession of TEA necessary for financial accounting, settlement, RCEA audits, or to support ongoing RCEA operations.

1.2.5 Wholesale Power Procurement Operations.

TEA will be the Scheduling Coordinator (“SC”) in the CAISO market and will provide a comprehensive suite of SC and related services to fulfill the requirements of a SC. TEA will conduct the following activities while performing its duties and responsibilities as SC on RCEA’s behalf:

- **Maintain credit facilities with CAISO.** Subject to Section 2.0 contained herein, TEA will maintain credit with the CAISO sufficient to make payments to, and receive payments from, the CAISO on RCEA’s behalf.

- **Provide daily forecast of RCEA hourly loads.** Each business day, TEA will generate an hourly forecast of loads for the next 7 days for RCEA.
- **Submit demand bids to Day Ahead (“DA”) market.** TEA will submit Demand Bids to the CAISO Day Ahead Market to meet RCEA’s forecasted load requirements. TEA will monitor and compare Demand Bid information resident in the CAISO portal with submitted information and use commercially reasonable efforts to validate Day Ahead Market data submissions.
- **Submit supply bids to DA market (both economic and self-schedule).** To the extent that TEA enters into agreements on behalf of RCEA, or RCEA directly enters into agreements with generators to acquire the output of a specific generating resource, TEA will provide the scheduling and settlement activities required to schedule RCEA’s supply agreements with CAISO. For any supply agreements linked to a specific generation source, RCEA will require its counterparty to provide TEA with a forecast of expected hourly generation levels that TEA will use in submitting day-ahead supply offers to CAISO.
- **Register and maintain Commercial Model and Resource Adequacy (“RA”).** TEA shall assist RCEA in identifying RCEA’s information required to register and maintain RCEA’s assets, if any, in the CAISO commercial model. TEA shall assist RCEA in identifying RCEA’s information required to comply with CAISO’s resource adequacy requirements in accordance with Section 40 of the Tariff.
- **Settlement validation and allocation of costs.** TEA shall use reasonable efforts to validate CAISO invoices. Should TEA and RCEA elect to dispute a CAISO invoice amount, TEA will file a dispute with CAISO pursuant to the CAISO tariff. Once a dispute determination has been made by CAISO, further appeals or action from TEA on RCEA’s behalf would be provided as requested and paid for by RCEA on a time and materials basis using the billing rates provided in Section 8 herein.
- **Congestion Revenue Rights (“CRR”) bid strategy development and implementation.** TEA will manage the annual CRR nomination and allocation process on behalf of RCEA. Annually, TEA will provide RCEA with an estimate of the dollar value of the potential CRRs based upon historic and forecasted Locational Marginal Prices for the source and sink pricing nodes associated with the applicable source and load pricing nodes, and TEA will consult with RCEA to select the CRRs to nominate. Selection of any CRRs to nominate will be at RCEA’s sole discretion. TEA will nominate any CRRs selected by RCEA and TEA will notify RCEA of the CRRs awarded to TEA for RCEA’s account. TEA will review the settlement statements and invoices associated with the CRRs for accuracy.
- **CAISO Market Monitoring.** TEA will monitor the following CAISO committees and participate (in person or via phone) in the committee meetings and provide a summary to RCEA of any discussion items that it reasonably believes may impact RCEA’s planned operations.
 - Market Surveillance
 - Audit
- **Perform Additional Tasks.** In addition to the above, TEA will provide the following:
 - Import schedule, as required, including preparing e-tags.
 - Coordinating with generation operators to forecast generation.
 - Coordination of unit outages with generation operators and CAISO.

- IST for system power transactions.

1.2.6 Long-term Power Procurement.

Consistent with RCEA's renewable and GHG goals, its Integrated Resource Plan and hedging strategies developed pursuant to this Task Order 2, TEA will issue RFPs for power supplies, as well as assist with evaluating bids and assist with negotiating power purchase agreements.

1.2.7 Financial Planning.

TEA will develop and maintain a financial model of RCEA's income and cash flows that will form the basis for a variety of applications including, but not limited to, annual budgeting and financial planning, ongoing risk analysis (both retail rate competitiveness and wholesale market risks), as well as form the basis for establishing RCEA's annual revenue requirement. TEA anticipates that the cost of service and rate design modules developed under Task Order 1 will be integrated with this financial planning model. TEA will include the following:

- **Financial Model:** Using the Pro Forma model developed during the technical study as the starting point, TEA will build a financial model of RCEA's financial projections which typically include load, resources with associated costs, market prices, various fixed costs and CAISO fees, executed short-term market transactions and any other variables, as necessary, to inform a complete cost picture for RCEA. TEA will coordinate with RCEA staff on all necessary inputs required to derive an accurate financial projection.

The financial model will be updated daily with the most recent market price information and hedge transactions. RCEA will have on-demand access to the most recent financial model runs through a web portal.

- **Risk Model:** TEA has developed a modeling framework that will be applied to its risk analysis for RCEA. The risk model generates scenarios by using inputs for several variables that may include market implied heat rates, natural gas prices, power prices, load variables, and other relevant inputs.

The risk model will be used as an important component to the entire risk management function, including calculating potential variability in RCEA's cash flows. This information will be used in assessing the need for short-term hedging transactions, establishing adequate financial reserve funds, and for setting retail rates.

- **Monthly Risk Reports:** TEA will create monthly risk reports that will measure RCEA financial performance and potential uncertainty therein. These reports will then inform discussions with RCEA as part of the continual risk management process.

1.2.8 Undertaking Continual Risk Management.

TEA will assist RCEA in establishing a formal framework for performing continual risk management that will be memorialized through an RCEA Board of Directors-approved risk management policy and procedures document. TEA will also assist RCEA in drafting risk reporting requirements. TEA will be available on a quarterly basis for a meeting with RCEA during which time CCA-related risks are reviewed, discussed, and as appropriate, risk mitigation strategies are reviewed and approved by RCEA. The quarterly meetings will include the appropriate RCEA staff and TEA staff. TEA will compile all risk-related information available into a single document or presentation that can be reviewed

and discussed at the quarterly meeting. Upon approval by RCEA, the results of the quarterly meeting will serve as the approved strategy guide for TEA market activities on behalf of RCEA for the prompt quarter. This agreed upon strategy will be prepared consistent with reliability requirements, RCEA renewable and GHG goals, financial goals and risk policies and procedures. The strategy will incorporate TEA's current market outlook and discussion of expected RCEA loads and resources. The Parties agree no strategy will be adopted which violates the risk policies of RCEA or TEA.

Section 1.3 Integrated Resource Plan.

1.3.1 Development of IRP.

TEA will prepare for RCEA an Integrated Resource Plan ("IRP"), and update as necessary, consistent with the requirements of the Clean Energy and Pollution Reduction Act of 2015 ("SB350"), which requires any load serving entity with annual electricity consumption exceeding 700 gigawatt-hours¹ per year, to adopt an IRP and a process for updating the plan at least once every five years to ensure, among other things, that each CPUC jurisdictional load-serving entity (including CCAs) meet the state's greenhouse gas emission reduction targets and procures resources to meet the 50% RPS by 2030 target. TEA's services will include working with RCEA to submit the IRP to the CEC and correct any deficiencies identified by the CEC.

TEA anticipates that the tasks completed in developing an IRP will include the following:

- TEA will develop a load forecast of RCEA's load that extends to a 20-year study period. Included in this load forecast will be an analysis of the impacts of demand-side resource management including energy efficiency, distributed generation, and demand response.
- TEA will create a model of RCEA's long-term financial function analyzing a 20-year study period. The financial model will characterize the economics of RCEA's existing portfolio on a monthly and annual granularity along with monthly diurnal load or resource balance. The model will include data necessary to determine financial performance metrics that are commonly used and understood by RCEA management.
- TEA will collect economic data from a variety of renewable and other generating resources that RCEA desires to consider adding to its generation portfolio. TEA will also include local resource options that RCEA may wish to consider or acquire. Utilizing a levelized lifecycle-cost of energy methodology, TEA will aggregate resource, regulatory, and market assumptions to model projected RCEA resource costs.
- TEA will analyze forecasted market conditions and consider future political and legislative uncertainties, such as carbon pricing and amending state renewable portfolio standards that may affect resource planning decisions. This information will be used to determine the quantity of wind, solar, energy storage, other renewable and/or gas generation capacity that likely will be added or retired in the California and broader western regional market over the study period. TEA will project resource costs under a variety of market environments that simulate utilize high, medium, and low annual hydro production, fuel and power prices, and market heat rates. Based on the above analysis TEA will present resource options that include costs and a discussion of the relative risk of each resource.

¹ For purposes of responding to this Task Order 2, the Parties anticipate that RCEA's annual electricity consumption will exceed the 700 GWh threshold.

- Based on the above analysis TEA will project portfolio options for RCEA that include cost and a discussion of the relative risk of each respective option. TEA will work with RCEA to recommend portfolios that strive to achieve minimal levels of risk relative to cost, consistent with RCEA's renewable portfolio and GHG goals.
- TEA staff will work with RCEA to identify the main areas of strategic focus and ultimate goals for the use of this IRP that may extend beyond the minimum requirements of SB350.

1.3.2 IRP Findings and Presentation.

Upon request of RCEA, TEA will arrange for a presentation of the IRP findings and recommendations to the RCEA executive management team. If RCEA requests such a presentation, TEA will summarize the report in a presentation format containing the key components of the IRP, including study objectives, key assumptions, study approach, findings, and final recommendations.

Section 1.4 Additional Phase III Support Tasks.

TEA will provide additional Phase III tasks to include the following:

- Continue to coordinate and refine, with RCEA and the Core Team, a project timeline and detailed project plan for CCA operations.
- Continue to assist RCEA and the Core Team, as necessary, with review of RCEA's Joint Powers Agreement and suggested CCA-related policy additions to support long-term program operations and governance. This may include consideration of certain Joint Powers Agency subcommittees and policies specific to the CCA program.
- Continue to assist RCEA and the Core Team with community outreach; and participate in RCEA Board and other community meetings, as necessary.
- Continue weekly calls and/or WebEx meetings with RCEA and the Core Team, as necessary, to ensure all TEA tasks are assigned and major milestones are being met.
- Continue to assist RCEA with ongoing regulatory functions.
- TEA will provide assistance with negotiations and contracting with existing or new local generation facilities, including Direct RCEA Counterparties, which RCEA may elect to pursue.
- Continue to assist RCEA with evaluating the factors involved in rate setting and rate policy making.

Section 2. Credit Support.

During the Term of Task Order 2, RCEA will acquire and provide credit support for power transactions, ancillary services, and related attributes (hereinafter, "Transactions") made by TEA on behalf of RCEA. Notwithstanding the foregoing, and subject to the requirements described below, TEA will, during the Term of this Task Order 2, provide a credit solution to enable RCEA to transact with wholesale market participants, including CAISO, for the procurement of power and related attributes on behalf of its RCEA Members. This credit solution is subject to RCEA meeting certain obligations, and establishing certain accounts and funding, as more particularly described in Sections 2.1 and 2.2, contained herein.

Section 2.1 Lock-Box Pledge Account.

Providing the credit solution is subject to the following Lock-Box Account requirements and RCEA obligations:

(1) RCEA hereby grants a present and continuing first priority security interest in and lien upon the funds, which will be deposited by PG&E from payments by RCEA customers, in a lock box pledge account (the "Lock Box Account") as funding for ongoing energy purchases made by TEA on behalf of RCEA. Accordingly, prior to TEA entering into Transactions on RCEA's behalf, RCEA shall execute and deliver a deposit account control agreement, substantially in the form attached hereto as Exhibit "A" (the "Control Agreement"). RCEA shall direct PG&E to deposit such funds and payments only in the Lock Box Account. The Lock Box Account shall be held at a commercial bank regulated by the Federal Deposit Insurance Corporation ("FDIC") and the Office of the Comptroller of the Currency ("OCC") (the "RCEA Bank"). In addition, at all times the RCEA Bank shall meet the following requirements: (i) the bank's lowest long-term deposit rating among Standard & Poor's, Moody's, and Fitch Rating Services must be at least an "A" or "A2" as applicable, (ii) the bank shall have assets of at least \$5 billion, and (iii) the bank shall be a U.S. bank willing to issue standby letters of credit (the "Minimum Requirements"). RCEA agrees that all funds transferred from PG&E shall be first deposited in the Lock Box Account and that the priority of disbursement of funds from the Lock Box Account is such that no disbursement of funds shall be made prior to sufficient funding of the electronic withdrawals (i.e., direct debit or ACH payment) by TEA for billed power purchases (i.e. for weekly CAISO Transactions and monthly Bilateral Transactions) for prior month(s) activity and the current month estimated Transactions ("Power Payments"). Payments shall be applied to oldest aged invoices first. On a monthly basis, RCEA shall not make payments or pre-payments to any third party prior to paying TEA for Power Payments.

(2) During the Initial Term, RCEA shall fund the current month, and any past due, Power Payments from the Lock Box Account. In addition, during the first four months of power procurement, RCEA shall retain excess funds in the Lock Box Account to establish a minimum balance of at least \$1.0 million dollars (the "Operating Funding") by the end of the first four months. RCEA shall fund such Operating Funding as described in the Target Columns (a) and (b) on Schedule "A" attached hereto. After the fourth month, RCEA shall continue to maintain a minimum daily balance at least equal to the Operating Funding (after the funding of all Power Payments) for the duration of the Initial Term. RCEA shall provide TEA with the continuous ability to view the activity and balance of the Lock Box Account.

Section 2.2 Reserve Account

Providing the credit solution is subject to the following Reserve Account requirements and RCEA obligations:

(1) RCEA hereby grants a present and continuing first priority security interest in and lien upon (including the right of setoff against) the funds which will be deposited by RCEA in a reserve account (the "Reserve Account") as security for power purchases made by TEA on behalf of RCEA. Accordingly, prior to TEA entering into Transactions on RCEA's behalf, RCEA shall execute and deliver a deposit account control agreement, substantially in the form attached hereto as Exhibit "B" (the "Reserve Control Agreement"). The Reserve Account shall be held at the RCEA Bank in compliance with the Minimum Requirements. The Reserve Control Agreement shall limit the use of funds in such Reserve Account (i) to support counterparty or CAISO requests for collateral, (ii) for reimbursement in the event of a third party default, (iii) in the event the Lock Box Account is not sufficiently funded to pay for monthly Transactions; (iv) TEA's request for collateral in the event of a material adverse change in RCEA's financial condition; or (v) for other purpose as mutually agreed by the Parties in writing. RCEA shall provide TEA with the continuous ability to view the activity and balance of the Reserve Account.

(2) During the first twelve months of power procurement by TEA, RCEA will deposit funds in the Reserve Account such that at least \$5.0 million dollars (the "Reserve Requirement") is in the Reserve Account at the end of the first twelve months, and maintain such Reserve Requirement thereafter.

During the first twelve months of operations, RCEA shall fund such Reserve Requirements as described in the Target Columns (c) and (d) on Schedule "A" attached hereto. In any month, fully funding the aggregate of the Operating Funding shall take precedence over funding the Reserve Requirement. Procedurally, the Reserve Requirement shall be funded by RCEA on a monthly basis from CCA Revenue available after payment of the prior month's billed and owed obligations for (i) PG&E power related fees, if any, (ii) TEA power purchases and related charges, including TEA obligations to CAISO, (iii) monthly RCEA administrative overhead (based on annual budgeted amounts related to CCA activities), (iv) payment of service fees to Core Team entities, and (v) amounts owed to Direct RCEA Counterparties for energy purchases. RCEA shall not make pre-payments to any third party, including Direct RCEA Counterparties, prior to funding the monthly Reserve Requirement.

(3) After the first twelve months of power procurement, the Reserve Account will continue to serve as credit support for RCEA power transactions through TEA. RCEA shall fund and maintain the amount in the Reserve Account to be equal or greater than the credit exposure as calculated by TEA. At least on an annual basis, TEA will reassess the credit exposure calculation based on factors, including the relationship of the parties, RCEA's portfolio, and market conditions.

Section 3. Term and Termination of Task Order 2.

Section 3.1 Term of Task Order 2.

Operational Services provided under this Task Order 2 shall commence on the Phase III Commencement Date (as defined in RMA Section 3.2) and shall continue until the end of the Initial Term (as defined in RMA Section 3.1). Furthermore, during the Term of Task Order 2, the Parties agree that the delivery date for power procured by TEA on behalf of RCEA shall be the later of either (i) May 1, 2017, or (ii) a date mutually agreed upon by the Parties based on the necessary conditions precedent (the "Power Start Date"). This Task Order 2 shall renew on an annual basis (each a "Renewal Term"), unless and until terminated pursuant to Section 3.2 herein.

Section 3.2 Termination.

Either Party may terminate this Task Order 2 by (i) providing notice of termination at least one hundred eighty (180) days prior to the end of any Renewal Term for termination effective on the last day of such Renewal Term, or (ii) pursuant to the terms of RMA Section 25 ("Default").

Section 4. Compensation for Services Provided in Task Order 2.

Section 4.1 Compensation for Services.

4.1.1 Operational Services.

For the Operational Services defined in Sections 1.1, 1.2, 1.3 and 1.4 of this Task Order 2, RCEA shall pay TEA on a monthly basis the amount of Forty-Seven Thousand Eighty-Three Dollars (\$47,083.00) (the "Operational Fees"), in addition to any deferred fees owed by RCEA for Phase I Fees or Phase II Fees.

4.1.2 Credit Solution.

For the Credit Solution defined in Section 2.0 of this Task Order 2, RCEA shall pay TEA on a monthly basis the amount of \$1.00 per megawatt hour for power procured by TEA to meet CCA load (the "Credit Solution Fees"), in addition to any amounts owed under Section 4.1.1 contained herein. Collectively, the Operational Fees and Credit Solution Fees shall be referred to as "Phase III Fees."

4.1.3 Deferred Phase I Fees and Deferred Phase II Fees.

For the Deferred Phase I Fees and Deferred Phase II Fees, as described in Task Order 1, RCEA shall pay TEA an amount which shall be calculated using a five percent (5.0%) percent per annum interest rate and be amortized for payment in equal monthly amounts during the first 48 months beginning on the Power Start Date, which shall equal no less than the amount of Six Thousand, Eight Hundred Thirty Four Dollars (\$6,834.00) (the “Deferred Fees”) per month for those Phase I and Phase II Services incurred by TEA. The Deferred Fees are in addition to any amounts owed under Section 4.1.1 or Section 4.1.2 contained herein.

4.1.4 Hourly Rate.

For additional services not provided for in this Task Order 2 and requested by RCEA , RCEA shall pay TEA on a time and materials basis using the hourly billing rates provided in Section 8 contained herein.

4.1.5 RCEA Power Obligations.

RCEA obligations to pay TEA for power procurement on behalf of RCEA (“Power Obligations”) are separate from any fees owed to TEA for TEA Services. During the term of the RMA and this Task Order 2, compensation and fees owed to TEA, excluding the (i) Deferred Phase I Fees, (ii) Deferred Phase II Fees, and (iii) Power Obligations, will be adjusted on an annual basis by the greater of (i) 3% or (ii) the U.S. Government Consumer Price Index for All Urban Consumers (the “CPI-U”) beginning on the second anniversary of the RMA Effective Date.

Section 5. Controlling Terms and Conditions.

The provisions of this Task Order 2 are subject to the Terms and Conditions of the RMA between the Parties. If any provisions of this Task Order 2 conflict with any provisions in the RMA, the provisions of the RMA shall take precedence. Capitalized terms found in this Task Order 2, and not defined herein, shall have the meaning assigned to such terms in the RMA.

Section 6. Expenses and Reimbursement.

Actual out-of-pocket expenses for travel and participation in on-site meetings are in addition to the compensation outlined in Sections 1 and 4 of this Task Order 2. Travel costs such as airfare, hotel, ground transportation, per diem or meals (hereinafter, “Expenses”) will be billed in the amount incurred by TEA for actual out-of-pocket cost, without any additional mark-up by TEA. Any Expenses incurred shall be billed for the month in which the Expenses are incurred. Air travel will be purchased at coach class fares, with advance purchase discounted tickets used when scheduling permits. Expense reports detailing all Expenses, along with receipts, will be presented to RCEA for reimbursement.

Section 7. Settlement, Billing, and Payment Terms.

Section 7.1 CAISO Settlement, Billing, and Payments.

TEA shall provide services as Scheduling Coordinator (“SC”) representing RCEA in CAISO. TEA shall provide RCEA with a statement of CAISO settlement activities on a regular basis in coordination with CAISO’s settlement calendar (i.e., currently weekly). Additionally, each month TEA shall provide RCEA with an aggregate or estimate of RCEA Transactions based on available information from CAISO. For Transactions executed by TEA as principal in the Transaction for RCEA’s account within CAISO, RCEA shall owe TEA for the Transactions, and TEA shall make weekly payments to CAISO in a timely matter contingent upon the following:

(1) Pursuant to Section 2.1, RCEA shall maintain sufficient funds in the Lock Box Account to allow withdrawal of funds by TEA (or payment to TEA) at least one (1) business day in advance of TEA's weekly payment to CAISO for Transactions made on behalf of RCEA (the "CAISO Payments"). The CAISO Payments will reflect actual weekly Transactions based on CAISO settlement invoices; and

(2) any amounts received from CAISO on behalf of RCEA will serve as a credit to the respective CAISO Payments due by RCEA.

Notwithstanding the foregoing, unless funds are received from PG&E into the Lock Box Account, during the first two months of power procurement TEA will (i) not impose a minimum Operating Funding requirement (as shown in Schedule "A"), and (ii) not initiate withdrawal from the Lock Box for amounts owed for weekly CAISO Transactions made on behalf of RCEA.

TEA shall use reasonable effort to validate CAISO invoices based on a review of actual CAISO charges. Should TEA and RCEA elect to dispute a CAISO invoice amount, such dispute shall be in accordance with Section 1.2.5 of this Task Order 2.

Section 7.2 Direct RCEA Counterparties.

During the Initial Term, RCEA may request that TEA settle with one or more Direct RCEA Counterparties pursuant to direct supply agreements between RCEA and its Direct RCEA Counterparties. If TEA is not precluded by market regulations, and upon either (i) pre-payment in full by RCEA, or (ii) a comparable increase is made to the Operating Funding amount, then TEA will make timely payments to such Direct RCEA Counterparties as agreed by the Parties for RCEA's account.

Section 7.3 Physical Bilateral Power Transactions with TEA as Principal in the Transactions.

For Transactions executed by TEA as principal in the Transaction for RCEA's account with counterparties other than CAISO (such non-CAISO counterparties referred to herein as "Bilateral Counterparties"), RCEA shall owe TEA for the Transactions, and TEA shall make monthly payments to such Bilateral Counterparties, in a timely manner, contingent on the following:

(1) Pursuant to Section 2.1, RCEA shall maintain sufficient funds in the Lock Box Account to allow withdrawal of funds by TEA at least five (5) business days in advance of TEA's monthly payment to Bilateral Counterparties (the "Monthly Payments"), as more particularly described in Section 7.3(2) below. The Monthly Payments will be based on the monthly settlements of Transactions with Bilateral Counterparties; and

(2) On or before the 5th business day of each month, TEA will provide RCEA with an invoice or statement of the Monthly Payments owed, including immediately preceding month's activities and settlement due related to Transactions with Bilateral Counterparties during the monthly billing period. Monthly Payments owed shall include any related penalty, interest, payments, or credits. If an amount is due RCEA, considering all amounts owed between the Parties under this Task Order 2, then TEA will deposit the funds into the Lock Box Account. If an amount is due TEA, RCEA will have sufficient funds available in the Lock Box Account, to allow TEA to withdraw such amounts by the 15th of each month in immediately available funds.

Notwithstanding the above provision of this Section, billing and payment provisions for these Transactions are dependent upon the market rules or contracts governing the specific transactions. If

said billing and payment provisions require earlier payments than the provisions of this Section, then billing and payment shall be in accordance with the earlier payment provisions of such contracts or market rules.

Section 7.4 Other Products.

For any other products which are not covered in Sections 7.1 through 7.3, and which are procured or transacted by TEA on behalf of RCEA, RCEA shall make payments to TEA at least one (1) business day in advance of the date payment is due.

Section 7.5 Hourly Billing and Payments.

TEA billable hourly fees, if any, will be tracked and itemized for each month in which TEA services are performed under Task Order 2. TEA will bill RCEA on a monthly basis for the amount of fees owed as Deferred Fees, Phase III Fees, or other billable hourly fees (hereinafter, "Compensation") pursuant to Section 4 of this Task Order 2, plus Expenses, if any. If timing permits, such billable amounts will be itemized on the same monthly invoice(s) related to Transactions as described in Section 7.3 herein.

Except as provided in Section 4 (with respect to deferred fees) of this Task Order 2, RCEA shall pay each invoice for Compensation related to TEA Services under this Task Order 2 the later of thirty (30) days after receiving the invoice from TEA or the first business day of the following month. RCEA will send payment as designated in Section 7.5, or as otherwise designated by TEA. For the first month of operations, and until funds are first received by RCEA from PG&E into the Lock Box Account, then TEA shall give RCEA a grace period of an additional thirty (30) days for the payment of Compensation by RCEA.

Section 7.6 Payment Information.

Unless otherwise provided by TEA, RCEA will send payment either via electronic funds transfer to TEA's bank account or via U.S. mail to:

The Energy Authority, Inc.
301 W. Bay Street, Suite 2600
Jacksonville, Florida 32202
Attention: Lisa Bailey, Accounting

The Parties agree to cooperate to develop and supplement the procedures related to billing and payments for the orderly implementation Sections 7.1 through 7.5; provided, however, that nothing herein shall require either Party to agree to an amendment to the terms of those sections.

Section 7.7 RCEA Failure to Pay.

RCEA's failure to make timely payments to TEA or fund amounts required in this Task Order 2 shall be considered a breach. In the event such breach is not cured within three (3) days following written notice by TEA, then RCEA shall be in default (an "Event of Default"). Upon the occurrence of an Event of Default, TEA may, without waiving any other remedies:

- (a) Apply any revenues or payments received by TEA for the benefit of RCEA from any third party, if any, towards the outstanding amount owed to TEA;

- (b) Apply any monies from security, including the Reserve Account or Lock Box Account, posted by RCEA, towards the outstanding amount owed to TEA;
- (c) Defer collection or provide an extension of outstanding amounts owed to TEA; and/or
- (d) Terminate this Task Order 2 and all services provided for herein pursuant to the process outlined in RMA Section 25.2.

Section 7.8 Late Payments.

Any payment that is not received (exclusive of deferred Phase I Fees and Phase II Fees) by TEA on or before the date required shall incur a late fee, which shall be calculated by multiplying the total undisputed outstanding balance by the lesser of (i) the Interest Rate (as described in RMA Section 11.2), or (ii) the maximum rate allowable by state law (the “Late Fee”) for the number of days which the balance remains outstanding.

Section 8. Billing Rates.

The TEA 2016 Billing Rates are applicable to any work performed by TEA in calendar year 2016 for which TEA is compensated on the basis of actual hours worked by TEA staff. Billing Rates are subject to annual adjustment and modification by TEA, and TEA agrees to provide RCEA with written notice of any such revisions.

TEA 2016 Billing Rates

TEA 2016 Billing Rates⁽¹⁾	
Job Group	Billing Rate \$/hour
Principal Consultant	\$290
Senior Consultant/Project Manager	\$250
Consultant	\$190
Analyst	\$150
Clerical	\$95
⁽¹⁾ <i>Billing rates are subject to change after December 31, 2016.</i>	

From time to time, RCEA may request, and TEA may provide RCEA with, additional services not described herein, and specifically described in a separate scope of work agreed to in writing by RCEA and TEA.

Section 9. Functions Performed by RCEA.

Unless otherwise mutually agreed to by the Parties, activities not expressly provided for herein are considered not within the scope of services for Task Order 2 and shall be performed by RCEA or other third party, unless otherwise addressed in a separate Task Order.

Section 10. Amendment.

This Task Order 2 may only be amended by an instrument in writing signed by each Party’s authorized representative.

Section 11. Exhibits.

The following documents are attached hereto and incorporated herein:

1. Exhibit A - Deposit Account Control Agreement
2. Exhibit B - Deposit Account Control Agreement (Reserve Account)

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Task Order 2 to be executed in their respective names by their respective duly authorized representatives as of the date written in the first paragraph of this Task Order 2.

REDWOOD COAST ENERGY AUTHORITY

THE ENERGY AUTHORITY, INC.

By: _____

By: _____

Name: Linda Atkins

Name: Joanie C. Teofilo

Its: Chair of the Board

Its: President and CEO

Date: _____

Date: _____

ATTEST:

Name:

Board Clerk

Date: _____

Schedule “A”

	(a)	(b)	(c)	(d)
Month	Lock Box Operating Funding Target	Aggregate Lock Box Operating Minimum Balance	Monthly Minimum Reserve Account Funding Target	Aggregate Reserve Account Funding Target
1	\$0	\$0	\$0	\$0
2	\$0	\$0	\$0	\$0
3	\$700,000	\$700,000	\$0	\$0
4	\$300,000	\$1,000,000	\$400,000	\$400,000
5	\$0	\$1,000,000	\$600,000	\$1,000,000
6	\$0	\$1,000,000	\$600,000	\$1,600,000
7	\$0	\$1,000,000	\$600,000	\$2,200,000
8	\$0	\$1,000,000	\$600,000	\$2,800,000
9	\$0	\$1,000,000	\$600,000	\$3,400,000
10	\$0	\$1,000,000	\$600,000	\$4,000,000
11	\$0	\$1,000,000	\$600,000	\$4,600,000
12	\$0	\$1,000,000	\$400,000	\$5,000,000

Exhibit "A" to Task Order 2

DEPOSIT ACCOUNT CONTROL AGREEMENT

Date: The ___ day of _____, 201__
Debtor: Redwood Coast Energy Authority
Address: Attention: Matthew Marshall
633 3rd Street
Eureka, CA 95501
Fax No.: _____

Secured Party: The Energy Authority, Inc.

Address: Attention: Daren L. Anderson
301 West Bay Street, Suite 2600
Jacksonville, FL 32202
danderson@teainc.org

Fax No.: (904) 665-0228

Depository
Institution: _____

Address: Attention: _____

Fax No.: _____

1. **Definitions.** In this Agreement:
 - (a) "Article 9" means Article 9 of the Uniform Commercial Code.
 - (b) "Control" means control of a deposit account, as defined in Article 9.
 - (c) "Debtor" means each and all of the persons or entities shown above as Debtor. All agreements of the Debtor in this Agreement are joint, several, and joint and several.
 - (d) "Depository Institution" means the Depository Institution shown above.
 - (e) "Secured Party" means the Secured Party shown above.
 - (f) "Security" is defined in Article 8 of the Uniform Commercial Code.

2. **Agreement of the Parties.** The Debtor, the Secured Party and the Depository Institution agree to all of the provisions in this Agreement.
3. **Security Interest.** The Debtor has given the Secured Party a first priority security interest in, and has pledged and assigned to the Secured Party, the following property (the "Collateral"):

All of the Debtor's existing and future accounts with the Depository Institution identified below, and all amendments, extensions, renewals and replacements of the accounts (all called the "Account"), and all existing and future amounts in the Account, and all existing and future interest and other earnings on the Account, and all proceeds.

Account number(s) _____ with the Depository Institution, and all amendments, extensions, renewals and replacements of the account(s) (all called the "Account"), and all existing and future amounts in the Account, and all existing and future interest and other earnings on the Account, and all proceeds.

The security interest, pledge and assignment are called the "Security Interest." The Debtor and the Secured Party notify the Depository Institution of the Security Interest, and the Depository Institution agrees that it has been notified of the Security Interest.

4. **Control.** If the Collateral is one or more deposit accounts under Article 9, by signing this Agreement the Debtor, the Secured Party, and the Depository Institution are giving the Secured Party Control over the Collateral, and are perfecting the Security Interest in the Collateral by Control. Whether or not the Collateral is a deposit account under Article 9, the Depository Institution will comply with all instructions and other directions originated by the Secured Party directing disposition of the funds in the Account without any further consent by the Debtor. This means that the Depository Institution will comply with all orders, notices, requests and other instructions of the Secured Party relating to the Collateral, including but not limited to orders, notices, requests and other instructions to withdraw or transfer any Collateral, and to pay or transfer any Collateral to the Secured Party or any other person or entity. The Depository Institution will promptly mark its records to register the Secured Party's Security Interest in the Collateral.
5. **Rights of Debtor and Others.** Until the Depository Institution receives the Secured Party's notice that the Debtor's rights in the Account are suspended (the "Shifting Control Notice"), the Depository Institution will comply with all notices, requests and other instructions from the Debtor for disposition of funds in the Account. This includes but is not limited to orders, notices, requests or instructions to withdraw or transfer any of the Collateral, and to pay or transfer any of the Collateral to the Debtor or any other person or entity, but not to redeem or terminate the Account. After the delivery by the Secured Party of the Shifting Control Notice to the Depository Institution, unless the Secured Party agrees in writing: (a) the Depository Institution will not permit the Debtor or any other person or entity except the Secured Party to withdraw or transfer any of the

Collateral, and (b) the Depository Institution will not comply with any order, notice, request or other instruction from the Debtor or any other person or entity except the Secured Party relating to any of the Collateral, and (c) the Depository Institution will not pay or transfer any of the Collateral to the Debtor or any other person or entity except the Secured Party, or to any other account except the Account. At all times after the Depository Institution receives the Shifting Control Notice, unless the Secured Party agrees or unless the Secured Party withdraws the Shifting Control Notice, the Depository Institution will not honor any check or other item drawn by the Debtor on the Account or any other withdrawal or transfer by the Debtor from the Account, except to the Secured Party. The form of Shifting Control Notice is attached hereto as Schedule A.

6. **Representations and Agreements.** The Debtor and the Depository Institution represent to the Secured Party, and agree that:

- (a) No person or entity except the Secured Party has Control over any of the Collateral. Neither the Debtor nor the Depository Institution has entered into any acknowledgment or agreement (including but not limited to any control agreement, pledged account agreement, blocked account agreement, or other acknowledgment or agreement) that gives any person or entity except the Secured Party (or acknowledges) Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Neither the Debtor nor the Depository Institution will permit any person or entity except the Secured Party to have Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Neither the Debtor nor the Depository Institution will enter into any acknowledgment or agreement (including but not limited to any control agreement, pledged account agreement, blocked account agreement, or other acknowledgment or agreement) that gives any person or entity except the Secured Party (or acknowledges) Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Unless the Secured Party otherwise requests or agrees in writing, the Debtor is and will remain the sole account holder of the Account.
- (b) No person or entity (except the Debtor, the Secured Party, and the Depository Institution) has made a claim against any of the Collateral, or claims any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. The Debtor and the Depository Institution will immediately notify the Secured Party if any person or entity (other than the Debtor, the Secured Party, or the Depository Institution) makes a claim against any of the Collateral, or claims any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral.
- (c) The Depository Institution has not issued, and will not issue, any Security for any of the Collateral, and the Depository Institution has not given, and

will not give, any Security for any of the Collateral to the Debtor or any other person or entity.

- (d) The Depository Institution agrees that all of the Depository Institution's existing and future security interests, pledges, assignments, liens, claims, rights or setoff and recoupment, and other right, title and interest in any of the Collateral are and will remain fully subordinate to the Security Interest. The Depository Institution will not assert or enforce any of the Depository Institution's existing or future security interests, pledges, assignments, liens, claims, rights of setoff or recoupment, or other right, title or interest in any of the Collateral. But the Depository Institution may charge the Account for the Depository Institution's standard account fees for the Account, and for any checks and other items that are deposited in the Account and returned to the Depository Institution unpaid. The Secured Party is not personally liable to the Depository Institution for any fees, return checks, or other return items.
 - (e) The Depository Institution is a bank, as defined in Article 9. The State of _____ is the Depository Institution's jurisdiction for purposes of Article 9.
 - (f) Debtor hereby instructs Depository Institution, and Depository Institution hereby agrees, to furnish to Secured Party statements of the Account as well as online access to enable Secured Party to monitor activity in the Account, all as customarily provided to customers of Depository Institution at the times such statements and access are normally provided to customers of Depository Institution, through the normal method of transmission, at Debtor's expense. Additionally, Debtor hereby instructs Depository Institution, and Depository Institution agrees, to make available to Secured Party and Debtor copies of all daily debit and credit advices of the Account and any other item reasonably requested by Secured Party. If Depository Institution receives any notice of a claim of a third party in respect of the Account or legal process of any kind relating to Debtor, Depository Institution shall make a reasonable effort to give notice to Secured Party and Debtor of such legal process.
7. **Rights of Depository Institution.** The Depository Institution does not have to pay uncollected funds. The Depository institution does not have to make funds available before it is required to do so under federal law. The Depository Institution is entitled to comply with all applicable laws, regulations, rules, court orders, and other legal process.
8. **Tax Reporting.** Until the Secured Party notifies the Depository Institution to use a different name and number, the Depository Institution will make all reports relating to the Collateral to all federal, state and focal tax authorities under the name and tax identification number of the Debtor.

9. **Waiver, Changes, and Cancellation.** Nothing in this Agreement can be waived, changed, or cancelled, except by a writing executed by the Debtor, the Secured Party, and the Depository Institution, and except that this Agreement may be cancelled by a writing signed by the Secured Party and sent to the Depository Institution in which the Secured Party releases the Depository Institution from any further obligation to comply with instructions and other directions originated by the Secured Party with respect to all of the Collateral. Except under the previous sentence, nothing in this Agreement will be affected by any act or omission by any person or entity.
10. **Notices.** All notices, orders, requests, and other instructions and communications to any party under this Agreement will be delivered, mailed, emailed or faxed to such party's address [email address] or fax number stated above, or to the other address or fax number that such party may designate in a written notice that complies with this sentence.
11. **Successors.** This Agreement binds and benefits the parties and each of heirs, representatives, successors and assigns.
12. **Specific Performance.** This Agreement may be enforced in an action for specific performance.
13. **Governing Law.** This Agreement is governed by the laws of the state specified in Section 6(e) above.
14. **Counterparts.** This Agreement may be signed in counterparts, and all counterparts together are the same Agreement. Executed as of the date first above written.

Redwood Coast Energy Authority
Debtor

By: _____
Title: _____

The Energy Authority, Inc.
Secured Party

By: Joanie C. Teofilo
Title: President and CEO

Depository Institution

By: _____
Title: _____

Schedule A

SHIFTING CONTROL NOTICE

To: [Depository Institution]
[Address]

Re: Depository Account Control Agreement dated _____ by and among Redwood Coast Energy Authority, The Energy Authority, Inc. and [Depository Institution]

Ladies and Gentlemen:

This constitutes a Shifting Control Notice as referred to in Section 5 of the above referenced agreement.

The Energy Authority, Inc.

By:

Date:

Exhibit "B" to Task Order B

DEPOSIT ACCOUNT CONTROL AGREEMENT
(RESERVE ACCOUNT)

Date: The __ day of _____, 201__
Debtor: Redwood Coast Energy Authority
Address: Attention: Matthew Marshall
633 3rd Street
Eureka, CA 95501
Fax No.: _____

Secured Party: The Energy Authority, Inc.

Address: Attention: Daren L. Anderson
301 West Bay Street, Suite 2600
Jacksonville, FL 32202
danderson@teainc.org

Fax No.: (904) 665-0228

Depository
Institution: _____

Address: Attention: _____

Fax No.: _____

1. **Definitions.** In this Agreement:

- (a) "Article 9" means Article 9 of the Uniform Commercial Code.
- (b) "Control" means control of a deposit account, as defined in Article 9.
- (c) "Debtor" means each and all of the persons or entities shown above as Debtor. All agreements of the Debtor in this Agreement are joint, several, and joint and several.
- (d) "Depository Institution" means the Depository Institution shown above.
- (e) "Secured Party" means the Secured Party shown above.
- (f) "Security" is defined in Article 8 of the Uniform Commercial Code.

2. **Agreement of the Parties.** The Debtor, the Secured Party and the Depository Institution agree to all of the provisions in this Agreement.
3. **Security Interest.** The Debtor has given the Secured Party a first priority security interest in, and has pledged and assigned to the Secured Party, the following property (the “Collateral”):

All of the Debtor’s existing and future accounts with the Depository Institution identified below, and all amendments, extensions, renewals and replacements of the accounts (all called the “Account”), and all existing and future amounts in the Account, and all existing and future interest and other earnings on the Account, and all proceeds.

Account number(s) _____ with the Depository Institution, and all amendments, extensions, renewals and replacements of the account(s) (all called the “Account”), and all existing and future amounts in the Account, and all existing and future interest and other earnings on the Account, and all proceeds.

The security interest, pledge and assignment are called the “Security Interest.” The Debtor and the Secured Party notify the Depository Institution of the Security Interest, and the Depository Institution agrees that it has been notified of the Security Interest.

4. **Control.** If the Collateral is one or more deposit accounts under Article 9, by signing this Agreement the Debtor, the Secured Party, and the Depository Institution are giving the Secured Party Control over the Collateral, and are perfecting the Security Interest in the Collateral by Control. Whether or not the Collateral is a deposit account under Article 9, the Depository Institution will comply with all instructions and other directions originated by the Secured Party directing disposition of the funds in the Account without any further consent by the Debtor. This means that the Depository Institution will comply with all orders, notices, requests and other instructions of the Secured Party relating to the Collateral, including but not limited to orders, notices, requests and other instructions to withdraw or transfer any Collateral, and to pay or transfer any Collateral to the Secured Party or any other person or entity. The Depository Institution will promptly mark its records to register the Secured Party’s Security Interest in the Collateral.
5. **Rights of Debtor and Others.** The Depository Institution will comply with all notices, requests and other instructions from the Secured Party for disposition of funds in the Account. This includes but is not limited to orders, notices, requests or instructions to withdraw or transfer any of the Collateral, and to pay or transfer any of the Collateral to any other person or entity. Unless the Secured Party agrees in writing: (a) the Depository Institution will not permit the Debtor or any other person or entity except the Secured Party to withdraw or transfer any of the Collateral, and (b) the Depository Institution will not comply with any order, notice, request or other instruction from the Debtor or any other person or entity except the Secured Party relating to any of the Collateral, and (c) the Depository

Institution will not pay or transfer any of the Collateral to the Debtor or any other person or entity except the Secured Party, or to any other account except the Account. The Depository Institution will not honor any check or other item drawn by the Debtor on the Account or any other withdrawal or transfer by the Debtor from the Account, except to the Secured Party.

6. **Representations and Agreements.** The Debtor and the Depository Institution represent to the Secured Party, and agree that:

- (a) No person or entity except the Secured Party has Control over any of the Collateral. Neither the Debtor nor the Depository Institution has entered into any acknowledgment or agreement (including but not limited to any control agreement, pledged account agreement, blocked account agreement, or other acknowledgment or agreement) that gives any person or entity except the Secured Party (or acknowledges) Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Neither the Debtor nor the Depository Institution will permit any person or entity except the Secured Party to have Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Neither the Debtor nor the Depository Institution will enter into any acknowledgment or agreement (including but not limited to any control agreement, pledged account agreement, blocked account agreement, or other acknowledgment or agreement) that gives any person or entity except the Secured Party (or acknowledges) Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Unless the Secured Party otherwise requests or agrees in writing, the Debtor is and will remain the sole account holder of the Account.
- (b) No person or entity (except the Debtor, the Secured Party, and the Depository Institution) has made a claim against any of the Collateral, or claims any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. The Debtor and the Depository Institution will immediately notify the Secured Party if any person or entity (other than the Debtor, the Secured Party, or the Depository Institution) makes a claim against any of the Collateral, or claims any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral.
- (c) The Depository Institution has not issued, and will not issue, any Security for any of the Collateral, and the Depository Institution has not given, and will not give, any Security for any of the Collateral to the Debtor or any other person or entity.
- (d) The Depository Institution agrees that all of the Depository Institution's existing and future security interests, pledges, assignments, liens, claims,

rights or setoff and recoupment, and other right, title and interest in any of the Collateral are and will remain fully subordinate to the Security Interest. The Depository Institution will not assert or enforce any of the Depository Institution's existing or future security interests, pledges, assignments, liens, claims, rights of setoff or recoupment, or other right, title or interest in any of the Collateral. But the Depository Institution may charge the Account for the Depository Institution's standard account fees for the Account, and for any checks and other items that are deposited in the Account and returned to the Depository Institution unpaid. The Secured Party is not personally liable to the Depository Institution for any fees, return checks, or other return items.

- (e) The Depository Institution is a bank, as defined in Article 9. The State of _____ is the Depository Institution's jurisdiction for purposes of Article 9.
 - (f) Debtor hereby instructs Depository Institution, and Depository Institution hereby agrees, to furnish to Secured Party statements of the Account as well as online access to enable Secured Party to monitor activity in the Account, all as customarily provided to customers of Depository Institution at the times such statements and access are normally provided to customers of Depository Institution, through the normal method of transmission, at Debtor's expense. Additionally, Debtor hereby instructs Depository Institution, and Depository Institution agrees, to make available to Secured Party and Debtor copies of all daily debit and credit advices of the Account and any other item reasonably requested by Secured Party. If Depository Institution receives any notice of a claim of a third party in respect of the Account or legal process of any kind relating to Debtor, Depository Institution shall make a reasonable effort to give notice to Secured Party and Debtor of such legal process.
- 7. **Rights of Depository Institution.** The Depository Institution does not have to pay uncollected funds. The Depository institution does not have to make funds available before it is required to do so under federal law. The Depository Institution is entitled to comply with all applicable laws, regulations, rules, court orders, and other legal process.
 - 8. **Tax Reporting.** Until the Secured Party notifies the Depository Institution to use a different name and number, the Depository Institution will make all reports relating to the Collateral to all federal, state and focal tax authorities under the name and tax identification number of the Debtor.
 - 9. **Waiver, Changes, and Cancellation.** Nothing in this Agreement can be waived, changed, or cancelled, except by a writing executed by the Debtor, the Secured Party, and the Depository Institution, and except that this Agreement may be cancelled by a writing signed by the Secured Party and sent to the Depository Institution in which the Secured Party releases the Depository Institution from any

further obligation to comply with instructions and other directions originated by the Secured Party with respect to all of the Collateral. Except under the previous sentence, nothing in this Agreement will be affected by any act or omission by any person or entity.

- 10. **Notices.** All notices, orders, requests, and other instructions and communications to any party under this Agreement will be delivered, mailed, emailed or faxed to such party's address [email address] or fax number stated above, or to the other address or fax number that such party may designate in a written notice that complies with this sentence.
- 11. **Successors.** This Agreement binds and benefits the parties and each of heirs, representatives, successors and assigns.
- 12. **Specific Performance.** This Agreement may be enforced in an action for specific performance.
- 13. **Governing Law.** This Agreement is governed by the laws of the state specified in Section 6(e) above.
- 14. **Counterparts.** This Agreement may be signed in counterparts, and all counterparts together are the same Agreement. Executed as of the date first above written.

Redwood Coast Energy Authority
Debtor

By: _____
Title: _____

The Energy Authority, Inc.
Secured Party

By: Joanie C. Teofilo
Title: President and CEO

Depository Institution

By: _____
Title: _____

**AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN THE REDWOOD COAST ENERGY AUTHORITY (RCEA) AND
LEAN ENERGY US**

Effective April 1, 2016, this Agreement is made and entered into by and between the Redwood Coast Energy Authority ("RCEA"), a regional joint powers authority, and Local Energy Aggregation Network ("CONSULTANT", "LEAN Energy US," or "LEAN"), a California 501(c)(3) not-for-profit corporation.

RECITALS

WHEREAS, RCEA seeks to develop, finance, implement, and operate a Community Choice Aggregation ("CCA") program for its RCEA Members and their respective residents (the "Project") and has solicited proposals from qualified entities to provide services related to the Project;

WHEREAS, LEAN in partnership with The Energy Authority ("TEA") and Noble Americas Energy Solutions LLC ("Noble Solutions Energy US") (collectively, Noble Solutions, TEA, and LEAN shall be referred to herein as the "Core Team") submitted a proposal responsive to RCEA's solicitation ("Proposal");

WHEREAS, LEAN, TEA and Noble Solutions, are each separately qualified by virtue of experience, training, education and expertise to provide the services specified in the Proposal;

WHEREAS, LEAN, TEA and Noble Solutions have been selected by RCEA to provide specified services that are consistent with the Proposal, to be provided under individual contracts entered into concurrently herewith by RCEA directly between LEAN, TEA and Noble Solutions, respectively;

WHEREAS, consistent with the Proposal, the Core Team has divided completion of the Project into three separate phases with designated services and time periods (each a "Phase");

WHEREAS, Phase I services (referred to as "Program Development") will be completed by TEA and LEAN; Phase II services (referred to as "Program Launch") and Phase III services (referred to as "Program Operations") will be completed through the collaboration of the Core Team as more specifically set forth in the respective agreements between each of the members of the Core Team; and

WHEREAS, Noble Solutions is willing to provide RCEA with those services specified herein, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, based on the conditions recited herein and made a material part hereof, the parties mutually agree as follows:

1. Scope of Services

CONSULTANT agrees to provide all of the services described in Exhibit "A," consisting of eight pages, which Exhibit is attached hereto and incorporated by reference. All services shall be performed in accordance with generally accepted professional practices and principles and to RCEA's satisfaction.

2. Time of Completion

Time is of the essence with respect to this contract, and CONSULTANT agrees to commence

work as soon as reasonably possible after execution of this contract by both parties, and complete the work no later than April 1, 2021.

3. Compensation

Compensation for services rendered under this Agreement shall be based on the estimated budget attached hereto and incorporated herein as Exhibit "B," consisting of three pages. CONSULTANT agrees to perform all services required by this Agreement for an amount not to exceed the sum of Seven Hundred Twenty Eight Thousand Seven Hundred Dollars (\$728,700).

4. Payment

Payment shall be made to CONSULTANT as set forth in Exhibit B. CONSULTANT shall submit itemized invoices by the tenth (10th) working day of the month to the RCEA, 633 3rd Street, Eureka CA 95501, Attention: Office Manager, which shall itemize all work completed and costs incurred as of the invoice date. Those portions of the invoice not approved by the RCEA, if any, shall be promptly returned to CONSULTANT with an explanation as to why such portions were not approved. Payment will be made to CONSULTANT within ten (10) days after receipt of payment from RCEA.

5. Hold Harmless And Indemnification

CONSULTANT agrees to indemnify, defend and hold harmless RCEA, its Governing Board, its officers, agents, employees, and volunteers from any and all claims and losses, whatsoever, accruing or resulting from any and all subcontractors, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged as a result of the CONSULTANT, its agents and employees, pertaining to the performance of this Agreement.

RCEA agrees to indemnify, defend and hold harmless CONSULTANT, its Governing Board, its officers, agents, employees, and volunteers from any and all claims and losses, whatsoever, accruing or resulting from any and all subcontractors, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged as a result of RCEA, its agents and employees, pertaining to the performance of this Agreement.

6. Insurance

a. CONSULTANT agrees to maintain, at a minimum, the insurance coverage or self-insurance coverage as set out below at all times during the terms of this Contract. Failure to maintain the required insurance shall be grounds for termination of this Contract. Said coverage shall include an endorsement to add RCEA, its officers, agents and employees, as additional insureds with respect to liability arising out of or connected with the services to be provided under this Contract. Said coverage shall additionally be endorsed to specify that the CONSULTANT'S insurance is primary and that insurance or self-insurance maintained by RCEA shall not contribute with it. Upon request, CONSULTANT shall furnish RCEA with certificates of insurance and endorsements of all required insurance. Said documentation shall state that coverage shall not be cancelled except after thirty (30) days prior written notice has been given to RCEA.

b. Workers' Compensation and Employers' Liability Insurance: CONSULTANT shall provide Workers' Compensation and Employers' Liability insurance for CONSULTANT's employees

and agents to the extent required by law, and agree to hold harmless and indemnify the RCEA for any and all claims arising out of injury, disability, or death of CONSULTANT's employees or agents.

- c. Commercial General Liability: CONSULTANT shall maintain \$1 million minimum commercial general liability insurance coverage.
- d. Business Auto: If applicable, CONSULTANT shall maintain \$1 million minimum business automobile insurance coverage.
- e. Professional Liability Insurance: If applicable, CONSULTANT shall maintain \$1 million minimum professional liability insurance.
- f. Self-Insurance: If CONSULTANT is self-insured, CONSULTANT must forward documentation to RCEA that demonstrates to RCEA's satisfaction that CONSULTANT self-insures as a matter of normal business practice before commencing work under this Contract. RCEA will accept reasonable proof of self-insurance comparable to the above requirements.

7. Covenant of Further Assurances. The Parties hereby agree to execute such other documents and perform such other acts as may be necessary or desirable to carry out the purposes of this Agreement.

8. Core Team Coordination

LEAN acknowledges the existence of contracts between RCEA and TEA and between RCEA and Noble Solutions, both of which are intended to complement the Services provided by LEAN hereunder pursuant to the joint proposal for Services submitted by the Core Team. LEAN similarly acknowledges that the LEAN Services provided hereunder are intended to complement those of TEA and Noble Solutions. In performing its Services hereunder, LEAN shall coordinate its efforts with TEA and Noble Solutions in order to maximize the effectiveness of each Core Team members' performance under the respective agreement with RCEA.

9. Assignment

CONSULTANT may not assign its obligations under this Agreement without the prior written consent of RCEA. Any assignment by the CONSULTANT in violation of this provision shall be void, and shall be cause for immediate termination of this Agreement. Subject to the provisions of this Section, this Agreement shall be binding upon and inure to the benefit of CONSULTANT's successors and assigns.

10. Subcontracting

CONSULTANT may not subcontract any portion of the work required by this Agreement without prior written approval of the RCEA, except for any sub-contract work identified herein. If CONSULTANT shall cause any part of the project to be performed by a subcontractor, the provisions of this contract shall apply to such sub-contractor, and CONSULTANT shall be liable hereunder for all acts and negligence of the subcontractor.

11. Relationship Of Parties

CONSULTANT shall perform all work and services as described herein as an independent contractor. No person performing any of the work or services described herein shall be considered an officer, agent, servant or employee of the RCEA, nor shall any such person be entitled to any benefits,

including but not limited to Workers Compensation Benefits, available or granted to employees of RCEA. CONSULTANT shall be solely responsible for the acts or omissions of its officers, agents, employees, and subcontractors. Nothing herein shall be construed as creating a partnership or joint venture between RCEA and CONSULTANT.

12. Compliance With Law.

CONSULTANT shall be responsible for compliance with all laws or regulations applicable to the Services being provided under this Agreement, and shall obtain and maintain all certifications, permits and licenses as required to lawfully perform Services hereunder.

13. Books Of Record And Audit Provisions

The CONSULTANT shall maintain on a current basis complete books and records relating to this Agreement. The books and records shall be original entry books with a general ledger itemizing all debits and credits for the work. In addition, the CONSULTANT shall maintain detailed payroll records. These documents and records shall be retained for at least five years from the completion of this Agreement. The CONSULTANT will permit RCEA to audit all books, accounts or records relating to this Agreement.

14. Title

It is understood that any intellectual property developed by CONSULTANT will be the property of CONSULTANT, any intellectual property developed by RCEA will be the property of RCEA, and any intellectual property jointly developed by both Parties will be the property of both Parties, with ownership terms to be negotiated in good faith at a later date. To the extent RCEA is required to use any of CONSULTANT's intellectual property developed in connection with this Agreement, CONSULTANT hereby grants to RCEA a non-exclusive, non-transferable, fully paid limited license to use such intellectual property, which license shall automatically expire on the termination of this Agreement.

Further, it is understood that RCEA shall retain unrestricted access and use to any and all documents, information, reports and associated data concerning this project prepared by and/or submitted by the CONSULTANT. RCEA retains sole ownership of any RCEA data provided by CONSULTANT to RCEA under this Agreement. At the termination of this Agreement, CONSULTANT shall provide to RCEA the RCEA all data and deliverables in an electronic format as kept in the ordinary course of business, and as reasonably agreed to by the Parties.

15. Confidentiality

- a. The Parties acknowledge that certain information and materials exchanged during the term of this Agreement may contain proprietary and Confidential Information of the disclosing Party. "Confidential Information" is defined by state law and generally means and includes any and all information including, without limitation, trade secrets, analyses, compilations, forecasts, studies, techniques, plans, designs, cost data, pricing data, financial data, customer information and employee information, disclosed by a Party to the other party before, on, or after the Effective Date which relates in any manner, directly or indirectly, to the disclosing Party and/or its business, whether such information is disclosed in writing, verbally, electronically, or otherwise. Confidential Information shall specifically include, but not be limited to any information disclosed in written form and clearly marked "Confidential." The receiving Party agrees that such Confidential Information shall be held confidential, to the extent permitted by law, under the same safeguards as it treats its own confidential information and that it will not use, copy or disclose the Confidential Information other than

for the sole purpose of supporting or performing the services in connection with this Agreement. The Confidential Information may be disclosed to officers, directors, employees, agents, representatives or consultants (who shall agree to be bound by the terms of this Section) of the receiving Party on a need to know basis and shall not be disclosed to any such third party without first having obtained the written permission of the disclosing Party. Confidential Information shall specifically exclude any information which the receiving Party can show (i) was known to or was independently developed by the receiving Party without access to or use of the Confidential Information of the disclosing Party; (ii) was disclosed to the receiving Party in good faith by a third party who had the right to make such disclosure; (iii) was made public by the disclosing Party, or was established to be part of the public domain other than as a consequence of a breach of the Agreement by the receiving Party; or (iv) is independently developed by the receiving Party without use of the disclosing Party's Confidential Information as shown by documents and other competent evidence in the receiving Party's possession.

- b. CONSULTANT acknowledges that the confidential information about RCEA's customers to which it will have access under this Agreement could give it or a third party an unfair competitive advantage in the event that CONSULTANT or any third party were to compete with RCEA in the provision of electrical or other services to RCEA's customers. CONSULTANT AGREES THAT IT WILL NOT USE ANY INFORMATION IT RECEIVES REGARDING RCEA MEMBER AGENCY OR RCEA CUSTOMERS FOR ANY PURPOSE OTHER THAN PROVIDING SERVICES UNDER THIS AGREEMENT. CONSULTANT agrees not to use any of the Project data provided to it by RCEA for its own marketing purposes. CONSULTANT shall not use such customer information to compete with RCEA in any manner. Upon termination of this Agreement, CONSULTANT shall (i) return all documents and other materials received from the RCEA and all copies (if any) of such documents and tangible materials, and (ii) destroy all other documents or materials in CONSULTANT's possession that contain RCEA customer data, and (iii) deliver to RCEA a certificate, signed by an authorized representative of CONSULTANT, stating that CONSULTANT has returned or destroyed all such documents and materials; provided, however, that CONSULTANT may retain copies of information necessary for tax, billing or other financial purposes, to be used solely for such purposes.
- c. The Parties agree that damages would be an inadequate remedy for breach of the provisions in this Section 15 and that either Party shall be entitled to equitable relief in connection therewith, and shall be entitled to recover any damages for such breach as may be provided by law.

16. Nondiscriminatory Employment

In connection with the execution of the Agreement, the CONSULTANT shall not discriminate against any employee or application for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

17. Entirety of Contract

This Agreement shall constitute the entire agreement between the parties relating to the subject matter of this agreement, and shall supersede any previous agreements, promises, representation, understanding and negotiation, whether oral or written, concerning the same subject matter. Any and all act which may have already been consummated pursuant to the terms which are embodied in this

Agreement are hereby ratified.

18. Amendment

No addition to, or alteration of, the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto.

19. Termination

If, in the opinion of the RCEA, the CONSULTANT fails to perform the services required under this Agreement within the time limits specified herein, or otherwise fails to comply with the terms of this Agreement, or violates any ordinance, regulation, or other law which applies to its performance herein, the RCEA may terminate this Agreement with 14 days written notice. In such event, the RCEA shall pay to CONSULTANT an equitable portion of the total remuneration as compensation for the portion of the work deemed acceptable by the RCEA, less the amount of any damages sustained by the RCEA as a result of CONSULTANT's breach of this Agreement. The RCEA shall be entitled to take possession of all studies, drawings, computations and specification, insofar as they are complete and acceptable to the RCEA. At any time and for any reason, upon thirty days written notice to the CONSULTANT, the RCEA may terminate this Agreement and pay only for those services rendered as of the date when termination is effective.

20. Notices

All notices or other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been given when delivered if personally delivered, or three (3) business days after mailing if mailed by certified mail, postage prepaid, return receipt requested, and shall be addressed as follows:

Notices shall be given to RCEA at the following address:

Matthew Marshall, Executive Director
Redwood Coast Energy Authority
633 3rd Street
Eureka, CA 95501

Notices shall be given to CONSULTANT at the following address:

Shawn Marshall, Executive Director
LEAN Energy US
P.O. Box 961
Mill Valley, California 94941

21. Compliance With Applicable Laws

The CONSULTANT shall comply with any and all applicable federal, state and local laws affecting the Services covered by this Agreement.

22. Standard of Practice

The CONSULTANT warrants that CONSULTANT has the degree of learning and skill ordinarily possessed by reputable professionals practicing in similar localities in the same profession and under similar circumstances. CONSULTANT duty is to exercise such care; skill and diligence as professionals engaged in the same profession ordinarily exercise under like circumstances.

23. Jurisdiction and Venue

This Agreement shall be construed in accordance with the laws of the State of California, and the

parties hereto agree that venue shall be in Humboldt, County California.

24. Headings

The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement.

25. Severability

If any paragraph, section, sentence, clause or phrase contained in this Agreement shall become illegal, null or void or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining paragraphs, sections, sentences, clauses or phrases contained in this Agreement shall not be affected thereby.

26. Waiver

No consent or waiver by either party to or of any breach of any representation, covenant, or warranty shall be construed as a consent to or waiver of any other breach of the same or any other representation, covenant or warranty.

27. Force Majeure Event

- a. For purposes of this Agreement, "Force Majeure Event" means an event that prevents the claiming Party from performing any of its obligations under or in connection with this Agreement, that is not within the reasonable control of, or the result of the negligence of, the claiming Party, and that by the exercise of due diligence the claiming Party is unable to avoid, cause to be avoided, or overcome. Force Majeure Events may include, but are not restricted to: acts of God; acts of the public enemy, war, blockades, insurrections, civil disturbances and riots; epidemics; landslides, lightning, earthquakes, firestorms, hurricanes, tornadoes, floods, washouts, and extreme weather conditions; fire, explosion, breakage, freezing or accidents to machinery or lines of pipe; strikes, lock-outs or other industrial disturbances or labor disputes; labor or material shortage; sabotage or terrorism; and order or restraint by governmental authority (so long as the claiming Party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such order or restraint).
- b. Except as otherwise provided in this Section, neither Party to this Agreement shall be considered to be in default in performance of any obligation hereunder if failure of performance shall be due to a Force Majeure Event. A Party shall not, however, be relieved of liability for failure of performance if such failure is due to events arising out of removable or remediable events which it fails to remove or remedy with reasonable dispatch. Any Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall exercise due diligence to remove such inability with all reasonable dispatch. Nothing contained herein, however, shall be construed to require a Party to prevent or settle a strike or labor disagreement against its will.
- c. A Party shall be excused from performance under this Agreement and shall not be considered in default with respect to any obligation hereunder (other than obligations to pay money), if, and to the extent, its failure of, or delay in, performance is due to a Force Majeure Event; provided, however, that (1) such claiming Party gives written notice and full particulars of such Force Majeure Event to the other Party promptly after the occurrence of the event relied on, (2) such notice shall estimate the expected duration and probable impact on the performance of such Party's obligations hereunder, (3) such affected Party shall continue to

furnish timely regular reports with respect thereto during the continuation of the delay in the affected Party's performance, (4) the suspension of such obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure Event, (5) no obligation or liability of either Party which became due or arose before the occurrence of the event causing the suspension of performance shall be excused as a result of the occurrence; (6) the affected Party shall exercise all commercially reasonable efforts to mitigate or limit the interference, impairment and losses to the other Party by promptly taking appropriate and sufficient corrective action; (7) when the affected Party is able to resume performance of the affected obligations under this Agreement, the affected Party shall give the other Party written notice to that effect, and (8) the affected Party promptly shall resume performance under this Agreement.

28. Covenant of Further Assurances. The parties hereby agree to execute such other documents and perform such other acts as may be necessary or desirable to carry out the purposes of this Option Agreement.

29. Counterpart Signatures

This Agreement may be signed in separate counterparts, and all counterparts, when signed, shall constitute an enforceable agreement.

30. Exhibits Included, Controlling Terms

The following Exhibits are attached hereto and incorporated into this Agreement:

Exhibit A: Scope of Work,

Exhibit B: Contract Budget and Payment Terms

In the event of conflict between the terms and conditions of this Agreement and those within any Exhibit hereto, the terms and conditions of this Agreement shall prevail over any Exhibit hereto.

31. Contract Administrators

Each Party shall appoint a contract administrator that will be responsible for administering this Agreement including having the authority to transmit instructions, receive information, and implement the Agreement on behalf of the respective party (the "Contract Administrator"). The Contract Administrators shall be identified in this Agreement. Either Party may change its respective Contract Administrator by giving advance written notice to the other Party, consistent with the terms of the Notice Section of this Agreement.

32. Warranty of Authority

Each Party represents and warrants to the other Party that it is and will remain duly organized, validly existing, and in good standing under the laws of the state of its organization throughout the term of this Agreement, and that the execution, delivery and performance of this Agreement are within its express or implied statutory powers, have been duly authorized by all necessary action, and do not violate any of the terms or conditions in its governing documents or applicable laws.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first herein above written.

(Signatures on following page)

RCEA:

Linda Atkins, Chair of the Board
Redwood Coast Energy Authority

Date: _____

ATTEST:

Name:
Board Clerk

Date: _____

CONSULTANT:

Shawn Marshall, Executive Director

Date: _____

Contract Administrator:

RCEA:
Matthew Marshall, Executive Director
(707) 269-1700
mmarshall@redwoodenergy.org

LEAN Energy US:
Shawn Marshall, Executive Director
(415) 786-9118-8039
shawnmarshall@LEANenergyUS

EXHIBIT A
AGREEMENT BETWEEN THE REDWOOD COAST ENERGY AUTHORITY (RCEA)
AND LEAN ENERGY US
CONTRACT SCOPE OF WORK
For Phases 1 and 2 and Year-One of Phase 3

PHASE 1: PROGRAM DEVELOPMENT

Completion of Phase 1 includes many elements of preparation, planning and electrical load analytics to move the program into full implementation. Focus areas during this phase will build on the work already underway at RCEA and will include refinement of core messaging and branding, outreach to local governments and key community stakeholders, review of RCEA governance and organizational documents to support CCE operations, energy analytics to determine financial feasibility, rate competitiveness and environmental attributes, and passage of local CCE ordinances to determine which cities will participate in the program at launch. LEAN Energy will lead task areas 1.1 and 1.5 and will support The Energy Authority (TEA) in task areas 1.2, 1.3 and 1.4.

Task 1.1: Community Engagement Support

During Phase 1, the focus of community engagement centers on CCE messaging, updated web content and collateral development to build concept awareness. Outreach focuses on local government leaders to ensure passage of CCE ordinances as well as outreach to key community stakeholders and thought-leaders.

1.1.1: Communication and Program Strategies / Core Messaging

LEAN's team will work with staff to prioritize and refine program messaging to inform key stakeholders about the core concept of CCE: how it works and what's being considered in Humboldt County; assist with brand development and marketing options as RCEA moves ahead its plans. This task includes the foundational strategic elements of tactical communication tools needed for early outreach while setting the stage for a robust public marketing campaign and customer enrollment in Phase 2. Key tasks include:

- Building on the work already done by RCEA, review and update existing CCE collateral, Frequently Asked Questions (FAQs) and program website in order to refine core messaging and expand design templates
- Meet with key staff and community members to develop a longer term communications and marketing strategy for the CCE program that reflects local values and RCEA's goals.

1.1.2: Creation/Design of Program Collateral

Develop brand and key communication pieces for distribution/education of key stakeholders, the press, and the community at large. Key tasks include:

- Create name, logo and overall 'look and feel' for program (CCE name selected is Redwood Community Energy which will be a sub-brand to RCEA); reserve urls.
- Collateral elements to include: 1) update existing informational web page, 2) create digital/print informational brochure, 3) prepare program FAQs, 4) review/update slide deck for local government and community presentations, 4) design table top display for community events (if desired), 5) create digital mastheads for email announcements and push communications (using royalty free images to conserve budget in early stages).

1.1.3: Engage city and county officials, community stakeholders, key customer groups and press

The focus at this stage is on building concept and program awareness, development of communications channels, educating local advocates to assure participation and accuracy, and development of a stakeholder database, using list-serve and social media channels to support regular and timely information sharing. Key tasks include:

- Work with RCEA staff to expand stakeholder mapping and develop a CCE database/list-serve of interested parties, community leaders and advocacy groups. This effort can also include a mapping of local social networks such as Next Door and popular community events for information dissemination and tabling
- Conduct a 'train the trainer' workshop for RCEA staff and local advocates to ensure dissemination of consistent and accurate information, and to engage their volunteer support for local community events and tabling
- Support community meetings through content and collateral development
- Support RCEA staff in drafting Op-Eds and scheduling interviews with key press contacts for community events and CCE in general

Tasks 1.2, 1.3, 1.4: Technical, Financial and Risk Analysis

These task areas will be led by The Energy Authority. LEAN will serve in a review and support role, primarily engaged in discussions around supply scenarios, review of the draft study, Net Energy Metering and Feed in Tariff, PCIA charges, and operating costs.

Task 1.5 Additional Phase 1 Tasks

The following additional tasks will be performed by LEAN Energy and include but are not limited to:

- Develop a timeline and detailed project plan for CCE formation and launch. This will include a spreadsheet mapping all of the steps and timing of CCE formation through customer enrollment and into early operations.
- Implement and run weekly team calls and/or WebEx meetings to ensure all tasks are assigned and major milestones are being met.
- Review RCEA's JPA Agreement and suggested CCE-related policy additions to support long-term program operations and governance. This could include consideration of certain JPA subcommittees and policies specific to the CCE program.

- Provide regulatory and legislative support to keep executive staff informed and engaged in priority actions at the State Capital and CA Public Utilities Commission.; draft related correspondence, briefs or memos. This task will be on-going through all phases of the contract.
- Serve as a general CCE resource to RCEA staff and Board, addressing questions, providing referrals, and conducting follow up research/tasks as requested. This task will be ongoing through all phases of the contract.

PHASE 2: PROGRAM LAUNCH

Once the initial program analytics are complete and CCE ordinances are passed, the program moves into more concerted implementation including development and certification of the implementation plan, customer engagement and enrollment, full website build out and launch of the call center, selection of power options/supply mix and energy contracts, submission of the utility service agreement and PG&E service payments, bond posting and other regulatory certifications necessary to begin serving customers. LEAN Energy will lead task areas 2.2 and 2.4, will partner with TEA in task area 2.1, and will support RCEA, TEA and Noble in task areas 2.3 and 2.5.

Task 2.1: Implementation Plan/ Regulatory Functions

The Implementation Plan is a CPUC requirement that covers the main aspects of the CCE plan of operations. It must be certified by the CPUC before RCEA can begin serving customers. TEA and LEAN will draft the Plan in accordance with all CPUC requirements and established best practices. The Implementation Plan will include the following:

- Communities participating in the program
- Organizational structure of the program, its operations and funding
- Rate setting and other costs to participants
- Disclosure and due process in setting rates and allocating costs among participants
- Methods for entering and terminating agreements with other entities
- Participant rights and responsibilities
- Termination of the program
- Description of third parties that will be supplying electricity under the program, including information about financial, technical and operational capabilities

Before the RCEA Implementation Plan can be submitted to the CPUC, the following items must be determined and articulated in the Plan:

- Community Participation -- determined by passage of the CCE ordinance
- Program Phasing -- by geography, customer class, and timing of each
- General description of CCE's rate/pricing strategy
- General description of CCE service offerings: default supply product, voluntary green pricing option(s), and others, if applicable

- Identification of customer programs that will likely be developed, including net metering, feed-in-tariffs, demand response, energy storage, etc.
- Description of CCE organizational structure

The following regulatory steps will be facilitated by LEAN and TEA prior to launch:

- CAISO market participant requirements
- Submit Statement of Intent with CPUC
- Posting of CCE license surety bond to the CPUC
- Register with CPUC
- Execute CCE Service Agreement with PG&E
- Post credit collateral with PG&E
- Submit Binding Notice of Intent with PG&E
- Registration with California Air Resources Board (including CITSS registration)
- Registration with Western Renewable Energy Generation Information System ("WREGIS")

Task 2.2: CCA Organizational Infrastructure

In order to implement an optimal program that meets RCEA's requirements, the partnership will collaborate with RCEA's executive team to ensure that RCEA is well positioned for program launch and operations. This task area will include:

- Development of (or amendment of existing) RCEA staffing and operations plan, including an updated organizational chart and development of new job descriptions as needed
- Review of CCE-related operational policies and procedures, including operating budget, financial controls and Board policies.
- Other CCE-related support as may be needed to augment existing RCEA capacity and resources, while preparing the organization to grow and develop over time.

Task 2.3: Procurement/Vendor Engagement

This task area related to power procurement and local power supply will be led by TEA; LEAN Energy will support RCEA's efforts to obtain and/or work with local, operational vendors (e.g. accounting, printing, etc.) that may be retained during CCE program launch and throughout the course of this contract.

Task 2.4: Customer Engagement

This phase of customer engagement includes work to establish the CCE customer base in all customer classes, build program awareness and consumer acceptance, follow all customer noticing and enrollment in accordance with State law, and assure high percentages of customer retention throughout Humboldt's CCE service areas. Key tasks include:

- Expand phase 1 communication collateral (brochure, flyers, etc.) to include more expansive information, further developing brand and program awareness
- Establish communication/marketing plan for public outreach and identify print/digital, earned/paid communications strategy
- Design local ad campaign; including print, digital, radio and outdoor media channels; include Spanish translations as needed and original photography if budget allows; negotiate media buy within budgeted amounts
- Establish customer service center, obtaining and managing all customer data for enrollment and opt out processes. Will include development of call center scripting and 800 call-in number.
- Establish schedule for enrollment by customer class to assure smooth transitions in all service areas (assuming approximately 55,000 accounts to be enrolled in first year)
- Design enrollment mailing pieces (letters, postcards) to alert residential and commercial ratepayers of program timing and options
- Manage Spanish translation requirements for program website, public notices and mailings.
- Develop names and sub-brand for power products and supply options
- Build out website to include in-depth program descriptions, expanded messaging, enrollment options, and interactive functionality required for online enrollment, opt outs, etc.
- In all cases, work with assigned RCEA staff to ensure consistent management of communication/marketing plans, approval of design and CCE program “look and feel,” and remain responsive to areas of needed refinement in messaging, approach or style of contact

Task 2.5: Rate Setting, including policies to encourage distributed generation

This task area will be led by TEA and RCEA with LEAN in support role, especially in the areas of program development for ancillary energy programs such as net energy metering, feed in tariff, community based solar or other energy programs not already offered by RCEA.

PHASE 3: YEAR ONE OF PROGRAM OPERATIONS

Once Redwood Community Energy begins enrolling customers and earning revenue, the program can transition into longer-term operations (“Phase 3”). At this point, the focus of the enterprise will shift from planning and launch to institutional capacity building, integrated power resource planning, regulatory engagement, and energy program design. LEAN Energy is prepared to remain involved with RCEA’s CCE program for the full five-year term of the partnership’s involvement; however, this scope covers only the first full year of Phase 3/operations, supporting RCEA’s efforts in developing and expanding its staff team to assume many or all of the functions that LEAN is providing in the early stages of the CCE program. LEAN Energy will lead in task areas 3.2.3, will partner with TEA and Noble in task area 3.2.1 and will provide support in task areas 3.2.2, 3.2.7 and 3.4. The Phase 3

Commencement Date is herein defined as the later date of the Implementation Plan Certification and January 1, 2017.

Task 3.1: Financing for initial power purchases and other short term needs

This task area will be covered by TEA as part of their contract.

Task 3.2: Program Administration and Compliance

LEAN Energy will work with RCEA to administer the first year of program operations in all its facets and will create an administration plan that builds internal staff capacity in the areas of: 1) Finance and general operations, 2) Marketing and community outreach including enrollment of new/remaining communities, 3) Implementation of complimentary energy programs, 4) Regulatory compliance and reporting.

Task 3.2.1: Regulatory and Legislative Monitoring/Participation

LEAN will provide strategic guidance, monitoring, reporting and participation for priority legislative actions and regulatory proceedings that will or could impact RCEA's CCE operations and/or its customers. Work in this task area includes:

- **Monitor and Tracking:** Participate in legislative and regulatory coordination meetings (generally monthly); draft and distribute meeting notes and provide feedback on critical issues of particular interest to RCEA.
- **Follow Up and Coordination:** Conduct off-line follow up, meetings and research to coordinate regulatory activity with other CCEs in formation, and operational programs where possible, regarding State level legislative and regulatory activity and responses to legislation and various CPUC proceedings.
- **Reporting:** Draft monthly regulatory and legislative memo for RCEA staff and Board; be available for Q&A and any follow up actions
- **Correspondence and Reporting:** Draft position and ex parte letters for RCEA signature on specific regulatory or legislative matters. Respond to regulatory reporting requirements not otherwise handled by TEA or Noble.
- **Meetings and Contacts:** Arrange and participate in meetings with legislative and CPUC staff as may be needed to represent the interests of RCEA to those bodies; file ex parte notices as needed and handle necessary outreach to resolve questions and concerns.
- **LEAN is currently a formal party in three CPUC proceedings.** These are: Integrated Resource Planning (R.16-02-020), PG&E 2015 ERRF Forecast (A.14-05-024), and PG&E 2017 ERRF Forecast (A.16-06-003). LEAN is available to draft protests, briefs, comments and pleadings on behalf of RCEA in these proceedings and/or others needed and within budget allocation.

Task 3.2.2: Policy and program development

What truly makes Community Choice programs *local* are the initiatives developed and tailored specifically for RCEA's CCE customers. Once the power supply program is launched and serving customers, LEAN will work in partnership with RCEA, TEA and other local partners to expand and design programs appropriate for the customer base and load profile in Humboldt County. These programs will build on the extensive set of programs already offered by RCEA and could include but are not limited to:

- Local renewable energy development and procurement with a focus on expanding existing biomass capacity and building local solar capacity through expansion of net energy metering incentives, feed in tariff programs and community based solar projects.
- Energy storage, which is now a requirement for all load-serving entities, and on the cusp of major technology advancements that will make energy storage much more financially attractive. RCEA can develop storage programs (likely as a partnership with a storage company) with incentives for customers to invest in residential and commercial storage.
- LEAN will also stay current with the operational CCEs and emerging CCE market to develop new and/or adapt existing CCE energy programs that may be of interest to RCEA's customer base.

Task 3.2.3: On-going communications and outreach to CCA customers

Once the program is launched and customers have been enrolled, the communications and outreach efforts will shift from a high-visibility marketing and advertising campaign to one of a steady, positive presence throughout the County. Continued participation in community events will be supported by public relations opportunities (e.g. sponsorships) as well as on-going media and press coverage. As a first point of contact, RCEA's call center will also be a critical element of customer service and customer feedback. Key tasks for LEAN in this phase will include:

- Creation of a long-term marketing plan to expand and maintain local brand-awareness and create a positive presence in the community
- Development of "secondary outreach campaigns" that focus on certain elements of the program such as opting-up to 100% or locally sourced product.
- Ensure that RCEA is prepared for enrollment of additional cities and the marketing and outreach required to expand to new communities
- Ensure that RCEA is adequately staffed and trained to serve key accounts and handle the marketing and outreach function in full or in part at the end of its first full year of operations.

Task 3.2.4: Accounting services

This function will be served by RCEA's internal finance staff working in partnership with an accounting firm that has extensive experience in CCE financial management and independent audits.

Task 3.2.5: Wholesale power procurement operations

This function will be served by TEA.

Task 3.2.6: Long-term power procurement

This function will be served by TEA

Task 3.2.7: Financial planning

This function will be served by RCEA's finance team in partnership with TEA.

Task 3.2.8: Undertaking continual risk management

These functions will be served by TEA and Noble Energy Solutions in partnership with RCEA's executive team.

Task 3.3: Long-Term Planning

This function will be served by TEA in partnership with RCEA's executive team.

Task 3.4: Additional Phase 3 Tasks

LEAN Energy is available to support and augment RCEA staff in handling any tasks not already articulated in this scope of work.

EXHIBIT B
AGREEMENT BETWEEN THE REDWOOD COAST ENERGY AUTHORITY (RCEA) AND
LEAN ENERGY US
CONTRACT BUDGET & PAYMENT TERMS
For Phases 1 and 2 and Year-One of Phase 3

Phase	Task Area	Description	LEAN Role	Budget	Notes
1	1.1 1.1.1 1.1.2 1.1.3	Community Engagement Support Communication Strategies/Messaging Collateral devt. and website update Support community mtgs	Lead	\$15,000	This work will be done by LEAN and its subcontractor Green Ideals Inc.
1	1.2	Technical Analysis	Support	\$5,000	Most of this work will be done by TEA; LEAN will review draft study, comment on scenarios, provide information re: NEM and FiT, PCIA, etc.
1/2	1.5	Additional Phase 1 & 2 Tasks: <ul style="list-style-type: none"> • Timeline and workplan devt • Weekly calls; general follow up • Staff informational resource • Regulatory support (on going) • CCE-related Board policies 	Lead/Partner	\$35,000	
2	2.1	Implementation Plan/Regulatory Registrations	Partner	\$25,000	LEAN and TEA will work together on draft Implementation Plan and CPUC reporting requirements
2	2.2	Organizational Infrastructure Devt	Partner	\$15,000	Partner with RCEA Executive
2	2.3	Vendor Engagement	Support	\$10,000	Work with additional RCEA vendors on operational items such as CCE accounting structure, printing, etc
2	2.4	Customer Engagement/Notification and Enrollment Includes all elements outlined in contract scope plus printing and	Lead	\$320,000	This function will be led by LEAN's subcontractor, Green Ideals Inc.

		postage for 4 customer notices			
2	2.5	Rate Setting/Policies for Distributed Generation	Support	\$15,000	LEAN will support in areas related to ancillary energy programs such as NEM, FiT, etc.
1/2		Travel and Overhead		\$10,000/ \$22,500	10 Trips to Eureka @ \$1000/trip 5% overhead
		TOTAL FOR PHASES 1 and 2		\$472,500	
3	3.2	Program Administration & Compliance	Lead/Partner	75,000	Includes administrative and project management tasks carried over from phases 1 and 2; partner on compliance reporting
3	3.2.1	Regulatory & Legislative Monitoring and Participation	Partner	\$50,000	Will include regulatory attorney's fees if needed up to budgeted amount
3	3.2.2	Policy and Program Development	Support	\$50,000	Tasks assigned and use of this budget item will depend on RCEA plans for additional programming and local projects
3	3.2.3	Ongoing Communications/ Outreach Includes all elements outlined in scope of work plus customer noticing for additional communities	Lead	\$40,000	This function will be led by LEAN's subcontractor, Green Ideals Inc.
3	3.4	Additional Phase 3 Tasks	Support	\$25,000	Tasks and use of budget TBD
3		Travel and Overhead	\$4,000 \$12,200	\$4,000 \$12,200	4 trips @ \$1,000/trip 5% overhead
		TOTAL FOR PHASE 3 - YEAR ONE		\$256,200	

Payment Terms:

1. LEAN agrees to defer all payments from RCEA during Phase 1 and 2 of the contract until such time that the program is generating revenues in Phase 3. LEAN's costs until revenue generation will be paid to LEAN by Noble Energy Solutions ("Noble") under separate contract with RCEA. LEAN will be responsible for invoicing Noble on terms mutually agreeable to LEAN and Noble, with all invoices simultaneously copied to RCEA.
2. On a monthly basis, LEAN will provide a detailed accounting of activities and expenses for the prior month. Expenses incurred during Phases 1 and 2 will not exceed the approved budget, nor pay for

anything not contemplated in the contract scope or work, unless expressly permitted by written approval of the RCEA Executive Director.

3. Beginning on the Phase 3 Commencement Date, invoices for services rendered under Phase 3 of this contract will be submitted by LEAN for payment to RCEA on a monthly basis and will not exceed the Phase 3 budget unless expressly permitted by written approval of the RCEA Executive Director. Payments should be made, via check or direct deposit, within 30 days of receipt of invoice.



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
428 J Street • Suite 620 • Sacramento, CA 95814-2329
(916) 322-5660 • Fax (916) 322-0886

July 19, 2016

Nancy Diamond, Esq.
822 G Street, Suite 3
Arcata, CA 95521

Re: Your Request for Advice
Our File No. A-16-111

Dear Ms. Diamond:

This letter responds to your request for advice on behalf of the Redwood Coast Energy Authority (RCEA), a joint powers authority, regarding the application of Government Code Section 1090.¹ Please note that we are only providing advice under Section 1090 and not under any other general conflict of interest prohibitions such as common law conflict of interest.

We have also forwarded your request to the Attorney General's Office and the Humboldt County District Attorney's Office and we did not receive a written response from either entity. (See Section 1097.1(c)(4).)

Please note that we do not advise on any other area of law, including Public Contract Code or common law conflicts of interest. We are also not a finder of fact when rendering advice (In re Oglesby (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. Finally, Section 1090 advice is not admissible in a criminal proceeding against any individual other than the requestor. (See Section 1097.1(c)(5).)

QUESTION

Does the Local Energy Authority Network Energy US ("LEAN") or RCEA have a conflict of interest under Section 1090 that prohibits RCEA from entering into a services contract with LEAN?

CONCLUSION

Because LEAN was never hired by or compensated by RCEA and LEAN did not exert considerable influence on the contracting decisions of RCEA, LEAN would not be considered a public officer or employee of RCEA for purposes of Section 1090. Since LEAN is not subject to Section 1090 under these facts, neither LEAN or RCEA will have a conflict of interest.

¹ All statutory references are to the Government Code, unless otherwise indicated.

FACTS

- RCEA is comprised of the County of Humboldt, Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, Trinidad and the Humboldt Municipal Water District. Its purposes, among others, authorize RCEA to act as a community choice aggregator under Public Utilities Code § 366.2 et seq.²
- The RFP outline was prepared by RCEA staff who had been in formally sharing work efforts with staff from the neighboring Counties of Mendocino and Lake for community choice aggregation (“CCA”) program development within each agency’s respective jurisdiction. Neither agency is a part of the JPA. This multi-agency cooperative effort was initiated at the staff level and never formalized the rough respective Board action.
- As part of this shared staff effort, RCEA agreed to draft the RFP for later use by the counties at their discretion.
- Mendocino County had previously entered into a formal contract with LEAN³ to assist in its CCA program development. You clarified on June 2, 2016, that Mendocino retained LEAN only for preliminary CCA communications and outreach to “inform stakeholders about CCA plans currently under consideration within Mendocino County, and to assess levels of support.” This did not include, for example, technical feasibility analyses, CCA formation services or CCA operation services which would be the subject of the RCEA RFP that would be shared with Mendocino. Mendocino has not yet become a community choice aggregator.
- Paragraph 33 of the contract between Mendocino County and LEAN provides that “Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The CONTRACTOR is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the CONTRACTOR elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.”
- Mendocino County staff offered the services of LEAN to assist RCEA staff in drafting the RFP. RCEA did not enter into a contract with LEAN. Rather there was a provision in the LEAN/Mendocino contract that allowed Mendocino to loan LEAN to other agencies. You noted in your June 2, communication that LEAN did receive compensation from Mendocino for the work it did for RCEA, but that RCEA will not reimburse Mendocino for any payments it may make to LEAN. Furthermore, it was your understanding that LEAN did not anticipate ever being paid by Mendocino for the work it did for RCEA as it was not part of the Mendocino-LEAN contract scope of services. LEAN did not forward to Mendocino the product it gave to RCEA.

² A community choice aggregator is a local governmental agency who purchases electricity and other necessary electric services on behalf of the electric customers within its jurisdiction, in place of the investor-owned utility company.

³ LEAN is non-profit membership organization registered in the state of California and provides CCA education, advocacy, formation and operational services to municipal clients.

- At its September 21, 2015 Board meeting, the RCEA Board of Directors approved an outline of the CCA program RFP. The RCEA Executive Director's staff report stated: "RCEA has begun working with Lake and Mendocino County on RFP development RCEA is also receiving support on RFP development from LEAN Energy US, a nonprofit, membership organization dedicated to the accelerated expansion and competitive success in clean energy CCA nationwide."
- Also on September 21, 2015, LEAN contacted RCEA to inquire about the status of the RFP and whether RCEA needed LEAN's assistance. RCEA staff sent LEAN the draft outline submitted to the RCEA Board and responded with, "Attached is the laundry list of CCA start-up and operations needs that I came up with that we will want RFP respondents to address. It would be helpful to have any input you have at this stage of 1) items I've left off, and/or 2) any thoughts on logically grouping/ordering/combining/expanding items on the list." On October 16, 2015, LEAN sent RCEA expanded language for the RFP scope of services.
- RCEA completed a draft of the RFP further revising the text provided by LEAN and distributed it on October 26, 2015 to Lake County, Mendocino County and LEAN, among others. RCEA's Executive Director followed up with LEAN on November 9, 2015, asking if LEAN had any comments, to which LEAN never responded. LEAN never asked for payment and was not paid by RCEA for the work it provided on October 15, 2015. RCEA had no other contact with LEAN while preparing the RFP.
- A draft RFP was presented to the RCEA Board at its November 30, 2015 meeting, at which time it was approved. The final RFP was formally distributed on December 1, 2015. Proposals were received from four different entities including TEA, the successful bidder. TEA is a not for profit, power marketing corporation owned by eight municipalities and state chartered electric utilities. TEA proposed a partnership with LEAN and Noble Americas Energy Solutions, LLC,⁴ each entity to provide a different component of the total scope of services sought by RCEA. TEA offered either to act as the prime contractor for the team of three entities, or, at RCEA's choice, RCEA could contract individually with each of the three entities. RCEA has not to date formally entered into a contract, or contracts, under either scenario, pending receipt of an Advice Letter on the potential conflict of interest question.

ANALYSIS

Section 1090 generally prohibits public officers, while acting in their official capacities, from making contracts in which they are financially interested. Section 1090 is concerned with financial interests, other than remote or minimal interests, that prevent public officials from exercising absolute loyalty and undivided allegiance in furthering the best interests of their agencies. (*Stigall v. Taft* (1962) 58 Cal.2d 565, 569.) Section 1090 is intended "not only to strike at

⁴ Noble Americas Solutions, LLC is a large, national electric service provider that focuses on customer and data management services in the CCA context.

actual impropriety, but also to strike at the appearance of impropriety.” (*City of Imperial Beach v. Bailey* (1980) 103 Cal.App.3d 191, 197.)

Under Section 1090, “the prohibited act is the making of a contract in which the official has a financial interest.” (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.) A contract that violates Section 1090 is void. (*Thomson v. Call* (1985) 38 Cal.3d 633, 646.) The prohibition applies regardless of whether the terms of the contract are fair and equitable to all parties. (*Id.* at pp. 646-649.)

Is LEAN subject to the provisions of Section 1090?

Section 1090 provides, in part, that “[m]embers of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.”

The term “public official” is interpreted broadly under Section 1090 and includes “independent contractors who perform a public function” and “whose official capacities carry the potential to exert considerable influence over the contracting decisions of a public agency.” (See *Hub City Solid Waste Services, Inc. v. City of Compton* (2010) 186 Cal.App.4th 1114, 1124-1125; citing *California Housing Finance Agency v. Hanover/California Management & Accounting Center, Inc.* (2007) 148 Cal.App.4th 682, 690-693; see also *Davis v. Fresno Unified School District* (2015) 237 Cal.App.4th 261, at pp. 300-301.) The purpose behind this inclusiveness of the definition is to ensure that independent contractors who are essentially performing a public function, though temporarily, provide the same “fealty expected from permanent officers and employees.” (46 Ops.Cal.Atty.Gen 74 (1965).⁵)

“Participation in the making or forming of a contract,” also defined broadly in the Section 1090 context, includes involvement in preliminary discussions, negotiations, compromises, reasoning, planning, drawing of plans and specifications, and solicitation for bids. (*Millbrae Assn. for Residential Survival v. City of Millbrae* (1968) 262 Cal.App.2d 222, 237; see also *Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569.)

In the recent matter of *Davis, supra*, the court concluded that the allegations were sufficient to state that a contractor (1) was an “employee” for purposes of Government Code section 1090 and (2) participated in making the contracts where it was alleged that the contractor served as a professional consultant to the public entity and had a hand in designing and developing the plans

⁵ In 46 Ops.Cal.Atty.Gen 74 (1965), the Attorney General’s Office clarified the scope of this definition.

“It seems clear that the Legislature in later amending section 1090 to include ‘employees’ intended to apply the policy of the conflicts of interest law, as set out in the *Schaefer* and *Terry* cases, to independent contractors who perform a public function and to require of those who serve the public temporarily the same fealty expected from permanent officers and employees. It is a fundamental rule for the interpretation of a statute that it is presumed to have been enacted or amended in the light of such existing judicial decisions as have a direct bearing upon it. [Citations.]. Except where the statutory language is clear and explicit, courts construe statutes with a view to promoting rather than to defeating their general purpose and their underlying policy.”

and specifications for the project that the contractor later entered into contract to perform. (*Davis, supra*, at 301.)

Following the *Davis* case, in the *Chadwick* Advice Letter, No. A-15-147, we applied Section 1090 to a city contractor and a city subcontractor:

“[A] contractor was involved in designing a project that it then bid on to build. Schmidt Design contracted with the City to develop a general plan that would lay out the design of reconstructed golf course. Schmidt Design advised the City, worked closely with City staff and project manager, and ultimately designed and developed the plan that became the RFP. The threshold question is: ‘Does Section 1090 consider a corporate consultant that advises a public entity on the design phase of a project to be an ‘employee’? The *Davis*⁶ court answered that question in the affirmative, as must we.

“Schmidt Design, as the primary consultant, was in a position to interact with and advise the City on its policy goals, create a design that interprets and applies the City’s stated plan for the golf course, and work closely with the project manager and other staff to ensure the City and community supported the design. Because Schmidt Design contracted with the City and acted in an advisory capacity with the capability of exerting influence over the City staff’s decision making, it is subject to Section 1090.

“The courts focus the inquiry regarding whether an independent contractor is considered an ‘employee’ under Section 1090 on the scope of influence the independent contractor holds in advising the public entity. The court in *Hub City Solid Waste Services, Inc. v. City of Compton* [2010] 186 Cal.App.4th [1114] at pp. 1124-1125.) Similarly, in *Schaefer*, the court found that a contractor who was ‘merely in an advisory position’ was also subject to Section 1090. (*Schaefer v. Berinstein, supra*, 140 Cal.App.2d at p. 291.)”

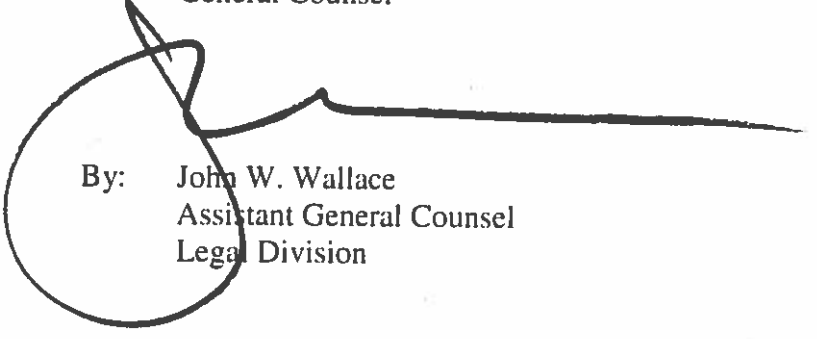
Your facts differ from *Chadwick* in that LEAN never contracted with RCEA and never served RCEA either in an employment or contractor capacity. In addition, LEAN’s voluntary input into the RFP consisted of comments of a minimal nature. Because LEAN, as an independent contractor to other entities, was never hired or compensated by RCEA and did not exert considerable influence over the contracting decisions of RCEA, it will not be subject to the provisions of Section 1090 under these facts. Since LEAN is not subject to Section 1090, neither LEAN nor RCEA will have a conflict of interest under these facts. However, we advise RCEA to be aware that independent contractors who exert considerable influence over its contracting decisions may be subject to Section 1090 and to take appropriate precautions in its contracting practices.

If you have other questions on this matter, please contact me at (916) 322-5660.

⁶ *Davis v. Fresno Unified School District, supra*. See also, *McGee v. Balfour Beatty Construction, LLC* (2016) 247 Cal.App.4th 235.

Sincerely,

Hyla P. Wagner
General Counsel



By: John W. Wallace
Assistant General Counsel
Legal Division

:jgl

Assembly Bill 1110 (Ting): GHG Emissions Reporting – Why a ‘NO’ Vote is Needed

Assembly Bill 1110 as amended on August 4, 2016 will lead to inaccurate calculations of greenhouse gas emissions (GHGs), contradicts existing regulations like the California Renewable Portfolio Standard (RPS), and discourages the construction of new local renewable energy developments. If this bill is approved it could result in the following fundamental problems for Community Choice Aggregators (CCAs), renewable energy providers, and all energy customers in California:

- Creates conflicting and confusing standards for customer GHG disclosures and compliance with state RPS rules.
 - Requires that GHG emissions are inaccurately reported to the public by double-counting energy delivered to customers through the first deliverer of electricity to the state and by the retail supplier.
 - Devalues “firming and shaping” of intermittent renewable energy by eliminating the greenhouse gas value of renewable energy that is intermittent in nature for small load serving entities that are not yet equipped to balance their own load. This stifles new market competition, devalues renewable energy, increases costs, and contradicts the existing practice that allows renewable resources like wind and solar to be balanced out by stable sources when needed.
 - Requires that all California electricity customers receive information annually on the existing, CEC administered “Power Content Label” that contradicts other required information on the Power Content Label, creating confusion for the public.
 - Uses the CARB methodology for counting GHG emissions that is used to track smokestack emissions but not retail level emissions. CARB would have to develop additional expertise and staff to track retail-level reporting, which is already done by the CEC through its existing Power Source Disclosure Program.
- Discourages communities from launching CCA programs.
 - CCAs exceed the state’s RPS standards and have all been founded to reduce GHGs. The bill restricts the benefits of using bridge contracts while new programs contract to build new renewable facilities in California. These bridge contracts are often for intermittent renewable energy or out of state renewable energy delivered to the California grid. The bill would require that this out of state renewable energy would have to be reported as if it was not renewable. Just two CCAs have committed over \$900 million to building new renewable facilities in California.

- Jeopardizes existing investments (more than \$900 Million) committed by CCAs to construct new California-based renewable energy by diminishing CCAs' ability to exceed the RPS.
- Limits the ability of CCAs to buy energy that complies with RPS standards, and exceeds the RPS standard. Because CCAs exceed RPS standards, the bill disproportionately affects CCAs leading the renewable energy revolution in California.
- Compels all retail sellers to be the "first deliverer" of energy into California, preventing them from purchasing from other suppliers and negatively impacting the market. If a retail seller is not the "first deliverer" of energy into California, they would have to double report volumes purchased and reported from another supplier.
- Raises energy costs for electricity customers due to an increase in renewable energy supply costs amounting to more than \$50 Million annually.
- Has not been properly vetted.
 - Prescribes a specific methodology without a regulatory proceeding structure that requires transparent input from market participants or experts in the field, which limits the CEC ability to align GHG reporting with existing reporting practices.
 - The amendments seen in August 2016 are a departure from the bill's content in 2015, which was seen in committee. The proposed amendments should go back to committee.



August 10, 2016

Assembly Member Phil Ting
State Capitol
Sacramento, CA 95814

RE: Assembly Bill 1110 (Ting): Emissions Reporting

OPPOSE

Dear Assembly Member Ting:

Sonoma Clean Power opposes AB 1110 because it is anti-competitive and would prevent electric service providers from accurately reporting greenhouse gas emissions.

We strongly support standard greenhouse gas emissions reporting, but AB 1110 actually would block new competitive alternatives to investor-owned utilities, create significant new costs for ratepayers and slow construction of California renewable energy sources.

Sonoma Clean Power believes:

1. Competition in California's electric market should be protected.
Community choice providers are buying and building California renewable energy sources much faster than investor-owned utilities, and have provided an average cost savings to customers while doing so. But to require new electric providers to begin service with a portfolio consisting of no solar or wind resources from outside California (see 398.4.k.1) would harm competition, and slow investment by community choice programs in the construction of California-based renewable sources. In addition, community choice programs directly compete with investor-owned utilities, but community choice programs do not receive any Cap-and-Trade emissions allowances. This imbalance hurts competition.
2. Greenhouse gas emissions should be properly counted.
Emissions for the natural gas and other energy sources that support wind and solar should be counted exactly once. Since wind and solar produce energy only when the wind is blowing or the sun is shining, it is critical that the emissions from energy supporting those sources are accurately reported. Under existing law, if energy produced from solar and wind projects is delivered to the California grid but not used by the entity (such as SCP) that contracted for the energy, that energy must be reported as "unspecified source" by the retail electric provider actually using the imported wind and solar energy. By requiring the entities that contract for such wind or solar energy to also report their usage as "unspecified source,"

AB 1110 would result in a double counting of those emissions.

Put another way, if an entity such as SCP, through a contract with a renewable energy facility, causes renewable power to be delivered to the California grid and thus used in California, that entity should be able to report that entire amount as GHG-free, whether the power is actually used by SCP or some other entity, since any other entity using the power must report it as being from an “unspecified source.”

3. The existing system for reporting greenhouse gas emissions already works.

The California Energy Commission has full authority today under PUC Section Sec 398.4(g)(6) to perform audits as necessary to validate the information underlying greenhouse gas reporting claims. It is also dangerous to propose throwing out the current system of validating that every producer of renewable energy obtain metered verification of their production through WREGIS. AB 1110 advocates for using the California Air Resources Board’s process for ensuring compliance with Cap-and-Trade as the method of calculating customer information related to greenhouse gas emissions. But that system was developed for generators, and is not applicable to retail electricity providers. No electric utilities in California currently use that system for communicating with customers since it is solely a compliance tool, which has no relationship with the consumer information on the Power Content Label.

Sonoma Clean Power supports PG&E’s practice of utilizing The Climate Registry’s (TCR) protocol for customer disclosure of greenhouse gas emissions associated with the generation of electricity, with the important caveat that TCR has two tracks: one that allows an adjustment for unbundled renewable energy credits and one that does not. We support the phase-out of unbundled renewable energy credits.

A bill that directed the California Energy Commission to develop a standard method for reporting greenhouse gas emissions would be most welcome, and we stand ready to help develop such language at any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Geof Syphers", enclosed within a large, loopy oval flourish.

Geof Syphers, CEO
Sonoma Clean Power