



Redwood Coast Energy Authority
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BOARD OF DIRECTORS MEETING AGENDA

Humboldt Bay Municipal Water District Office
828 7th Street, Eureka, CA 95501

December 19, 2019
Thursday, 3:30 p.m.

In compliance with the Americans with Disabilities Act, if you need assistance to participate in this meeting, please contact the Clerk of the Board at the phone number, email or physical address listed above at least 72 hours in advance.

Pursuant to Government Code section 54957.5, all writings or documents relating to any item on this agenda which have been provided to a majority of the Board of Directors, including those received less than 72 hours prior to the RCEA Board meeting, will be made available to the public in the agenda binder located in the RCEA lobby during normal business hours, and at <https://redwoodenergy.org/about/board-of-directors/>.

PLEASE NOTE: Speakers wishing to distribute materials to the Board at the meeting are asked to provide 12 copies to the Clerk of the Board.

OPEN SESSION Call to Order

1. REPORTS FROM MEMBER ENTITIES

2. 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 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.

3. CONSENT CALENDAR

All matters on the Consent Calendar are considered to be routine by the Board and are enacted in 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.

3.1 Approve Minutes of November 21, 2019, Board Meeting.

3.2 Approve Disbursements Report.

3.3 Accept Financial Reports.

3.4 Reappoint Jerome Carman, Colin Fiske, Larry Goldberg, Pam Halstead, Tom Hofweber and Dennis Leonardi to the Community Advisory Committee for Terms Expiring April 12, 2022.

3.5 Approve Changes to Feed-In Tariff Power Purchase Agreement as Amended to Address Local Developer Incentive and Energy Curtailment Calculation Concerns.

3.6 Consent to Assignment of the Existing Biomass Power Purchase Agreement from DG Fairhaven Power, LLC to DG Fairhaven, LLC, and Authorize the Executive Director to Execute All Necessary Documents.

4. REMOVED FROM CONSENT CALENDAR ITEMS

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

5. OLD BUSINESS

- 5.1** Approve Updated RePower Humboldt/Comprehensive Action Plan for Energy Planning Document Draft

Adopt the 2019 RePower Humboldt Comprehensive Action Plan for Energy.

6. NEW BUSINESS

- 6.1** Renewable Energy Power Purchase Agreement with Humboldt Wind, LLC

Approve a 15-year power purchase agreement with Humboldt Wind, LLC for 90 MW of capacity of its Humboldt Wind project, and authorize RCEA's executive director to execute all applicable documents.

- 6.2** Fiscal Year 2019-2020 1st Quarter Budget Summary (Information only)

7. CLOSED SESSION

- 7.1.** Closed Session to meet with legal counsel per Government Code Section 54956.9(d)(4), in re PG&E, Bankruptcy Court, 19-30088, Northern District of California.
- 7.2.** Public Employee Performance Evaluation, pursuant to Government Code Section 54957(b)(1): Executive Director.

8. RECONVENE TO OPEN SESSION

9. CLOSED SESSION REPORT

COMMUNITY CHOICE ENERGY (CCE) BUSINESS (Confirm CCE Quorum)

Items under this section of the agenda relate to CCE-specific business matters that fall under RCEA's CCE voting provisions, with only CCE-participating jurisdictions voting on these matters with weighted voting as established in the RCEA joint powers agreement.

10. OLD CCE BUSINESS - None

11. NEW CCE BUSINESS

- 11.1.** Carbon Free/Renewable Power Purchase Target Review/2020 Power Procurement

Authorize staff to expend up to \$1.5 million for procurement of carbon-free power for calendar year 2020, at a unit price not to exceed 160% of 2020 carbon-free power procured to date, redirecting any portion of these funds not committed by May 1, 2020 to an incentive program for energy storage at critical public facilities.

11.2. CCE Program Update (Information only)

- California Public Utilities Commission Decision Requiring Electric System Reliability Procurement for 2021-2023
- Postponement of annual review and update of RCEA's Energy Risk Management Policy

END OF COMMUNITY CHOICE ENERGY (CCE) BUSINESS

12. STAFF REPORTS – None.

13. FUTURE AGENDA ITEMS

Any request that requires Board action will be set by the Board for a future agenda or referred to staff.

14. ADJOURNMENT

NEXT REGULAR MEETING

Thursday, January 23, 2020, 3:30 p.m.
Humboldt Bay Municipal Water District Office
828 7th Street, Eureka, CA 95501

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DRAFT BOARD OF DIRECTORS MEETING MINUTES

Humboldt Bay Municipal Water District Office
828 7th Street, Eureka, CA 95501

November 21, 2019
Thursday, 3:30 p.m.

Chair Michael Winkler called a regular meeting of the Board of Directors of the Redwood Coast Energy Authority to order on the above date at 3:33 p.m. Notice of this meeting was posted on November 16, 2019. PRESENT: Vice Chair Austin Allison, Summer Daugherty, Dwight Miller, Robin Smith, Frank Wilson, Chair Michael Winkler, Sheri Woo. ABSENT: Estelle Fennell, Dean Glaser. STAFF PRESENT: Power Resources Director Richard Engel, RCEA Climate and Forests Consultant Michael Furniss, Executive Director Matthew Marshall, Clerk of the Board Lori Taketa.

REPORTS FROM MEMBER ENTITIES

The City of Trinidad voted to create an Energy and Resilience Subcommittee to study climate change resilience and align the city's policies with RCEA goals.

The City of Blue Lake is also considering resiliency measures after the recent power outages.

The City of Eureka is making efforts to update its building code to encourage electric heat pump use over gas furnaces.

The City of Ferndale established a Tree Commission to encourage carbon sink development.

The City of Arcata endorsed the Mayor of San Jose's letter supporting restructuring PG&E as a public benefits corporation.

ORAL COMMUNICATIONS

Chair Winkler invited public comment. No one came forward to speak. Chair Winkler closed public comment.

CONSENT CALENDAR

- 3.1** Approve Minutes of October 24, 2019, Board Meeting.
- 3.2** Approve Disbursements Report.
- 3.3** Accept Financial Reports.

Chair Winkler invited public comment. No one came forward to speak. Chair Winkler closed public comment.

M/S: Allison, Daugherty: Approve consent calendar items.

The motion passed on a unanimous voice vote. Ayes: Allison, Daugherty, Miller, Smith, Wilson, Winkler, Woo. Absent: Fennell, Glaser.

OLD BUSINESS

5.1 Electric Vehicle Charging Network Upgrades

Executive Director Marshall presented a staff report on accepting funding from the CALeVIP program to upgrade existing electric vehicle charging stations to new ChargePoint units, improving reliability, screen interfaces, and the stations' ability to collect payments. The state incentive program rebates are anticipated to cover upgrade costs and staff recommends a 20% contingency fund from Community Choice Energy funds.

Chair Winkler invited public comment. No one came forward to speak. Chair Winkler closed public comment.

M/S: Allison, Daugherty: Authorize staff to solicit bids and secure construction at all listed sites as appropriate, for a total aggregate budget not to exceed \$144,000, and to seek reimbursement through the CALeVIP program.

The motion passed on a unanimous voice vote. Ayes: Allison, Daugherty, Miller, Smith, Wilson, Winkler, Woo. Absent: Fennell, Glaser.

5.2 Airport Microgrid Project Site Preparation Coordination and Reimbursement

Executive Director Marshall presented a staff report on the County Public Works Department's offer to use its less costly contracting process for work previously approved by the Board as part of Phase I of the airport microgrid project. The work would include site clearing, brush work, tree removal, and fence building around the construction site. RCEA would reimburse the County for this work.

M/S: Allison, Daugherty: 1) Authorize reimbursement to County for: a) brush removal and site work in preparation for fence installation; and/or b) fence installation; and/or c) tree removal; and 2) Authorize RCEA Executive Director to sign an Access and Reimbursement Agreement with County.

The motion passed on a unanimous voice vote. Ayes: Allison, Daugherty, Miller, Smith, Wilson, Winkler, Woo. Absent: Fennell, Glaser.

5.3 Humboldt County Islanding During Public Safety Power Shutoffs – Information only

Executive Director Marshall reported on developments since the Board established an ad hoc Public Safety Power Shutoff Subcommittee at its last meeting. Staff had not yet met with any PG&E technical staff. PG&E is aware that Humboldt County is an area with low fire risk that potentially should be exempt from deenergizing. A CPUC grid safety and infrastructure engineer volunteered to provide information on potential costs of islanding.

The Directors discussed the subcommittee's role of applying pressure to PG&E to keep focus on Humboldt County, the need to know why the Humboldt Bay Power Plant (HBPP) had not been used to support the County during the shutoff events, and whether PG&E should be asked to black start HBPP before the next public safety power shutoff.

5.4 Review Updated RePower Humboldt/Comprehensive Action Plan for Energy Planning Document Draft

Executive Director Matthew Marshall presented a staff report on the latest draft of the Comprehensive Action Plan for Energy, which has been retitled “RePower Humboldt.” The draft includes a quantitative analysis of existing operational projects and planned projects, and projected countywide energy generation in different scenarios. This analysis will be done in greater detail for the integrated resource plan to be submitted to the California Public Utilities Commission in April.

Mr. Marshall reported that because most strategic plan public comments concerned biomass generation, RCEA hired Climate and Forests Consultant Michael Furniss to facilitate discussion of the topic at a public Forests, Climate and Energy workshop. Three presentations were made at this Board meeting summarizing discussion from that workshop.

UC Cooperative Extension Forest Advisor Yana Valachovic made a presentation on biomass energy’s role in Humboldt County from a forestry perspective, addressing how thinning small diameter trees that will not survive and which are unusable for lumber increases forest health, prevents wildfires, and that this local resource is being used to fulfil a state energy requirement for baseload power. Ms. Valachovic described the lack of funding nationally for wood product innovation research and that a private/public partnership was needed for development of alternate wood waste uses.

Dr. Wendy Ring made a presentation on health impacts of biomass plant particulate emissions and described how ultra-fine particulates enter the bloodstream, cause inflammation and contribute to heart attacks, arrhythmias and strokes. She described how roughly 1/3 of Humboldt County’s population is vulnerable to these health conditions due to air quality conditions and how local agencies can only enforce emissions regulations which have not changed in 30 years. Dr. Ring stated that health impacts are not mentioned in RCEA documents and recommended that no numeric biomass commitments be made so that healthier, alternate uses for mill waste can be utilized by 2030.

RCEA Climate and Forests Consultant Michael Furniss presented a report summarizing forest and energy workshop discussions, research and consultation findings. He described biomass energy as a climate change bridge solution worldwide and that most currently available mill waste disposal alternatives create more greenhouse gas emissions than do biomass energy production methods. He described Humboldt County’s productive redwood forests as some of the best carbon sequestration resources in the world and suggested that focus on the question of carbon neutrality be shifted to how to avoid using carbon extracted from inside the earth which increases atmospheric carbon. Mr. Furniss described the volumes of mill waste generated locally, the need for a life cycle analysis of this material which the Schatz Energy Research Center’s study is not covering, the need for exposure modeling funding, and the potential emissions and forest restoration impacts should RCEA no longer purchase local biomass power. Mr. Furniss described biochar production as a promising alternate mill waste use warranting further study.

The directors discussed:

- The need to focus on modifiable risk factors and how it is difficult to reduce wood stove use to decrease particulate emissions.

- How biomass power prices should be reduced so other renewable energy sources are not displaced from RCEA's power mix.
- How RCEA can incentivize better emissions controls in biomass power plants.
- The need to reduce the use of gas for baseload energy needs, and how wind and solar cannot be relied on for this purpose.
- How local air quality has been negatively affected by regional wildfires.
- How local biomass plants currently do not use forest residue, and the possibility of incentivizing biomass plants to accept this fuel.
- How the Humboldt Bay natural gas power plant is constantly running and may run more modules if biomass plants were taken offline.
- How upstream natural gas impacts such as extraction methods and delivery system leakage need to be considered.
- How RCEA is paying a comparable price for biomass power as for other renewable energy sources this month due to shifting resource adequacy values, or the capacity to provide power at low-solar times of day.
- How Terra Gen power would cost less than biomass power but would not provide the resource adequacy that RCEA is required to purchase.
- That Humboldt Sawmill Company employs 400-450 people during peak season.
- That a combination of renewable energy sources needs to be utilized in order to avoid fossil fuel's climate, pollution and war impacts and to provide fossil fuel power's dispatchability.

Chair Winkler invited public comment.

A member of the public stated that Scandinavian countries use biomass more efficiently and inquired whether local biomass plants could incorporate more advanced technology such as torrefaction if they had institutional support.

Gary Ryneanson of Green Diamond Resource Company stated that his company implements a sustainable yield plan resulting in net carbon sequestration, provides needed regional power, and that biomass power is a logical use for material from the ½ million acres per year of California forest lands that require wildfire prevention treatment.

Michael Richardson of Humboldt Sawmill Company stated that their biomass plant operates well below permit requirements, provides resource adequacy and does not currently take forest residues but may do so in the future. Mr. Richardson added that HSC has invested several million dollars in the plant, mostly on emission controls, intends to operate for the long term and would like biomass to continue to be part of RCEA's power portfolio.

Kurt McCray of Cal Fire stated his agency's need for help in addressing wildfire impacts through forest health and fuel reduction projects, how it is unsafe to leave forest byproduct onsite, and his interest in stable carbon storage and in using biomass to manage byproduct.

Member of the public Ellen Golla stated that burning gas releases less CO₂ than burning wood, that carbon emissions must be reduced, that the best biomass plants still emit more PM_{2.5} pollutants than do coal plants, and that her work helping people with breathing difficulties leads her to request wood stove, not gas combustion, replacement efforts.

Arcata resident Walt Paniak commented on the DG Fairhaven and HRC biomass plants' use of natural gas and diesel, and how this adds to that energy source's relatively high price compared with other energy sources.

Westhaven resident Martha Walden stated that she thought biomass was a temporary energy source while trying to achieve 100% renewable, clean energy by 2025, but that the CAPE document does not state an intention to replace or limit biomass use. She requested that the CAPE document express an ambition to move beyond biomass.

Jon Shultz, District Conservationist with the USDA Natural Resources Conservation Service stated his interest in forest waste to electricity conversion, the Farm Service Agency's discontinuation of a program that made it economical to thin overgrown forest regions and not burn wood waste on site, and how fly ash is successfully being used on a large Rohnerville ranch to lime soil, which increases for growth and helps ranch operations.

Wendy Ring referred to the Marin Carbon Project, a large-scale compost to range land project which provides carbon credits to participating farmers and ranchers, the need for more net carbon sequestration in forests and how these approaches can build new industries and increase jobs.

A member of the public stated that it is technically possible to power her house with her electrical vehicle but that this state does not allow this and requested that staff be directed to do a pilot vehicle-to-home project in Humboldt County.

Pete Jackson of Green Diamond Resource Company stated that his company manages 250 acres in Blue Lake for timber and that between 2011-14 took 40,000 tons of wood chips that would previously have been burned onsite to Humboldt Redwood Company because of the Farm Service Agency's Biomass Crop Assistance Program. He stated that his company continues this practice because of the need to recycle wood chips at the bottom of the pile. He stated that Green Diamond is exploring alternate uses of this material but that so far none can adequately address the problem.

Member of the public Cindy Marino requested that biomass plants stop cutting down O2 generating trees.

Chair Winkler closed public comment.

The directors discussed:

- Possible use of Community Choice Energy funds for a wood stove replacement program, exposure modeling, or a gasification study.
- Possible matching funds from the Air Quality Management District for these projects.
- The importance of fuel reduction in local forests.
- The need for large scale solar energy with battery backup.
- The need for biomass as a bridge power source.
- The need to balance contract duration terms with the biomass plants' ability to invest in improvements.
- The need to be able to island Humboldt County in case of regional power shutoffs.
- The need for RCEA to encourage new technologies that will benefit young people in the future.

- The need to develop seasonal methods of energy storage and to do long term comparisons of energy storage technology.

Director Miller summarized CAPE/RePower revision suggestions as follows:

- 1) Create a pool of research funds, leveraging funds from other California CCEs that utilize biomass power, to fund a large-scale biochar pilot project.
- 2) Do not commit to long-term biomass contracts and state in RePower the ambition to move beyond burning biomass.
- 3) List public health as a priority in the RePower Humboldt document and consider exposure modeling data.
- 4) Create a biomass technical advisory committee to generate a quarterly report that includes financial implications and feasibility of biomass electricity use and the feasibility of small, in-forest biomass plants with stringent emissions control to generate and store electricity.
- 5) Develop electric vehicle to home and vehicle to grid as a source of evening baseload power to enable Humboldt County to island.

NEW BUSINESS

6.1 Letter to California Public Utilities Commission Regarding PG&E Ownership

Chair Winkler described the benefits of supporting PG&E's restructuring as a public benefit corporation.

Chair Winkler invited public comment.

Four members of the public expressed support of PG&E becoming a publicly-owned utility.

Chair Winkler closed public comment.

The Directors discussed that other structures in addition to public ownership may benefit ratepayers, such as breaking up the large utility, that the County had drafted a letter allowing for other forms of ownership, and that RCEA may consider endorsing both letters.

M/S: Wilson, Miller: Approve RCEA's signing of the Mayor of San Jose's letter calling on the California Public Utilities Commission to make PG&E a customer-owned utility, and the County of Humboldt's letter that lists public ownership as one possible ownership structure.

The motion passed on a unanimous voice vote. Ayes: Allison, Daugherty, Miller, Smith, Wilson, Winkler, Woo. Absent: Fennell, Glaser.

6.2 PG&E Energy Watch 2020 Contract Work Authorization

Executive Director Marshall described the proposed six-month extension to the current Energy Watch contract as being a bridge to July 2020 when the agency plans to launch a Community Choice Energy Program-funded energy efficiency program.

Chair Winkler invited public comment. No one came forward to speak. Chair Winkler closed public comment.

M/S: Allison, Woo: Approve Draft PG&E Energy Watch Contract Work Authorization and authorize the Executive Director to execute the final agreement and any associated documents contingent on final review and approval of any revisions by RCEA legal counsel.

The motion passed on a unanimous voice vote. Ayes: Allison, Daugherty, Miller, Smith, Wilson, Winkler, Woo. Absent: Fennell, Glaser.

COMMUNITY CHOICE ENERGY (CCE) BUSINESS

Chair Winkler confirmed that a quorum was present to conduct CCE business.

OLD CCE BUSINESS

7.1 Renewable Long-Term Power Purchase Agreement Negotiation

Power Resources Director Richard Engel presented a staff report on the agency's long-term renewable energy power purchase agreements and updated the Board on the on-hold status of negotiations with Candela Renewables LLC for 50 MW of solar electricity. Staff Director Engel described the proposed replacement 15-year agreement with EDP Renewables for 50 MW of solar electricity from a Kern County project that appears more likely to meet the delivery date of 2022. The proposed power purchase price was described as competitive with Candela Renewables' pricing. The developer, EDP Renewables North America, LLC, is one of RCEA's partners for the offshore wind project and has a long history of renewable energy development in the U.S.

Chair Winkler invited public comment. No one came forward to speak. Chair Winkler closed public comment.

M/S: Miller, Allison: Authorize staff to negotiate a power purchase agreement with EDP Renewables North America LLC for 50 MW of solar, to present to the Board for final approval.

The motion passed on a unanimous voice vote. Ayes: Allison, Daugherty, Miller, Smith, Wilson, Winkler. Absent: Fennell, Glaser. Non-voting: Woo.

NEW CCE BUSINESS

7.2 Customer Rate Update – Information only

Staff Director Engel presented a staff report on PG&E's multiple generation rate changes this year and RCEA's CCE program rates, which the Board directed to keep at 1% below PG&E's rates. The latest generation rate change in October was a ½% increase which impacts residential customers slightly more than commercial customers. PG&E began an opt-in period for industrial commercial customers to switch to time of use rates, which will be mandatory for all industrial customers in a year.

Chair Winkler invited public comment. No one came forward to speak. Chair Winkler closed public comment.

END OF COMMUNITY CHOICE ENERGY (CCE) BUSINESS

CLOSED SESSION

7.3 Public Employee Performance Evaluation, pursuant to Government Code Section 54957(b)(1): Executive Director.

The Directors did not adjourn to closed session, agreed to follow the same performance evaluation process that was used last year and directed Chair Winkler to work with Counsel to begin implementing that process.

Chair Winkler adjourned the meeting at 6:41 p.m.

Redwood Coast Energy Authority
Disbursements Report
As of October 31, 2019

Type	Date	Num	Name	Memo	Amount
Bill Pmt -Check	10/08/2019	ACH	VISA	August & September VISA balances	-28,910.10
Bill Pmt -Check	10/08/2019	ACH	PG&E - ACV	Facilities Study - ACV project	-15,000.00
Liability Check	10/08/2019	E-pay	EDD	499-0864-3 QB Tracking # -1931898366	-1,003.00
Liability Check	10/08/2019	E-pay	Internal Revenue Service	74-3104616 QB Tracking # -1931541366	-3,512.64
Bill Pmt -Check	10/10/2019	10078	City of Arcata	September Utility User Tax	-9,836.47
Bill Pmt -Check	10/10/2019	10079	City of Blue Lake	September Utility User Tax	-835.11
Bill Pmt -Check	10/10/2019	10080	City of Arcata	September High Energy Use Tax	-3,705.52
Bill Pmt -Check	10/10/2019	10081	Advanced Display & Signs	69 x 27 banner and 3 x 3 decals	-394.69
Bill Pmt -Check	10/10/2019	10082	Arcata Technology Center	Site Host Reimbursement 7/1-9/30/19	-847.10
Bill Pmt -Check	10/10/2019	10083	Avcollie, M.	September mileage reimbursement	-52.20
Bill Pmt -Check	10/10/2019	10084	Bailey Electric	Summer St Laundromat/ Audit 5741	-475.13
Bill Pmt -Check	10/10/2019	10085	Best Cleaners	Coverall & linens laundering	-15.00
Bill Pmt -Check	10/10/2019	10086	Bishop, M.	Mileage reimbursement - September	-118.26
Bill Pmt -Check	10/10/2019	10087	Blue Lake Rancheria	Site Host Reimbursement 7/1-9/30/19	-256.86
Bill Pmt -Check	10/10/2019	10088	CA Dept. of Tax & Fee Administration	Electrical Energy Surcharge Return 31-0003366	-47,718.57
Bill Pmt -Check	10/10/2019	10089	CalCCA	Operational Member dues Q2 19/20	-27,240.00
Bill Pmt -Check	10/10/2019	10090	City of Arcata	Site Host Reimbursement 7/1-9/30/19	-697.41
Bill Pmt -Check	10/10/2019	10091	City of Blue Lake	Site Host Reimbursement 7/1-9/30/19	-97.11
Bill Pmt -Check	10/10/2019	10092	City of Eureka-Water	Water service, 8/26-9/25/19	-193.16
Bill Pmt -Check	10/10/2019	10093	City of Eureka - REVNet	Site Host Reimbursement 7/1-9/30/19	-697.07
Bill Pmt -Check	10/10/2019	10094	City of Trinidad	Site Host Reimbursement 7/1-9/30/19	-155.88
Bill Pmt -Check	10/10/2019	10095	CoPower	November premium	-15.40
Bill Pmt -Check	10/10/2019	10096	Developed Employment Services, LLC.	Facilities maintenance work	-55.13
Bill Pmt -Check	10/10/2019	10097	Diamond, Nancy	Legal Services	-9,109.90
Bill Pmt -Check	10/10/2019	10098	Engel, R.	September-2 Mileage: R. Engel	-26.80
Bill Pmt -Check	10/10/2019	10099	Environmental Indicator Accounting Svcs.	Services & support for climate action plan.	-3,420.00
Bill Pmt -Check	10/10/2019	10100	Fetters, Jake	September mileage reimbursement	-30.28
Bill Pmt -Check	10/10/2019	10101	Fischer, A.	L. Fischer: Outside fax service reimbursment	-23.10
Bill Pmt -Check	10/10/2019	10102	Fred Pryor Seminars	Training seminar	-109.00
Bill Pmt -Check	10/10/2019	10103	GHD	Site Host Reimbursement 7/1-9/30/19	-367.48
Bill Pmt -Check	10/10/2019	10104	Hilson, D.	September mileage & travel reimbursement	-547.89
Bill Pmt -Check	10/10/2019	10105	HireRight	Background Check: new hires	-110.11
Bill Pmt -Check	10/10/2019	10106	Humboldt Bay Coffee Co.	Office coffee	-34.60
Bill Pmt -Check	10/10/2019	10107	Humboldt Lighting, LLC.	Contractor project rebates	-3,537.86
Bill Pmt -Check	10/10/2019	10108	HWMA	CFL & flourescent disposal	-27.00
Bill Pmt -Check	10/10/2019	10109	Lee, Ali O.	CAPE Workshop facilitation	-825.00
Bill Pmt -Check	10/10/2019	10110	Local Worm Guy	Weekly compost pickup	-30.00
Bill Pmt -Check	10/10/2019	10111	Means, M.	September mileage	-19.02
Bill Pmt -Check	10/10/2019	10112	Mission Uniform & Linen	Oct. mat service, janitorial supplies	-60.14
Bill Pmt -Check	10/10/2019	10113	NGI, Inc.	CA Body Shop- contractor rebate/Audit 5613	-349.61
Bill Pmt -Check	10/10/2019	10114	North Coast Cleaning	September monthly cleaning service	-438.00
Bill Pmt -Check	10/10/2019	10115	North Coast Co-Op - Arcata	DIY rebate/ audit 5817	-3,086.40
Bill Pmt -Check	10/10/2019	10116	North Coast Unified Air Quality	Site Host Reimbursement 7/1-9/30/19	-161.35
Bill Pmt -Check	10/10/2019	10117	PG&E EV Account	EV stations August	-486.17
Bill Pmt -Check	10/10/2019	10118	PG&E Utility Account	August utilities/lighting upgrade financing	-766.52
Bill Pmt -Check	10/10/2019	10119	Pierson's Home Ctr	Program tools	-22.95
Bill Pmt -Check	10/10/2019	10120	Platt/Rexel	EW bulbs	-18,639.58
Bill Pmt -Check	10/10/2019	10121	Ray Morgan Company	Printer Charges: 9/6-10/5/19	-56.23
Bill Pmt -Check	10/10/2019	10122	Recology	September garbage service	-90.72
Bill Pmt -Check	10/10/2019	10123	Scraper's Edge	Communications/Outreach printing	-146.22
Bill Pmt -Check	10/10/2019	10124	SDRMA Medical	November Premium	-17,158.44
Bill Pmt -Check	10/10/2019	10125	Settelmayer, Matt	September mileage reimbursement	-32.60
Bill Pmt -Check	10/10/2019	10126	St. Joseph Hospital	Site Host Reimbursement 7/1-9/30/19	-480.36
Bill Pmt -Check	10/10/2019	10127	Staples Charge Account	September Statement	-167.38
Bill Pmt -Check	10/10/2019	10128	Stephenson, Nancy	September mileage reimbursement	-87.97
Bill Pmt -Check	10/10/2019	10129	Suddenlink Communications	Phone & Internet access - October	-1,091.62
Bill Pmt -Check	10/10/2019	10130	Times Printing Company	Mailing services - Move in & PCL	-22,522.90
Bill Pmt -Check	10/10/2019	10131	Verizon Wireless	September tablet/cell service for field staff/mobile br	-198.57

Redwood Coast Energy Authority
Disbursements Report
As of October 31, 2019

Type	Date	Num	Name	Memo	Amount
Bill Pmt -Check	10/10/2019	10132	WREGIS	WREGIS "Retired"	-852.97
Paycheck	10/10/2019	ACH	Payroll	Payroll 9/15-9/30/19	-48,886.03
Liability Check	10/18/2019	E-pay	EDD	499-0864-3 QB Tracking # -1113888266	-3,661.82
Liability Check	10/18/2019	E-pay	Internal Revenue Service	74-3104616 QB Tracking # -1113819266	-19,156.55
Liability Check	10/18/2019	E-pay	EDD	499-0864-3 QB Tracking # -1113762266	-151.81
Bill Pmt -Check	10/23/2019	ACH	DG Fairhaven Power, LLC	DG Fairhaven September 2019	-395,642.98
Bill Pmt -Check	10/23/2019	ACH	CalPine Corporation	Calpine September 2019 Costs	-73,191.75
Bill Pmt -Check	10/23/2019	ACH	Humboldt Sawmill Company	HSC September 2019	-653,136.75
Bill Pmt -Check	10/25/2019	ACH	Tesla Motors	Microgrid equipment - Milestone payment 20%	-1,444,408.57
Check	10/25/2019	10133	EUC Assessment Customer	EUC Assessment refund	-500.00
Check	10/25/2019	10134	EUC Assessment Customer	EUC Assessment refund	-500.00
Check	10/25/2019	10137	NEM Customer	NEM Cash Out #: 7321382763	-200.22
Check	10/25/2019	10138	NEM Customer	NEM Account Close Out #3406151102	-34.86
Check	10/25/2019	10139	NEM Customer	NEM Account Close Out #2013114574	-105.02
Check	10/25/2019	10140	NEM Customer	NEM Account Close Out #9631538036	-100.09
Check	10/25/2019	10141	NEM Customer	NEM Account Close Out #38552035	-1.98
Check	10/25/2019	10142	NEM Customer	NEM Account Close Out #9220485247	-1.09
Check	10/25/2019	10143	NEM Customer	NEM Account Close Out #3935365446	-0.69
Check	10/25/2019	10144	NEM Customer	NEM Account Close Out #5441892431	-60.21
Check	10/25/2019	10145	NEM Customer	NEM Account Close Out #535741470	-2.19
Bill Pmt -Check	10/25/2019	10146	AT&T	September - closing old analog fax plan	-112.90
Bill Pmt -Check	10/25/2019	10147	AM Conservation	LED Stock	-54.67
Bill Pmt -Check	10/25/2019	10148	AT&T	September - Opening new analog fax plan	-250.27
Bill Pmt -Check	10/25/2019	10149	Boudreau, D.	Travel & purchase reimbursement	-60.73
Bill Pmt -Check	10/25/2019	10150	Boutin Jones	Legal support: PGE and common interest	-348.70
Bill Pmt -Check	10/25/2019	10151	CSDA	2019 Membership Dues ID 26262	-1,446.00
Bill Pmt -Check	10/25/2019	10152	DeSoto, Jonathan	Filming/editing services for CAPE event	-1,300.00
Bill Pmt -Check	10/25/2019	10153	Donald Dame	Professional Services	-262.50
Bill Pmt -Check	10/25/2019	10154	Electric Car Insider	Outreach materials: Electric Car Insider	-69.00
Bill Pmt -Check	10/25/2019	10155	Engel, R.	Travel Reimbursement: Pacific Rim offshore wind c	-37.00
Bill Pmt -Check	10/25/2019	10156	FedEx	Residential box mailing	-15.67
Bill Pmt -Check	10/25/2019	10157	HCOE	Business Card Printing - M. Bishop	-21.00
Bill Pmt -Check	10/25/2019	10158	Humboldt Bay Coffee Co.	Office coffee	-51.90
Bill Pmt -Check	10/25/2019	10159	Humboldt Lighting, LLC.	Sylvania 10w 4' T8	-1,936.73
Bill Pmt -Check	10/25/2019	10160	Luzzi, Janet	Consulting services: organizatio assessment	-2,190.00
Bill Pmt -Check	10/25/2019	10161	Mission Uniform & Linen	mt and supplies service	-124.19
Bill Pmt -Check	10/25/2019	10162	NYLEX.net, Inc.	Network support services	-3,365.00
Bill Pmt -Check	10/25/2019	10163	PG&E CCA	September CCE Charges	-22,074.01
Bill Pmt -Check	10/25/2019	10164	Pisenti & Brinker	Power content label auditing services	-13,881.34
Bill Pmt -Check	10/25/2019	10165	Platt/Rexel	PO #B0078 Bulbs	-970.88
Bill Pmt -Check	10/25/2019	10166	SDRMA P&L	P&L Insurance Certificates	-190.00
Bill Pmt -Check	10/25/2019	10167	SDRMA Dental	November Premium	-1,060.67
Bill Pmt -Check	10/25/2019	10168	Shred Aware	Shredding services - October	-65.00
Bill Pmt -Check	10/25/2019	10169	Times-Standard	Legal Notice: Notices Inviting Bids (Fortuna Elemen	-284.18
Bill Pmt -Check	10/25/2019	10170	Times Printing Company	printing services	-986.72
Bill Pmt -Check	10/25/2019	10171	Advanced Security	Security monitoring: Nov.	-118.50
Bill Pmt -Check	10/25/2019	10172	McKeever Energy & Electric, Inc.	Westhaven Fire Dept. installation: audit #5923	-5,845.00
Paycheck	10/25/2019	ACH	Payroll	Payroll 10/1-10/15/19	-51,415.88
TOTAL					-2,975,227.60

Redwood Coast Energy Authority

Balance Sheet

As of October 31, 2019

	<u>Oct 31, 19</u>
ASSETS	
Current Assets	
Checking/Savings	
1010 · Petty Cash	414.35
1050 · GRANTS & DONATIONS 3840	15,204.58
1060 · Umpqua Checking Acct 0560	-84,207.74
1071 · Umpqua Deposit Control Acct 8215	3,203,171.39
1075 · Umpqua Reserve Account 2300	2,000,000.00
8413 · COUNTY TREASURY 3839	5,065.52
Total Checking/Savings	<u>5,139,648.10</u>
Total Accounts Receivable	270,575.60
Other Current Assets	
1101 · Allowance for Doubtful Accounts	-354,660.54
1103 · Accounts Receivable-Other	7,785,540.21
1120 · Inventory Asset	21,715.00
1202 · Prepaid Expenses	-35,925.94
1210 · Retentions Receivable	8,738.37
1499 · Undeposited Funds	1,377.00
Total Other Current Assets	<u>7,426,784.10</u>
Total Current Assets	<u>12,837,007.80</u>
Total Fixed Assets	<u>151,725.39</u>
Total Other Assets	<u>-145,900.00</u>
TOTAL ASSETS	<u>12,842,833.19</u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Total Accounts Payable	3,217,687.61
Total Credit Cards	-3,950.66
Total Other Current Liabilities	<u>157,136.00</u>
Total Current Liabilities	<u>3,370,872.95</u>
Long Term Liabilities	
2700 · Long-Term Debt	
2701 · Lighting Upgrade	159.11
Total 2700 · Long-Term Debt	<u>159.11</u>
2703 · TEA Phase I & II	59,216.31
Total Long Term Liabilities	<u>59,375.42</u>
Total Liabilities	<u>3,430,248.37</u>
Equity	
2320 · Investment in Capital Assets	151,566.27
3203 · LTD - TEA Phase I & II	-59,216.31
3900 · Fund Balance	6,324,279.29
Net Income	<u>2,995,955.57</u>
Total Equity	<u>9,412,584.82</u>
TOTAL LIABILITIES & EQUITY	<u>12,842,833.19</u>

Redwood Coast Energy Authority
Profit & Loss Budget vs. Actual
July through October 2019

	Jul - Oct 19	Budget	% of Budget
Ordinary Income/Expense			
Income			
Total 4 GRANTS AND DONATIONS	270.00		
5 REVENUE EARNED			
Total 5000 · Revenue - government agencies	26,112.94	125,000.00	20.89%
Total 5100 · Revenue - program related sales	7,037.31	16,000.00	43.98%
Total 5400 · Revenue-nongovernment agencies	401,981.28	2,576,300.00	15.6%
Total 5500 · Revenue - Electricity Sales	19,273,931.09	53,482,965.00	36.04%
Total 5 REVENUE EARNED	19,709,062.62	56,200,265.00	35.07%
49900 · Debt Proceeds	0.00	2,730,300.00	0.0%
Total Income	19,709,332.62	58,930,565.00	33.45%
Gross Profit	19,709,332.62	58,930,565.00	33.45%
Expense			
Total 6 WHOLESALE POWER SUPPLY	13,054,258.55	42,295,190.00	30.87%
Total 7 PERSONNEL EXPENSES	787,103.05	3,026,492.00	26.01%
Total 8.1 FACILITIES AND OPERATIONS	1,548,206.97	4,539,920.00	34.1%
Total 8.2 COMMUNICATIONS AND OUTREACH	52,497.04	115,000.00	45.65%
Total 8.3 TRAVEL AND MEETINGS	27,505.48	68,000.00	40.45%
8.4 PROFESSIONAL & PROGRAM SRVS			
8400 · Regulatory	81,450.01	184,000.00	44.27%
8410 · Contracts - Program Related Ser	42,340.95	435,000.00	9.73%
8420 · Accounting	7,546.34	68,950.00	10.95%
8430 · Legal	52,087.22	125,000.00	41.67%
8450 · Wholesale Services - TEA	199,801.40	602,401.00	33.17%
8460 · Procurement Credit - TEA	211,514.03	753,809.00	28.06%
8470 · Data Management - Calpine	293,259.56	882,348.00	33.24%
Total 8.4 PROFESSIONAL & PROGRAM SRVS	887,999.51	3,051,508.00	29.1%
Total 8.5 PROGRAM EXPENSES	197,658.09	555,786.00	35.56%
Total 8.6 INCENTIVES & REBATES	138,074.68	881,500.00	15.66%
Total 9 NON OPERATING COSTS	20,073.68	169,518.00	11.84%
Total Expense	16,713,377.05	54,702,914.00	30.55%
Net Ordinary Income	2,995,955.57	4,227,651.00	70.87%
Net Income	2,995,955.57	4,227,651.00	70.87%



STAFF REPORT

Agenda Item # 3.4

AGENDA DATE:	December 19, 2019
TO:	Board of Directors
PREPARED BY:	Lori Taketa, Clerk of the Board
SUBJECT:	Community Advisory Committee Member Reappointments

BACKGROUND

RCEA's Community Advisory Committee (CAC) was established by the Board to support RCEA public engagement efforts and to provide decision-making support and input to the Board. Membership terms for seven of the CAC's 13 currently-seated members will expire on April 10, 2020. Staff requests appointments for the six upcoming vacancies.

DISCUSSION

The seven CAC members with terms expiring on April 10, 2020, are:

Member Name	Appointed By	Residency	Brief Biography
Dennis Leonardi	Ferndale Director	Ferndale	Dairyman, active community organization volunteer
Craig Mitchell	HBMWD Director	Arcata	HSU engineering student, Renewable Energy Student Union President
Tom Hofweber	County Director	Loleta	Public policy maker, coastal resource planner
Jerome Carman	At-Large Board Appointee	Eureka	SERC Sr. Research Engineer
Colin Fiske	At-Large Board Appointee	Arcata	Coalition for Responsible Transportation Priorities Executive Director
Larry Goldberg	At-Large Board Appointee	Trinidad	Alternative energy and economic development advocate
Pam Halstead	At-Large Board Appointee	Eureka	Fortuna High School teacher, AP environmental science class instructor

All except Craig Mitchell have expressed an interest in serving another two-year term. Mr. Mitchell will be graduating from Humboldt State University and leaving the area. Director Woo has been notified of the need to seek another nominee for Board approval.

Director Smith expressed that he would like to nominate Mr. Leonardi to serve again, and Director Fennell stated the same regarding Mr. Hofweber.

STAFF RECOMMENDATION

Reappoint Jerome Carman, Colin Fiske, Larry Goldberg, Pam Halstead, Tom Hofweber and Dennis Leonardi to the Community Advisory Committee for terms expiring April 12, 2022.

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STAFF REPORT
Agenda Item # 3.5

AGENDA DATE:	December 19, 2019
TO:	Board of Directors
PREPARED BY:	Mahayla Slackerelli, Accounts Services Manager
SUBJECT:	Feed-in Tariff Power Purchase Agreement Update

SUMMARY

At the March meeting, the Board of Directors approved the Feed-in Tariff (FIT) program and accompanying materials. Included in this was a standardized power purchase agreement (PPA), which all applicants must sign to be admitted into the program. Since then staff has been working with many interested applicants and two concerns have arisen with the PPA:

1. The FIT program offers an incentive for applicants who use local developers. However, the PPA does not address what would happen if the applicant claims the incentive and ultimately is not able to use a local developer to build the project.
2. The PPA gives RCEA the right to curtail energy generation as needed, while still compensating the generation owner for the energy that would have been produced. The PPA originally specified that RCEA would determine how much energy would have otherwise been produced. It was brought to the attention of staff that industry standard is for the seller to calculate how much energy would have been generated during a curtailment.

Staff proposes to amend the PPA to address these two concerns. The proposed updated PPA includes language specifying that if an applicant claims the local developer incentive but is not able to satisfy the requirement in the end, the price for energy will simply revert to the base price. The other amendment states that the seller will calculate the amount of energy that was curtailed during an event but that RCEA has the right to request all the materials for a review of the calculation.

FINANCIAL IMPACTS

None

RECOMMENDED ACTION:

Approve the PPA as amended.

ATTACHMENT

Proposed updated PPA

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REDWOOD COAST
EnergyAuthority

FEED-IN TARIFF

POWER PURCHASE AGREEMENT

between

REDWOOD COAST ENERGY AUTHORITY

and

[FIT PROJECT OWNER]

FEED-IN TARIFF

POWER PURCHASE AGREEMENT

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FEED-IN TARIFF POWER PURCHASE AGREEMENT

The Redwood Coast Energy Authority, a California Joint Powers Authority
("Buyer" or "RCEA"), and [REDACTED] ("Seller"), a _____

[Seller's form of business entity and state of organization], hereby enter into this Power Purchase Agreement ("Agreement") made and effective as of the Execution Date. Seller and Buyer are sometimes referred to in this Agreement jointly as "Parties" or individually as "Party." In consideration of the mutual promises and obligations stated in this Agreement and its appendices, the Parties agree as follows:

1. DOCUMENTS INCLUDED

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

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

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

- Feed-in Tariff dated *[insert date of applicable Tariff]*
- Feed-in Tariff Application, submitted by Seller, dated *[insert date of application]*
- Feed-in Tariff Generation Forecast dated *[insert date of applicable document]*

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

2. SELLER'S FACILITY AND COMMERCIAL OPERATION DATE

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

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

FEED-IN TARIFF

POWER PURCHASE AGREEMENT

2.2. Facility Name. The Facility is named _____.

2.2.1. The Facility's renewable resource is _____ [e.g., biogas, hydro, etc.]

2.3. Interconnection Point. The Facility is connected to the Pacific Gas & Electric Company ("PG&E") electric system at [include description of physical interconnection point], i.e. Interconnection Point, at a service voltage of _____ kV.

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

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

2.6. Commercial Operation.

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

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

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

FEED-IN TARIFF

POWER PURCHASE AGREEMENT

Section 2.6.1 shall be extended for the number of days necessary to physically interconnect the Facility; provided, however, that such delay may not extend the expected Commercial Operation Date specified in Section 2.6.1 for a period of more than six (6) months; or

2.6.2.2. If Seller has taken all commercially reasonable actions (including but not limited to Seller's timely filing of all required applications and documents and payment of all applicable fees, if any) to obtain permits necessary to construct and operate the facility but fails to secure any such permits due to delays beyond Seller's reasonable control, then the expected Commercial Operation Date specified in Section 2.6.1 shall be extended for the number of days necessary to secure such permits; provided, however, that such delay may not extend the expected Commercial Operation Date specified in Section 2.6.1 for a period of more than six (6) months; or

2.6.2.3. In the event of Force Majeure, the expected Commercial Operation Date specified in Section 2.6.1 shall be extended on a day-to-day basis for a cumulative period of not more than six (6) months; provided that Seller complies with Section 11.

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

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

2.6.4. Notwithstanding anything in this Agreement, if Seller is unable to achieve Commercial Operation by the expected Commercial Operation Date specified in Section 2.6.1, which may be extended pursuant to Section 2.6.2, then Seller shall either (i) terminate the Agreement, in which case Buyer may retain the full Reservation Deposit, or (ii) pay to Buyer daily delay damages in the amount of twenty cents (\$0.20) for each kilowatt of Contract Capacity for each day beyond the expected Commercial Operation Date specified in Section 2.6.1, as may be extended pursuant to Section 2.6.2, that Seller requires to achieve Commercial Operation.

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

2.6.5.1. the Facility's status as an Eligible Renewable Energy Resource is demonstrated by Seller's receipt of pre-certification from the CEC;

FEED-IN TARIFF

POWER PURCHASE AGREEMENT

- 2.6.5.2. the Parties have executed and exchanged the “Commercial Operation Date Confirmation Letter” attached as Appendix B;
- 2.6.5.3. Seller has obtained and is in compliance with the Interconnection Agreement for the Facility, and Seller has satisfied all applicable CAISO Tariff requirements and metering requirements in Sections 6.1 and 6.2;
- 2.6.5.4. Seller has furnished to Buyer all insurance documents required under Section 10;
- 2.6.5.5. Seller has provided thirty (30) days’ Notice prior to the Commercial Operation Date as required under Section 2.6.3;
- 2.6.5.6. Seller has obtained all permits necessary to operate the Facility and is in compliance with all Laws applicable to the operation of the Facility;
- 2.6.5.7. Seller has successfully installed and tested the Facility at its full Contract Capacity, and the Facility is capable of reliably generating at its full Contract Capacity; and
- 2.6.5.8. Seller has satisfied the Collateral Requirement set forth in Section 3.9.

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

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

Delivery Term Contract Quantity Schedule	
Contract Year	Contract Quantity (kWh/Yr)
1	
2	
3	
4	
5	
6	

FEED-IN TARIFF POWER PURCHASE AGREEMENT

Delivery Term Contract Quantity Schedule	
Contract Year	Contract Quantity (kWh/Yr)
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	

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

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

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

3.4.2. Notwithstanding anything to the contrary in this Agreement, all of the rights and obligations that this Agreement expressly provides survive termination as well as the rights and obligations that arise from Seller's or Buyer's covenants, agreements, representations, and warranties applicable to, or to be performed, at or during any time before or as a result of the termination of this Agreement.

3.5. Delivery Term. Seller shall deliver the Product from the Facility to Buyer for a period of twenty (20) Contract Years for all generation technologies. The Delivery Term shall commence on the Commercial Operation Date and continue until the end of the last Contract Year unless the Agreement is terminated sooner pursuant to the terms of the Agreement.

FEED-IN TARIFF

POWER PURCHASE AGREEMENT

3.6. Contract Price.

- 3.6.1. Throughout the Delivery Term, and subject to and in accordance with the terms of this Agreement, Buyer shall pay the Contract Price to Seller for the Product based on the amount of Delivered Energy. The Contract Price shall be \$ _____ per kWh of Delivered Energy with an additional \$ _____ per kWh for Delivered Energy during the first five (5) Contract Years.
- 3.6.2. In any Contract Year, if the amount of Delivered Energy exceeds one hundred fifteen percent (115%) of the annual Contract Quantity amount, the Contract Price for such Delivered Energy in excess of one hundred fifteen percent (115%) shall be adjusted to be seventy-five percent (75%) of the applicable Contract Price.
- 3.6.3. Seller shall curtail production of the Facility in accordance with the applicable Notice after receipt of: (a) Notice from Buyer that Buyer has been instructed by the CAISO or the Transmission/Distribution Owner or any other jurisdictional entity to curtail Energy deliveries; or (b) Notice that Seller has been given a curtailment order or similar instruction in order to respond to an Emergency; or (c) Notice of a Curtailment Order issued by Buyer. Buyer shall have no obligation to pay Seller for any Product delivered in violation of this Section 3.6.3 or for any Product that Seller would have been able to deliver but for the fact of a curtailment pursuant to this Section 3.6.3. Seller shall assume all liability and reimburse Buyer for any and all costs and charges incurred by Buyer, including but not limited to CAISO penalties, as a result of Seller delivering Energy in violation of the Section 3.6.3.
- 3.6.4. Buyer shall have the right, but not the obligation, to issue to Seller a Curtailment Order. Buyer shall pay Seller the Contract Price for the Product Seller would have been able to deliver but for the fact that Buyer issued a Curtailment Order ("Paid Curtailed Product") as calculated pursuant to Section 3.6.5.
- 3.6.5. No later than fifteen (15) days after the end of a calendar month in which Buyer issued a Curtailment Order, Seller shall prepare and provide to Buyer a calculation of the amount of Product the Facility would have been able to deliver under Sections 3.6.4 for the applicable month. Seller shall apply accepted industry standards in making such calculation and take into consideration past performance of the Facility, and other relevant information, including but not limited to, Facility availability, weather, water flow, and solar irradiance data for the period of time during the Buyer issued Curtailment Order. Upon Buyer's request, Seller shall promptly provide to Buyer any additional and supporting documentation necessary for Buyer to audit and verify Seller's calculation.

FEED-IN TARIFF POWER PURCHASE AGREEMENT

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

3.7. Billing.

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

3.7.2. For the purpose of calculating monthly payments under this Agreement, the amount recorded by the meter specified in Section 6.2.1 or Check Meter, as applicable, will be multiplied by the Contract Price noted in Section 3.6.1, as possibly adjusted under Section 3.6.2, less any Energy produced by the Facility for which Buyer is not obligated to pay Seller as set forth in Section 3.7.1.

3.7.3. On or before the last Business Day of the month immediately following each calendar month, Seller shall determine the amount of Delivered Energy received by Buyer pursuant to this Agreement for each monthly period and issue an invoice showing the calculation of the payment. Seller shall also provide to Buyer: (a) records of metered data sufficient to document and verify the generation of Delivered Energy by the Facility during the preceding month; (b) access to any records; and (c) an invoice, in the format specified by Buyer.

FEED-IN TARIFF

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In the event an invoice or portion thereof or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with Notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. In the event adjustments to payments are required as a result of inaccurate meter(s), Buyer in its reasonable discretion shall determine the correct amount of Delivered Energy received under this Agreement during any period of inaccuracy and recompute the amount due from Buyer to Seller for the Delivered Energy delivered during the period of inaccuracy. The Parties agree to use good faith efforts to resolve the dispute or identify the adjustment as soon as possible. Upon resolution of the dispute or calculation of the adjustment, any required payment shall be made within thirty (30) days of such resolution.

3.7.4. In the event an invoice or portion thereof or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with Notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. In the event adjustments to payments are required as a result of inaccurate meter(s), Buyer in its reasonable discretion shall determine the correct amount of Delivered Energy received under this Agreement during any period of inaccuracy and recompute the amount due from Buyer to Seller for the Delivered Energy delivered during the period of inaccuracy. The Parties agree to use good faith efforts to resolve the dispute or identify the adjustment as soon as possible. Upon resolution of the dispute or calculation of the adjustment, any required payment shall be made within thirty (30) days of such resolution.

3.7.5. All interest paid or payable under this Agreement shall be computed as simple interest using the Interest Rate and, unless specified otherwise in this Agreement, shall be paid concurrently with the payment or refund of the underlying amount on which such interest is payable.

3.8. Title and Risk of Loss. Title to and risk of loss related to the Energy from the Facility shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Product from the Facility free and clear of all liens, security interests, claims, and encumbrances or any interest therein or thereto by any person.

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- 3.9. Collateral Requirement. On or before the Commercial Operation Date, Seller shall post and thereafter maintain a collateral requirement equal to twenty dollars (\$20.00) for each kilowatt of Contract Capacity (the "Collateral Requirement"). The Collateral Requirement will be held by Buyer and must be in the form of either cash deposit or Letter of Credit. The Collateral Requirement shall be posted to Buyer and maintained at all times during the Delivery Term. Buyer shall be entitled to draw upon the Collateral Requirement for any damages arising upon Buyer's declaration of an Early Termination Date as set forth in Section 11.3. In the event that Buyer draws on the Collateral Requirement, Seller shall promptly replenish such Collateral Requirement to the amount specified in this Section 3.9. Buyer shall return the unused portion of the Collateral Requirement to Seller promptly at the end of the Delivery Term, once all payment obligations of the Seller under this Agreement have been satisfied. Buyer shall pay simple interest on cash held to satisfy the Collateral Requirements at the rate and in the manner set forth in Section 3.7.4.

4. GREEN ATTRIBUTES; RESOURCE ADEQUACY BENEFITS; ERR REQUIREMENTS

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

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

4.4. Resource Adequacy Benefits.

4.4.1. During the Delivery Term, Seller grants, pledges, assigns and otherwise commits to Buyer all of the Contract Capacity, including Capacity Attributes, if any, from the Project to enable Buyer to meet its Resource Adequacy or successor program requirements, as the CPUC, CAISO or other regional entity may prescribe ("Resource Adequacy Requirements").

4.4.2. If providing any Resource Adequacy, Seller shall comply with the Resource Adequacy requirements set forth in the CAISO Tariff, including Section 40 thereof, as may be changed from time to time.

4.4.3. If providing any Resource Adequacy, Seller shall cooperate in good faith with and comply with reasonable requests of Buyer and the CAISO to enable Buyer and/or the CAISO to assign Capacity Attributes and Resource Adequacy Benefits to the Facility.

4.5. Eligible Renewable Energy Resource. Seller shall take all actions necessary to achieve and maintain status as an Eligible Renewable Energy Resource or ERR throughout the Delivery Term. Within thirty (30) days after the Commercial Operation Date, Seller shall file an application or other appropriate request with the CEC for CEC Certification for the Facility. Seller shall expeditiously seek CEC Certification, including promptly responding to any requests for information from the requesting authority.

5. REPRESENTATION AND WARRANTIES; COVENANTS

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

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

5.1.2. the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Laws;

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

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

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

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

6. GENERAL CONDITIONS

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

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

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- 6.5.1. Operations Logs. Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis. Such log shall include, but not be limited to, information on power production, fuel consumption (if applicable), efficiency, availability, maintenance performed, outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall provide this information electronically to Buyer within twenty (20) days of Buyer's request.
- 6.5.2. Access Rights. Buyer, its authorized agents, employees and inspectors may, on reasonable advance notice under the circumstances, visit the Project during normal business hours for purposes reasonably connected with this Agreement. Buyer, its authorized agents, employees and inspectors must (a) at all times adhere to all safety and security procedures as may be required by Seller; and (b) not interfere with the operation of the Project. Buyer shall make reasonable efforts to coordinate its emergency activities with the safety and security departments, if any, of the Project operator. Seller shall keep Buyer advised of current procedures for contacting the Project operator's safety and security departments, if any exist.
- 6.6. Protection of Property. Seller shall be solely responsible for protecting its own facilities from possible damage resulting from electrical disturbances or faults caused by the operation, faulty operation, or non-operation of the Transmission/Distribution Owner's facilities. Buyer shall not be liable for any such damages so caused.
- 6.7. Forecasting. Seller shall comply with the forecasting in Appendix C.
- 6.8. Greenhouse Gas Emissions. Seller acknowledges that a Governmental Authority may require Buyer to take certain actions with respect to greenhouse gas emissions attributable to the generation of Energy, including, but not limited to, reporting, registering, tracking, allocating for or accounting for such emissions. Promptly following Buyer's written request, Seller agrees to take all commercially reasonable actions and execute or provide any and all documents, information, or instruments with respect to generation by the Facility reasonably necessary to permit Buyer to comply with such requirements, if any.
- 6.9. Reporting and Record Retention.
- 6.9.1. Seller shall use commercially reasonable efforts to meet the Milestone Schedule set forth in Appendix E and avoid or minimize any delays in meeting such schedule. Seller shall provide Project development status reports in a format and a frequency, which shall

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not exceed one (1) report per month, specified by the Buyer. The report shall describe Seller's progress relative to the development, construction, and startup of the Facility, as well as a Notice of any anticipated change to the Commercial Operation Date and whether Seller is on schedule to meet the Commercial Operation Date.

6.9.2. Seller shall within ten (10) Business Days of receipt thereof provide to Buyer copies of any Interconnection Agreement and all other material reports, studies and analyses furnished by any Transmission/Distribution Owner, and any correspondence with the Transmission/Distribution Owner related thereto, concerning the interconnection of the Facility to the Transmission/Distribution Owner's electric system or the transmission of Energy on the Transmission/Distribution Owners' electric system.

6.9.3. Seller shall provide to Buyer on the Commercial Operation Date, and within thirty (30) days after the completion of each Contract Year thereafter during the Delivery Term, a copy of any inspection and maintenance report regarding the Facility that was also provided to the Transmission/Distribution Owner during the previous Contract Year.

6.10. Tax Withholding Documentation. Upon Buyer's request, Seller shall promptly provide to Buyer Internal Revenue Service tax Form W-9 and California tax Form 590 (or their equivalent), completed with Seller's information, and any other documentation necessary for Buyer to comply with its tax reporting or withholding obligations with respect to Seller.

6.11. Modifications to Facility. During the Delivery Term, Seller shall not repower or materially modify or alter the Facility without the written consent of Buyer. Material modifications or alterations include, but are not limited to, (a) movement of the Site, (b) changes that may increase or decrease the expected output of the Facility other than as allowed under Section 3.2, (c) changes that may affect the generation profile of the Facility, (d) changes that may affect the ability to accurately measure the output of Product from the Facility and (e) changes that conflict with elections, information or requirements specified elsewhere in this Agreement. Material modifications or alterations do not include maintenance and repairs performed in accordance with Prudent Electrical Practices. Seller shall provide to Buyer Notice not less than ninety (90) days before any proposed repowering, modification or alteration occurs describing the repowering, modification or alteration to Buyer's reasonable satisfaction.

6.12. No Additional Incentives. Seller agrees that during the Term of this Agreement it shall not seek additional compensation or other benefits pursuant to the Self-Generation Incentive Program, as defined in CPUC

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Decision 01-03-073, the California Solar Initiative, as defined in CPUC Decision 06-01-024, Buyer's net energy metering tariff, or other similar California ratepayer subsidized program relating to energy production with respect to the Facility.

- 6.13. Small Hydro/Private Energy Producer. Seller agrees to provide to Buyer copies of each of the documents identified in California Public Utilities Code Section 2821(d)(1), if applicable, as may be amended from time to time, as evidence of Seller's compliance with such Public Utilities Code section prior to the Commercial Operation Date and, after the Commercial Operation Date, within thirty (30) days of Seller's receipt of written request.
- 6.14. Site Control. Seller shall have Site Control as of the earlier of: (a) the Commercial Operation Date; or (b) any date before the Commercial Operation Date to the extent necessary for the Seller to perform its obligations under this Agreement and, in each case, Seller shall maintain Site Control throughout the Delivery Term. Seller shall promptly provide Buyer with Notice if there is any change in the status of Seller's Site Control.

7. INDEMNITY

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

8. INSURANCE

- 8.1. Insurance Coverage. Seller shall, at its own expense, starting on the Execution Date and until the end of the Term, and for such additional periods as may be specified below, provide and maintain in effect the following insurance policies and minimum limits of coverage as specified below, and such additional coverage as may be required by Law, with insurance companies authorized to do business in the state in which the services are to be performed, with an A.M. Best's Insurance Rating of not less than A-:VII.
- 8.1.1. Commercial general liability insurance, written on an occurrence, not claims-made basis, covering all operations by or on behalf of Seller arising out of or connected with this Agreement, including coverage

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for bodily injury, broad form property damage, personal and advertising injury, products/completed operations, contractual liability, premises-operations, owners and contractors protective, hazard, explosion, collapse and underground. Such insurance must bear a combined single limit per occurrence and annual aggregate of not less than one million dollars (\$2,000,000.00), exclusive of defense costs, for all coverages. Such insurance must contain standard cross-liability and severability of interest provisions. If Seller elects, with Buyer's written concurrence, to use a "claims made" form of commercial general liability insurance, then the following additional requirements apply: (a) the retroactive date of the policy must be prior to the Execution Date; and (b) either the coverage must be maintained for a period of not less than four (4) years after this Agreement terminates, or the policy must provide for a supplemental extended reporting period of not less than four (4) years after this Agreement terminates. Governmental agencies which have an established record of self-insurance may provide the required coverage through self-insurance.

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

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

8.1.4. Umbrella/excess liability insurance, written on an occurrence, not claims-made basis, providing coverage excess of the underlying employer's liability, commercial general liability, and commercial automobile liability insurance, on terms at least as broad as the underlying coverage, with limits of not less than four million dollars (\$4,000,000.00) per occurrence and in the annual aggregate.

8.2. Additional Insurance Provisions.

8.2.1. On or before the later of (a) sixty (60) days after the Execution Date and (b) the date immediately preceding commencement of construction of the Facility, and again within a reasonable time after coverage is renewed or replaced, Seller shall furnish to Buyer certificates of insurance evidencing the coverage required above, written on forms and with deductibles reasonably acceptable to

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Buyer. Notwithstanding the foregoing sentence, Seller shall in no event furnish Buyer certificates of insurance evidencing required coverage later than the Commercial Operation Date. All deductibles, co-insurance and self-insured retentions applicable to the insurance above must be paid by Seller. All certificates of insurance must note that the insurers issuing coverage must endeavor to provide Buyer with at least thirty (30) days' prior written notice in the event of cancellation of coverage. Buyer's receipt of certificates that do not comply with the requirements stated in this Section 8.2.1, or Seller's failure to provide such certificates, do not limit or relieve Seller of the duties and responsibility of maintaining insurance in compliance with the requirements in this Section 8 and do not constitute a waiver of any of the requirements of Section 8.

- 8.2.2. Insurance coverage described above in Section 8.1 shall provide for thirty (30) days written Notice to Buyer prior to cancellation, termination, alteration, or material change of such insurance.
- 8.2.3. Evidence of coverage described above in Section 8.1 shall state that coverage provided in primary and is not excess to or contributing with any insurance or self-insurance maintained by Buyer.
- 8.2.4. Buyer shall have the right to inspect or obtain a copy of the original policy(ies) of insurance.
- 8.2.5. All insurance certificates, endorsements, cancellations, terminations, alterations, and material changes of such insurance must be issued, clearly labeled with this Agreement's identification number and submitted in accordance with Section 9 and Appendix F.
- 8.2.6. The insurance requirements set forth in Section 8.1 shall apply as primary insurance to, without a right of contribution from, any other insurance maintained by or afforded to Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents, and employees, regardless of any conflicting provision in Seller's policies to the contrary. To the extent permitted by Law, Seller and its insurers shall be required to waive all rights of recovery from or subrogation against Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents, employees and insurers. The commercial general liability insurance required in Section 8.1.1 and the umbrella/excess liability insurance required in Section 8.1.4 must name Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents and employees, as additional insureds for liability arising out of Seller's construction, use or ownership of the Facility.
- 8.2.7. Seller shall remain liable for all acts, omissions or default of any subcontractor or subsupplier and shall indemnify, defend and hold

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

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

9. NOTICES

Notices (other than forecasts and scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, facsimile, or electronic messaging (e-mail). A notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 5 p.m. Pacific prevailing time (and if received after 5 p.m., on the next Business Day) and a notice by overnight mail or courier shall be deemed to have been received on the next Business Day after such Notice is sent or such earlier time as is confirmed by the receiving Party unless it confirms a prior oral communication, in which case any such notice shall be deemed received on the day sent. A Party may change its addresses by providing notice of same in accordance with this provision. All Notices, requests, invoices, statements or payments for this Facility must reference this Agreement's identification number. Notices shall be provided as indicated in Appendix F.

10. FORCE MAJEURE

10.1. No Default for Force Majeure. Neither Party shall be in default in the performance of any of its obligations set forth in this Agreement when and to the extent failure of performance is caused by Force Majeure.

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- 10.2. Requirements Applicable to Claiming Party. If a Party, because of Force Majeure, is rendered wholly or partly unable to perform its obligations when due under this Agreement, such Party (the “Claiming Party”) shall be excused from whatever performance is affected by the Force Majeure to the extent so affected. In order to be excused from its performance obligations under this Agreement by reason of Force Majeure:
- 10.2.1. The Claiming Party, on or before the fourteenth (14th) day after the initial occurrence of the claimed Force Majeure, must give the other Party Notice describing the particulars of the occurrence; and
- 10.2.2. The Claiming Party must provide timely evidence reasonably sufficient to establish that the occurrence constitutes Force Majeure as defined in this Agreement.
- 10.3. **Limitations.** The suspension of the Claiming Party’s performance due to Force Majeure may not be greater in scope or longer in duration than is required by such Force Majeure. In addition, the Claiming Party shall use diligent efforts to remedy its inability to perform. When the Claiming Party is able to resume performance of its obligations under this Agreement, the Claiming Party shall give the other Party prompt Notice to that effect.
- 10.4. Termination. Either Party may terminate this Agreement on at least five (5) Business Days’ prior Notice, in the event of Force Majeure which materially interferes with such Party’s ability to perform its obligations under this Agreement and which (a) extends for more than 365 consecutive days, (b) extends for more than a total of 365 days in any consecutive 540-day period, or (c) is consistent with Section 2.6.2.2.

11. EVENTS OF DEFAULT AND TERMINATION

- 11.1. Termination. Unless terminated earlier pursuant to Section 10.4 or this Section 11, this Agreement automatically terminates immediately following the last day of the Delivery Term.
- 11.2. Events of Default. An “Event of Default” means, with respect to a Party, the occurrence of any of the following:
- 11.2.1. With respect to either Party:
- 11.2.1.1.A Party becomes Bankrupt;
- 11.2.1.2.Except for an obligation to make payment when due, if there is a failure of a Party to perform any material covenant or obligation set forth in this Agreement (except to the extent such failure provides a separate termination right for the non-

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breaching Party or to the extent excused by Force Majeure), if such failure is not remedied within thirty (30) days after Notice thereof from the non-breaching Party to the breaching Party;

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

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

11.2.2. With respect to Seller:

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

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

11.2.2.3.Subject to Section 10, Seller delivers less than 80% of the applicable Contract Quantity from the Facility to Buyer for a period of two (2) consecutive Contract Years;

11.2.2.4.Seller fails to maintain its status as an ERR as set forth in Section 4.5 of the Agreement;

11.2.2.5.Seller abandons the Facility;

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

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

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- 11.2.2.8. Seller fails to install any of the equipment or devices necessary for the Facility to satisfy the Contract Capacity set forth in Section 3.1;
 - 11.2.2.9. An unauthorized assignment of the Agreement, as set forth in Section 15;
 - 11.2.2.10. Seller fails to reimburse Buyer any amounts due under this Agreement;
 - 11.2.2.11. Seller breaches the requirements in Section 6.12 regarding incentives; or
 - 11.2.2.12. Seller fails to maintain the Collateral Requirement set forth in Section 3.9.
- 11.3. Declaration of an Event of Default. If an Event of Default has occurred, the non-defaulting Party shall have the right to: (a) send Notice, designating a day, no earlier than five (5) days after such Notice and no later than twenty (20) days after such Notice, as an early termination date of this Agreement ("Early Termination Date"); (b) accelerate all amounts owing between the Parties; (c) terminate this Agreement and end the Delivery Term effective as of the Early Termination Date; (d) collect any Settlement Amount under Section 11.5; and (e) if the defaulting party is the Seller and Buyer terminates the Agreement prior to the start of the Commercial Operation Date, Buyer shall have the right to retain the entire Reservation Deposit.
- 11.4. Suspension of Performance. If an Event of Default shall have occurred, the non-defaulting Party has the right to immediately suspend performance under this Agreement and pursue all remedies available at Law or in equity against the defaulting Party (including monetary damages), except to the extent that such remedies are limited by the terms of this Agreement.
- 11.5. Calculation of Settlement Amount.
- 11.5.1. If either Party exercises a termination right under Section 12 after the Commercial Operation Date, the non-defaulting Party shall calculate a settlement amount ("Settlement Amount") equal to the amount of the non-defaulting Party's aggregate Losses and Costs less any Gains, determined as of the Early Termination Date. Prior to the Commercial Operation Date, the Settlement Amount shall be Zero dollars (\$0).
 - 11.5.2. If the non-defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, determined as of the Early Termination Date, the Settlement Amount shall be Zero dollars (\$0).

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- 11.5.3. The Buyer shall not have to enter into replacement transactions to establish a Settlement Amount.
- 11.5.4. Buyer shall have the right to draw upon the Collateral Requirement to collect any Settlement Amount owed to Buyer.
- 11.6. Rights and Remedies Are Cumulative. The rights and remedies of the Parties pursuant to this Section 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.
- 11.7. Duty to Mitigate. Buyer and Seller shall each have a duty to mitigate damages pursuant to this Agreement, and each shall use reasonable efforts to minimize any damages it may incur as a result of the other Party's non-performance of this Agreement, including with respect to termination of this Agreement.
- 11.8. Right of First Refusal.
- 11.8.1. If Seller terminates this Agreement pursuant to Section 10.4, or if Seller has an Event of Default prior to the Commercial Operation Date, neither Seller nor Seller's Affiliates may sell, or enter into a contract to sell, Energy, Green Attributes, Capacity Attributes, or Resource Adequacy Benefits, generated by, associated with or attributable to a generating facility installed at the Site to a party other than Buyer for a period of two (2) years following the effective date of such termination ("Restricted Period").
- 11.8.2. This prohibition on contracting and sale shall not apply if, before entering into such contract or making a sale to a party other than Buyer, Seller or Seller's Affiliate provides Buyer with a written offer to sell the Energy, Green Attributes, Capacity Attributes and Resource Adequacy Benefits to Buyer at the Contract Price and on other terms and conditions materially similar to the terms and conditions contained in this Agreement and Buyer fails to accept such offer within forty-five (45) days after Buyer's receipt thereof.
- 11.8.3. Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site of the proposed Facility during the Restricted Period so long as the limitations contained in this Section 11.8 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.8 pursuant to a written agreement reasonably approved by Buyer.
- 11.8.4. Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach of the covenants contained within this Section 11.8.

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12. GOVERNMENTAL CHARGES

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

13. RELEASE OF INFORMATION AND RECORDING CONVERSATION

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

13.2. Public Announcements. Seller shall make no public announcement regarding any aspect of this Agreement or the role of Seller in regards to the development or operation of the Project without the prior written consent of Buyer, which consent shall not be unreasonably withheld. Any public announcement by Seller must comply with California Business and Professions Code § 17580.5 and with the *Guides for the Use of Environmental Marketing Claims*, published by the Federal Trade Commission, as it may be updated from time to time.

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14. ASSIGNMENT

- 14.1. General Assignment. Except as provided in Sections 14.2 and 14.3, Seller may not assign this Agreement or its rights hereunder without the prior written consent of the Buyer, which consent shall not be unreasonably withheld or delayed so long as among other things (a) the assignee assumes the Seller's payment and performance obligations under this Agreement, (b) the assignee agrees in writing to be bound by the terms and conditions hereof, (c) Seller delivers evidence satisfactory to Buyer of the proposed assignee's technical and financial capability to meet or exceed Seller's obligations hereunder and (d) the Seller delivers such tax and enforceability assurance as Buyer may reasonably request.
- 14.2. Assignment to Financing Providers. Seller may assign this Agreement as collateral for any financing or refinancing of the Project (including any tax equity or lease financing) with the prior written consent of the Buyer, which consent shall not be unreasonably withheld or delayed. The Parties agree that, the consent provided to Buyer in accordance with this Section 14.2 shall be in a form substantially similar to the Form of Financing Consent attached hereto as Appendix H; provided that (a) Buyer shall not be required to consent to any additional terms or conditions beyond those contained in Appendix H, including extension of any cure periods or additional remedies for financing providers, and (b) Seller shall be responsible at Buyer's request for Buyer's reasonable costs and attorneys' fees associated with the review, negotiation, execution and delivery of documents in connection with such assignment.
- 14.3. Notice of Change in Control. Except in connection with public market transactions of the equity interests or capital stock of Seller or Seller's Affiliates, Seller shall provide Buyer notice of any direct change of control of Seller (whether voluntary or by operation of Law).

15. GOVERNING LAW

This agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this agreement.

16. DISPUTE RESOLUTION

- 16.1. Intent of the Parties. The sole procedure to resolve any claim arising out of or relating to this Agreement is the dispute resolution procedure set forth in this Section 17, except that either Party may seek an injunction in Superior Court Humboldt County, California if such action

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is necessary to prevent irreparable harm, in which case both Parties nonetheless will continue to pursue resolution of all other aspects of the dispute by means of this procedure.

16.2. Management Negotiations.

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

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

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

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

17. MISCELLANEOUS

17.1. Severability. If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such

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determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.

- 17.2. Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission will be deemed as effective as delivery of an originally executed counterpart. Each Party delivering an executed counterpart of this Agreement by facsimile or PDF transmission shall also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement shall not affect the validity or effectiveness of this Agreement.
- 17.3. General. No amendment to or modification of this Agreement shall be enforceable unless reduced to writing and executed by both Parties. This Agreement shall not impart any rights enforceable by any third party other than a permitted successor or assignee bound to this Agreement. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The term “including” when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only.
- 17.4. Interpretation. Whenever this Agreement specifically refers to any Law, tariff, Governmental Authority, regional reliability council, Transmission/Distribution Owner, or credit rating agency, the Parties hereby agree that the references also refers to any successor to such Law, tariff or organization.
- 17.5. Construction. The Agreement will not be construed against any Party as a result of the preparation, substitution, or other event of negotiation, drafting or execution thereof.
- 17.6. Joint Powers Authority. Seller hereby acknowledges and agrees that Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Third Amended and Restated Joint Powers Agreement dated October 13, 2016 (the “Joint Power Agreement”), that Buyer is a public entity separate from its members, and that under the Joint Powers Agreement the members have no liability for any obligations or liabilities of Buyer. Seller agrees that Buyer shall solely be responsible for all debts, obligations and liabilities to Seller accruing and arising out of this Agreement, and Seller agrees that it shall have no rights against, and shall not make any claim, take any actions or

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assert any remedies against, any of Buyer's members, any cities or counties participating in Buyer's community choice aggregation program, or any of Buyer's retail customers in connection with this Agreement.

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

_____	REDWOOD COAST ENERGY AUTHORITY _____
(Seller)	(Buyer)
_____	_____
(Signature)	(Signature)
_____	_____
(Type/Print Name)	(Type/Print Name)
_____	_____
(Title)	(Title)
_____	_____
(Date)	(Date)

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Appendix A - Definitions

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

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

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

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

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

(a) Files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Eligible Renewable Energy Resource” or “ERR” has the meaning set forth in Public Utilities Code Sections 399.12 or Section 399.16 and California Public Resources

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Code Section 25741, as these code provision may be amended or supplemented from time to time.

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

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

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

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

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

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

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

Force Majeure does not include:

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

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

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

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

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

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

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere¹; (3) the reporting rights to these avoided emissions, such as Green

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

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

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

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

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

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

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

"kW" means kilowatt.

"kWh" means kilowatt-hour.

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

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

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

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

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

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

“Mechanical Completion” means that all equipment and systems that are necessary to generate the effective capacity of the Facility are installed. The Facility is mechanically, electrically, and structurally constructed with all control systems installed and connected. The Facility is functionally complete to the extent necessary to begin commissioning and testing of the Facility, though commissioning and testing need not have commenced.”

“MW” means megawatt (AC).

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POWER PURCHASE AGREEMENT
APPENDIX A - DEFINITIONS**

“MWh” means megawatt-hour.

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

“Party” means the Buyer or Seller individually, and “Parties” means both collectively. For purposes of Section 16 (Governing Law) the word “party” or “parties” shall have the meaning set forth in this definition.

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

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

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

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

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

(a) Equipment, materials, resources, and supplies, including spare parts inventories, are available to meet the Facility’s needs;

(b) Sufficient operating personnel are available at all times and are adequately experienced and trained and licensed as necessary to operate the Facility properly and efficiently, and are capable of responding to reasonably foreseeable

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POWER PURCHASE AGREEMENT
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emergency conditions at the Facility and Emergencies whether caused by events on or off the Site;

(c) Preventive, routine, and non-routine maintenance and repairs are performed on a basis that ensures reliable, long term and safe operation of the Facility, and are performed by knowledgeable, trained, and experienced personnel utilizing proper equipment and tools;

(d) Appropriate monitoring and testing are performed to ensure equipment is functioning as designed;

(e) Equipment is not operated in a reckless manner, in violation of manufacturer's guidelines or in a manner unsafe to workers, the general public, or the Transmission/Distribution Owner's electric system or contrary to environmental laws, permits or regulations or without regard to defined limitations such as, flood conditions, safety inspection requirements, operating voltage, current, volt ampere reactive (VAR) loading, frequency, rotational speed, polarity, synchronization, and control system limits; and

(f) Equipment and components are designed and manufactured to meet or exceed the standard of durability that is generally used for electric energy generating facilities operating in the Western United States and will function properly over the full range of ambient temperature and weather conditions reasonably expected to occur at the Site and under both normal and emergency conditions.

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

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

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

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

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

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, and any subsequent CPUC ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time during the Delivery Term.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*** End of Appendix A ***

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

Appendix B – Commercial Operation Date Confirmation Letter

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

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

By:

By:

(Seller)

**REDWOOD COAST ENERGY
AUTHORITY**

(Buyer)

(Signature)

(Signature)

(Type/Print Name)

(Type/Print Name)

(Title)

(Title)

(Date)

(Date)

*** End of Appendix B ***

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

Appendix C – Forecasting Requirements

A. AVAILABLE CAPACITY FORECASTING.

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

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

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

*** End of Appendix C ***

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

Appendix D – Description of the Facility

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

Name of the Facility: _____

Address of the Facility: _____

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

Drawing showing the general arrangement of the Facility:

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

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

Longitude and latitude of the centroid of the Site:

*** *End of Appendix D* ***

FEED-IN TARIFF POWER PURCHASE AGREEMENT

APPENDIX E – SELLER’S MILESTONE SCHEDULE

Feed-In Tariff Milestones and Example Action Steps for [FIT Project Developer]

Action Steps	Time Allowance		Due On *	Date Completed	Responsible Party
STEP 1. Submit Application & Tendered Interconnection Agreement ¹				1/1/2019	Developer
1A. Submit Documentation in Support of Bonuses (if applicable)	<i>Due with Initial Application</i>				Developer
1B. Review Application for Eligibility and Assign FIT Record Number	20 BD	from Step 1	1/27/2019		RCEA
STEP 2. Approve Application	30 BD	from Step 1	2/10/2019		RCEA
STEP 3. Sign conditional PPA	30 BD	from Step 2	3/24/2019		Both
STEP 4. Submit Proof of Insurance	30 BD	from Step 3	4/23/2019		Developer
STEP 5. Acquire Full Interconnection Agreement	30 BD	from Step 3	4/23/2019		Developer
5A. Submit Interconnection Agreement within 10 days of receipt	10 BD	from Step 5	5/3/2019		Developer
STEP 6. Submit confirmation of RPS request receipt by CEC and copy of CEC-RPS 1	30 BD	from Step 5	5/23/2019		Developer
STEP 7. File project with WREGIS & submit proof to RCEA	30 BD	from Step 5	5/23/2019		Developer
STEP 8. Pay Interconnection Fees. & submit proof to RCEA	30 BD	from Step 5	5/23/2019		Developer
STEP 9. Acquire conditional use and construction permits	180 BD	from Step 3	9/20/2019		Developer
9A. Submit proof of permits to RCEA	5 BD	from Step 7	9/27/2019		Developer
9B. Submit Local Labor Plan (if applicable)	10 BD	from Step 7	10/4/2019		Developer
STEP 10. Notify RCEA 10 business days in advance of ground breaking	10 BD	prior to groundbreaking			Developer
STEP 11. Mechanical Completion	240 BD	from Step 7	5/18/2020		Developer
11A. Submit Final Local Labor Supporting Documentation (if applicable)	15 BD	from Step 11	6/2/2020		Developer
11B. RCEA to review and approve Final Local Labor Documentation	10 BD	from Step 11A	6/15/2020		RCEA
STEP 12. Notify RCEA 30 business days in advance of commercial operation	30 BD	from Step 13	8/13/2020		Developer
STEP 13. Start of Commercial Operation	18 months	from Step 3	9/23/2020		Developer
STEP 14. Submit CEC Certification	90 BD	from Step 12	12/22/2020		Developer
* Please note that once FIT application is received and processed by Redwood Coast Energy Authority the due dates become binding milestones. Missing due dates may be grounds for changing a project's queue position and/or contract termination.					
¹ For clarification, the tendered interconnection agreement is the final draft from PG&E's Wholesale interconnection Services prior to execution of that agreement.					
BD= Business Day, CD = Calendar Days					

*** End of Appendix E ***

Appendix F – Notices List

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

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

Attn: _____

Phone: _____

Facsimile: _____

Contract Manager:

Attn: _____

Phone: _____

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

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

APPENDIX G – FORM OF LETTER OF CREDIT

Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXX

Date: [insert issue date]

Beneficiary: Redwood Coast Energy Authority **Applicant:** [Insert name and address of Applicant]

633 3rd St,
Eureka, CA 95501

Attention:

Letter of Credit Amount: [insert amount]

Expiry Date: [insert expiry date]

Ladies and Gentlemen:

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

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

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

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APPENDIX G – FORM OF LETTER OF CREDIT**

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

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

Special Conditions:

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

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

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

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

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

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the *Uniform Customs and Practice for Documentary Credits, 2007 Revision*, International Chamber of Commerce (ICC) Publication No. 600 (the “UCP

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

600"); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit within thirty (30) days after the resumption of our business and effect payment accordingly.

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

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

Very truly yours,

[insert name of issuing bank]

By: _____
Authorized Signature

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

Title: _____

*** *End of Appendix G* ***

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

APPENDIX H – FORM OF CONSENT TO ASSIGNMENT

CONSENT AND AGREEMENT

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

Recitals

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

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

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

Agreement

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

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
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ASSIGNMENT**

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

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

4. Cure Rights.

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

(b) Cure Period Available to Financing Provider Prior to Any Termination by RCEA. Upon the occurrence of an Event of Default, subject to (i) the expiration of the relevant cure periods provided to Seller under the Assigned Agreement, and (ii) Section

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX H – FORM OF CONSENT TO
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4(a) above, RCEA shall not terminate the Assigned Agreement unless it or Seller provides Financing Provider with notice of the Event of Default and affords Financing Provider an Additional Cure Period (as defined below) to cure such Event of Default. For purposes of this Agreement “Additional Cure Period” means (i) with respect to a monetary default, ten (10) days in addition to the cure period (if any) provided to Seller in the Assigned Agreement, and (ii) with respect to a non-monetary default, thirty (30) days in addition to the cure period (if any) provided to Seller in the Assigned Agreement.

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

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

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

6. No Representation or Warranty. Seller and Financing Provider each recognizes and acknowledges that RCEA makes no representation or warranty, express or implied, that Seller has any right, title, or interest in the Assigned Agreement or as to the priority of the assignment for security purposes of the Assigned Agreement or the Assigned

**FEED-IN TARIFF
POWER PURCHASE AGREEMENT
APPENDIX H – FORM OF CONSENT TO
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Agreement Accounts. Financing Provider is responsible for satisfying itself as to the existence and extent of Seller's right, title, and interest in the Assigned Agreement, and Financing Provider releases RCEA from any liability resulting from the assignment for security purposes of the Assigned Agreement and the Assigned Agreement Accounts.

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

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

9. Miscellaneous.

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

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

If to RCEA:	
-------------	--

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

Name:	
Address:	
Attn:	
Telephone:	
Facsimile:	
Email:	

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

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

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

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

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

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

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

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

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

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

Redwood Coast Energy Authority (RCEA)

By: _____
Name: _____
Title: _____

[_____] (Financing Provider), as collateral agent

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT

The undersigned hereby acknowledges the Consent and Agreement set forth above, makes the agreements set forth therein as applicable to Seller, including the obligation of Seller to provide a copy of any Default Notice it receives from RCEA to Financing Provider the next business day after receipt by Seller, and confirms that the Financing Provider identified above and the Secured Parties have provided or are providing financing to the undersigned.

[_____] [name of Seller]

By: _____
Name: _____
Title: _____

*** End of Appendix H***



STAFF REPORT
Agenda Item # 3.6

AGENDA DATE:	December 19, 2019
TO:	Board of Directors
PREPARED BY:	Richard Engel, Director of Power Resources Nancy Diamond, General Counsel
SUBJECT:	Proposed Assignment of Power Purchase Agreement with DG Fairhaven Power, LLC and Issuance of Solicitation for Biomass Power

SUMMARY

Staff have been contacted by the current owner of the DG Fairhaven Power, LLC biomass plant, EWP Renewable Corporation, to advise us of plans to sell the facility and the owner's desire to assign their existing power purchase agreement (PPA) with RCEA, as provided for in the PPA. Staff have also been contacted by the plant's prospective buyer, BioFuel North America, LLC (BioFuel). BioFuel has plans to perform major upgrades on the plant to increase its reliability and efficiency, with a goal of eventually transitioning the plant to serve heat and power loads at or adjacent to the facility, including potentially the planned Nordic Aquafarms aquaculture plant and a wood pellet production plant. The proposed assignment of the PPA is to DG Fairhaven, LLC, a project company being created by BioFuel for this purpose. This entity would be jointly owned by BioFuel (in turn wholly owned by Stockholm-based Silvi Energy AB) and its investment partners Daiwa Energy & Infrastructure (DEI) and Bioendev AB.

RCEA's current PPA with DG Fairhaven is set to expire December 31, 2020, with an option to renew in 12-month increments. BioFuel proposes to continue providing power to RCEA beyond 2020, reducing the annual wholesale energy delivered as shown in the table below, as it gradually brings the planned new industrial facilities online and diverts its output to these new loads. BioFuel management has proposed that having a secure contract with RCEA over this transitional period would give the company the financial assurance it needs to make plant upgrade investments and commit to serving the future industrial loads.

Time Period	Jan 2020- Dec 2020	Jan 2021- Dec 2021	Jan 2022- Dec 2023	Jan 2024- Jun 2024
Contract	Existing PPA	Proposed PPA		
Average MW	10	12	9	5

BioFuel estimates they will need to take the plant offline for approximately four months to complete the planned plant upgrades. They propose to perform these upgrades in spring 2020. If the Board approves the proposed assignment, staff will return to the Board at an upcoming meeting with a proposed amendment to the existing PPA that will allow the plant to be taken offline without unduly penalizing BioFuel.

In order to perform due diligence and assure the Board of best value for biomass power procurement beyond the December 2020 expiration of the current PPA, staff is evaluating the proposed transition away from wholesale power supply. Staff plan to bring one or more options for the Board for review and approval at its January 2020 meeting.

The provision in the PPA for assignment to a new power Seller calls for the proposed assignee to “deliver evidence satisfactory to the non-transferring Party [i.e. the Buyer, RCEA] of the proposed assignee’s technical and financial capability to fulfill the assigning Party’s [i.e. the Seller, DG Fairhaven Power, LLC] obligations...” In keeping with this provision, staff asked BioFuel to provide responses to the same vendor questionnaire used in the original 2016 biomass request for offers under which DG Fairhaven was selected to provide power to RCEA. Based on its responses, staff consider BioFuel and its proposed new ownership structure to have the needed technical and financial capability to meet the terms and conditions of the PPA. BioFuel is creating a subsidiary company, DG Fairhaven, LLC, to which the PPA would be assigned.

FINANCIAL IMPACTS

The proposed assignment of the existing power purchase agreement should have no financial impact on RCEA, as pricing and other contract terms are not being changed.

RECOMMENDED ACTIONS

Consent to assignment of the existing biomass power purchase agreement (PPA) from DG Fairhaven Power, LLC to DG Fairhaven, LLC, and authorize the Executive Director to execute all necessary documents.

ATTACHMENTS

Attachment A: Assignment, Assumption and Consent Agreement

ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT

THIS ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT (this “Agreement”), is made as of [DATE] 2019, by and among **DG FAIRHAVEN POWER, LLC**, a Delaware limited liability company (“Assignor”), **DG FAIRHAVEN, LLC**, a Delaware limited liability company (the “Assignee”), and **REDWOOD COAST ENERGY AUTHORITY**, a California joint powers authority (“RCEA”) (Assignor, Assignee and RCEA individually referred to herein as a “Party”, and collectively as the “Parties”).

WITNESSETH:

WHEREAS, RCEA and Assignor entered into that certain 12-Month Power Purchase Agreement dated February 12, 2018 (as amended, modified or supplemented from time to time prior to the date hereof, the “PPA”), and pursuant to such PPA, the Assignor (therein, the “Seller”) sells to RCEA certain electric energy, capacity and products related thereto which are produced at that certain biomass energy plant located in Samoa, California (the “Plant”), as more particularly set forth in the PPA; and

WHEREAS, Assignor is selling substantially all of the assets of the Plant to Assignee, which is a non-affiliated entity of Assignor; and

WHEREAS, Assignor now also desires to assign the PPA to Assignee, and Assignee desires to accept assignment of same from Assignor and to assume all of Assignor’s right, title and interest in and to the PPA thereunder, upon the terms and conditions more specifically set forth herein (the “Assignment”); and

WHEREAS, Assignor and Assignee desire that RCEA consent to the Assignment, and RCEA agrees to grant its consent to the Assignment upon the terms and conditions more specifically set forth herein.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties hereby agree as follows:

1. Defined Terms: Unless otherwise defined herein, any capitalized term shall bear the same meaning as defined in the PPA.

2. Assignment: Effective as of the date hereof (i) Assignor hereby assigns to Assignee all of Assignor’s rights in and to the PPA, and (ii) Assignee hereby unconditionally assumes and undertakes the performance of all of Assignor’s obligations under the PPA arising on or after the date hereof, and agrees to perform and observe all of the other terms and conditions to be performed and observed by Seller under the PPA on and after the date hereof. From and after the date hereof, all references to Seller in the PPA and in this Agreement shall refer to Assignee.

3. Notices: The Notice List in Section H on the Cover Sheet of the PPA shall be amended to provide the indicated contact information for the Assignee company.

4. RCEA's Consent: Provided the Letter of Credit Condition (hereinafter defined) is satisfied within thirty (30) days after the date hereof, RCEA hereby expressly and unconditionally consents to this Agreement and the Assignment; provided, however, in no event shall Assignor be released from any liabilities of Assignee as Seller arising under the PPA, and Assignor and Assignee shall be jointly and severally liable for Seller's obligations under the PPA until the expiration or earlier termination thereof. As used herein, the term "Letter of Credit Condition" shall mean the delivery to RCEA of a letter of credit in substantially the same form of the Letter of Credit currently being held by RCEA pursuant to the PPA, except that Assignee shall be inserted as the "Applicant" in lieu of Assignor on such replacement letter of credit.

5. Estoppel: RCEA hereby represents and certifies to Assignee and Assignor that, there are no breaches or defaults on the part of Seller under the PPA and no event has occurred which, with the passage of time, the giving of notice, or both, would constitute a default or breach by Seller under the PPA, including, without limitation, this Assignment.

6. No Waiver: Except as otherwise expressly provided herein, this Agreement shall not be deemed or construed (a) to modify, waive, impair or affect any of the provisions, covenants, agreements, terms or conditions contained in the PPA or waive any future breach thereof, or otherwise to enlarge or increase RCEA's obligations or Assignee's rights under the PPA or otherwise, or (b) to waive RCEA's right to grant or withhold consent to any other matter requiring the consent of RCEA under the terms of the PPA, such consent as to further matters being specifically reserved to RCEA.

7. Entire Agreement: The PPA, as assigned and assumed hereby, constitutes the entire agreement between the Parties with regard to the subject matter thereof, and shall not be altered or modified hereafter except by written agreement signed by the RCEA and Assignee or as otherwise provided herein.

8. Ratification: Assignee and RCEA hereby ratify the PPA and all of its terms and provisions as amended hereby and they further agree that except as modified by this Agreement the PPA is now and shall remain in full force and effect until and unless altered or modified by written agreement of both RCEA and Assignee.

9. Conflict: If any definition or term of this Agreement shall conflict with any term definition or term within the PPA, the provisions of this Agreement shall govern and control.

10. Counterparts: This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. A PDF copy or facsimile of a Party's signature shall have the same effect as an original.

[the balance of this page was intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their respective duly authorized representatives effective as of the date first above written.

ASSIGNOR:

DG FAIRHAVEN POWER, LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

ASSIGNEE:

DG FAIRHAVEN LLC, a Delaware limited liability company

By: _____

Name: _____

Title: _____

RCEA:

REDWOOD COAST ENERGY AUTHORITY, a California joint powers authority

By: _____

Name: _____

Title: _____

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STAFF REPORT

Agenda Item # 5.1

AGENDA DATE:	December 19, 2019
TO:	Board of Directors
FROM:	Matthew Marshall, Executive Director
SUBJECT:	RePower Humboldt / Comprehensive Action Plan for Energy (CAPE) 2019 Update

SUMMARY

At the November RCEA Board meeting the board reviewed the near-final draft of the CAPE/RePower Humboldt document. Of the over 1,200 written comments RCEA received through the CAPE update process, 93% of the comments related to local biomass generation. Due to biomass being by far the most significant topic of input with split community opinions related to RCEA's long-term power mix goals, RCEA hired an expert consultant to organize an in-depth "Forests, Energy, and Environment" workshop on the topic of local biomass utilization benefits and impacts. There were 74 participants at the workshop, and RCEA hired professional videographers to capture the panel discussion and public comments. The recording of the workshop is available on RCEA's website and will also be aired on Access Humboldt.

At the November RCEA Board meeting Michael Furniss, RCEA's climate and forests consultant who led the October 18 workshop, provided a report summarizing the workshop, consultations, and research on biomass power in Humboldt County. Additional perspective on the concerns and benefits associated with local biomass power generation was provided through presentations by local climate and health activist Dr. Wendy Ring and University of California Cooperative Extension Forest Advisor and Humboldt County Director Yana Valachovic.

After receiving the above presentations along with public comment and extensive deliberations, the RCEA Board provided direction to staff on revisions to the biomass component of the CAPE to address and balance the important role of biomass energy to the local forestry and forest-products sector while working to fully understand and reduce the negative side-effects of biomass utilization.

An updated draft of the document reflecting the Board's direction was presented to the RCEA Community Advisory Committee on December 10, and staff made additional refinements to the document based on the Committee's input. The attached draft shows revisions made to the document compared to the draft that was presented to the Board in November. These revisions and additions are:

- A side bar in the introduction discussing the commonly used (but difficult to define) term "clean energy."
- The addition of a strategy addressing public health and environmental quality as key objectives in energy planning.
- Revisions to the "vehicle-to-grid" strategy to address the potential for electric vehicles to provide back-up power benefits to buildings during power outages.

- Numerous revisions to the biomass-related strategies to address the direction received from the Board and the Community Advisory Committee.

Staff requests the Board vote to approve and adopt the attached final draft of the 2019 RePower Humboldt Comprehensive Action Plan for Energy.

RECOMMENDED ACTION

Adopt the 2019 RePower Humboldt Comprehensive Action Plan for Energy.

ATTACHMENT

2019 RePower Humboldt – Comprehensive Action Plan for Energy – Draft Final.

RePower Humboldt

The Redwood Coast
Energy Authority's
Comprehensive Action
Plan for Energy

2019 UPDATE – DRAFT 4.2

12-12-19



REDWOOD COAST
EnergyAuthority

Redwood Coast Energy Authority

633 3rd Street
Eureka, CA 95501

Telephone:
707-269-1700

Fax:
707-269-1777

Email:
info@redwoodenergy.org

Website:
www.RedwoodEnergy.org

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Executive Summary

Consistent with Humboldt County's General Plan, the County of Humboldt recognizes the Redwood Coast Energy Authority (RCEA) as the regional energy authority to foster, coordinate, and facilitate countywide strategic energy planning, implementation, and education through RePower Humboldt, RCEA's comprehensive action plan for energy. This action plan consists of implementation measures specific to the functions of RCEA as the regional energy authority for Humboldt County and in alignment with the mission and purpose in RCEA's Joint Powers Agreement, which is to:

Develop and implement sustainable energy initiatives that reduce energy demand, increase energy efficiency, and advance the use of clean, efficient and renewable resources available in the region.

The strategies within this 2019 update of the RePower Humboldt strategic plan will be implemented between 2020-2030 to achieve the goals listed below. Reduction targets are from a baseline year of 2018, unless otherwise stated. While this plan has a ten-year time horizon, RCEA will revisit it regularly during that period to keep it updated and reflective of changes to our community's needs and energy market trends.

REGIONAL PLANNING AND COORDINATION

RCEA will take a leadership role to develop and advance strategic regional energy goals through economic development, funding, planning efforts, and education. This work will be done in coordination with RCEA's member governments, other local public agencies, local tribes, and other public and private stakeholders.

Goals: Achieve net-zero greenhouse gas emissions county-wide by 2030.

By 2030 fully establish Humboldt County as an energy secure community that can affordably and reliably meet its local energy needs with local renewable resources and has the robust local capabilities and infrastructure necessary to effectively respond to energy emergencies or disruptions in energy supply.

Build the clean energy sector into a cornerstone of the local economy through a breadth of strategies that include innovation, research and development, local energy-related business development, and establishing Humboldt Bay as the primary west coast hub for the offshore wind energy industry.

INTEGRATED DEMAND SIDE MANAGEMENT

RCEA will use an Integrated Demand Side Management approach to develop distributed energy resources and reduce energy consumption in the residential, commercial, industrial, agricultural, and government sectors and to align customer energy use with variable clean and renewable energy supplies. RCEA will prioritize efforts that enhance local energy resiliency and independence.

Goals: Support the wide-spread installation of customer solar photovoltaic energy systems, with a target to increase installations to a rate of one system every day for the next decade and reach 30MW of customer solar installed by 2025 and 50MW installed by 2030.

Make energy efficiency and conservation services available to every household and business in the county by 2030.

Expand existing energy efficiency, conservation and electrification programs to reduce greenhouse gas emissions from fossil fuel use in buildings by 20% by 2030 and maintain a trajectory to reduce emission from natural gas by 90% by 2050.

Develop a network of community microgrids and renewable-energy back-up power systems across the county to reduce greenhouse gas emissions and to provide energy resiliency and long-duration emergency energy supply at all critical facilities by 2030.

LOW-CARBON TRANSPORTATION

RCEA will decarbonize regional transportation through efforts to reduce vehicle miles travelled, increase advanced fuel vehicles adoption and fuel efficiency, and expand advanced fuel infrastructure.

Goals: Accelerate the adoption of electric vehicles, with a target of over 6,000 electric vehicles on the road in Humboldt County by 2025 and 22,000 vehicles by 2030. Develop public, workplace, and residential electric vehicle charging infrastructure necessary to support these county-wide electric vehicle targets.

Work with other local public entities to reduce vehicle miles traveled in Humboldt County by at least 25% by 2030.

By 2030 reduce greenhouse gas emissions from transportation by over 65% through reductions in vehicle miles traveled, improved vehicle efficiency, the adoption of electric vehicles, and, where determined to be an effective emissions-reduction strategy, the use of biofuels as a bridge to a full transition to zero-emissions vehicles. Maintain a trajectory of emissions reduction to eliminate the use of fossil fuels by 2050.

ENERGY GENERATION AND UTILITY SERVICES

RCEA will address Humboldt County's supply-side energy needs through its existing Community Choice Energy (CCE) program and development of new programs and initiatives.

Goals: By 2025 100% of RCEA's power mix will be from a combination of state-designated renewable energy sources—solar, wind, biomass, small hydroelectric, and geothermal—and state-designated net-zero-carbon-emission existing large hydroelectric facilities.

By 2030 Humboldt County will be a net exporter of renewable electricity and RCEA's power mix will consist of 100% local, net-zero-carbon-emission renewable sources.

Humboldt County can effectively respond to regional and local disruptions to energy supply and distribution systems through modernization of the local electric grid, the deployment of local distributed energy resources, and the development of community microgrids.

Introduction

ENERGY FUELS OUR EVERYDAY LIVES

With the impending consequences of global climate change on the horizon, it's never been a more important time to significantly reduce greenhouse gas emissions. It's imperative that Humboldt County does its part to reduce emissions within the next ten years as the world strives to keep global warming at or below 1.5 °C above pre-industrial levels. The effects of climate change will impact Northern California by increasing annual maximum temperatures, altering stream flows, lengthening the fire season, sea level rise, and increased risk of flooding, as well as increasing the likelihood of intense storms within a shorter wet season and a prolonged dry season. The surest way to take action to reduce emission and lessen the effects of climate change is by targeting the biggest source of emissions, the energy sector.

In Humboldt County, each of us depends on energy 24 hours a day, and we continuously benefit from the direct and indirect use of energy resources. Energy is ever present in our daily lives and much of the time it's taken for granted. From the sun we draw heat, light, and solar power; while it works to grow our food, forests, flowers, and more. We depend on fossil fuels to get us to work, school, local shops, as well as to transport our food, commodities, mail, and garbage. Electricity enables us to work after the sun goes down; we depend on it to light our offices, classrooms, and streets; to keep our food cold and our ice cream frozen; to pump water through pipes; to transmit information and keep in touch. Energy in a diversity of forms fuels our industries and business ventures: from powering lumber mills to dairy farms; from firing ceramics to pizzas, and from brewing beer to baking bread. It's clear that reliance on energy resources characterizes a large part of our everyday lives.

The production and consumption of energy also affects our daily lives in more indirect ways, particularly with regard to the environment. The burning of fossil fuels has led to damaging environmental effects such as acid rain, smog, water pollution, and global warming. Exploratory drilling and extraction of non-renewable energy sources (such as coal, petroleum, and natural gas), and their attendant infrastructure, has resulted in the degradation of other natural resources, for example forests, coastal communities, and rainforests. Although these areas may be far away, the environmental impacts can reach Humboldt County.

Defining "Clean" Energy

On March 28, 2019, the RCEA Board of Directors, acting on a recommendation from RCEA's Community Advisory Committee (CAC) and with support from many community members, adopted a policy calling for RCEA to provide a 100% clean and renewable electricity portfolio by 2025. Subsequent to this, the CAC took up discussion of how "clean and renewable" should be defined. The committee agreed that it would be unwise to depart from the State of California's definition of "renewable," as embodied in the Renewable Portfolio Standard that governs renewable energy procurement by RCEA and other load-serving entities in the state.

Defining "clean" energy is more problematic, as this is a value-laden term that has no strict or consistent definition applied by energy markets or regulators. It is however a relevant topic for RCEA's planning purposes, given that the organization's mission statement in its Joint Powers Agreement calls for RCEA to "advance the use of clean, efficient and renewable resources."

In its final review of this update to RCEA's RePower Humboldt plan, the CAC revisited the question of defining "clean." After receiving public comments and discussing the matter at length, the CAC members generally agreed that the term is too subjective to be used as a litmus test for making specific energy procurement decisions. In lieu of an explicit definition of "clean," the CAC endorses the goals stated in the Power Resources section of this plan that call for minimizing greenhouse gas emissions and maximizing renewable energy content of RCEA's CCE program, while also taking into consideration other environmental or public health impacts.

The fact is, all forms of energy production, including renewable energy, have environmental and social impacts, and responsible energy planning seeks to minimize negative impacts while maximizing community benefits.

The original RePower Humboldt strategic plan published in 2013 showed that Humboldt County has hundreds of megawatts of untapped renewable energy potential from a variety of sources, including solar, wind, wave, and biomass. With a population of less than 140,000 and a limited industrial base, electric loads in Humboldt are light. In contrast, California's urban counties have much larger loads and little potential for renewable energy generation other than rooftop solar. For example, in 2018 San Francisco consumed seven times as much electricity as Humboldt County, and Los Angeles County used 85 times Humboldt's load. If California as a whole is to meet its renewable energy and greenhouse gas reduction goals, resource-rich counties like Humboldt will need to export a portion of their energy wealth to these urban load centers.

In Humboldt County, energy is used as a transportation fuel and as electrical and heat energy in homes, businesses, industries, and agriculture. In 2015 it is estimated that Humboldt County spent over \$400 million to meet local energy demands, the majority of which left the county. A major portion of the energy was used as transportation fuel (gasoline and diesel), with large amounts also used to meet end use electrical demands and end-use natural gas heating demands. Primary energy sources were comprised mainly of natural gas, gasoline, diesel, and propane.

REDWOOD COAST ENERGY AUTHORITY MISSION AND PURPOSE

The purpose of the Redwood Coast Energy Authority is to develop and implement sustainable energy initiatives that reduce energy demand, increase energy efficiency, and advance the use of clean, efficient and renewable resources available in the region for the benefit of the Member agencies and their constituents. To further that purpose, the Redwood Coast Energy Authority will work toward the following goals, as enumerated in our Joint Powers Agreement:

- A. To lead, coordinate and integrate regional efforts that advance secure, sustainable, clean and affordable energy resources.
- B. To develop a long-term sustainable energy strategy and implementation plan.
- C. To increase awareness of, and enhance access to, energy conservation, energy efficiency, and renewable energy opportunities available to the region.
- D. To add value to, but not duplicate, energy services offered by utilities and others serving the region in a manner that does not conflict with acting as a community choice aggregator.
- E. To keep key decision makers and stakeholders informed of policy, regulatory, and market changes that are likely to impact the region.
- F. To support research, development, demonstration, innovation, and commercialization of sustainable energy technologies by public and private entities operating in Humboldt County.

- G. To develop regional capabilities to respond to energy emergencies and short-term disruptions in energy supply, infrastructure, or markets that could adversely affect Humboldt residents and businesses.

In striving to achieve the above goals, RCEA will ensure that environmental and social impacts associated with production and consumption of energy are minimized, and that any unavoidable impacts are borne to the extent possible within Humboldt County rather than by other communities, and will seek to maximize social, economic, and environmental benefits to Humboldt County associated with local energy production

The RePower Humboldt plan is intended to support achieving these goals through strategies that specifically address: Regional Energy Planning & Coordination, Integrated Demand Side Management, Low-Carbon Transportation, and Energy Generation & Utility Services.

VISION STATEMENT

The below vision statement was developed in 2005 through the public comment process for the original draft of the Humboldt County General Plan Energy Element prepared by RCEA. It expresses the community qualities and characteristics that the RePower Humboldt plan aspires to achieve, expressed as how Humboldt County could be described in 2030. Minor modifications have been made to the original vision statement to reflect recent changes to the state and local energy economies, as well as community input gathered in developing this 2019 RePower Humboldt update.

In 2030...

Humboldt County has achieved the goal of net-zero greenhouse gas emissions and is a net exporter of renewable energy. We achieve energy independence and self-sufficiency through high levels of energy conservation, efficiency, and electrification combined with locally-produced and -managed energy generation. Our energy comes from renewable sources. Money spent on energy stays in the county.

Individual communities have developed greater energy self-sufficiency and independence as has the county overall. Citizens have a diversity of choices for how to meet their energy needs. We have local control over energy prices. We readily adapt to any major external changes in energy supply or technology.

Our energy consumption is level from year to year, due to increasing conservation and efficiency to offset increases in growth-related demand.

Our overall quality of life is better than it was in 2005. The population is healthier as a result of leading energy-conserving lifestyles. It is common, safe, pleasant, and economically favorable to have a lifestyle that doesn't consume much energy.

Energy conservation education has reached, and continues to reach, effectively, everyone in the county. Energy considerations and decisions are integrated with all other decision-making arenas.

The county has minimized negative environmental, social, and economic impacts associated with meeting its energy needs, while ensuring any unavoidable impacts are borne locally rather than by other communities

The County is energy efficient through neighborhood design. Good community planning has reduced sprawl. There are fewer automobiles used for travel; people depend more on transit, bikes, walking, and shared-use automobiles than they depend on private automobiles. Public transportation is conveniently available and well utilized. There is much less consumption of energy from non-renewable sources for transportation.

All buildings are energy efficient. All new construction is all-electric and done in the most energy efficient manner, starting with building design. All existing buildings have been upgraded to be more efficient and many have converted their previous uses of natural gas and propane to electricity. Energy efficiency is integral to locally adopted building standards, which have flexibility and include meaningful incentives. Many homes and businesses produce more energy than they consume.

The County is a thriving research and development center and incubator for energy technology and related manufacturing, which is a stable source of local jobs.

Strategies

Regional Energy Planning & Coordination

RCEA will take a leadership role to develop and advance strategic regional energy goals through economic development, funding, planning efforts, and education. This work will be done in coordination with RCEA's member governments, other local public agencies, local tribes, and other public and private stakeholders.

Goals: **Achieve net-zero greenhouse gas emissions county-wide by 2030.**

By 2030 fully establish Humboldt County as an energy secure community that can affordably and reliably meet its local energy needs with local renewable resources and has the robust local capabilities and infrastructure necessary to effectively respond to any energy emergencies or disruptions in energy supply.

Build the clean energy sector into a cornerstone of the local economy through a breadth of strategies that include innovation, research and development, local energy-related business development, and establishing Humboldt Bay as the primary west coast hub for the offshore wind energy industry.

ECONOMIC DEVELOPMENT

Attract Energy-related Business. Collaborate with local economic development entities to attract technology developers, manufacturers, and energy service providers to locate operations in the County when appropriate.

Support Proactive Energy-related Business Development. Collaborate with local jurisdictions to identify and pre-assess locations and facilities for energy-related business ventures.

Support Energy-sector Workforce Development. Work with other local entities to provide training and continuing education that develops and maintains a qualified local workforce available to implement energy efficiency upgrades, renewable energy projects, and advanced-vehicle technology deployment.

ENERGY-RELATED EMERGENCY RESPONSE

Develop Emergency Response Capabilities. Coordinate with other local entities to develop regional capabilities to respond to energy emergencies and disruptions impacting energy supply, infrastructure, or energy markets. Incorporate efforts to enhance emergency response capabilities across all of RCEA's customer programs.

Assist with Energy Emergency Response Procedures. Assist the Humboldt County Office of Emergency Services in the preparation of energy response procedures for the Humboldt County Emergency Response Plan.

Support Climate Change Adaptation. Work with other local entities to conduct a climate change risk assessment and develop an adaptation plan consistent with the best-practices guidance provided by the California Natural Resources Agency and California Office of Emergency Services.

FUNDING

Develop Regional Energy Funding Mechanisms. Offer support and act as the fiscal agent and funding clearinghouse for countywide energy programs.

Pursue Cap and Trade Auction Proceeds. Work regionally to access Cap and Trade auction proceeds and other State funding mechanisms to ensure effective, efficient, coordinated, and equitable resource allocation in the North Coast Region.

Develop Job Development Incentives. Collaborate with local economic development entities to identify funding opportunities for developing jobs in the field of energy conservation, efficiency, and renewable sources.

Implement Energy Project Financing. Work with local economic development entities and/or financial institutions to develop and implement financing programs that enable residents and businesses to implement energy efficiency and renewable energy projects. Facilitate Property Assessed Clean Energy (PACE) and other financing programs that access the needed capital to deploy regional energy independence strategies.

Develop Local Energy Investment Programs. Work with local economic development entities and financial institutions to develop programs and resources that facilitate local community investment in and/or ownership of energy efficiency and renewable energy projects.

Pursue an Investment Grade Credit Rating for RCEA's Community Choice Energy Program. Through building program reserves and responsible program management, secure an investment grade credit rating from a major financial services company to support long-term energy transactions.

PLANNING

Support Renewable Energy Permitting. Support the County in streamlining permitting for renewable energy generation including updating zoning codes and creating wind energy GIS overlays.

Support Carbon Sequestration. Support the development and deployment of mechanisms for retaining carbon in the region's abundant natural areas and working lands.

Assist with Climate Action Planning. Work with local jurisdictions to regularly complete greenhouse gas inventories, set greenhouse gas reduction targets, and develop climate action plans.

Support Countywide Strategic Energy Planning. Coordinate an effective energy strategy based on self-sufficiency, development of renewable energy resources, energy conservation, and electrification that is actively implemented countywide through Climate Action Plans, General Plans and the Redwood Coast Energy Authority's RePower Humboldt plan.

Encourage Adoption of Energy Elements. Encourage and assist with the adoption of energy elements by other local and regional jurisdictions. Periodically review local energy elements and recommend updates, as necessary, to reflect changing technologies for the generation, transmission, and efficient use of energy.

Encourage Energy Policies and Plans. Encourage other jurisdictions and entities, including the cities in Humboldt County, to adopt and implement sound energy plans and policies, to include energy elements and/or energy policies in their general plans and ordinances. Advocate and disseminate energy planning strategies, policies, and other information.

Promote Energy Efficiency, Renewable Energy, and Storage Permitting. Support local ordinances that streamline permitting processes for energy efficiency, renewable energy, and storage technologies.

Develop Programs that Foster Social Equity. Identify, fund, and establish new programs that address the energy needs of the least advantaged and underserved members of our community.

Embrace Public Health and Environmental Quality as Key Objectives of Energy Planning.
Seek to maximize public health and environmental benefits and minimize negative impacts in selecting, planning, and implementing energy policies, programs, and projects.

EDUCATION

Maintain an Energy Resource Center. Operate an energy resource center open to the public and provide information on energy conservation, energy planning, renewable energy, energy storage, low-carbon transportation, all-electric buildings, and energy-efficient building design and retrofits.

Hold Regional Energy Forums. Serve as a forum for addressing countywide energy issues.

Develop Public Displays. Encourage and assist development of educational displays for exemplary renewable energy and distributed energy systems installed throughout Humboldt County. Displays should provide county residents and businesses with information on how the systems work and how well they perform and should inform county residents about the importance, benefits, and associated impacts of developing local energy resources.

Provide Energy Efficiency, Conservation and Electrification Education and Training. Provide community education, information, and resources on energy issues to support informed decision making related to customer energy use, including the benefits of conservation, electrification and

increased energy efficiency. Collaborate with schools and colleges for energy-related research, education, and conservation practices.

Provide Energy Professional Education and Training. Provide and encourage training for local contractors and energy professionals on energy-related topics such as: energy code, energy efficiency, demand response, zero net energy retrofits and construction, electrification, heat pumps, battery storage and solar.

Integrated Demand Side Management

RCEA will use an Integrated Demand Side Management approach to develop distributed energy resources and reduce energy consumption in the residential, commercial, industrial, agricultural, and government sectors and to align customer energy use with variable clean and renewable energy supplies. RCEA will prioritize efforts that enhance local energy resiliency and independence.

Goals: Support the wide-spread installation of customer solar energy systems, with a target to increase installations to a rate of one system every day for the next decade and reach 30MW of customer solar installed by 2025 and 50MW installed by 2030.

Make energy efficiency and conservation services available to every household and business in the county by 2030.

Expand existing energy efficiency, conservation and electrification programs to reduce greenhouse gas emissions from fossil fuel use in buildings by 20% by 2030 and maintain a trajectory to reduce emission from natural gas by 90% by 2050.

Develop a network of community microgrids and renewable-energy back-up power systems across the county to reduce greenhouse gas emissions and to provide energy resiliency and long-duration emergency energy supply at all critical facilities by 2030.

INTEGRATED DEMAND SIDE MANAGEMENT STRATEGIES

Support Member Agency and Local Government Energy Management. Support member agencies in managing their energy usage. RCEA will support activities that reduce and align energy use with available clean and renewable supplies to reduce costs while being consistent with state

energy goals and Greenhouse Gas Emission Reduction goals. Additional activities will be prioritized where they support energy resiliency and independence.

Support Implementation of Codes and Standards. Support the State's goals related to residential and commercial net-zero-energy and zero-net carbon standards along with other green building standards, including the local implementation of Title 24 building energy codes, Title 20 appliance efficiency standards and individual projects that strive to achieve energy efficiencies that exceed state and local requirements. Support the consideration, adoption, and implementation of above code energy ordinances.

Assist with Facility Benchmarking. Assist local governments and businesses with facility benchmarking to evaluate and track the energy performance of non-residential buildings.

Perform Energy Assessments. Advise building owners on the life cycle costs and benefits of energy efficiency, conservation, demand response, generation, electrification and storage opportunities through assessments. Assessments will be followed with comprehensive reports detailing an integrated strategy for energy management.

Integrate Distributed Energy Resources. Develop and implement customer programs that support, promote and integrate distributed energy resources, including but not limited to grid-connected generation, energy storage, energy efficiency, electric vehicle and demand response technologies.

Integrate a Distributed Energy Resource Management System. Support the development and installation of systems needed for effective and responsive management of distributed energy resources. Evaluate the potential integration of distributed energy resources into a unified system that would allow RCEA to aggregate and automate demand response activities.

Support and Deploy Microgrids. Support and deploy energy microgrids, focusing on critical infrastructure and community facilities, that combine onsite generation, energy storage, and advanced control systems to provide energy resiliency and maintain emergency-response capabilities as well as ongoing economic and environmental benefits.

Use Advanced Metering Infrastructure. Support advanced metering infrastructure to expand every customer's visibility into their energy usage for more ownership and control of their energy related behavior and decisions. Use advanced metering data to make informed program decisions.

ENERGY EFFICIENCY & CONSERVATION

Maximize the Efficiency of Buildings. Support energy efficiency and conservation as core strategies toward achieving environmental, economic, and community goals. Promote the whole-house approach to energy efficiency using the latest building science and incorporating interactive effects between passive and active energy systems in a home. First reduce the need to use energy and then use energy efficiently where it is required. An example would be to air seal and insulate the home and furnace ductwork to reduce heat loss before upgrading the furnace. Support programs that increase building shell efficiency through air sealing, insulation, and window upgrades while improving comfort and indoor air quality.

Support Electrification. Prioritize the development and implementation of programs and services that promote the replacement of fossil fuel burning appliances with the most energy-efficient electric equipment including heat pump hot water and space heaters and the electrification of commercial and industrial processes.

Increase Equipment Efficiency through Market Transformation. Prioritize the development and implementation of programs and services that promote the use of the most energy-efficient equipment for space and water heating, ventilation, lighting, refrigeration, and air conditioning in all buildings, including residential, commercial and industrial facilities.

Promote Performance Contracting. Promote residential and commercial performance contracting that is consistent with current best practices for energy efficiency and environmentally sound construction techniques.

Develop and Support Behavioral, Retro-Commissioning and Operations Programs. Promote, develop, and implement programs that enable energy conservation and load-shifting through customer behavior changes, building system retro-commissioning, and operational changes.

Promote Smart Technologies and Smart Controls. Support the replacement of existing plug load devices with smart technology devices that are programmed to save energy, shift energy use outside of peak hours, and/or provide automated demand response using utility signaling. Examples include internet-of-things enabled lighting, water and space conditioning, dish and clothes washing, and refrigeration. Promote control technologies that adjust the use of equipment based on environmental input or demand. Examples include variable speed fans and ventilation, variable speed pumps and motors, daylighting controls, occupancy sensor controls, smart thermostats, and building management systems.

DEMAND RESPONSE

Implement Demand Response and Distributed Energy Resource Programs. Support and prioritize demand response programs that offer customers a role in balancing energy usage with the availability of electricity on the grid.. Demand response programs and offerings will, where possible, integrate with distribution-connected efficiency systems and controls, renewable energy generation, and energy storage measures. Where feasible, energy technologies will be controllable and integrated as a distributed resource; any such efforts will require customer education and approval and will be implemented with a commitment to respecting and protecting customers' rights to privacy.

Support Reduced Energy Use During Peak Hours and Peak Event Days. Notify, support, and enable action from customers who choose to participate by shifting energy usage to off-peak hours, reduce daily energy usage during peak hours, and/or reduce energy usage during peak event days.

Enable Automated Demand Response. Install communicable controls with electrification, efficiency, and storage technologies that automatically reduce energy use during demand response events. Implement building demand response systems that allow for the curtailment of loads without major impacts to occupants and operations.

CUSTOMER DISTRIBUTED GENERATION & STORAGE

Support Customer Installation of Distributed Generation. Support the deployment of behind-the-meter grid-connected renewable energy and storage systems as core strategies toward achieving environmental, economic, and community stability/resilience goals.

Implement the Public Agency Solar Program. Continue to implement the solar and energy-storage technical assistance program for public agencies; integrate grid-connected resources, efficiency, electrification and microgrids as feasible.

Implement a Community Solar and Storage Program. Evaluate, design and launch community solar and storage program services that support the increased adoption of grid-connected solar and storage technologies.

Integrate Vehicle to Grid Storage. Integrate vehicle to grid storage solutions with transportation and demand side management goals and objectives.

Low-carbon Transportation

RCEA will decarbonize regional transportation through efforts to reduce vehicle miles travelled, increase advanced fuel vehicles adoption and fuel efficiency, and expand advanced fuel infrastructure.

Goals: Accelerate the adoption of electric vehicles, with a target of over 6,000 electric vehicles on the road in Humboldt County by 2025 and 22,000 vehicles by 2030. Develop public, workplace, and residential electric vehicle charging infrastructure necessary to support these county-wide electric vehicle targets.

Work with other local public entities to reduce vehicle miles traveled in Humboldt County by at least 25% by 2030.

By 2030 reduce greenhouse gas emission from transportation by over 65% through reductions in vehicle miles traveled, improved vehicle efficiency, the adoption of electric vehicles, and, where determined to be an effective emissions-reduction strategy, the use of biofuels as a bridge to a full transition to zero-emissions vehicles. Maintain a trajectory of emissions reduction to eliminate the use of fossil fuels by 2050.

REDUCE VEHICLE MILES TRAVELED

Strengthen Broadband Infrastructure. Support efforts to strengthen rural regional broadband infrastructure to facilitate remote access to educational and business opportunities, and deploy advanced, resilient grid management technology and integrated energy efficiency and demand response solutions.

Encourage Transportation-efficient Land Use Planning. Encourage infill, transit-oriented development, and walkable and bikeable communities through thoughtful zoning and land-use planning processes.

Facilitate Multi-modal Transportation Infrastructure. Support improving multi-modal transportation options through regional trail networks, transit infrastructure, and complete streets infrastructure strategies that support walking, biking, carsharing, ridesharing, and the use of public transportation.

INCREASE ADVANCED FUEL VEHICLE ADOPTION & FUEL EFFICIENCY

Support Local Vehicle Fleet Owners Leading by Example. Encourage local government and private fleets to maximize the use of low-carbon vehicles and support low-carbon transportation initiatives at other agencies.

Promote Advanced Fuels. Equitably promote, support and incentivize low carbon vehicle and fuel adoption by local governments, commercial fleets, and the public. Encourage the use of non-fossil sources of advanced fuels that reduce greenhouse gas emissions, which may include electricity, hydrogen, biodiesel, ethanol, and renewable diesel.

Support Electric Vehicle Adoption. Conduct public outreach campaigns to promote electric vehicles. Offer electric vehicle incentives and provide customers with web and in-person decision support when considering the purchase of an electric vehicle. Conduct leadership by example among government agencies.

Promote Efficient Driving Practices. Promote the use of energy-efficient driving practices that improve fuel efficiency, such as moderate speed changes and legal speeds, anti-idling, and traffic-calming features.

Support Shipping Efficiency. Support the implementation of trucking efficiency technologies and best-practices, including idle-reduction technologies, aerodynamic retrofits, and low rolling resistance tires. Support the analysis of other potential transportation modes that could provide efficient shipping alternatives such as barge and rail.

EXPAND FUELING INFRASTRUCTURE

Develop Transportation Electrification Infrastructure. Develop and implement Electric Vehicle charging stations. Provide local incentives for electric vehicle charging infrastructure and prioritize technologies that align with integrated demand-side management goals.

Utilize Biofuels. Promote use of biofuels with low California Low Carbon Fuel Standard (LCFS) scores, particularly those produced with local waste feedstocks.

Streamline Permitting for Electric Vehicle Charging Infrastructure. Encourage local jurisdictions to list vehicle charging as a permitted use across a broad range of zoning classifications. If a zoning review is triggered, consider vehicle charging as an accessory use to another permitted use whenever possible. Develop a standard vehicle charging permitting process.

Promote Vehicle-to-Grid Connection. Promote integration of electric vehicles with the electric grid. Evaluate the development status of vehicle-to-grid interconnect standards and the use of grid-connected [or building connected](#) vehicles for short-term, [on-site](#) energy storage, [particularly where this can enable islanded operation of critical facilities during grid power outages](#).

Energy Generation & Utility Services

RCEA will address Humboldt County's supply-side energy needs through its existing Community Choice Energy (CCE) program and development of new programs and initiatives.

Goals: By 2025 100% of RCEA's power mix will be from a combination of state-designated renewable energy sources—solar, wind, biomass, small-hydroelectric, and geothermal—and state-designated net zero carbon emission existing large hydroelectric facilities.

By 2030 Humboldt County will be a net exporter of renewable electricity and RCEA's power mix will consist of 100% local, net-zero-carbon-emission renewable sources.

Humboldt County can effectively respond to regional and local disruptions to energy supply and distribution systems through modernization of the local electric grid, the deployment of local distributed energy resources, and the development of community microgrids.

POWER RESOURCES

Maximize the Use of Local Renewable Energy to the Extent Technically and Economically Feasible and Prudent. Use the CCE program with its renewable energy targets, and programs supporting distributed energy resources, to achieve this goal.

Minimize Greenhouse Gas Emissions Associated with RCEA's CCE Program. Procure a power mix that by 2025 has zero greenhouse gas emissions as counted under the California Air Resources Board's Regulation for the Mandatory Reporting of Greenhouse Gas Emissions, other than emissions from resources meeting California's Renewable Portfolio Standard. Assess, evaluate, and monitor the short-term and lifecycle emissions from all generation sources to ensure power resources align with RCEA's greenhouse gas emissions goals.

Act as Community Liaison to Renewable Energy Developers. Using RCEA's position as a wholesale power purchaser, work with developers on proactive strategies to reduce and mitigate the environmental and community impacts of potential energy projects. Ensure that local projects are developed in such a way that prioritizes community benefits.

Maximize Renewable Energy Content of RCEA's CCE Program. Procure a power mix that reaches 100% clean and renewable content by 2025.

Ensure Diversity in Local Sources. Pursue development of a diverse, locally produced renewable electricity supply that is price-competitive in the California power market and that can be generated in a way that minimizes adverse environmental and community impacts.

Promote Energy Feasibility Studies. Encourage and support feasibility studies of local wind, solar, hydropower, and ocean energy resources. Make recommendations on preferred alternatives that are consistent with community goals for energy security and sustainability.

Power Resources: Distributed Generation

Designate "Renewable Energy Parks." Work with County and City planning departments to designate areas of the county preferred for renewable energy development.

Develop Distributed Generation. Encourage studies to identify key locations throughout the county that would benefit from distributed generation systems. Encourage development of responsive distributed generation demonstration sites

Provide Feed-In-Tariff Power Procurement Program for Small Generators. Offer long-term contracts at a market-adjusting rate for Renewable Portfolio Standard eligible renewable energy generators.

Power Resources: Solar

Support Utility Scale Solar Energy Development. Support local efforts to develop solar electric systems in the county. Support development of local training programs for solar contractors and installers. Educate the public about the benefits of solar energy systems. Develop programs that facilitate an increase in the number of solar energy systems in the county.

Procure Local Solar Energy. Contract for local onshore solar energy as part of RCEA's community choice energy portfolio to the extent economically feasible and compatible with portfolio diversity needs.

Power Resources: Offshore Wind

Develop Offshore Wind Energy. Work with public and private entities to develop offshore wind energy off of the north coast region's coastline, and support establishing Humboldt Bay as a west-coast hub for the offshore wind industry.

Procure Local Offshore Wind Energy. Contract for local offshore wind energy as part of RCEA's community choice energy portfolio to the extent economically feasible and compatible with portfolio diversity needs.

Power Resources: Onshore Wind

Promote Large-Scale Wind Energy. Provide information about the potential for cost-effective, commercial-scale wind farms in the county. Educate the public about the benefits and impacts of wind energy systems. Work with utilities, local government, and private companies to develop onshore wind energy projects.

Procure Local Onshore Wind Energy. Contract for local onshore wind energy as part of RCEA's community choice energy portfolio to the extent economically feasible and compatible with portfolio diversity needs.

Power Resources: Bioenergy

Support Biomass Fuels Reduction and Utilization. Develop strategies and technologies for improved biomass utilization in ways that effectively support restoration objectives and fire management priorities. Coordinate with local agencies, communities, and landowners to develop biomass energy plans that are consistent with sustainable forest management, hazardous fuels reduction, fire safety, and restoration needs.

Procure Local Biomass Energy. Contract with local biomass facilities ~~as a~~ a means of providing locally generated renewable power and managing scale not to exceed the local supply of wood waste from mills and, when feasible and appropriate, from forest management and restoration activities. Require and support a high standard of environmental performance from RCEA's biomass suppliers. Support the deployment of the best-available emissions control technologies, recognizing that power producers' ability to implement such technologies is affected by the price they are paid for their power and term length of contracts.

Investigate the Impacts of Biomass Emissions. Support research and quantification of the gross and, Determine whether, within the context of local commercial forest land management practices and the forest products sector, local biomass power generation sector has net emissions of zero greenhouse gases and criteria pollutants associated with local biomass energy production, and the potential emissions reductions associated with disposing of biomass feedstocks by other means. Support development of a locally specific model to estimate human exposure to criteria pollutants from biomass power plants under different operating scenarios. Adjust gas emissions on both a short-term and long-term basis, adjusting

RCEA's biomass power procurement strategy as needed to ensure net zero emissions appropriate based on these findings and power producers' progress in limiting emissions, and in keeping with achieving RCEA's power mix goals for 2025 and 2030. Consider power producers' historic emissions performance in making procurement decisions.

Establish a Biomass Technical Advisory Committee. Create a technical advisory committee made up of local government representatives; state and federal natural resource agencies; and subject matter experts on biomass energy, public health, the local forest products industry, and environmental impacts associated with biomass energy. The committee shall meet periodically and provide a quarterly report to the RCEA Board of Directors on technical feasibility and financial, environmental, and health implications of biomass use alternatives.

Promote Small-Scale Biomass Generation Sites. Monitor feasibility of smaller and/or mobile biomass electric generators fed with wood waste and very small diameter logs (e.g., from thinning for fire safety and timber harvest slash). If/when technology proves feasible and cost effective, promote its use in county areas where appropriate.

Plan for a Long-Term Transition Away from Direct Combustion of Forest-Derived Biomass and Toward Lower-Impact Uses of this Material. Investigate and pursue development funding for alternative pathways that could address local forest products industry biowaste management needs, including:

- Repowering of the existing biomass plants to substantially reduce emissions and/or improve efficiency
- Emerging biomass energy technologies, including but not limited to gasification, torrefaction, and briquetting
- Non-energy products, including but not limited to biochar and durable goods

Limit procurement of biomass power from existing direct combustion plants to short-to-mid-term contracts, recognizing that power producers' ability to reduce their emission output is affected by the price they are paid for their power and term length of contracts. Pursue partnerships with others, including research organizations and interested public agencies, in development of pilot projects to produce low-emissions energy as a means of treating mill waste and where feasible sequestering the carbon in this material; where potential non-energy products are identified, refer potential pilot projects to appropriate stakeholders.

Pursue Biogas Development. Support HWMA and others with the evaluation and development of organic waste digesters. Develop and publicize dairy biogas demonstration sites and work with local farm organizations to promote dairy biogas energy systems where appropriate. Publicize the use of biogas at existing local wastewater treatment facilities and encourage its use at additional facilities where appropriate. Encourage biogas use to produce electricity onsite rather than pipeline injection to support long-term phaseout of natural gas distribution infrastructure and avoid the potential greenhouse gas emission impacts of pipeline leaks. Seek opportunities to aggregate feedstock from dairies, wastewater plants, and food waste streams to achieve economies of scale in developing cost-effective local biogas facilities.

Power Resources: Wave and Tidal

Pursue Wave and Tidal Energy Development. Build on the previous WaveConnect and CalWave projects to explore and evaluate opportunities for local wave and tidal energy research, development, and pilot deployment.

Power Resources: Hydro

Support Existing and New Local Small-scale Hydroelectric Power. Evaluate options for contracting with existing small hydroelectric projects as well as the development of new run-of-river hydroelectric projects that would be eligible for Renewable Portfolio Standard designation and compatible with environmental and cultural priorities. Update the Oscar Larson and Associates' 1982 assessment of small hydroelectric resource potential in the county.

UTILITY ENERGY SERVICE

Minimize Energy Interruptions. Work with local utility providers to minimize the impact of power outages and improve the reliability and resiliency of the local electricity delivery service.

Provide Energy via Direct Access. Explore the feasibility of RCEA acting as an electricity provider through direct access.

Review Utility Options. Review the effectiveness of the incumbent utility in meeting Humboldt County's long-term energy needs and evaluate the feasibility of establishing a local municipal electric utility or joining a new regional public power entity.

Provide Outstanding Customer Service to RCEA Customers. Ensure that participants in RCEA's community choice energy program receive high-quality customer service related to enrollment, rates, billing, and customer programs supported by CCE program customer funds.

RATES & TARIFFS

Provide Community Choice Energy Program Customer Rate Savings. Provide customer rates that are affordable and price-competitive with customers' other electric supply options.

Provide Electricity Buyback from Self Generators. Provide a net energy metering program that encourages more distributed local generation and more equitably compensates such generation.

Retain and/or Redirect Rate-Payer Dollars Back into Humboldt County. Work to maximize the amount of ratepayer dollars retained in Humboldt County when taking into consideration local power procurement, electricity rates, local program spending, and allocations toward building the reserve fund for RCEA's Community Choice Energy program.

Provide Match Funding for State, Federal, and Foundation Energy Grants. Support bringing resources into Humboldt County to pursue CCE community energy goals.

Support Transition to Time of Use Rates. Inform and educate CCE customers on CPUC transition to default Time Of Use rates. Support customer adoption and transition to time of use electricity rates.

Provide Education on all Electric Rate Schedule Options. Provide information on all available electric rate schedules including Net Energy Metering, Time Of Use, and RePower+ (100% renewable energy). Offer electric rate analysis to estimate financial impacts of different rate schedules. Inform and educate the community of the California Public Utilities Commission's transition to default Time Of Use rate schedules.

Provide a 100% Carbon-Free Service Option for CCE Customers. Develop an additional opt-up choice for CCE customers consisting of solar energy and other emissions-free resources, with a portion of the incremental revenues used to underwrite energy programs benefitting community non-profits and/or low income residential CCE participants.

TRANSMISSION & DISTRIBUTION INFRASTRUCTURE

Facilitate Transmission Assessments and Monitoring. Encourage development of long-term transmission assessments and, if necessary, electrical transmission grid upgrade and/or expansion plans. Monitor local electricity transmission system planning to ensure that projected growth areas are adequately served and to support the development of local renewable energy projects.

Support Upgrade of the Electricity Transmission and Distribution System. Collaborate with PG&E, the California Independent System Operator, and renewable energy developers to upgrade the regional transmission and distribution electrical grid to enable increased development of both utility-scale renewable energy projects and community-scale distributed generation systems, including capability to export surplus renewable electricity from Humboldt County to other areas of the state and to operate Humboldt County's grid independently during regional emergencies.

Appendix A:

Quantitative Targets

This appendix articulates the targets for Humboldt County’s electricity generation and use on the ten-year horizon that is outlined in RCEA’s RePower Strategic Plan. The following sections lay out anticipated changes to electricity supply and demand due to buildout of new renewable energy resources, electrification of transportation and building energy use, and increased adoption of distributed energy.

Power Resources

The portfolio of local generation sources anticipated to meet Humboldt County’s electricity demand in 2030 includes new and existing resources, as seen in Table 1. In addition to existing small hydroelectric and biomass facilities, two utility scale wind projects, one small hydroelectric facility, and several solar generators are considered to be feasibly developable without requiring the buildout of additional transmission capacity¹.

Table 1 Nameplate capacities of operational and planned renewable energy generators in the Humboldt Local Reliability Area.

Generator Name	Resource	Location	Operational Capacity (MW)	Planned Capacity (MW)
DG Fairhaven Power	biomass	Humboldt	15	15
Humboldt Sawmill Cogeneration	biomass	Humboldt	25	32.5
Baker Station Hydro Plant	hydro	Humboldt	1.5	1.5
Big Creek Water Works	hydro	Trinity	5	5
Gosselin Hydroelectric Plant	hydro	Trinity	2	2
Kekawaka Hydro Plant	hydro	Trinity	5	5
Three Forks Waterpower Project	hydro	Trinity	1	1
Boulder Creek Hydro Plant	hydro	Humboldt	not built	8
Redwood Coast Airport Microgrid	solar	Humboldt	not built	2
RCEA Feed-In Tariff Projects	solar	Humboldt	not built	6
Humboldt Wind	wind	Humboldt	not built	125
Redwood Coast Offshore Wind	wind	Offshore	not built	120
Total			54.5	323

¹ Whether the Redwood Coast Offshore Wind Project would require transmission infrastructure upgrades is currently being analyzed by the California Independent System Operator via an interconnection study.

Figure 1 shows a comparison of RCEA's power mix, comprised of local biomass power and other non-local sources, and the anticipated renewable power supply for the entire county in 2030², mostly comprised of new resources.

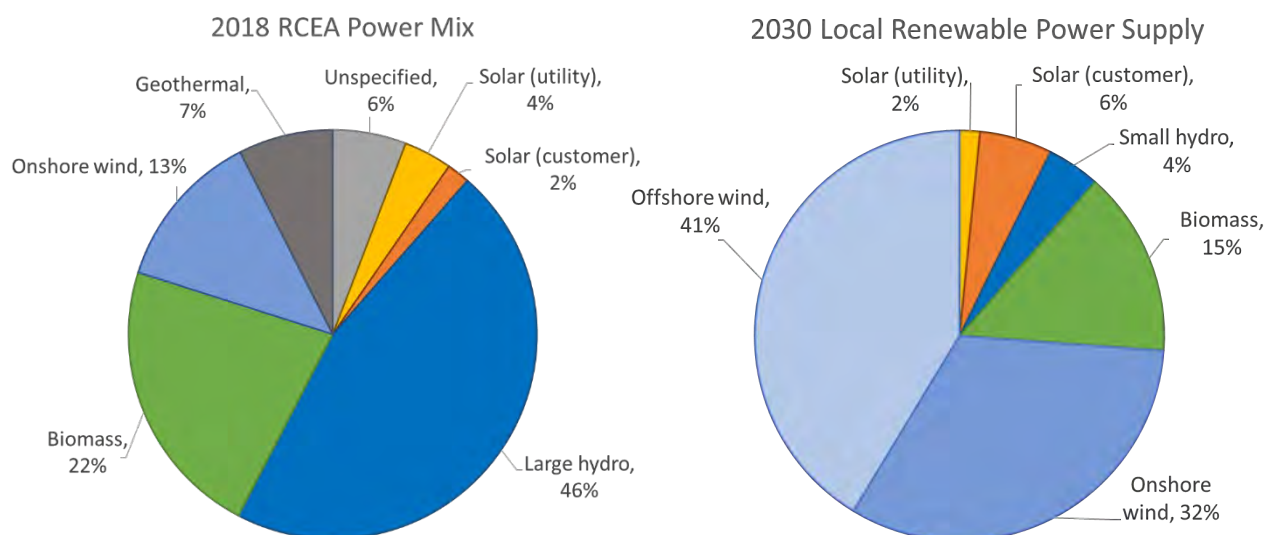
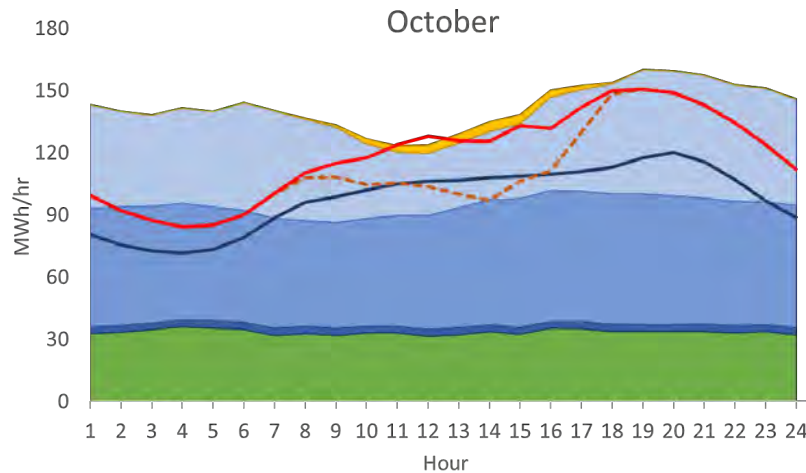
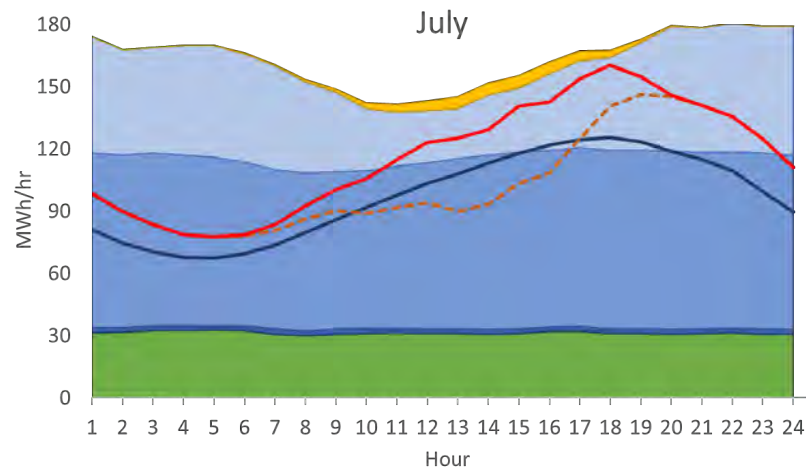
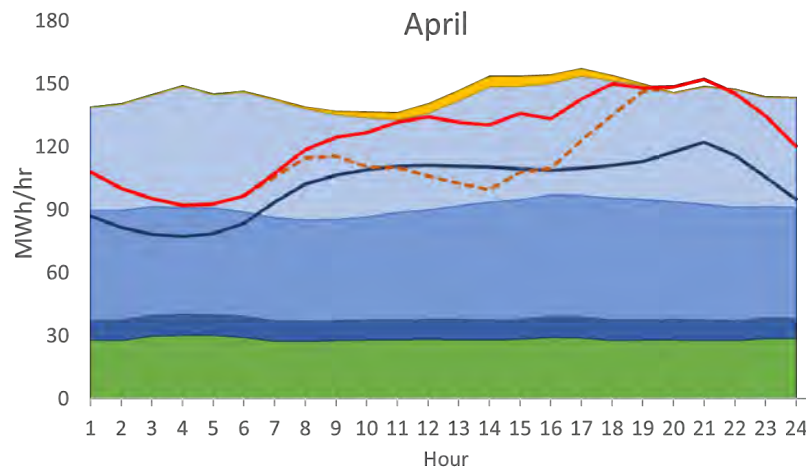
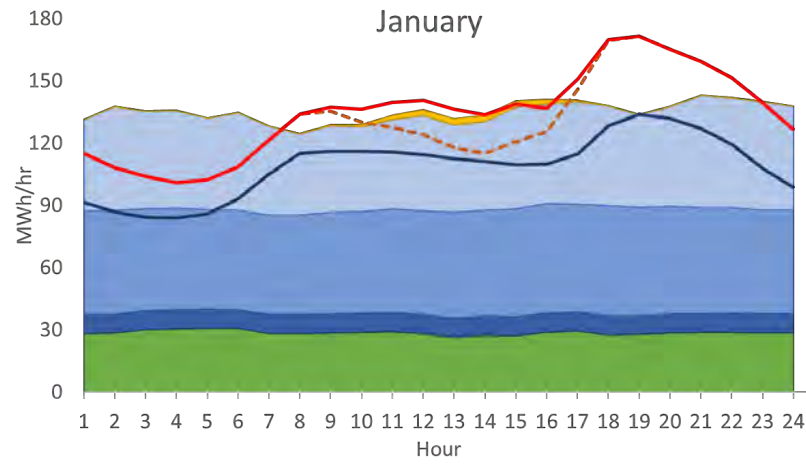
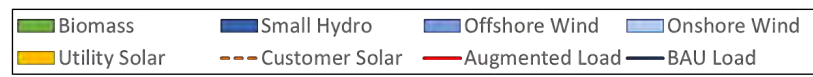


Figure 1 RCEA's 2018 power mix for Community Choice Energy customers and the potential renewable energy mix for Humboldt County in 2030.

Figure 2 shows how average generation and load are projected to line up each hour of the day during each season in 2030, and contemplates Humboldt County as a net exporter of renewable electricity. The stacked areas show how much the resource mix would generate each hour of the day, while the lines show forecasted load each hour of the day. The augmented load (red line) accounts for increased electricity demand due to electrification of vehicles and building energy use, while the business-as-usual (BAU) load (blue line) shows the demand without the additional electrification. The customer solar (orange dashed line) shows how much load would be served in the middle of the day by net energy metered (NEM) systems, assuming RCEA's aggressive NEM targets are achieved. The charts are intended to advise the quantitative analysis for RCEA's 2020 Integrated Resource Plan to be submitted to the California Public Utilities Commission by May 1st, 2020.

Figure 2 A comparison of the projected 2030 renewable energy supply and energy demand, represented as Business as Usual and as the Load with the implementation of RCEA's quantitative targets.

² RCEA's power mix in 2030 may not exactly mirror the local renewable power supply, as it depends on what contractual power purchases are executed between now and then.



Electricity Load

Transportation

According to Humboldt County's 2015 greenhouse gas inventory, the transportation sector is one of the greatest local sources of greenhouse gases, with most of the emissions coming from single-passenger vehicles. Light-duty vehicles are about 80% off all vehicles in the county. To support state and local GHG-reduction goals, RCEA is adopting the following targets for reducing transportation emissions. The two strategies identified are in vehicle miles traveled (VMT) reduction and electric vehicle (EV) adoption.

Vehicle Miles Traveled Reduction

The most effective way to reduce emissions from transportation is simply to reduce the number of miles travelled in combustion vehicles. Although other agencies such as Humboldt County Association of Governments and Humboldt Transit Authority will lead this effort, RCEA will facilitate a decrease in VMT using 2020 as a baseline. If these targets are met, annual VMT will be reduced by 400 million by 2030, equating to a 25% reduction from 2020 VMT levels.

Year	% VMT Reduction	VMT Reduced	Annual VMT with Reduction
2025	10%	170 Million	1.5 Billion
2030	25%	420 Million	1.2 Billion

Table 2 Vehicle miles travelled reduction targets for 2025 and 2030.

Electric Vehicle Adoption

The following table shows RCEA's five- and ten-year targets for facilitating the adoption of over 22,000 EVs, which should make up 19% of all light duty transportation in Humboldt County by 2030.

Year	BAU Light Duty EVs	RCEA Targets for Light Duty EVs	Additional Load (MWh/year)
2025	2,000	6,000	15,400
2030	3,700	22,000	57,400

Table 3 Current estimates and RCEA targets for electric vehicle adoption, and the annual electric load increase associated with the latter.

Building Energy Use

According to Humboldt County's 2015 greenhouse gas inventory, the second largest emitter after transportation is stationary combustion. This includes natural gas, propane, and wood fuel for both residential and non-residential energy users. RCEA is adopting the following targets to electrify natural gas and propane technologies associated with space heating, water heating, cooking, and other residential and commercial uses. Shifting homes and businesses from fossil fuels to electricity is known as fuel substitution.

Year	% Reduction in Natural Gas and Propane	Additional Load (MWh/year)
2025	10%	9,000
2030	20%	18,000

Table 4 RCEA's reduction targets for natural gas and propane³ from electrification, along with the associated increases in electric load.

Customer Solar (NEM)

Grid-tied solar arrays that are interconnected on the customer side of the meter as opposed to the utility side are often referred to as net energy metered (NEM) systems. RCEA's 10-year plan involves accelerating the NEM adoption rate and greatly increasing the number of solar electric systems in Humboldt County. In addition to RCEA's goals, California Title 24 Building Code has mandated that starting in year 2020 all new residential construction under 3 stories must have a grid connected solar PV system.

RCEA's target is to accelerate the rate of NEM system installation to 365 systems per year so that another 3,650 systems are online by 2030, producing around 64,000 megawatt-hours of electricity per year. Roughly 90% of these systems are anticipated to be residential installations and 10% non-residential.

Year	Additional Solar Arrays	Capacity (MW/year)	Generation (MWh/year)
2025	1,825	19.75	32,000
2030	3,650	39.50	64,000

Table 5 Number of additional solar electric systems installed per year by 2025 and 2030 along with their associated capacity and energy production.

³ Percent reduction is based on residential and commercial natural gas and propane use and does not include use of those fuels for industrial processes and electric power generation.

Appendix B:

Assumptions and Methodologies

The RePower Strategic Plan is intended to be a comprehensive plan for all of Humboldt County, not just for customers served by RCEA's CCE program or for generators who currently supply power that serves those customers. Thus, the analysis attempts to account for all anticipated electricity supply and demand⁴ within our community's reliability area of the electricity grid.

Power Resources

The Humboldt Local Reliability Area⁵ (see Figure 3) and thirty miles off the Humboldt Coast are the geographic boundaries used to count existing and anticipated energy resources. The new resources are modelled at capacities that are feasibly developable by 2030 and don't require significant buildout of new transmission infrastructure. Below is a list of assumptions that are specific to certain resource types and facilities.

Resource-specific assumptions:

- Existing biomass and hydroelectric facilities are repowered and continue to operate at similar capacities to today's
- The annual generation profiles of all hydroelectric facilities are similar, scaled by their nameplate capacities, and are consistent hour by hour within a given month
- RCEA's Feed-in Tariff program is completely subscribed and all projects are solar photovoltaic with similar hourly generation profiles to that of the Redwood Coast Airport Microgrid project, scaled by their nameplate capacities
- The operational offshore wind capacity in 2030 is limited to one project within the Bureau of Ocean Energy Management's 2018 Humboldt Call Area

Sources of generation data:



Figure 3 Humboldt Local Reliability Area

⁴ This includes customers served by RCEA, PG&E, and Direct Access providers

⁵ Humboldt Local Reliability Area as defined by the California Energy Commission includes area outside of Humboldt County's boundaries: https://ww2.energy.ca.gov/maps/reliability/LRA_Northern.html

Generator Name	Data Source
DG Fairhaven Power	Actual generation
Humboldt Sawmill Cogeneration	Actual generation
Baker Station Hydro Plant	CEC QFER Database
Big Creek Water Works	CEC QFER Database
Gosselin Hydroelectric Plant	CEC QFER Database
Kekawaka Hydro Plant	CEC QFER Database
Three Forks Waterpower Project	CEC QFER Database
Boulder Creek Hydro Plant	Oscar Larson & Associates Report ⁶
Redwood Coast Airport Microgrid	Schatz Energy Research Center
RCEA Feed-In Tariff Projects	Schatz Energy Research Center
Humboldt Wind	Estimated from proprietary data
Redwood Coast Offshore Wind	Estimated from proprietary data

Electricity Load

Hourly Load Forecast

RCEA's hourly load forecast generated by The Energy Authority (TEA) is used as the business-as-usual (BAU) load forecast. A load factor of 1.18 is applied to include opted out and Direct Access customers, those who are not currently served by RCEA's CCE Program.

Transportation Load

Reduction in Vehicle Miles Traveled

Although RCEA won't be the main agency driving VMT reduction, reduction targets are set across all vehicle and fuel types. The 2017 mobile source emissions model from California Air Resources Board's EMFAC database⁷ is used to project VMT for 2020. The forecast provides a baseline to calculate a 10% and 20% VMT reduction for years 2025 and 2030, respectively.

Calculations for reductions in VMT:

$$RCEA\ VMT\ Reduction\ Goal = 2020\ VMT - (2020\ VMT * \% \ Reduction)$$

⁶ Larson, O. & Associates. (1982). "An Analysis of Small Hydroelectric Planning Strategies." A Report to the Humboldt County Board of Supervisors.

⁷ https://www.arb.ca.gov/emfac/2014/?_ga=2.114116750.862177112.1570490806-866086873.1536797044

VTM Per Vehicle Type and Fuel Type

$$= \left(\frac{\text{BAU VMT per Vehicle and Fuel Type}}{\text{Total VMT}} \right) * \text{RCEA VMT Reduction Goal}$$

Electric Vehicle Adoption

The 2017 mobile source emission model by EMFAC⁸ is used to forecast vehicle population, vehicle type, and fossil fuel consumption for 2020, 2025, and 2030. Light-duty (LD) electric vehicle (EV) kWh consumption is provided by Humboldt County's 2015 greenhouse gas inventory⁹ and assumes that EVs will make efficiency gains at the same rate as fossil fuel vehicles. Efficiency gains for medium- and heavy-duty EVs are not accounted for.

RCEA EV adoption goals are determined using the BAU EV forecasts and the California State goal to reach 80% below 1990 emissions by 2050. These targets will place Humboldt County on a trajectory to replace all light-duty gasoline vehicles with EVs by 2050. The difference between the BAU forecast and RCEA's goal is the additional electric load attributed to the significant increase in electric vehicles. It is assumed that the additional EVs will replace gasoline light-duty vehicles.

Calculations for RCEA's EV Adoption Goals:

$$\text{Number of added EVs} = \text{BAU EV Pop} - (\text{LD Vehicle Pop} * \text{RCEA's EV \% Goal})$$

$$\text{Annual MWHs per EV} = \frac{\left(\text{VMT per day} * \frac{\text{kwh}}{\text{mile}} * 365 \text{ days} \right)}{\text{EV Pop}}$$

$$\text{Annual MWHs added from RCEA's EV Goal} = \text{Number of added EVs} * \text{Annual MWH per EV}$$

Electric Vehicle Load Curve

The Humboldt weekday load profile from the CEC Infrastructure Projection EVI-Pro Tool¹⁰ is used to estimate future electric vehicle charging times. Potential load shifting due to future time-of-use incentives or demand response is not modelled.

⁸ https://www.arb.ca.gov/emfac/2014/?_ga=2.114116750.862177112.1570490806-866086873.1536797044

⁹ 2015 Humboldt County Emissions Inventory will be made available to the public early 2020

¹⁰ <https://maps.nrel.gov/cec/>

Building Energy Use

Residential Fuel Substitution

An average household's gas-based heating fuel usage in Humboldt County is estimated using the CEC's natural gas consumption data¹¹ and Census Bureau data on House Heating Fuel¹². Data collected from RCEA's home energy assessments¹³ is used to estimate the usage by other appliances and fuels across the County.

The electricity use of household air- and water-source heat pumps is calculated using the formulas below. A conversion factor for gas (expressed in kWh) consumption to heat pump kWh of approximately 1/3 was calculated for fuel substitution.

Calculation for Heat Pump electricity usage equivalent to 80% efficient furnace:

$$Btu\ out = Therms\ (in) \times 80\% \ Efficiency \times 100,000 \frac{Btu}{Therm}$$
$$HP\ kWh\ (in) = Btu\ Out \times 0.000293 \frac{kWh}{Btu} \times 4.0\ COP$$

Calculation for Therms input into traditional 80% efficient furnace expressed in kWh.

$$NG\ kWh\ (in) = Therms\ (in) \times 29.3 \frac{kWh}{Therm}$$

Calculation for kWh of Natural Gas converted to kWh of Electricity through fuel substitution.

$$Heat\ Pump\ kWh\ (in) = \frac{NG\ kWh\ (in)}{29.3} \times 80\% \times 100,000 \times 0.000293 \times 4.0$$
$$= NG\ kWh\ (in) \div 0.32H$$
$$Heat\ Pump\ kWh\ (in) \approx \frac{Nat\ Gas\ kWh(in)}{3}$$

Residential Load Curves

To estimate the seasonal load increase due to residential fuel substitution, the load curves are based on annual usage calculated for each appliance-fuel combination and PG&E's heating degree days for climate zone 1. Hourly load curves for lighting are adapted from scientific papers by the National Renewable Energy Laboratory (NREL) and the U.S. Department of Energy¹⁴, as well as articles published in the journal Applied Energy¹⁵

¹¹ <https://ecdms.energy.ca.gov/>

¹² <https://factfinder.census.gov/>

¹³ Residential assessment data from 2012 to present collected by the Redwood Coast Energy Authority and compiled in the Energy Assessment Survey Tool (EAST). 4279 data points.

¹⁴ <https://www.nrel.gov/docs/fy16osti/64904.pdf>

¹⁵ <https://www.sciencedirect.com/science/article/pii/S0306261917308954>

Non-Residential Fuel Substitution

Due to a lack of data on space and water heating in the non-residential sector and the wide variety of end-uses for natural gas and propane, non-residential fuel is modeled with a flat seasonal load curve using the annual fuel consumption from the CEC's data on energy consumption in Humboldt County¹⁶. Propane consumption is estimated using the percentages from the 2005 Humboldt County General Plan Energy Element.

Customer Solar (NEM)

The NEM Currently Interconnected Data Set from the California Solar Initiative (CSI) Database¹⁷ provides historic solar PV installation rates that advise RCEA's NEM adoption targets. In 2018, around 280 new solar NEM systems were interconnected in Humboldt County. Of those 280 systems, 270 were residential installations and 10 were non-residential. RCEA's target increases the annual number of interconnected PV systems to 365 per year, or a rate of 1 system installed per day, with similar proportions of residential and non-residential adoption as historical rates.

Using the average system size for residential and non-residential PV arrays, system size of future installations is anticipated to be slightly larger due to assumed increases in solar cell efficiencies and building electricity usage due to EV charging. The anticipated system size is 6 kW for residential and 50 kW for non-residential. A solar calculator designed for RCEA's Public Agency Solar Program using solar insolation data from NREL¹⁸ provides estimates for 2025 and 2030 electricity generation at the anticipated total NEM adoption capacity. Decommissioning of NEM systems and degradation of photovoltaic cell efficiency over time is not accounted for in the analysis.

The generation profile of NEM systems is assumed to be similar to that of the Redwood Coast Airport Microgrid project, scaled by nameplate capacity. The production of these additional NEM systems will decrease the electric load in the middle of the day.

¹⁶ <https://ecdms.energy.ca.gov/>

¹⁷ <https://www.californiadgstats.ca.gov/downloads/>

¹⁸ <https://pvwatts.nrel.gov/>



STAFF REPORT
Agenda Item # 6.1

AGENDA DATE:	December 19, 2019
TO:	Board of Directors
PREPARED BY:	Richard Engel, Director of Power Resources Jocelyn Gwynn, Manager of Power Resources
SUBJECT:	Power Purchase Agreement with Humboldt Wind, LLC

SUMMARY

In its June 2019 meeting, the RCEA Board directed staff to negotiate power purchase agreements (PPAs) with three companies that responded to RCEA's February 2019 request for proposals (RFP) for long-term renewable energy contracts. Negotiations have been successfully completed with Humboldt Wind, LLC (Terra-Gen) for a 15-year contract to purchase 90 MW of capacity from the planned Humboldt Wind project. The facility is to be located on Monument and Bear River Ridges southwest of Scotia. The project was the only proposal local to Humboldt County that was submitted in response to RCEA's RFP.

This facility is to be an eligible producer under California's Renewable Portfolio Standard. Under the proposed power purchase agreement, RCEA is expected to receive approximately 300,000 MWh of renewable electricity each year. At the time this report was prepared, the Humboldt County Board of Supervisors was reviewing the conditional use permit (CUP) for the project, previously denied by the Planning Commission. On Terra-Gen's request, the PPA includes a term allowing Terra-Gen to exit the agreement without penalty if the CUP is not issued by February 1, 2020. Assuming the CUP is issued, the PPA calls for energy deliveries to begin by December 31, 2022, with delay damages payable to RCEA and eventually contract default in the event of delays in project completion.

FINANCIAL IMPACTS

The proposed agreement would provide a significant amount of energy, about 40% of RCEA's overall portfolio. While more expensive than solar energy on a price per MWh basis, the price is competitive with other non-solar offers RCEA received under its RFP. As previously discussed with the Board, procurement of renewable energy from sources such as wind helps RCEA to manage price risk during times of day and times of year when solar energy is not available. Furthermore, the fixed long-term contract price hedges the risk RCEA is currently exposed to in procuring most of its energy through short-term transactions. In keeping with normal practice of CCAs and municipal utilities participating in competitive power markets, we are not disclosing pricing details for this proposed agreement.

RECOMMENDED ACTIONS

Approve a 15-year power purchase agreement with Humboldt Wind, LLC for 90 MW of capacity of its Humboldt Wind project, and authorize RCEA's executive director to execute all applicable documents.

ATTACHMENTS

Attachment A: Power Purchase Agreement Between Redwood Coast Energy Authority and Humboldt Wind, LLC (redacted)

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POWER PURCHASE AGREEMENT

Between

Redwood Coast Energy Authority
(as “Buyer”)

and

Humboldt Wind, LLC
(as “Seller”)

POWER PURCHASE AGREEMENT

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APPENDICES

The following Appendices constitute a part of this Agreement and are incorporated into this Agreement by reference:

- Appendix I Form of Letter of Credit
- Appendix II Initial Energy Delivery Date Confirmation Letter
- Appendix III Form of Progress Report
- Appendix IV Construction Start and Commercial Operation Certification Forms and Procedures
- Appendix IV-1 Construction Start Form of Certification
- Appendix IV-2 Commercial Operation Certification Procedure
 - Attachment A Commercial Operation Form of Certification
- Appendix V GEP Damages Calculation
- Appendix VI Notification Requirements for Available Capacity and Project Outages
- Appendix VII Form of Consent to Assignment
- Appendix VIII Seller Documentation Condition Precedent
- Appendix IX Form of Actual Availability Report
 - Attachment A Form of Actual Availability Report
- Appendix X Telemetry Parameters for Wind Facility
- Appendix XI Not Used
- Appendix XII Project Specifications and Contract Capacity Calculation
- Appendix XIII Community Investment

POWER PURCHASE AGREEMENT

COVER SHEET

This Power Purchase Agreement (“Agreement”) is entered into between Redwood Coast Energy Authority, a California joint powers authority (“Buyer” or “RCEA”), and Humboldt Wind, LLC, a Delaware limited liability company (“Seller”), as of the Execution Date. The information contained in this Cover Sheet shall be completed by Seller and incorporated into the Agreement.

A. Transaction Type

Seller may not modify the Transaction Type designated in this Part A of the Cover Sheet at any time after the Execution Date.

Product: ☒ As-Available
 ☐ Baseload

Portfolio Content Category:

☒ Portfolio Content Category 1

Deliverability:

☒ Energy Only Status

☐ Partial Capacity Deliverability Status (“PCDS”)

a) If PCDS is selected, provide the Expected PCDS Date, or the date the Project received a PCDS finding if already received:
_____N/A_____ (mm/dd/yyyy);

b) The Partial Capacity Deliverability Status Amount the Project will obtain is _____N/A_____MW.

☐ Full Capacity Deliverability Status (“FCDS”)

a) If FCDS is selected, provide the Expected FCDS Date, or the date the Project received a FCDS finding if already received:
_____N/A_____ (mm/dd/yyyy).

Seller shall elect one of the following Delivery Terms:

☐ ten (10) Contract Years

☒ fifteen (15) Contract Years

- ☐ twenty (20) Contract Years

B. Project Description Including Description of Site

Contract Capacity: 90 MW

(i) Project Development:

(a) The Project is an:

☐ Existing Project

☒ New Project

(1) If the Project is a New Project:

(A) The Expected Construction Start Date: [REDACTED]

(B) The Guaranteed Construction Start Date: [REDACTED]

(C) The Expected Commercial Operation Date:

[REDACTED]

(D) The Guaranteed Commercial Operation Date:
December 31, 2022

(b) Project development Milestone schedule

Identify Milestone	Date for Completion
100 percent Site Control	Complete
Executed Interconnection Agreement	Complete
Humboldt County -Conditional Use Permit Approval	[REDACTED]
Obtain all material permits, consents, licenses, approvals or authorizations necessary to construct and operate Project	[REDACTED]
Limited Notice to Proceed for surveys & clearing	[REDACTED]
Receive Construction Permits	[REDACTED]
Execute Engineering Procurement & Construction agreement	[REDACTED]
Limited Notice to Proceed for surveys & clearing	[REDACTED]
Execute Turbine Supply Agreement	[REDACTED]
Project Financing (Construction)	[REDACTED]
Begin Construction of Project	[REDACTED]
Full Notice to Proceed	[REDACTED]
Start or Wind Turbine deliveries	[REDACTED]
Interconnection Facilities completed	[REDACTED]
Mechanical Completion last Turbine	[REDACTED]
Commissioning Completion last Turbine	[REDACTED]
Balance of Plant (BOP) Substantial Completion	[REDACTED]
Turbine Supply Agreement (TSA) Commissioning Completion	[REDACTED]

Identify Milestone	Date for Completion
TSA Substantial Completion	
Commercial Operations Date	
BOP Final Completion	
TSA Final Completion	

C. Contract Price

The Contract Price for each MWh of Product as measured by Delivered Energy in the initial Contract Year shall be [REDACTED] dollars per MWh ([REDACTED]/MWh). In each succeeding Contract Year, the Contract Price shall be adjusted by multiplying the prior year's Contract Price by [REDACTED].

D. Delivery Term Contract Quantity Schedule

Length of Delivery Term (in Contract Years): fifteen (15) Contract Years

Contract Year	Contract Quantity (MWh)
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	

E. Collateral

- Project Development Security (provide dollar amount)

Dollar Amount: \$ [REDACTED].00

- Cash, or
- Letter of Credit, or
- Guaranty

- Delivery Term Security (provide dollar amount)

Dollar Amount: \$ [REDACTED].00

- Cash, or
- Letter of Credit, or
- Guaranty

F. Buyer Bid Curtailment and Buyer Curtailment Orders.

Operational characteristics of the Project for Buyer Bid Curtailment and Buyer Curtailment Orders are listed below. Buyer, as the Scheduling Coordinator, may request that CAISO modify the Master File for the Project to reflect the findings of a CAISO audit of the Project. In addition, Seller agrees to coordinate with Buyer or Third-Party SC, as applicable, to ensure all information provided to the CAISO regarding the operational and technical constraints in the Master File for the Project are accurate and are based on the true physical characteristics of the resource.

- PMax of the Project: 90 MW
- Minimum operating capacity: 0.0 MW
- Ramp Rate: PMax/2 MW/Minute
- Advance notification required for Buyer Bid Curtailment and Buyer Curtailment Order: Not greater than the shortest Dispatch Interval in the Real-Time Market (as defined in the CAISO Tariff).
- Maximum number of Start-ups per calendar day (if any such operational limitations exist): 6

Other Requirements:

- Maximum number of hours annually for Buyer Curtailment Periods: 876 hours
- The Project will be capable of receiving and responding to all Dispatch Instruction.
- Start-Up Time (if applicable): 2 Minutes
- Minimum Run Time after Start-Up (if applicable): 60 Minutes
- Minimum Down Time after Shut-Down (if applicable): 30 Minutes

G. Damage Payment: \$ [REDACTED].00

H. Notices List

Name: Humboldt Wind, LLC, a Delaware limited liability company ("Seller")
All Notices:

Delivery Address:

Street: 437 Madison Avenue, 22FL, Suite A,
New York, NY 10022

Attn: Contracts Administrator

Phone: [REDACTED]
Fax: [REDACTED]

Name: Redwood Coast Energy Authority, ("Buyer" or "RCEA")
All Notices:

Delivery Address:

633 3rd St, Eureka, CA 95501

Attn: Richard Engel

Director of Power Resources

Phone: 707-269-1700, ext. [REDACTED]
Email: [REDACTED]

DUNS: [REDACTED]
Federal Tax ID Number: [REDACTED]

Invoices:

Attn: [REDACTED]
Phone: [REDACTED]
Facsimile: [REDACTED]
Email: [REDACTED]

Scheduling:

Attn: [REDACTED]
Phone: [REDACTED]
Facsimile: [REDACTED]
Email: [REDACTED]

Payments:

Attn: [REDACTED]
Phone: [REDACTED]
Facsimile: [REDACTED]
E-mail: [REDACTED]

Wire Transfer:

BNK: [REDACTED]
ABA: [REDACTED]
ACCT: [REDACTED]

Credit and Collections:

Attn: [REDACTED]
Phone: [REDACTED]
Facsimile: [REDACTED]
E-mail: [REDACTED]

Notices of an Event of Default to:

Attn: [REDACTED]
Phone: [REDACTED]
Facsimile: [REDACTED]
E-mail: [REDACTED]

With additional Notices of an Event of Default to:

Attn: [REDACTED]
Phone: [REDACTED]
E-mail: [REDACTED]

DUNS: [REDACTED]
Federal Tax ID Number: [REDACTED]

Invoices:

Attn: Accounting
Phone: 707-269-1700, ext. [REDACTED]
Facsimile: 707-269-1777
Email: [REDACTED]

Scheduling:

Attn: The Energy Authority designated as Buyer's SC
Day Ahead Desk Phone: [REDACTED]
Real Time Desk Phone: [REDACTED]
Facsimile: [REDACTED]

Payments:

Attn: Accounting
Phone: 707-269-1700, ext. [REDACTED]
Facsimile: 707-269-1777
Email: [REDACTED]

Wire Transfer:

BNK: [REDACTED]
ABA: [REDACTED]
ACCT: [REDACTED]

Credit and Collections:

Attn: Lori Biondini
Director of Business Planning and Finance
Phone: 707-269-1700, ext. [REDACTED]
Email: [REDACTED]

Notices of an Event of Default to:

Attn: Lori Biondini
Director of Business Planning and Finance
Phone: 707-269-1700, ext. [REDACTED]
Facsimile: 707-269-1777
Email: [REDACTED]

RCEA General Counsel
Nancy Diamond, Law Offices of Nancy Diamond
822 G Street, Suite 3
Arcata, CA 95521
Phone: [REDACTED]
Facsimile: [REDACTED]

PREAMBLE

This Power Purchase Agreement, together with the Cover Sheet, appendices and any other attachments referenced herein, is made and entered into between RCEA and Seller, as of the Execution Date set forth in the Cover Sheet. Buyer and Seller hereby agree to the following:

GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 “Actual Availability Report” has the meaning set forth in Section 3.1(l)(i)(G).

1.2 “After Tax Basis” means, with respect to any payment received or deemed to have been received by a Party, the amount of such payment ("Base Payment") supplemented by a further payment ("Additional Payment") to such Party so that the sum of the Base Payment plus the Additional Payment shall, after deduction of the amount of all Taxes (including any federal, state or local income taxes) required to be paid by such Party in respect of the receipt or accrual of the Base Payment and the Additional Payment (taking into account any current or previous credits or deductions arising from the underlying event giving rise to the Base Payment and the Additional Payment), be equal to the amount required to be received. Such calculations shall be made on the assumption that the recipient is subject to federal income taxation at the highest applicable statutory rate applicable to corporations for the relevant period or periods, is subject to state and local taxes at the highest rates applicable to corporations for the relevant period or periods, and shall take into account the deductibility (for federal income tax purposes) of state and local income taxes.

1.3 “Affiliate” means, with respect to any person or entity, any other person or entity (other than an individual) that (a) directly or indirectly, through one or more intermediaries, controls, or is controlled by such person or entity or (b) is under common control with such person or entity. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.4 “Agreement” means this Power Purchase Agreement between Buyer and Seller, which is comprised of the Cover Sheet, Preamble, these General Terms and Conditions, and all appendices, schedules and any written supplements attached hereto and incorporated herein by references, as well as all written and signed amendments and modifications thereto. For purposes of Section 3.1(k)(viii), the word “contract” shall have the meaning set forth in this definition.

1.5 “Ancillary Services” has the meaning set forth in the CAISO Tariff.

1.6 “As-Available Product” means an Energy Product with a Capacity Factor of eighty percent (80%) or less.

1.7 “Availability Workbook” has the meaning set forth in Appendix IX.

1.8 “Available Capacity” means the capacity from the Project, expressed in whole megawatts, that is available to generate Product.

1.9 “Balancing Authority” has the meaning set forth in the CAISO Tariff.

1.10 “Bankrupt” means with respect to any entity, such entity that (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action

under any bankruptcy, insolvency, reorganization or similar Law, or has any such petition filed or commenced against it and such case filed against it is not dismissed in ninety (90) days, (b) makes an assignment or any general arrangement for the benefit of creditors, (c) otherwise becomes bankrupt or insolvent (however evidenced), (d) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (e) is generally unable to pay its debts as they fall due.

1.11 “Baseload” means an Energy Product with a Capacity Factor greater than or equal to eighty percent (80%).

1.12 “Bid” has the meaning set forth in the CAISO Tariff.

1.13 “Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday and shall be between the hours of 8:00 a.m. and 5:00 p.m. local time for the relevant Party’s principal place of business where the relevant Party, in each instance unless otherwise specified, shall be the Party from whom the Notice, payment or delivery is being sent and by whom the Notice or payment or delivery is to be received.

1.14 “Buyer” has the meaning set forth in the Cover Sheet.

1.15 “Buyer Bid Curtailment” means Buyer as SC or through its Third-Party SC communicates a curtailment instruction to the Seller, requiring Seller to produce less Energy from the Project than the CAISO final market forecast amount to be produced from the Project for a period of time, and Buyer as the SC or through its Third-Party SC either (a) submitted a CAISO final market Energy Supply Bid and such curtailment is solely a result of the CAISO implementing the Energy Supply Bid; or (b) submitted a CAISO final market Self-Schedule for less than the amount of the final-market Energy forecasted to be produced from the Project. However, if the Project is subject to a Planned Outage, Forced Outage, Force Majeure and/or a Curtailment Period during the same period of time, then Buyer Bid Curtailment shall not include any Energy that is subject to such Planned Outage, Forced Outage, Force Majeure or Curtailment Period.

1.16 “Buyer Curtailment Order” means the instruction from Buyer or through its Third-Party SC to Seller to reduce generation from the Project by the amount, and for the period of time set forth in such order, for reasons unrelated to a Planned Outage, Forced Outage, Force Majeure and/or Curtailment Order.

1.17 “Buyer Curtailment Period” means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation from the Project pursuant to (a) Buyer Bid Curtailment or (b) a Buyer Curtailment Order. The Buyer Curtailment Period shall be inclusive of the time required for the Project to ramp down and ramp up; provided that such time periods to ramp down and ramp up shall be consistent with the Ramp Rate designated in the Cover Sheet.

1.18 “Buyer’s Notice of First Offer Acceptance” has the meaning set forth Section 11.1(b)(ii), as applicable.

1.19 “Buyer’s WREGIS Account” has the meaning set forth in Section 3.1(k)(i).

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

1.21 “CAISO Global Resource ID” means the number or name assigned by the CAISO to the Project.

1.22 “CAISO Grid” has the same meaning as “CAISO Controlled Grid” as defined in the CAISO Tariff.

1.23 “CAISO Penalties” means any fees, liabilities, assessments, or similar charges assessed by the CAISO for (a) violation of the CAISO Tariff and all applicable protocols, WECC rules or CAISO operating instructions or orders or (b) as a result of a Party’s failure to follow Good Utility Practices. In either case, “CAISO Penalties” do not include the costs and charges related to scheduling and Imbalance Energy as addressed in Section 4.5(b) of this Agreement.

1.24 “CAISO Tariff” means the California Independent System Operator Corporation, Fifth Replacement FERC Electric Tariff (Open Access Transmission Tariff), as it may be amended, supplemented or replaced (in whole or in part) from time to time.

1.25 “California Renewables Portfolio Standard” or “RPS” means the renewable energy program and policies established by the California Legislature and codified in California Public Utilities Code Sections 399.11 through 399.32 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

1.26 “Capacity Attributes” means any current or future defined characteristic (including the ability to generate at a given capacity level, provide Ancillary Services, and ramp up or ramp down at a given rate), certificate, tag, credit, flexibility, or dispatchability attribute, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the capacity of the Project to produce any and all Product, including any accounting construct so that the maximum amount of Contract Capacity of the Project may be counted toward a Resource Adequacy Requirement or any other measure by the CPUC, the CAISO, the FERC, or any other entity invested with the authority under federal or state Law, to require Buyer to procure, or to procure at Buyer’s expense, Resource Adequacy or other such products.

1.27 “Capacity Factor” has the meaning set forth in Section 4.3.

1.28 [Intentionally Omitted].

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

1.30 “CEC Certification and Verification” means that the CEC has certified (or, with respect to periods before the Project has commenced commercial operation (as such term is defined by and according to the CEC), that the CEC has pre-certified) that the Project is an ERR for purposes of the California Renewables Portfolio Standard and that all Energy produced by the Project qualifies as generation from an ERR for purposes of the Project.

1.31 “Claims” means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination or expiration of this Agreement.

1.32 “Commercial Operation” means the Project is operating and able to produce and deliver the Product to Buyer pursuant to the terms of this Agreement.

1.33 “Commercial Operation Date” means the date on which Seller (a) notifies Buyer that Commercial Operation has commenced, (b) notifies Buyer that all Reliability Network Upgrades identified in the Project’s Generator Interconnection Agreement have been completed, and (c) provides a certification of a Licensed Professional Engineer, substantially in the form attached hereto as Attachment A to Appendix IV-2, demonstrating satisfactory completion of the Commercial Operation Certification Procedure as provided in Appendix IV-2 hereto.

1.34 “Compliance Actions” has the meaning set forth in Section 10.15(b).

1.35 “Condition Precedent” means each of, or one of, the conditions set forth in Section 2.4(a)(i) through (viii) and “Conditions Precedent” shall refer to all of the conditions set forth in Section 2.4(a)(i) through (viii).

1.36 “Confidential Information” has the meaning set forth in Section 10.6(a).

1.37 “Construction Start Date” means the later to occur of the date on which Seller delivers to Buyer (a) a copy of the Notice to Proceed that Seller has delivered to the EPC Contractor for the Project, and (b) a written Certification substantially in the form attached hereto as Appendix IV-1.

1.38 “Contract Capacity” has the meaning set forth in Section 3.1(f).

1.39 “Contract Capacity Commitment” means the amount of the Contract Capacity that may be constructed pursuant to the Governmental Approvals received or obtained by Seller as of, for a New Project, the Guaranteed Commercial Operation Date (as may be extended pursuant to Section 3.9(c)), and for an Existing Project, the Expected Initial Energy Delivery Date specified on the Cover Sheet.

1.40 “Contract Price” means the price in United States dollars (\$U.S.) (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Cover Sheet Section C.

1.41 “Contract Quantity” means the quantity of Delivered Energy expected to be delivered by Seller during each Contract Year as set forth in Section 3.1(e)(i) and Cover Sheet Section D.

1.42 “Contract Year” means a period of twelve (12) consecutive months. The first Contract Year shall commence on the Initial Energy Delivery Date and each subsequent Contract Year shall commence on the anniversary of the Initial Energy Delivery Date.

1.43 [Intentionally Omitted].

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

1.45 “Cover Sheet” means the cover sheet to this Agreement, completed by Seller and incorporated into the Agreement.

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

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

1.48 [Intentionally Omitted].

1.49 “Cured Performance Measurement Period” has the meaning set forth in Section 3.1(e)(ii)(C).

1.50 “Cure Payment Period” has the meaning set forth in Section 3.1(e)(ii)(C)(III).

1.51 “Curtailement Order” means any of the following:

(a) the CAISO, Reliability Coordinator, Balancing Authority or any other entity having similar authority or performing similar functions during the Delivery Term, orders, directs, alerts, or communicates via any means, to a Party, including a CAISO Operating Order, that such Party is required to curtail deliveries of Energy from the Project for the following reasons: (i) any System Emergency, or (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO’s electric system integrity or the integrity of other systems to which CAISO is connected;

(b) a curtailment ordered by the Participating Transmission Owner, distribution operator (if interconnected to distribution or sub-transmission system), or any other entity having similar authority or performing similar functions during the Delivery Term, for reasons including (i) any situation that affects normal function of the electric system including any abnormal condition that requires action to prevent circumstances such as equipment damage, loss of load, or abnormal voltage conditions, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize the Participating Transmission Owner’s electric system integrity or the integrity of other systems to which the Participating Transmission Owner is connected;

(c) a curtailment ordered by CAISO or the Participating Transmission Owner due to scheduled or unscheduled maintenance or construction or outages on the Participating Transmission Owner’s or distribution operator’s transmission or distribution facilities that prevents (i) Buyer from receiving or (ii) Seller from delivering Delivered Energy at the Delivery Point; or

(d) a curtailment in accordance with Seller’s obligations under its Generator Interconnection Agreement with the Participating Transmission Owner or distribution operator.

For the avoidance of doubt, if Buyer or Third-Party SC submitted a Self-Schedule and/or an Energy Supply Bid in its final CAISO market participation in respect of a given time period that clears, in full, the applicable CAISO market for the full amount of Energy forecasted to be produced from the Project for such time period, any notice from the CAISO having the effect of requiring a reduction during the same time period is a Curtailement Order, not a Buyer Bid Curtailement.

1.52 “Curtailement Period” means the period of time during which Seller reduces generation from the Project, pursuant to a Curtailement Order. The Curtailement Period shall be inclusive of the time

required for the Project to ramp down and ramp up; provided that such time periods to ramp down and ramp up shall be consistent with the Ramp Rate designated in the Cover Sheet.

1.53 “Damage Payment” shall be the amount set forth as the Damage Payment on the Cover Sheet.

1.54 “DA Price” means the resource specific locational marginal price (“LMP”) applied to the PNode applicable to the Project in the CAISO Day-Ahead Market.

1.55 “DA Scheduled Energy” means the Day-Ahead Scheduled Energy as defined in the CAISO Tariff.

1.56 “Day-Ahead Availability Notice” has the meaning set forth in Section 3.4(c)(iii)(C).

1.57 “Day-Ahead Market” has the meaning set forth in the CAISO Tariff.

1.58 “Deemed Delivered Energy” means the amount of Energy expressed in MWh that the Project would have produced and delivered to the Delivery Point, but that is not produced by the Project and delivered to the Delivery Point during a Buyer Curtailment Period, which amount shall be equal to (a) the EIRP Forecast, expressed in MWh, applicable to the Buyer Curtailment Period, whether or not Seller is participating in EIRP during the Buyer Curtailment Period, less the amount of Delivered Energy delivered to the Delivery Point during the Buyer Curtailment Period or, (b) if there is no EIRP Forecast available, the result of the equation provided pursuant to Section 3.1(l)(i)(G) and using relevant Project availability, weather and other pertinent data for the period of time during the Buyer Curtailment Period less the amount of Delivered Energy delivered to the Delivery Point during the Buyer Curtailment Period; *provided that*, if the applicable difference calculated pursuant to (a) or (b) above is negative as compared to the amount of metered Energy at the CAISO revenue meter for the Project, the Deemed Delivered Energy shall be zero (0).

1.59 “Defaulting Party” means the Party that is subject to an Event of Default.

1.60 “Deficient Month” has the meaning set forth in Section 3.1(k)(v).

1.61 “Deliverability Assessment” has the meaning set forth in the CAISO Tariff.

1.62 [Intentionally Omitted].

1.63 “Delivered Energy” means the lesser of either (i) the Contract Capacity, expressed in MW, multiplied by the duration of the Settlement Interval, expressed in hours, or (ii) the Energy produced from the Project during the Settlement Interval as measured in MWh at the CAISO revenue meter of the Project and in accordance with the CAISO Tariff, which shall include any applicable adjustments for power factor and Electrical Losses.

1.64 “Delivery Month” means a period of one month.

1.65 “Delivery Network Upgrade” has the meaning set forth in the CAISO Tariff.

1.66 “Delivery Point” means the point at which Buyer receives Seller’s Product, as identified in Section 3.1(d).

1.67 “Delivery Term” has the meaning set forth in Section 2.5 and shall be of the length specified for the Delivery Term in Section A of the Cover Sheet.

1.68 “Delivery Term Security” means the Performance Assurance that Seller is required to maintain, as specified in Article Eight, to secure performance of its obligations during the Delivery Term.

1.69 “Dispatch Instruction” has the meaning set forth in the CAISO Tariff.

1.70 “Dispatch Interval” has the meaning set forth in the CAISO Tariff.

1.71 “Distribution Loss Factor” is a multiplier factor that reduces the amount of Delivered Energy produced by a Project connecting to a distribution system to account for the electrical distribution losses, including those related to distribution and transformation, occurring between the point of interconnection, where the Participating Transmission Owner’s meter is physically located, and the first Point of Interconnection, as defined in the CAISO Tariff, with the CAISO Grid.

1.72 “Distribution Upgrades” has the meaning set forth in the CAISO Tariff.

1.73 “DUNS” means the Data Universal Numbering System, which is a unique nine character identification number provided by Dun & Bradstreet, Inc.

1.74 “Early Termination Date” has the meaning set forth in Section 5.2.

1.75 “Effective Date” means the Execution Date as defined in Section 1.100.

1.76 “Effective FCDS Date” means the date on which Seller provides Buyer Notice and documentation from CAISO that the Project has attained Full Capacity Deliverability Status, which Buyer subsequently finds, in its reasonable discretion, to be adequate evidence that the Project has attained Full Capacity Deliverability Status.

1.77 “Effective PCDS Date” means the date on which Seller provides Buyer Notice and documentation from CAISO that the Project has attained Partial Capacity Deliverability Status, which Buyer subsequently finds, in its reasonable discretion, to be adequate evidence that the Project has attained Partial Capacity Deliverability Status.

1.78 “EIRP Forecast” means the final forecast of the Energy to be produced by the Project prepared by the CAISO in accordance with the Eligible Intermittent Resources Protocol and communicated to Buyer or Third-Party SC for use in submitting a Schedule for the output of the Project in the Real-Time Market.

1.79 “Electrical Losses” means all applicable losses, including the following: (a) any transmission or transformation losses between the CAISO revenue meter(s) and the Delivery Point; and (b) the Distribution Loss Factor, if applicable.

1.80 “Electric System Upgrades” means any Network Upgrades, Distribution Upgrades, or Interconnection Facilities that are determined to be necessary by the CAISO or Participating Transmission Owner, as applicable, to physically and electrically interconnect the Project to the Participating Transmission Owner’s electric system for receipt of Energy at the Point of Interconnection (as defined in the CAISO Tariff) if connecting to the CAISO Grid, or the Interconnection Point, if connecting to a part of the Participating TO’s electric system that is not part of the CAISO Grid.

1.81 [Intentionally Omitted]

1.82 “Eligible Intermittent Resources Protocol” or “EIRP” means the Eligible Intermittent Resource Protocol, as may be amended from time to time, as set forth in the CAISO Tariff.

1.83 “Eligible LC Bank” means either a U.S. commercial bank, or a foreign bank issuing a Letter of Credit through its U.S. branch; and in each case the issuing U.S. commercial bank or foreign bank must be acceptable to Buyer in its sole discretion and such bank must have a Credit Rating of at least: (a) “A-, with a stable designation” from S&P and “A3, with a stable designation” from Moody’s, if such bank is rated by both S&P and Moody’s; or (b) “A-, with a stable designation” from S&P or “A3, with a stable designation” from Moody’s, if such bank is rated by either S&P or Moody’s, but not both, even if such bank was rated by both S&P and Moody’s as of the date of issuance of the Letter of Credit but ceases to be rated by either, but not both of those ratings agencies.

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

1.85 “Energy” means three-phase, 60-cycle alternating current electric energy measured in MWh and net of auxiliary loads and station electrical uses (unless otherwise specified).

1.86 “Energy Deviation(s)” means the absolute value of the difference, in MWh, in any Settlement Interval between (a) the final accepted Bid submitted for the Project; and (b) Delivered Energy.

1.87 “Energy Only Status Seller” or “EOS Seller” means a Seller that has selected Energy Only Status in the Cover Sheet. For avoidance of doubt, an EOS Seller does not have an obligation to have or obtain a Full Capacity Deliverability Status Finding.

1.88 “Energy Supply Bid” has the meaning set forth in the CAISO Tariff.

1.89 “EPC Contract” means the Seller’s engineering, procurement and construction contract with the EPC Contractor.

1.90 “EPC Contractor” means an engineering, procurement, and construction contractor, or if not utilizing an engineering, procurement and construction contractor, the entity having lead responsibility for the management of overall construction activities, selected by Seller, with substantial experience in the engineering, procurement, and construction of power plants of the same type of facility as the Seller’s; provided, however, that the Seller or the Seller’s Affiliate(s) may serve as the EPC Contractor.

1.91 “Equitable Defenses” means any bankruptcy, insolvency, reorganization or other Laws affecting creditors’ rights generally and, with regard to equitable remedies, the discretion of the court before which proceedings may be pending to obtain same.

1.92 “Event of Default” has the meaning set forth in Section 5.1.

1.93 “Excess Deemed Delivered Energy” has the meaning set forth in Section 4.4(a)(i).

1.94 “Excess Deemed Delivered Energy Price” has the meaning set forth in Section 4.4(a)(ii)(B).

- 1.95 “Excess Delivered Energy” has the meaning set forth in Section 4.4(a)(i).
- 1.96 “Excess Delivered Energy Price” has the meaning set forth in Section 4.4(a)(ii)(A).
- 1.97 “Excess Energy” has the meaning set forth in Section 4.4(a)(i).
- 1.98 [Intentionally Omitted].
- 1.99 “Exclusivity Period” has the meaning set forth in Section 11.1(b)(i), as applicable.
- 1.100 “Execution Date” means the latest signature date found on the signature page of this Agreement.
- 1.101 “Exempt Wholesale Generator” has the meaning provided in 18 C.F.R. Section 366.1.
- 1.102 “Existing Project” is a Project that has achieved Commercial Operation on or prior to the Execution Date.
- 1.103 “Expected FCDS Date” means the date set forth in Section A of the Cover Sheet which is the date the Project is expected to achieve Full Capacity Deliverability Status.
- 1.104 “Expected PCDS Date” means the date set forth in Section A of the Cover Sheet which is the date the Project is expected to achieve Partial Capacity Deliverability Status.
- 1.105 [Intentionally Omitted].
- 1.106 [Intentionally Omitted].
- 1.107 “FERC” means the Federal Energy Regulatory Commission or any successor government agency.
- 1.108 “Final True-Up” means the final payment made pursuant to this Agreement settling all invoices by the Party with an outstanding net amount due to the other Party for Product delivered prior to the end of the Delivery Term or other amounts due pursuant to this Agreement incurred prior to the end of the Delivery Term.
- 1.109 “First Offer” has the meaning set forth in Section 11.1(b)(i).
- 1.110 “Force Majeure” means any event or circumstance which wholly or partly prevents or delays the performance of any material obligation arising under this Agreement, but only if and to the extent (i) such event is not within the reasonable control, directly or indirectly, of the Party seeking to have its performance obligation(s) excused thereby, (ii) the Party seeking to have its performance obligation(s) excused thereby has taken all reasonable precautions and measures in order to prevent or avoid such event or mitigate the effect of such event on such Party’s ability to perform its obligations under this Agreement and which by the exercise of due diligence such Party could not reasonably have been expected to avoid and which by the exercise of due diligence it has been unable to overcome, and (iii) such event is not the direct or indirect result of the negligence or the failure of, or caused by, the Party seeking to have its performance obligations excused thereby.
- (a) Subject to the foregoing, events that could qualify as Force Majeure include the following:

(i) flooding, lightning, landslide, earthquake, fire, drought, explosion, epidemic, quarantine, storm, hurricane, tornado, volcanic eruption, other natural disaster or unusual or extreme adverse weather-related events;

(ii) war (declared or undeclared), riot or similar civil disturbance, acts of the public enemy (including acts of terrorism), sabotage, blockade, insurrection, revolution, expropriation or confiscation;

(iii) except as set forth in subsection (b)(viii) below, strikes, work stoppage or other labor disputes (in which case the affected Party shall have no obligation to settle the strike or labor dispute on terms it deems unreasonable); or

(iv) emergencies declared by the Transmission Provider or any other authorized successor or regional transmission organization or any state or federal regulator or legislature requiring a forced curtailment of the Project or making it impossible for the Transmission Provider to transmit Energy, including Energy to be delivered pursuant to this Agreement; provided that, if a curtailment of the Project pursuant to this subsection (a)(iv) would also meet the definition of a Curtailment Period, then it shall be treated as a Curtailment Period for purposes of Section 3.1(n).

(b) Force Majeure shall not be based on:

(i) Buyer's inability economically to use or resell the Product purchased hereunder;

(ii) Seller's ability to sell the Product at a price greater than the price set forth in this Agreement;

(iii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Project, including a delay that could constitute a Permitting Delay unless caused solely by an event of Force Majeure of the specific type described in any of subsections (a)(i) through (a)(iv) above;

(iv) Seller's inability to obtain sufficient fuel, power or materials to operate the Project, except if Seller's inability to obtain sufficient fuel, power or materials is caused solely by an event of Force Majeure of the specific type described in any of subsections (a)(i) through (a)(iv) above;

(v) Seller's failure to obtain additional funds, including funds authorized by a state or the federal government or agencies thereof, to supplement the payments made by Buyer pursuant to this Agreement;

(vi) a Forced Outage except where such Forced Outage is caused by an event of Force Majeure of the specific type described in any of subsections (a)(i) through (a)(iv) above;

(vii) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, the EPC Contractor or subcontractors thereof or any other third party employed by Seller to work on the Project;

(viii) any equipment failure except if such equipment failure is caused solely by an event of Force Majeure of the specific type described in any of subsections (a)(i) through (a)(iv) above; or

(ix) a Party's inability to pay amounts due to the other Party under this Agreement, except if such inability is caused solely by a Force Majeure event that disables physical or electronic facilities necessary to transfer funds to the payee Party.

1.111 "Force Majeure Failure" has the meaning set forth in Section 11.1(a).

1.112 "Forced Outage" means any unplanned reduction or suspension of the electrical output from the Project or unavailability of the Product in whole or in part from a Unit in response to any control system trip or operator-initiated trip in response to an alarm or equipment malfunction; or any other unavailability of the Project or a Unit for operation, in whole or in part, for maintenance or repair that is not a Planned Outage and not the result of Force Majeure.

1.113 "Forecasting Penalty" has the meaning set forth in Section 4.5(c)(iii), and "Forecasting Penalties" means more than one Forecasting Penalty.

1.114 [Intentionally Omitted].

1.115 "Full Capacity Deliverability Status" or "FCDS" has the meaning set forth in the CAISO Tariff except that it applies to any Generating Facility (as defined in the CAISO Tariff).

1.116 "Full Capacity Deliverability Status Finding" or "FCDS Finding" means a written confirmation from the CAISO that the Project is eligible for FCDS.

1.117 "Full Capacity Deliverability Status Seller" or "FCDS Seller" means a Seller that selected Full Capacity Deliverability Status in the Cover Sheet and either has previously obtained, or is obligated to obtain per the terms of the Agreement, a Full Capacity Deliverability Status Finding.

1.118 "Future Environmental Attributes" shall mean any and all emissions, air quality or other environmental attributes (other than Green Attributes or Renewable Energy Incentives) under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now, or in the future, to the generation of electrical energy by the Project. Future Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, or (ii) investment tax credits or production tax credits associated with the construction or operation of the Project, or other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation.

1.119 "Gains" means with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of the Transaction, determined in a commercially reasonable manner, subject to Section 5.3 hereof. Factors used in determining economic benefit may include reference to information either available to it internally or supplied by one or more third parties, including quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, market price referent, market prices for a comparable transaction, forward price curves based on economic analysis of the relevant markets, settlement prices for a comparable transaction at liquid trading platforms (e.g., NYMEX), all of which should be calculated for the remaining Delivery Term to determine the value of the Product.

1.120 “Generally Accepted Accounting Principles” means the standards for accounting and preparation of financial statements established by the Federal Accounting Standards Advisory Board (or its successor agency) or any successor standards adopted pursuant to relevant SEC rule.

1.121 “Generator Interconnection Agreement” or “GIA” means, for Projects interconnecting at the transmission level, the agreement and associated documents (or any successor agreement and associated documentation approved by FERC) by and among Seller, the Participating Transmission Owner, and the CAISO governing the terms and conditions of Seller’s interconnection with the CAISO Grid, including any description of the plan for interconnecting to the CAISO Grid. For Projects interconnecting at the distribution level, it means the agreement and associated documents (or any successor agreement and associated documentation) by and between Seller and the Participating Transmission Owner governing the terms and conditions of Seller’s interconnection with the Participating TO’s distribution system, including any description of the plan for interconnecting to Participating TO’s distribution system.

1.122 “Generator Interconnection Process” or “GIP” means the Generator Interconnection Procedures set forth in the CAISO Tariff or Participating TO’s tariff, as applicable, and associated documents; provided that if the GIP is replaced by such other successor procedures governing interconnection (a) to the CAISO Grid or Participating TO’s distribution system, as applicable, or (b) of generating facilities with an expected net capacity equal to or greater than the Project’s Contract Capacity, the term “GIP” shall then apply to such successor procedure.

1.123 “GEP Cure” has the meaning set forth in Section 3.1(e)(ii)(C)(I).

1.124 “GEP Damages” has the meaning set forth in Appendix V.

1.125 “GEP Failure” means Seller’s failure to produce Delivered Energy plus Deemed Delivered Energy in an amount equal to or greater than the Guaranteed Energy Production amount for the applicable Performance Measurement Period.

1.126 “GEP Shortfall” means the amount in MWh by which Seller failed to achieve the Guaranteed Energy Production in the applicable Performance Measurement Period.

1.127 “Good Utility Practice” has the meaning provided in the CAISO Tariff.

1.128 “Governmental Approval” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions and declarations of or with any governmental entity and shall include those siting and operating permits and licenses, and any of the foregoing under any applicable environmental Law, that are required for the construction, use and operation of the Project.

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

1.130 “Governmental Charges” has the meaning set forth in Section 9.2.

1.131 “Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (a) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides

(NO_x), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by Law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere;¹ (c) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state Law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local Law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any Energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

1.132 "Guaranteed Commercial Operation Date" has the meaning set forth in Section 3.9(c)(ii).

1.133 "Guaranteed Energy Production" or "GEP" has the meaning set forth in Section 3.1(e)(ii)(A).

1.134 "Guaranty" means a guaranty issued by an entity and in a form acceptable to Buyer in Buyer's sole discretion.

1.135 "Imbalance Energy" has the meaning set forth in the CAISO Tariff.

1.136 "Initial Energy Delivery Date" has the meaning set forth in Section 2.5(a).

1.137 [Intentionally Omitted].

1.138 "Interconnection Customer's Interconnection Facilities" has the meaning set forth in the CAISO Tariff or Participating TO's tariff, as applicable.

1.139 "Interconnection Facilities" has the meaning set forth in the CAISO Tariff.

1.140 "Interconnection Point" means the physical interconnection point of the Project as identified by Seller in Appendix XII.

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

1.141 “Interconnection Study” means any of the studies defined in the CAISO Tariff or, if applicable, any distribution provider’s tariff that reflect the methodology and costs to interconnect the Project to the Participating Transmission Owner’s electric grid.

1.142 “Integrated Forward Market” has the meaning set forth in the CAISO Tariff.

1.143 “Interest Amount” means, with respect to an Interest Period, the amount of interest calculated as follows: (a) the sum of (i) the principal amount of Performance Assurance in the form of cash held by Buyer during that Interest Period, and (ii) the sum of all accrued and unpaid Interest Amounts accumulated prior to such Interest Period; (b) multiplied by the Interest Rate in effect for that Interest Period; (c) multiplied by the number of days in that Interest Period; (d) divided by 360.

1.144 “Interest Payment Date” means the date of returning unused Performance Assurance held in the form of cash.

1.145 “Interest Period” means the monthly period beginning on the first day of each month and ending on the last day of each month.

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

1.147 “JAMS” means JAMS, Inc. or its successor entity, a judicial arbitration and mediation service.

1.148 “Law” means any statute, law, treaty, rule, regulation, CEC guidance document, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Execution Date, and which becomes effective after the Execution Date; or any binding interpretation of the foregoing. For purposes of 10.1(b), “Seller Representations and Warranties” and 10.9 “Governing Law”, the term “law” shall have the meaning set forth in this definition.

1.149 “Letter of Credit” means an irrevocable, non-transferable standby letter of credit, the form of which must be substantially as contained in Appendix I to this Agreement; provided, that, if the issuer is a U.S. branch of a foreign commercial bank, Buyer may require changes to such form; the issuer must be an Eligible LC Bank on the date of Transfer.

1.150 “Licensed Professional Engineer” means a person acceptable to Buyer in its reasonable judgment who (a) is licensed to practice engineering in California, (b) has training and experience in the power industry specific to the technology of the Project, (c) has no economic relationship, association, or nexus with Seller or Buyer, other than to meet the obligations of Seller pursuant to this Agreement, (d) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Project or of a manufacturer or supplier of any equipment installed at the Project, and (e) is licensed in an appropriate engineering discipline for the required certification being made.

1.151 “Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from the termination of the Transaction, determined in a commercially reasonable manner, subject to Section 5.3 hereof. Factors used in determining the loss of economic benefit may include reference to information either available to it internally or supplied by one or more third parties including quotations (either firm or indicative) of

relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, market price referent, market prices for a comparable transaction, forward price curves based on economic analysis of the relevant markets, settlement prices for a comparable transaction at liquid trading platforms (e.g. NYMEX), all of which should be calculated for the remaining term of the Transaction to determine the value of the Product.

1.152 “Master File” has the meaning set forth in the CAISO Tariff.

1.153 [Intentionally Omitted].

1.154 “Milestone(s)” means the key development activities required for the construction and operation of the Project, as set forth in Section B(i)(b) of the Cover Sheet.

1.155 “Minimum Load” has the meaning set forth in the CAISO Tariff.

1.156 “Minimum Down Time” has the meaning set forth in the CAISO Tariff.

1.157 “Monthly Payment for Excess Energy” has the meaning set forth in Section 4.4(b).

1.158 “Monthly Payment” has the meaning set forth in Section 4.2.

1.159 “Moody’s” means Moody’s Investors Service, Inc., or its successor.

1.160 “MW” means megawatt in alternating current or AC.

1.161 “MWh” means megawatt-hour.

1.162 “NERC” means the North American Electric Reliability Corporation or a successor organization that is responsible for establishing reliability criteria and protocols.

1.163 [Intentionally Omitted].

1.164 “Net Qualifying Capacity” has the meaning set forth in the CAISO Tariff.

1.165 “Network Upgrades” has the meaning set forth in the CAISO Tariff or the Participating TO’s tariff, as applicable.

1.166 “New Project” is a Project that has not achieved Commercial Operation on or prior to the Execution Date.

1.167 [Intentionally Omitted].

1.168 “Non-Defaulting Party” has the meaning set forth in Section 5.2.

1.169 “Notice,” unless otherwise specified in the Agreement, means written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, facsimile or electronic messaging (e-mail). The Cover Sheet contains the names and addresses to be used for Notices.

1.170 “Notice to Proceed” means the full notice to proceed, provided by Seller to the EPC Contractor following execution of the EPC Contract between Seller and such EPC Contractor and satisfaction of all conditions to performance of such contract, by which Seller authorizes such EPC Contractor to begin mobilization and construction of the Project without any delay or waiting periods.

- 1.171 “Operational Deliverability Assessment” has the meaning set forth in the CAISO Tariff.
- 1.172 “Outage Notification Procedures” means the procedures specified in Appendix VI, attached hereto. RCEA reserves the right to revise or change the procedures upon written Notice to Seller.
- 1.173 “Partial Capacity Deliverability Status” or “PCDS” has the meaning set forth in the CAISO Tariff.
- 1.174 “Partial Capacity Deliverability Status Amount” means the number of MW that the Project will obtain, as stated in the Deliverability type selected in Section A of the Cover Sheet.
- 1.175 “Partial Capacity Deliverability Status Finding” or “PCDS Finding” means a written confirmation from the CAISO that the Project is eligible for PCDS.
- 1.176 “Participating Intermittent Resource” or “PIRP” has the meaning set forth in the CAISO Tariff.
- 1.177 “Participating Transmission Owner” or “Participating TO” means an entity that (a) owns, operates and maintains transmission lines and associated facilities and/or has entitlements to use certain transmission lines and associated facilities and (b) has transferred to the CAISO operational control of such facilities and/or entitlements to be made part of the CAISO Grid.
- 1.178 “Party” means the Buyer or Seller individually, and “Parties” means both collectively. For purposes of Section 10.9, Governing Law, the word “party” or “parties” shall have the meaning set forth in this definition.
- 1.179 “Performance Assurance” means collateral provided by Seller to Buyer to secure Seller’s obligations hereunder and includes Project Development Security and Delivery Term Security, as applicable. Acceptable forms of collateral are cash or a Letter of Credit or a Guaranty as designated in Section E of the Cover Sheet. The required form of Letter of Credit is attached hereto in Appendix I.
- 1.180 “Performance Measurement Period” has the meaning set forth in Section 3.1(e)(ii)(A).
- 1.181 “Performance Tolerance Band” shall be calculated as set forth in Section 4.5(c)(ii).
- 1.182 [Intentionally Omitted].
- 1.183 [Intentionally Omitted].
- 1.184 [Intentionally Omitted].
- 1.185 “Planned Outage” means the removal of equipment from service availability for inspection and/or general overhaul of one or more major equipment groups. To qualify as a Planned Outage, the maintenance (a) must actually be conducted during the Planned Outage, and in Seller’s sole discretion must be of the type that is necessary to reliably maintain the Project, (b) cannot be reasonably conducted during Project operations, and (c) causes the generation level of the Project to be reduced by at least ten percent (10%) of the Contract Capacity.
- 1.186 “PMax” has the meaning set forth in the CAISO Tariff.
- 1.187 “PNode” has the meaning set forth in the CAISO Tariff.

1.188 “Portfolio Content Category 1” means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

1.189 “Preamble” means the paragraph that precedes Article One: General Definitions to this Agreement.

1.190 “Preschedule Day” has the meaning set forth in Section 3.4(c)(iii)(C).

1.191 “Product” means the Energy, capacity, Ancillary Services, and all products, services and/or attributes similar to the foregoing which are or can be produced by or associated with the Project and which is specified by Seller in the Cover Sheet and thereby committed to Seller by this Agreement, including renewable attributes, Renewable Energy Credits, Capacity Attributes and Green Attributes.

1.192 “Production Tax Credit” or “PTC” means the tax credit for electricity produced from certain renewable generation resources described in Section 45 of the Internal Revenue Code of 1986, as it may be amended or supplemented from time to time throughout the Delivery Term or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind or other renewable energy resources for which Seller, as the owner of the Project, is eligible.

1.193 “Progress Report” means the report similar in form and content to that attached hereto as Appendix III.

1.194 “Project” means all of the Unit(s) and the Site at which the generating facility is located and the other assets, tangible and intangible, that compose the generation facility, including the assets used to connect the Unit(s) to the Interconnection Point, as more particularly described in the Cover Sheet.

1.195 “Project Development Security” is the collateral required of Seller, as specified and referred to in Section 8.3(a).

1.196 “Project Specifications” has the meaning set forth in Appendix XII.

1.197 “Prolonged Outage” is any period of more than thirty (30) consecutive days during which the Project is or will be unable, for whatever reason, to provide at least sixty percent (60%) of the Contract Capacity.

1.198 “PTC Amount” means the amount, on a dollar per MWh basis, equal to the Production Tax Credits for which Seller is eligible in respect of energy from the Project at the time for which the PTC Amount is being determined, grossed up on an After Tax Basis at the then-highest marginal combined federal, state, and local corporate tax rate.

1.199 [Intentionally Omitted].

1.200 [Intentionally Omitted].

1.201 [Intentionally Omitted].

1.202 [Intentionally Omitted].

- 1.203 [Intentionally Omitted].
- 1.204 “Ramp Rate” has the meaning set forth in the CAISO Tariff.
- 1.205 “Real-Time Market” means any existing or future intra-day market conducted by the CAISO occurring after the Day-Ahead Market.
- 1.206 “Real-Time Price” means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.
- 1.207 “Reductions” has the meaning set forth in Section 4.6(b).
- 1.208 “Reliability Coordinator” has the meaning set forth in the CAISO Tariff.
- 1.209 [Intentionally Omitted].
- 1.210 “Reliability Network Upgrade” has the meaning set forth in the CAISO Tariff.
- 1.211 “Renewable Energy Credit” has the meaning set forth in California Public Utilities Code Section 399.12(h) and CPUC Decision 08-08-028, as may be amended from time to time or as further defined or supplemented by Law.
- 1.212 “Replacement Capacity Rules” means the replacement requirement for Resource Adequacy Capacity (as defined in the CAISO Tariff) associated with a Planned Outage as set forth in the CAISO Tariff or successor replacement requirements as prescribed by the CPUC, CAISO and/or other regional entity.
- 1.213 “Resource Adequacy” means the procurement obligation of load serving entities, including Buyer, as such obligations are described in CPUC Decisions D.04-01-050, 04-10-035 and 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031 and any other existing or subsequent decisions, resolutions or rulings addressing Resource Adequacy issues, as those obligations may be altered from time to time in the CPUC Resource Adequacy Rulemakings (R.) 04-04-003, 05-12-013, 14-10-10, and 17-09-020 or by any successor proceeding, and all other Resource Adequacy obligations established by any other entity, including the CAISO.
- 1.214 “Resource Adequacy Plan” has the meaning set forth in the CAISO Tariff.
- 1.215 “Resource Adequacy Requirements” has the meaning set forth in Section 3.3.
- 1.216 “Resource Adequacy Standards” means (a) the Program set forth in Section 40.9 of the CAISO Tariff and (b) any future program or provision under the CAISO Tariff providing for availability standards or similar standards with respect to any flexible Resource Adequacy resource, product, or procurement obligation; in the case of (a) or (b), as any such program or provision may be amended, supplemented, or replaced (in whole or in part) from time to time, setting forth certain standards regarding the desired level of availability for Resource Adequacy resources and possible changes and incentive payments for performance thereunder.
- 1.217 “Resource-Specific Settlement Interval LMP” has the meaning set forth in the CAISO Tariff.

- 1.218 [Intentionally Omitted].
- 1.219 [Intentionally Omitted].
- 1.220 “S&P” means the Standard & Poor’s Financial Services, LLC (a subsidiary of The McGraw-Hill Companies, Inc.) or its successor.
- 1.221 “Satisfaction Date” has the meaning set forth in Section 2.5.
- 1.222 “Schedule” has the meaning set forth in the CAISO Tariff.
- 1.223 “Scheduling Coordinator” or “SC” means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff, for the purposes of undertaking the functions specified in “Responsibilities of a Scheduling Coordinator” of the CAISO Tariff, as amended from time to time.
- 1.224 “SEC” means the U.S. Securities and Exchange Commission.
- 1.225 “Self-Schedule” has the meaning set forth in the CAISO Tariff.
- 1.226 “Seller” has the meaning set forth in the Cover Sheet.
- 1.227 “Seller Excuse Hours” means those hours during which Seller is unable to deliver Delivered Energy to Buyer as a result of (a) a Force Majeure event, (b) Buyer’s failure to perform, or (c) Curtailment Period.
- 1.228 “Seller’s WREGIS Account” has the meaning set forth in Section 3.1(k)(i).
- 1.229 “Settlement Amount” means the amount in US dollars equal to the sum of Losses, Gains, and Costs, which the Non-Defaulting Party incurs as a result of the termination of this Agreement.
- 1.230 “Settlement Interval” has the meaning set forth in the CAISO Tariff.
- 1.231 “Settlement Interval Actual Available Capacity” means the sum of the capacity, in MWs, of all generating units of the Project that were available as of the end of such Settlement Interval, as indicated by the Actual Availability Report.
- 1.232 “Shared Contract Year” has the meaning set forth in Section 3.1(e)(ii)(C)(I).
- 1.233 “Site” means the location of the Project as described in Appendix XII.
- 1.234 “Start-up” means the action of bringing a Unit from non-operation to operation at or above the Unit’s Minimum Load, or with positive generation output if Minimum Load is zero.
- 1.235 “Station Use” means all energy consumption necessary for the generation of electricity that can be supplied by the Project itself while it is generating electricity, and any loads not separately metered from any station use load. For a biomass facility, the energy demand to transport the biomass material that has undergone all processing necessary for consumption in the biomass boiler into the boiler, using stationary equipment (or at least stationary while operating) is considered station use.
- 1.236 “Surplus Delivered Energy” means, in any Settlement Interval, the Energy produced from the Project as measured in MWh at the CAISO revenue meter of the Project and in accordance with the

CAISO Tariff, including any applicable adjustments for power factor and Electrical Losses, that exceeds the product of [REDACTED] percent ([REDACTED]%) of Contract Capacity multiplied by the duration of the Settlement Interval, expressed in hours.

1.237 “Supply Plan” has the meaning set forth in the CAISO Tariff.

1.238 “System Emergency” has the meaning set forth in the CAISO Tariff.

1.239 [Intentionally Omitted].

1.240 “Terminated Transaction” means the Transaction terminated in accordance with Section 5.2 of this Agreement.

1.241 “Termination Payment” means the payment amount equal to the sum of (a) and (b), where (a) is the Settlement Amount and (b) is the sum of all amounts owed by the Defaulting Party to the Non-Defaulting Party under this Agreement, less any amounts owed by the Non-Defaulting Party to the Defaulting Party determined as of the Early Termination Date.

1.242 “Test Energy” means Delivered Energy (a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Energy from the Project to the CAISO and (ii) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to parallel and (b) ending upon the occurrence of the Commercial Operation Date.

1.243 “Third-Party SC” means a qualified third party designated by Buyer to provide the Scheduling Coordinator functions for the Project pursuant to this Agreement. For purposes of this Agreement, and subject to replacement as provided in Section 3.4(c)(iv)(B), Buyer has designated The Energy Authority (“TEA”) to act as its Third-Party SC. All references and provisions in this Agreement to Buyer acting in its capacity as Scheduling Coordinator shall mean and include the designated Third-Party SC regardless of whether the reference or provision in this Agreement expressly states “Third-Party SC.”

1.244 “Transaction” means the particular transaction described in its entirety in Section 3.1(b) of this Agreement.

1.245 “Transfer” with respect to Letters of Credit means the delivery of the Letter of Credit conforming to the requirements of this Agreement, by Seller or an Eligible LC Bank to Buyer or delivery of an executed amendment to such Letter of Credit (extending the term or varying the amount available to Buyer thereunder, if acceptable to Buyer) by Seller or Eligible LC Bank to Buyer.

1.246 [Intentionally Omitted].

1.247 “Transmission Provider” means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point.

1.248 “Uninstructed Imbalance Energy” shall have the meaning set forth in the CAISO Tariff.

1.249 “Unit” means the technology used to produce the Products, which are identified in the Cover Sheet for the Transaction entered into under this Agreement.

1.250 [Intentionally Omitted].

1.251 “WECC” means the Western Electricity Coordinating Council or successor agency.

1.252 “Work” means (a) work or operations performed by a Party or on a Party’s behalf, and (b) materials, parts or equipment furnished in connection with such work or operations, including (i) warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “a Party’s work”, and (ii) the providing of or failure to provide warnings or instructions.

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

1.254 “WREGIS Certificate Deficit” has the meaning set forth in Section 3.1(k)(v).

1.255 “WREGIS Certificates” has the same meaning as “Certificate” as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

1.256 “WREGIS Operating Rules” means those operating rules and requirements adopted by WREGIS as of May 1, 2018, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

ARTICLE TWO: GOVERNING TERMS AND TERM

2.1 Entire Agreement. This Agreement, together with the Cover Sheet, Preamble and each and every appendix, attachment, amendment, schedule and any written supplements hereto, if any, between the Parties constitutes the entire, integrated agreement between the Parties.

2.2 Interpretation. The following rules of interpretation shall apply in addition to those set forth in Section 10.10:

(a) The term “month” or “Month” shall mean a calendar month unless otherwise indicated, and a “day” shall be a 24-hour period beginning at 12:00:01 a.m. Pacific Prevailing Time and ending at 12:00:00 midnight Pacific Prevailing Time; provided that a “day” may be 23 or 25 hours on those days on which daylight savings time begins and ends.

(b) Unless otherwise specified herein, all references herein to any agreement or other document of any description shall be construed to give effect to amendments, supplements, modifications or any superseding agreement or document as then existing at the applicable time to which such construction applies.

(c) Capitalized terms used in this Agreement, including the appendices hereto, shall have the meaning set forth in Article One, unless otherwise specified.

(d) Unless otherwise specified herein, references in the singular shall include references in the plural and vice versa, pronouns having masculine or feminine gender will be deemed to include the other, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal personality). Other grammatical forms of defined words or phrases have corresponding meanings.

(e) References to a particular article, section, subsection, paragraph, subparagraph, appendix or attachment shall, unless specified otherwise, be a reference to that article, section, subsection, paragraph, subparagraph, appendix or attachment in or to this Agreement.

(f) Any reference in this Agreement to any natural person, Governmental Authority, corporation, partnership or other legal entity includes its permitted successors and assigns or any natural person, Governmental Authority, corporation, partnership or other legal entity succeeding to its functions.

(g) All references to dollars are to U.S. dollars.

(h) The term “including” when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation.

2.3 Authorized Representatives. Each Party shall provide Notice to the other Party of the persons authorized to nominate and/or agree to a Schedule or dispatch order for the delivery or acceptance of the Product or make other Notices on behalf of such Party and specify the scope of their individual authority and responsibilities, and may change its designation of such persons from time to time in its sole discretion by providing Notice.

2.4 Conditions Precedent.

(a) Conditions Precedent. The Delivery Term shall not commence until the occurrence of all of the following:

(i) Seller shall have delivered to Buyer a certification of a Licensed Professional Engineer, substantially in the form attached hereto as Attachment A to Appendix IV-2;

(ii) A Participating Generator Agreement (as defined in the CAISO Tariff) and a Meter Service Agreement (as defined in the CAISO Tariff) between Seller and CAISO shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;

(iii) A GIA between Seller and the PTO shall have been executed and delivered and be in full force and effect and a copy of the GIA delivered to Buyer;

(iv) All applicable regulatory authorizations, approvals and permits for the operation of the Project have been obtained (or if not obtained, applied for and reasonably expected to be received within 90 days) and all conditions thereof that are capable of being satisfied on the Commercial Operation Date have been satisfied and shall be in full force and effect;

(v) Seller has received the requisite pre-certification of the CEC Certification and Verification;

(vi) Seller, with the reasonable participation of Buyer, shall (a) have completed all applicable WREGIS registration requirements that are reasonably capable of being completed prior to the Commercial Operation Date under WREGIS rules, including (as applicable) the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Project, QRE service agreements, and other appropriate documentation, all as required to effect Project registration with WREGIS and to enable Renewable Energy Credit transfers related to the Project within the WREGIS system and (b) shall have completed or provided all other documentation mandated by the CEC, CPUC, or other state agency, or CAISO to be provided prior to the Commercial Operation Date of the Project in order for Buyer to meet any RPS requirement or integrated planning requirement relating to the Project and that is available to Seller and not otherwise already available to Buyer;

(vii) Seller has delivered the Performance Assurance to Buyer in accordance with Section 8.3; and

(viii) Seller has paid Buyer for all amounts owing under this Agreement as of the Commercial Operation Date, if any, including Daily Delay Damages and Commercial Operation Delay Damages.

2.5 Delivery Term.

(a) The Delivery Term shall mean the period of Contract Years specified on the Cover Sheet and commences on the first date that Buyer accepts delivery of the Product from the Project in connection with this Agreement following Seller's satisfaction of the Conditions Precedent set forth in Section 2.4(a) ("Initial Energy Delivery Date") and shall remain in effect until the conclusion of the Delivery Term unless terminated sooner pursuant to Section 5.2 or Section 11.1 of this Agreement; provided that this Agreement shall thereafter remain in effect (i) until the Parties have fulfilled all

obligations with respect to the Transaction, including payment in full of amounts due pursuant to the Final True-Up, the Settlement Amount, or other damages (whether directly or indirectly such as through set-off or netting) and the undrawn portion of the Project Development Security or Delivery Term Security, is released and/or returned as applicable (the “Satisfaction Date”) or (ii) in accordance with the survival provisions set forth in subpart (b) below. The Initial Energy Delivery Date shall be the date listed as the Initial Energy Delivery Date on the Initial Energy Delivery Date Confirmation Letter attached as Appendix II, and the Parties shall execute and exchange the Initial Energy Delivery Date Confirmation Letter, attached hereto as Appendix II, as soon as practicable after the Initial Energy Delivery Date.

(b) Notwithstanding anything to the contrary in this Agreement, (i) all rights under Section 10.4 (“Indemnities”) and any other indemnity rights shall survive the Satisfaction Date or the end of the Term (whichever is later) for an additional twelve (12) months; (ii) all rights and obligations under Section 10.6 (“Confidentiality”) shall survive the Satisfaction Date or the end of the Term (whichever is later) for an additional two (2) years; and (iii) the right of first offer in Section 11.1(b) shall survive the Satisfaction Date for three (3) years.

2.6 [Intentionally Omitted].

2.7 Binding Nature.

(a) This Agreement shall be in full force and effect, enforceable and binding in all respects, upon occurrence of the Effective Date.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Seller’s and Buyer’s Obligations.

(a) Product. The Product to be delivered and sold by Seller and received and purchased by Buyer under this Agreement is set forth in the Cover Sheet. Subject to the terms of this Agreement, (i) Seller is obligated to sell and deliver and (ii) Buyer is obligated to purchase and receive, the Energy component of As-Available Product from the Project whenever such Energy is capable of being generated from the Project.

(b) Transaction. Unless specifically excused by the terms of this Agreement during the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Product at the Delivery Point. Buyer shall pay Seller the Contract Price in accordance with the terms of this Agreement. In no event shall Seller have the right to procure any element of the Product from sources other than the Project for sale or delivery to Buyer under this Agreement except with respect to Energy delivered to Buyer in connection with Energy Deviations or Variations, as applicable. Buyer shall have no obligation to receive or purchase Product from Seller prior to or after the Delivery Term, except for Test Energy pursuant to Section 3.1(p). Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product after its receipt at and from the Delivery Point. Each Party agrees to act in good faith in the performance of its obligations under this Agreement.

(c) [Intentionally Omitted].

(d) Delivery Point. The Delivery Point shall be the PNode designated by the CAISO for the Project.

(e) Contract Quantity and Guaranteed Energy Production.

(i) Contract Quantity. The Contract Quantity during each Contract Year is the amount set forth in the applicable Contract Year in Section D of the Cover Sheet (“Delivery Term Contract Quantity Schedule”), which amount is inclusive of outages.

(ii) Guaranteed Energy Production.

(A) Throughout the Delivery Term, Seller shall be required to provide to Buyer an amount of Delivered Energy plus Deemed Delivered Energy, if any, no less than the Guaranteed Energy Production over two (2) consecutive Contract Years during the Delivery Term (“Performance Measurement Period”). “Guaranteed Energy Production” is equal to the product of (x) and (y), where (x) is [REDACTED] percent ([REDACTED]%) of the average of the Contract Quantities applicable to the two (2) Contract Years comprising the Performance Measurement Period, and (y) is the difference between (I) and (II), with the resulting difference divided by (I), where (I) is the number of hours in the applicable Performance Measurement Period and (II) is the aggregate number of Seller Excuse Hours in the applicable Performance Measurement Period. Guaranteed Energy Production is described by the following formula:

Guaranteed Energy Production = ([REDACTED] % × average of the Contract Quantities in MWh in Performance Measurement Period) × [(Hrs in Performance Measurement Period – Seller Excuse Hrs in Performance Measurement Period) / Hrs in Performance Measurement Period]

(B) In no event shall any amount of Delivered Energy plus Deemed Delivered Energy in any Settlement Interval that exceeds the Contract Capacity be credited toward or added to Seller’s Guaranteed Energy Production requirement.

(C) GEP Failure, GEP Cure, Damages.

(I) If Seller has a GEP Failure, then within forty-five (45) days after the last day of the last month of such Performance Measurement Period, Buyer shall promptly provide Notice to Seller of such failure, provided that Buyer’s failure to provide Notice shall not constitute as a waiver of Buyer’s rights to collect GEP damages. Seller may cure the GEP Failure by providing to Buyer an amount of Delivered Energy plus Deemed Delivered Energy, if any, that is no less than [REDACTED] percent ([REDACTED]%) of the Contract Quantity, subject to adjustment for Seller Excuse Hours over the next following Contract Year, as set forth in the formula below (“GEP Cure”).

GEP Cure = [REDACTED] % × Contract Quantity in MWh × [(Hrs in next following Contract Year – Seller Excuse Hrs in next following Contract Year) / Hrs in next following Contract Year]

If Seller fails to provide sufficient Delivered Energy plus Deemed Delivered Energy, if any, as adjusted by Seller Excuse Hours, to qualify for the GEP Cure for a given Performance Measurement Period, Seller shall pay GEP Damages, calculated pursuant to Appendix V (“GEP Damages Calculation”). If Seller provides a GEP Cure or pays GEP Damages for the Contract Years in a particular Performance Measurement Period (“Cured Performance Measurement Period”), then for purposes of calculating the Guaranteed Energy Production in the following Performance Measurement Period, the amount of Delivered Energy plus Deemed Delivered Energy in the second Contract Year of the Cured Performance Measurement Period, which is also the first Contract Year of the following Performance Measurement Period (“Shared Contract Year”), shall be deemed equal to the greater of (X) the Delivered Energy plus Deemed Delivered Energy, if any, for the Shared Contract Year, subject to adjustment for Seller Excuse Hours, or (Y) [REDACTED] percent ([REDACTED]%) of Contract Quantity in the Shared Contract Year, where X and Y are calculated as follows:

$X = (\text{Delivered Energy} + \text{Deemed Delivered Energy in Shared Contract Year}) \times [\text{Hrs in Shared Contract Year} / (\text{Hrs in Shared Contract Year} - \text{Seller Excuse Hours in Shared Contract Year})]$ or;

$Y = \blacksquare \% \times \text{Contract Quantity in Shared Contract Year}$

For the avoidance of doubt, the calculation set forth above for the amount of Delivered Energy plus Deemed Delivered Energy for the Shared Contract Year shall not apply to the cumulative GEP Shortfall under Section 5.1(b)(iv)(B).

(II) The Parties agree that the damages sustained by Buyer associated with Seller's failure to achieve the Guaranteed Energy Production requirement would be difficult or impossible to determine, or that obtaining an adequate remedy would be unreasonably time consuming or expensive and therefore agree that Seller shall pay the GEP Damages to Buyer as liquidated damages. In no event shall Buyer be obligated to pay GEP Damages.

(III) After the GEP Cure period has run, if Seller has not achieved the GEP Cure, Buyer shall have forty-five (45) days to notify Seller of such failure. Within forty-five (45) days of the end of the GEP Cure period, Buyer shall provide Notice to Seller in writing of the amount of the GEP Damages, if any, which Seller shall pay within sixty (60) days of receipt of the Notice (the "Cure Payment Period"). If Seller does not pay the GEP Damages within the Cure Payment Period, then Buyer may, at its option, declare an Event of Default pursuant to Section 5.1(b)(iv)(A) within ninety (90) days following the Cure Payment Period. If Seller has failed to pay the GEP Damages, and Buyer does not (1) notify Seller of the GEP Failure or (2) declare an Event of Default pursuant to Section 5.1(b)(iv) within the ninety (90) day period, then Buyer shall be deemed to have waived its right to declare an Event of Default based on Seller's failure with respect to the Performance Measurement Period which served as the basis for the notice of GEP Failure, GEP Damages, or default, subject to the limitations set forth in Section 5.1(b)(iv)(B).

(f) Contract Capacity. The generation capability designated for the Project shall be the contract capacity in MW designated in the Cover Sheet, (the "Contract Capacity"), which shall be equal to the result of the Contract Capacity calculation performed in accordance with Section II of Appendix XII. Throughout the Delivery Term, Seller shall sell and deliver all Product produced by the Project solely to Buyer. In no event shall Buyer be obligated to receive, in any Settlement Interval, any Surplus Delivered Energy. Seller shall not receive payment for any Surplus Delivered Energy. To the extent Seller delivers Surplus Delivered Energy to the Delivery Point in a Settlement Interval in which the Real-Time Price for the applicable PNode is negative, Seller shall pay Buyer an amount equal to the Surplus Delivered Energy (in MWh) during such Settlement Interval, multiplied by the absolute value of the Real-Time Price per MWh for such Settlement Interval.

(g) Project.

(i) All Product provided by Seller pursuant to this Agreement shall be supplied from the Project only. Seller shall not make any alteration or modification to the Project which results in a change to the Contract Capacity of the Project without Buyer's prior written consent. The Project is further described in Appendix XII.

(ii) Seller shall not relinquish its possession or demonstrable exclusive right to control the Project without the prior written consent of Buyer, except under circumstances provided in Section 10.5.

(h) Interconnection Facilities.

(i) Seller Obligations. Seller shall (A) arrange and pay independently for any and all necessary costs under any Generator Interconnection Agreement with the Participating Transmission Owner; (B) cause the Interconnection Customer's Interconnection Facilities, including metering facilities, to be maintained; and (C) comply with the procedures set forth in the GIP and applicable agreements or procedures provided under the GIP in order to obtain the applicable Electric System Upgrades and (D) obtain Electric System Upgrades, as needed, in order to ensure the safe and reliable delivery of Energy from the Project up to and including quantities that can be produced utilizing all of the Contract Capacity of the Project.

(ii) Coordination with Buyer.

(A) Seller shall (I) provide to Buyer copies of all material correspondence related thereto; and (II) provide Buyer with written reports of the status of the GIA on a monthly basis. The foregoing shall not preclude Seller from executing a GIA that it reasonably determines allows it to comply with its obligations under this Agreement and applicable Law.

(i) Performance Excuses.

(i) Seller Excuse. For Seller selling As-Available Product, Seller shall be excused from achieving the Guaranteed Energy Production only for the applicable time period during Seller Excuse Hours.

(ii) Buyer Excuses. Buyer shall be excused from (A) receiving and paying for the Product only (I) during periods of Force Majeure, (II) by Seller's failure to perform, (III) during Curtailment Periods and (B) receiving Product during Buyer Curtailment Periods.

(iii) Curtailment. Notwithstanding Section 3.1(b) and this Section 3.1(i), Seller shall reduce output from the Project during any Curtailment Period or Buyer Curtailment Period.

(j) Greenhouse Gas Emissions Reporting. During the Term, Seller acknowledges that a Governmental Authority may require Buyer to take certain actions with respect to greenhouse gas emissions attributable to the generation of Energy, including reporting, registering, tracking, allocating for or accounting for such emissions. Promptly following Buyer's written request, Seller agrees to take all commercially reasonable actions and execute or provide any and all documents, information or instruments with respect to generation by the Project reasonably necessary to permit Buyer to comply with such requirements, if any. Nothing in this Section 3.1(j) shall cause Buyer to assume any liability or obligation with respect to Seller's compliance obligations with respect to the Project under any new or existing Laws, rules, or regulations.

(k) WREGIS. Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Delivered Energy and Surplus Delivered Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such

WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section 3.1(k)(viii), provided that Seller fulfills its obligations under Sections 3.1(k)(i) through (vii) below. In addition:

(i) Prior to the Initial Energy Delivery Date, Seller shall register the Project with WREGIS and establish an account with WREGIS (“Seller’s WREGIS Account”), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using “Forward Certificate Transfers” (as described in the WREGIS Operating Rules) from Seller’s WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller (“Buyer’s WREGIS Account”). Seller shall be responsible for all expenses associated with registering the Project with WREGIS, establishing and maintaining Seller’s WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller’s WREGIS Account to Buyer’s WREGIS Account.

(ii) Seller shall cause Forward Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(iii) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Delivered Energy for such calendar month as evidenced by the Project’s metered data.

(iv) Due to the ninety (90) day delay in the creation of WREGIS Certificates relative to the timing of invoice payment under Article 6, Buyer shall make an invoice payment for a given month in accordance with Article 6 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 3.1(k). Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Article 6.

(v) A “WREGIS Certificate Deficit” means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Delivered Energy for the same calendar month (“Deficient Month”). If any WREGIS Certificate Deficit is caused, or the result of any action or inaction, by Seller, then the amount of Delivered Energy in the Deficient Month shall be reduced by the amount of the WREGIS Certificate Deficit for the purposes of calculating Buyer’s payment(s) to Seller under Article 6 and the Guaranteed Energy Production for the applicable Performance Measurement Period. Any amount owed by Seller to Buyer because of a WREGIS Certificate Deficit shall be made as an adjustment to Seller’s next monthly invoice to Buyer in accordance with Article 6, and Buyer shall net such amount against Buyer’s subsequent payment(s) to Seller pursuant to Article 6.

(vi) Without limiting Seller’s obligations under this Section 3.1(k), if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(vii) If WREGIS changes the WREGIS Operating Rules after the Execution Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 3.1(k) after the Execution Date, the Parties promptly shall modify this Section 3.1(k) as reasonably required to cause and enable Seller to transfer to Buyer’s WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Delivered Energy in the same calendar month.

(viii) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract.

(l) Access to Data

(i) Commencing on the first date on which the Project generates Product to be delivered to the CAISO Grid or the Delivery Point, if different, and continuing throughout the Term, Seller shall provide to Buyer, in a form reasonably acceptable to Buyer, the data set forth below on a real-time basis; provided that Seller shall agree to make and bear the cost of changes to any of the data delivery provisions below, as requested by Buyer, throughout the Term, which changes Buyer determines are necessary to forecast output from the Project, and/or comply with Law:

(A) read-only access to meteorological measurements and transformer availability, any other facility availability information;

(B) read-only access to energy output information collected by the supervisory control and data acquisition (SCADA) system for the Project;

(C) read-only access to the Project's CAISO revenue meter and all Project meter data at the Site;

(D) full, real-time access to the Project's CAISO Outage Management System ("OMS") client application, or its successor system;

(E) net plant electrical output at the CAISO revenue meter;

(F) instantaneous data measurements at sixty (60) second or increased frequency for the parameters set forth in Appendix X ("Telemetry Parameters for Wind Facilities"), which measurements shall be provided by Seller to Buyer in consolidated data report at least once every five minutes via flat file through a secure file transport protocol (FTP) system with an e-mail backup; and

(G) an equation, updated on an ongoing basis to reflect the potential generation of the Project as a function wind speed, wind direction, ambient temperature, atmospheric pressure. Such equation shall take into account the expected availability of the facility.

For any month in which the above information and access is not available to Buyer for longer than twenty-four (24) continuous hours, Seller shall prepare and provide to Buyer upon Buyer's request a report with the Project's monthly Settlement Interval Actual Available Capacity in the form set forth in Appendix IX ("Actual Availability Report"). Upon Buyer's request, Seller shall promptly provide to Buyer any additional and supporting documentation necessary for Buyer to audit and verify any matters set forth in the Actual Availability Report. Buyer shall exercise commercially reasonable efforts to notify Seller of any deficiency by Seller in meeting the requirements of this Section 3.1(l)(i); provided that any failure by Buyer to provide such deficiency notice shall not result in any additional liability to Buyer under this Agreement.

(ii) Seller shall maintain at least a minimum of one hundred twenty (120) days' historical data for all data required pursuant to Section 3.1(l)(i), which shall be available on a minimum time interval of one hour basis or an hourly average basis, except with respect to the

meteorological measurements which shall be available on a minimum time interval of ten (10) minute basis. Seller shall provide such data to Buyer within five (5) Business Days of Buyer's request.

(iii) Installation, Maintenance and Repair.

(A) Seller, at its own expense, shall install and maintain a secure communication link in order to provide Buyer with access to the data required in Section 3.1(l)(i) of this Agreement.

(B) Seller shall maintain the meteorological stations, telecommunications path, hardware, and software necessary to provide accurate data to Buyer or Third-Party SC (as applicable) to enable Buyer or the Third-Party SC to meet current CAISO scheduling requirements. Seller shall promptly repair and replace as necessary such meteorological stations, telecommunications path, hardware and software and shall notify Buyer as soon as Seller learns that any such telecommunications paths, hardware and software are providing faulty or incorrect data.

(C) If Buyer notifies Seller of the need for maintenance, repair or replacement of the meteorological stations, telecommunications path, hardware or software, Seller shall maintain, repair or replace such equipment as necessary within five (5) days of receipt of such Notice.

(D) For any occurrence in which Seller's telecommunications system is not available or does not provide quality data and Buyer notifies Seller of the deficiency or Seller becomes aware of the occurrence, Seller shall transmit data to Buyer through any alternate means of verbal or written communication, including cellular communications from onsite personnel, facsimile, blackberry or equivalent mobile e-mail, or other method mutually agreed upon by the Parties, until the telecommunications link is re-established.

(iv) Seller agrees and acknowledges that Buyer may seek from third parties any information relevant to its duties as SC for Seller, including from the Participating Transmission Owner. Seller hereby voluntarily consents to allow the Participating Transmission Owner to share Seller's information with Buyer in furtherance of Buyer's duties as SC for Seller, and agrees to provide the Participating Transmission Owner with written confirmation of such voluntary consent at least ninety (90) days prior to the Initial Energy Delivery Date.

(v) No later than ninety (90) days before the Initial Energy Delivery Date, Seller shall provide one (1) year, if available, but no less than six (6) months, of recorded meteorological data to Buyer in a form reasonably acceptable to Buyer from a weather station at the Site. Such weather station shall provide, via remote access to Buyer, all data relating to (A) wind speed and direction (as close to hub height as possible), standard deviation of wind direction, peak instantaneous values, air temperature, barometric pressure, and humidity at the Site, as well as time-average data including 10-minute and hourly values of irradiance or insolation, air temperature, wind speed, wind direction, standard deviation of wind direction, relative humidity, precipitation, barometric pressure. All data, except peak values, should be 1-second samples averaged into 10-minute periods; (B) elevation, latitude and longitude of the weather station; and (C) any other data reasonably requested by Buyer.

(m) Obtaining and Maintaining CEC Certification and Verification. Seller shall take all necessary steps including making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification throughout the Term.

(n) Curtailment Requirements.

(i) Order. Seller shall reduce generation from the Project as required pursuant to a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, provided that (A) a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order shall be consistent with the operational characteristics set forth in Section F of the Cover Sheet; (B) the Buyer Curtailment Period shall be for the number of hours set forth in Section F of the Cover Sheet during the Delivery Term and (C) Buyer shall pay Seller for Deemed Delivered Energy associated with a Buyer Curtailment Period pursuant to Article 4. Seller agrees to reduce the Project's generation by the amount and for the period set forth in the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order.

(ii) Failure to Comply. If Seller fails to comply with a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order provided in compliance with Section 3.1(n)(i), then, for each MWh of Delivered Energy that the Project generated in contradiction to the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, Seller shall pay Buyer for each such MWh at an amount equal to the sum of (A) + (B) + (C), where: (A) is the amount, if any, paid to Seller by Buyer for delivery of such MWh (for example, the Contract Price) and, (B) is the absolute value of the Real-Time Price for the applicable Pnode, if such price is negative, for the Buyer Curtailment Period or Curtailment Period, and (C) is any penalties or other charges resulting from Seller's failure to comply with the Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order.

(o) Seller Equipment Required for Curtailment Instruction Communications. Seller shall acquire, install, and maintain such facilities, communications links and other equipment, and implement such protocols and practices, as necessary to respond and follow instructions, including an electronic signal conveying real time and intra-day instructions, to operate the Units as directed by the Buyer and/or a Governmental Authority, including to implement a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order in accordance with the then-current methodology used to transmit such instructions as it may change from time to time. If at any time during the Delivery Term Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies, Seller shall take the steps necessary to become compliant as soon as commercially reasonably possible. Seller shall be liable pursuant to Section 3.1(n)(ii) for failure to comply with a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order, during the time that Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies. For the avoidance of doubt, a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order communication via such systems and facilities shall have the same force and effect on Seller as any other form of communication.

(p) Test Energy. Buyer shall purchase all Test Energy that is available from the Project prior to the Delivery Term. As compensation for such Test Energy, Buyer shall pay Seller an amount equal to ■■■ percent (■■■%) of the Contract Price. For the avoidance of doubt, the Conditions Precedent in Section 2.4(a) are not applicable to the Parties' obligations under this Section 3.1(p).

3.2 Green Attributes.

(a) Seller hereby provides and conveys all Green Attributes associated with all Delivered Energy and Surplus Delivered Energy from the Project to Buyer as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Project, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Project. Notwithstanding the foregoing, Seller shall not be obligated to convey to Buyer any Green Attributes associated with Excess Energy, and may convey any Green Attributes Associated with Excess Energy to a third party.

(b) Future Environmental Attributes.

(i) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. In such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated such Future Environmental Attributes. Seller shall have no obligation to alter the Project or the operation of the Project unless the Parties have agreed on all necessary terms and conditions relating to such alteration and Buyer has agreed to reimburse Seller for all costs associated with such alteration.

(ii) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.2, the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (A) appropriate transfer, delivery and risk of loss mechanisms, and (B) appropriate allocation of any additional costs, as set forth above; *provided*, that the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.3 Resource Adequacy.

(a) During the Delivery Term, Seller grants, pledges, assigns and otherwise commits to Buyer all of the Capacity Attributes from the Project, to enable Buyer to meet its Resource Adequacy or successor program requirements, as the CPUC, CAISO and/or other regional entity may prescribe, including submission of a Supply Plan or Resource Adequacy Plan ("Resource Adequacy Requirements").

(b) [Intentionally Omitted].

(c) [Intentionally Omitted].

(d) [Intentionally Omitted].

(e) [Intentionally Omitted].

(f) [Intentionally Omitted].

(g) Future Capability of Achieving FCDS or PCDS. The Project is currently not capable of achieving FCDS or PCDS due to limitations outside of the control of Seller. Future developments, including but not limited to the construction of a transmission line, may enable the Project to be capable of achieving FCDS or PCDS. If subsequent developments make the Project able to achieve FCDS or PCDS and if Buyer so requests, the Parties agree to negotiate in good faith to modify this Agreement to require Seller to achieve FCDS or PCDS in exchange for an increase in the Contract Price and/or reimbursement of specified costs and expenses; *provided* such modifications to this Agreement (i) are reasonably circumscribed to minimize changes to this Agreement and (ii) preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date.

3.4 Transmission and Scheduling.

(a) Transmission.

(i) Seller's Transmission Service Obligations. Throughout the Term, and consistent with the terms of this Agreement, Seller shall:

(A) arrange and pay independently for any and all necessary electrical interconnection, distribution and/or transmission (and any regulatory approvals required for the foregoing), sufficient to allow Seller to deliver the Product to the Delivery Point for sale pursuant to the terms of this Agreement. Seller's interconnection, distribution, and/or transmission arrangements shall provide for the deliverability type selected in Section A of the Cover Sheet as of the Initial Energy Delivery Date and throughout the Delivery Term.

(B) [Intentionally Omitted].

(C) [Intentionally Omitted].

(D) bear all risks and costs associated with such transmission service, including any transmission outages or curtailment to the Delivery Point.

(E) fulfill all contractual, metering and applicable interconnection requirements, including those set forth in the Participating Transmission Owner's applicable tariffs, the CAISO Tariff and implementing CAISO standards and requirements, so as to be able to deliver Energy from the Project according to the terms of this Agreement.

(ii) Buyer's Transmission Service Obligations. During the Delivery Term,

(A) Buyer shall arrange and be responsible for transmission service at and from the Delivery Point.

(B) Buyer shall bear all risks and costs associated with such transmission service, including any transmission outages or curtailment from the Delivery Point.

(C) Buyer shall schedule or arrange for Scheduling Coordinator services with its Transmission Providers to receive the Product at the Delivery Point.

(D) Buyer shall be responsible for all CAISO costs and charges, electric transmission losses and congestion at and from the Delivery Point.

(b) EIRP Requirements. Seller shall provide Buyer with a copy of the notice from CAISO certifying the Project as a Participating Intermittent Resource as soon as practicable after Seller's receipt of such notice of certification. As of the first date that (a) the CAISO informs Seller in writing that Seller may deliver Energy from the Project to the CAISO Grid, and (b) the items in Section 3.4(a)(i)(E) have been fulfilled and implemented and until the Project receives certification as a Participating Intermittent Resource, Seller, at its sole cost, shall comply with EIRP and additional protocols issued by the CAISO for Eligible Intermittent Resources. Throughout the Delivery Term, Seller, at its sole cost, shall participate in and comply with EIRP and all additional protocols issued by the CAISO for a Participating Intermittent Resource. Throughout the Delivery Term, Seller, at its sole cost, shall participate in and comply with all other protocols issued by the CAISO for generating facilities providing energy on an intermittent basis; provided that, if multiple options exist, then Seller shall comply

with any such protocols, rules or regulations as directed by Buyer. Throughout the Delivery Term, Buyer in its limited capacity as Seller's Scheduling Coordinator shall facilitate communication with the CAISO and provide other administrative materials to CAISO as necessary to satisfy Seller's obligations as Seller's Scheduling Coordinator and to the extent such actions are at *de minimis* cost to Buyer.

(c) Scheduling Coordinator. Buyer, or Buyer's designated Third-Party SC, shall act as the Scheduling Coordinator for the Project. In that regard, Buyer and Seller shall agree to the following:

(i) Designation as Scheduling Coordinator.

(A) At least ninety (90) days before the beginning of the Delivery Term, Seller shall take all actions and execute and deliver to Buyer all documents necessary to authorize or designate Buyer's Third-Party SC as Seller's Scheduling Coordinator, and the Third-Party SC will take all actions and execute and deliver to Seller or CAISO all documents necessary to become and act as Seller's Scheduling Coordinator. If Buyer replaces its designated Third-Party SC, then Buyer shall give Seller Notice of such designation at least ninety (90) Business Days before the successor Third-Party SC assumes Scheduling Coordinator duties hereunder, and Seller shall be entitled to rely on such designation until it is revoked or a new Third-Party SC is appointed by Buyer upon similar Notice. Buyer shall be fully responsible for all acts and omissions of Third-Party SC and for all cost, charges and liabilities incurred by Third-Party SC to the same extent that Buyer would be responsible under this Agreement for such acts, omissions, costs, charges and liabilities if taken, omitted or incurred by Buyer directly.

(B) Seller shall not authorize or designate any other party to act as Scheduling Coordinator, nor shall Seller perform, for its own benefit, the duties of Scheduling Coordinator during the Delivery Term.

(ii) Buyer's Responsibilities as Scheduling Coordinator. Buyer or Third-Party SC shall comply with all obligations as Seller's Scheduling Coordinator under the CAISO Tariff and shall conduct all scheduling in full compliance with the terms and conditions of this Agreement, the CAISO Tariff, and all requirements of EIRP (if applicable).

(iii) Available Capacity Forecasting. Seller shall provide the Available Capacity forecasts described below. Seller's availability forecasts below shall include Project availability and updated status of or transformers, wind turbine unit status, and any other equipment that may impact availability. To avoid Forecasting Penalties set forth in Section 4.5(c)(iii), Seller shall use commercially reasonable efforts to forecast the Available Capacity of the Project accurately and to transmit such information in a format reasonably acceptable to Buyer. Buyer and Seller shall agree upon reasonable changes to the requirements and procedures set forth below from time-to-time, as necessary to comply with CAISO Tariff changes, accommodate changes to their respective generation technology and organizational structure and address changes in the operating and Scheduling procedures of Buyer, Third-Party SC (if applicable) and the CAISO, including automated forecast and outage submissions.

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

(B) Monthly Forecast of Available Capacity. Seller shall provide to Buyer and Third-Party SC (if applicable), pursuant to subsections (I) and (II) below, a non-binding forecast of the hourly Available Capacity for each day of the following month in a form reasonably acceptable to Buyer:

(I) by forty-five (45) days before Buyer's monthly Resource Adequacy capacity showing in accordance with the CAISO Tariff or decision of the CPUC, and

(II) throughout the Delivery Term, by the earlier of ninety (90) days before the beginning of each month or forty-five (45) days before Buyer's monthly Resource Adequacy capacity showing must be completed in accordance with the CAISO Tariff or decision of the CPUC.

(C) Daily Forecast of Available Capacity. During the Delivery Term, Seller or Seller's agent shall provide a non-binding day ahead forecast of Available Capacity (the "Day-Ahead Availability Notice") to Buyer or Third-Party SC (as applicable) at [REDACTED] or backup phone [REDACTED] and send an email to [REDACTED], as provided in Appendix VI, for each day no later than fourteen (14) hours before the beginning of the "Preschedule Day" (as defined by the WECC) for such day. The current industry standard Preschedule Day timetable in the WECC is as follows:

- (1) Monday – Preschedule Day for Tuesday
- (2) Tuesday – Preschedule Day for Wednesday
- (3) Wednesday – Preschedule Day for Thursday
- (4) Thursday – Preschedule Day for Friday and Saturday
- (5) Friday – Preschedule Day for Sunday and Monday

Exceptions to this standard Monday through Friday Preschedule Day timetable are presently set forth by the WECC in order to accommodate holidays, monthly transitions and other events. Exceptions are posted on the WECC website (www.wecc.biz) under the document title, "Preschedule Calendar." Each Day-Ahead Availability Notice shall clearly identify, for each hour, Seller's non-binding forecast of all amounts of Available Capacity pursuant to this Agreement. If the Available Capacity changes by at least one (1) MW as of a time that is less than fourteen (14) hours prior to the Preschedule Day but prior to the CAISO deadline for submittal of Schedules into the Day-Ahead Market then Seller must notify Buyer of such change by telephone and shall send a revised notice to [REDACTED] or backup phone [REDACTED] and send an email to [REDACTED] as set forth in Appendix VI. Such Notices shall contain information regarding the beginning date and time of the event resulting in the change in Available Capacity, the expected end date and time of such event, the expected Available Capacity in MW, and any other necessary information.

If Seller fails to provide the Third-Party SC with a Day-Ahead Availability Notice as required herein, then, until Seller provides a Day-Ahead Availability Notice, the Third-Party SC may rely on the most recent Day-Ahead Forecast of Available Capacity submitted by Seller to Third-Party SC and to the extent Seller's failure contributes to Imbalance Energy, Seller shall be subject to the Forecasting Penalties as set forth in Section 4.5(c).

(D) Real-Time Available Capacity. During the Delivery Term, Seller shall notify Third-Party SC of any changes in Available Capacity of one (1) MW or more, whether due to Forced Outage, Force Majeure or other cause, as soon as reasonably possible, but no later than one (1) hour prior to the deadline for submitting Schedules to the CAISO in accordance with the CAISO rules for participation in the Real-Time Market. If the Available Capacity changes by at least one (1) MW as

of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must likewise notify Third-Party SC. Such Notices shall contain information regarding the beginning date and time of the event resulting in the change in Available Capacity, the expected end date and time of such event, the expected Available Capacity in MW, and any other information required by the CAISO or reasonably requested by Third-Party SC. With respect to any Forced Outage, Seller shall use commercially reasonable efforts to notify Third-Party SC of such outage within ten (10) minutes of the commencement of the Forced Outage. Seller shall inform Third-Party SC of any developments that will affect either the duration of such event or the availability of the Project during or after the end of such event. These notices and changes to Available Capacity shall be communicated in a method acceptable to Third-Party SC; provided that Third-Party SC specifies the method no later than 60 days prior to the effective date of such requirement. In the event Third-Party SC fails to provide Notice of an acceptable method for communications under this Section 3.4(c)(iii)(D), then Seller shall send such communications by telephone to Third-Party SC's Real-Time Desk and via email to [REDACTED] as set forth in Appendix VI.

(E) To the extent that Seller obtains, in the normal course of business, other forecasts of energy production at the Project not otherwise specified in this Section 3.4, then Seller shall grant Buyer read-only access to such forecasts.

(iv) Replacement of Scheduling Coordinator.

(A) At least ninety (90) days prior to the end of the Delivery Term, or as soon as practicable before the date of any termination of this Agreement prior to the end of the Delivery Term, Seller shall take all actions necessary to terminate the designation of Buyer or the Third-Party SC, as applicable, as Seller's SC. These actions include (I) submitting to the CAISO a designation of a new SC for Seller to replace Buyer or the Third-Party SC (as applicable); (II) causing the newly-designated SC to submit a letter to the CAISO accepting the designation; and (III) informing Buyer and the Third-Party SC (if applicable) of the last date on which Buyer or the Third-Party SC (as applicable) will be Seller's SC.

(B) Buyer shall submit, or if applicable cause the Third-Party SC to submit, a letter to the CAISO identifying the date on which Buyer (or Third-Party SC, as applicable) resigns as Seller's SC on the first to occur of either (I) thirty (30) days prior to the end of the Delivery Term or (II) the date of any early termination of this Agreement.

3.5 Standards of Care.

(a) General Operation. Seller shall comply with all applicable requirements of Law, the CAISO, NERC and WECC relating to the Project (including those related to construction, safety, ownership and/or operation of the Project). In the event Seller requires any data or information from Buyer in order to comply with any applicable requirements of Law, including the requirements of CAISO, NERC and WECC, relating to the Project (including those related to construction, safety, ownership and/or operation of the Project), then Seller shall request in writing such data from Buyer no less than forty-five (45) calendar days prior to Seller's requested date of Buyer's response; provided that if Seller has less than forty-five (45) calendar days prior notice of the need for such data, Seller shall request in writing such data from Buyer as soon as reasonably practicable. Buyer shall make a good faith effort to provide such data and/or information within the timeframe specified in writing by Seller or as soon thereafter as reasonably practicable.

(b) CAISO and WECC Standards. Each Party shall perform all generation, scheduling and transmission services in compliance with all applicable (i) operating policies, criteria,

rules, guidelines, tariffs and protocols of the CAISO, (ii) WECC scheduling practices and (iii) Good Utility Practices.

(c) Reliability Standard. Seller agrees to abide by (i) CPUC General Order No. 167, “Enforcement of Maintenance and Operation Standards for Electric Generating Facilities” to the extent applicable, and (ii) all applicable requirements regarding interconnection of the Project, including the requirements of the interconnected Participating Transmission Owner.

3.6 Metering. All output from the Project must be delivered through a single CAISO revenue meter, that exclusively measures output for the Project described herein, located on the low-voltage or high-voltage side of the Project’s final step-up transformer nearest to the Interconnection Point. All Delivered Energy purchased under this Agreement must be measured by the Project’s CAISO revenue meter to be eligible for payment under this Agreement. Seller shall bear all costs relating to all metering equipment installed to accommodate the Project. In addition, Seller hereby agrees to provide all meter data to Buyer in a form acceptable to Buyer, and consents to Buyer obtaining from the CAISO the CAISO meter data applicable to the Project and all inspection, testing and calibration data and reports. Seller shall grant Buyer the right to retrieve the meter reads from the CAISO Operational Meter Analysis and Reporting (“OMAR”) web and/or directly from the CAISO meter(s) at the Project site. If the CAISO makes any adjustment to any CAISO meter data for a given time period, Seller agrees that it shall submit revised monthly invoices, pursuant to Section 6.2, covering the entire applicable time period in order to conform fully such adjustments to the meter data. Seller shall submit any such revised invoice no later than thirty (30) days from the date on which the CAISO provides to Seller such binding adjustment to the meter data.

3.7 Outage Notification.

(a) CAISO Approval of Outage(s). Buyer, acting through its Third-Party SC, is responsible for securing CAISO approvals for Project outages, including securing changes in its outage schedules when CAISO disapproves Buyer’s schedules or cancels previously approved outages and for entering Project outages in the OMS or successor system. Through its Third-Party SC, Buyer shall put forth commercially reasonable efforts to secure and communicate CAISO approvals for Project outages in a timely manner to Seller.

(b) Planned Outages. During the Delivery Term, Seller shall notify Buyer of its proposed Planned Outage schedule for the Project for the following calendar year by complying with Section 3.4(c)(iii)(A), (“Annual Forecast of Available Capacity”) and Section 3.4(c)(iii)(B), (“Monthly Forecast of Available Capacity”) and implementing the notification procedures set forth in Appendix VI no later than July 1st of each year during the Delivery Term. Seller shall also notify Buyer of the proposed Planned Outage schedule for the Project by the earlier of ninety (90) days before the beginning of each month or forty-five (45) days before Buyer’s monthly Resource Adequacy capacity showing must be completed in accordance with the CAISO Tariff or decision of the CPUC. The Planned Outage schedule is subject to Buyer’s approval, which approval may not be unreasonably withheld or conditioned. Seller shall also confirm or provide updates to Buyer regarding the Planned Outage by the earlier of fourteen (14) days prior to each Planned Outage or two (2) Business Days prior to the CAISO deadline for submitting Planned Outages. Seller shall not conduct Planned Outages during the months of January, May through September, and December. During all other months, Seller shall not schedule Planned Outages without the prior written consent of Buyer, which consent may not be unreasonably withheld or conditioned. Seller shall contact Buyer with any requested changes to the Planned Outage schedule if Seller believes the Project must be shut down to conduct maintenance that cannot be delayed until the next scheduled Planned Outage consistent with Good Utility Practices. Seller shall not change its Planned Outage schedule without Buyer’s approval, not to be unreasonably withheld or conditioned.

Subject to Section 3.7(a), after any Planned Outage has been scheduled, at any time up to the commencement of work for the Planned Outage, Buyer may direct that Seller change its outage schedule as ordered by CAISO. For non-CAISO ordered changes to a Planned Outage schedule requested by Buyer, Seller shall notify Buyer of any incremental costs associated with such schedule change and an alternative schedule change, if any, that would entail lower incremental costs. If Buyer agrees to pay the incremental costs, Seller shall use commercially reasonable efforts to accommodate Buyer's request.

(c) Forced Outages. Seller shall notify Buyer and the Third-Party SC of a Forced Outage as promptly as possible, but no later than ten (10) minutes after the commencement of the Forced Outage and in accordance with the notification procedures set forth in Appendix VI. Buyer shall put forth commercially reasonable efforts to submit such outages to CAISO.

(d) Prolonged Outages. Seller shall notify Buyer and the Third-Party SC of a Prolonged Outage as soon as practicable in accordance with the notification provisions in Appendix VI. Seller shall notify Buyer in writing when the Project is again capable of meeting its Contract Quantity on a *pro rata* basis also in accordance with the notification provisions in Appendix VI.

(e) Force Majeure. Within two (2) Business Days of commencement of an event of Force Majeure, the non-performing Party shall provide the other Party with oral notice of the event of Force Majeure, and within two (2) weeks of the commencement of an event of Force Majeure the non-performing Party shall provide the other Party with Notice in the form of a letter describing in detail the particulars of the occurrence giving rise to the Force Majeure claim. Failure to provide timely Notice constitutes a waiver of a Force Majeure claim. The suspension of performance due to a claim of Force Majeure must be of no greater scope and of no longer duration than is required by the Force Majeure. Buyer shall not be required to make any payments for any Products that Seller fails to deliver or provide as a result of Force Majeure during the term of a Force Majeure.

(f) Communications with CAISO. Buyer, through its Third-Party SC, shall be responsible for all outage coordination communications with CAISO outage coordination personnel and CAISO operations management, including submission to CAISO of updates of outage plans, submission of clearance requests, and all other outage-related communications.

(g) Changes to Operating Procedures. Notwithstanding any language to the contrary contained in Sections 3.4, 3.6, 3.7, 3.8, or 10.13, or Appendix VI, and consistent with Section 3.5, Seller understands and acknowledges that the specified access to data and installation and maintenance of weather stations, transmission and scheduling mechanisms, metering requirements, Outage Notification Procedures and scheduling, forecast, bidding, notification and operating procedures described in the above-referenced sections are subject to change. If such changes are provided by (i) Notice from Buyer, then Seller shall implement any such changes as reasonably deemed necessary by Buyer; provided that such change does not result in an increased cost of performance to Seller hereunder other than *de minimis* amounts, or (ii) Law, then the Parties shall implement such changes as necessary for Seller and Buyer to perform their respective rights and obligations in accordance with the Law.

3.8 Operations Logs and Access Rights.

(a) Operations Logs. Seller shall maintain a complete and accurate log of all material operations and maintenance information on a daily basis. Such log shall include information on power production, efficiency, availability, maintenance performed, outages, results of inspections, manufacturer recommended services, replacements, electrical characteristics of the generators, control settings or adjustments of equipment and protective devices. Seller shall provide this information electronically to Buyer within thirty (30) days of Buyer's request.

(b) Access Rights. Buyer, its authorized agents, employees and inspectors may, on reasonable advance notice (which no case shall be less than three (3) Business Days) visit the Project during normal business hours for purposes reasonably connected with this Agreement. In connection with the foregoing, Buyer, its authorized agents, employees and inspectors must (i) at all times adhere to all safety and security procedures as may be required by Seller; (ii) not interfere with the operation of the Project; and (iii) unless waived in writing by Seller, be escorted by a representative of Seller. Buyer shall make reasonable efforts to coordinate its emergency activities with the Safety and Security Departments, if any, of the Project operator. Seller shall keep Buyer advised of current procedures for contacting the Project operator's Safety and Security Departments.

3.9 New Generation Facility.

(a) Seller, at no cost to Buyer, shall be responsible to:

(i) Design and construct the Project.

(ii) Perform all studies, pay all fees, obtain all necessary approvals and execute all necessary agreements with the CAISO, the Participating Transmission Owner, and the applicable distribution provider for the Interconnection Facilities to Schedule and deliver the Product.

(iii) Acquire all permits and other approvals necessary for the construction, operation, and maintenance of the Project.

(iv) Complete all environmental impact studies necessary for the construction, operation, and maintenance of the Project.

(v) At Buyer's request, provide to Buyer the Seller's electrical specifications and design drawings pertaining to the Project for Buyer's review prior to finalizing design of the Project and before beginning construction work based on such specifications and drawings. Seller shall provide to Buyer reasonable advance Notice of any changes in the Project and provide to Buyer specifications and design drawings of any such changes.

(vi) Seller shall Notify Buyer of the Construction Start Date by sending to Buyer a written Certification substantially in the form provided in Appendix IV-1 as soon as practical upon issuance of Notice to Proceed.

(vii) Within fifteen (15) days after the close of each quarter from the first quarter following the Execution Date, until the month in which the Construction Start Date has occurred, provide to Buyer a quarterly Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such quarterly reports and discuss Seller's construction progress. The quarterly Progress Report shall indicate whether Seller is on target to meet the Guaranteed Commercial Operation Date.

(viii) Within fifteen (15) days after the close of each month following the Construction Start Date until the Commercial Operation Date, provide to Buyer a monthly Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such monthly reports and discuss Seller's construction progress. The monthly Progress Report shall indicate whether Seller is on target to meet the Guaranteed Commercial Operation Date.

(b) Buyer shall have the right, but not the obligation, to:

(i) Notify Seller in writing of the results of the review performed pursuant to Section 3.9(a)(v) within thirty (30) days of Buyer's receipt of all specifications for the Project, including a description of any flaws perceived by Buyer in the design.

(ii) Inspect the Project and Site, or on-site Seller data and information pertaining to the Project during business hours upon reasonable notice.

(c) Project Construction and Commercial Operation

(i) Construction of Project

(A) Seller shall cause Construction Start Date to occur no later than the date set forth in Section B(i)(a)(1)(B) of the Cover Sheet, as such date may be extended by the Development Cure Period ("Guaranteed Construction Start Date").

(B) If the Construction Start Date is not achieved by the Guaranteed Construction Start Date, Seller shall pay Daily Delay Damages to Buyer on account of such delay. Daily Delay Damages shall be payable for each day for which the Construction Start Date is delayed beyond the Guaranteed Construction Start Date. Daily Delay Damages shall be payable to Buyer by Seller until Seller achieves the Construction Start Date, provided, however, that the aggregate Daily Delay Damages and Commercial Operation Delay Damages payable by Seller shall not exceed the amount of the Project Development Security. On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Daily Delay Damages, if any, accrued during the prior month and, within ten (10) Business Days following Seller's receipt of such invoice, Seller shall pay Buyer the amount of the Daily Delay Damages set forth in such invoice. Daily Delay Damages shall be refundable to Seller pursuant to Section 3.9(c)(ii)(B). The Parties agree that Buyer's receipt of Daily Delay Damages shall (x) not be construed as Buyer's declaration that an Event of Default has occurred under any provision of Section 5.1 and (y) not limit Buyer's right to receive a Damage Payment upon exercise of Buyer's termination right following an Event of Default under Section 5.2.

(C) "Daily Delay Damages" shall be an amount equal to [REDACTED] dollars (\$ [REDACTED]) per MW of Contract Capacity per day.

(ii) Commercial Operation of the Project. The Parties agree time is of the essence in regards to the Agreement. As such, Seller shall have demonstrated Commercial Operation per the terms of Appendix IV-2 by the date set forth in Section B(i)(a)(1)(D) of the Cover Sheet, as such date may be extended by the Development Cure Period (the "Guaranteed Commercial Operation Date").

(A) Seller shall cause Commercial Operation for the Project to occur by the Guaranteed Commercial Operation Date. Seller shall notify Buyer at least sixty (60) days before the anticipated Commercial Operation Date.

(B) If Seller achieves Commercial Operation by the Guaranteed Commercial Operation Date, all Daily Delay Damages paid by Seller shall be refunded to Seller, and all Daily Delay Damages accrued but not yet paid by Seller shall no longer be owed to Buyer. Seller shall include the request for refund of the Daily Delay Damages with the first invoice to Buyer after Commercial Operation.

(C) If Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date, Seller shall pay Commercial Operation Delay Damages to Buyer for each day the Commercial Operation Date is delayed beyond the Guaranteed Commercial

Operation Date. Commercial Operation Delay Damages shall be payable to Buyer by Seller until the Commercial Operation Date, provided, however, that the aggregate Daily Delay Damages and Commercial Operation Delay Damages payable by Seller shall not exceed the amount of the Project Development Security. On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Commercial Operation Delay Damages, if any, accrued during the prior month. The Parties agree that Buyer's receipt of Commercial Operation Delay Damages shall (x) not be construed as Buyer's declaration that an Event of Default has occurred under any provision of Section 5.1 and (y) not limit Buyer's right to receive a Damage Payment upon exercise of Buyer's termination right following an Event of Default under Section 5.2.

(D) "Commercial Operation Delay Damages" shall be an amount equal [REDACTED] dollars (\$ [REDACTED]) per MW of Contract Capacity per day.

(iii) Termination for Failure to Achieve Commercial Operation. If the Project has not achieved Commercial Operation within 180 days after the Guaranteed Commercial Operation Date, Buyer may elect to terminate this Agreement, which termination shall be effective upon Notice to Seller.

(iv) Extension of the Guaranteed Dates. The Guaranteed Construction Start Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be automatically extended on a day-for-day basis (the "Development Cure Period") for the following delays:

(A) Seller has not acquired by [REDACTED] all material permits, consents, licenses, approvals, or authorizations from any Governmental Authority required for Seller to construct, interconnect, operate or permit the Seller and Project to make available and sell Product, despite the exercise of diligent and commercially reasonable efforts by Seller;

(B) a Force Majeure Event occurs;

(C) the Interconnection Facilities are not complete and ready for the Project to connect and sell Product at the Delivery Point by [REDACTED], despite the exercise of diligent and commercially reasonable efforts by Seller; or

(D) Buyer has not made all necessary arrangements to receive the Project Energy at the Delivery Point by the Expected Commercial Operation Date (it being acknowledged that an extension under this Section 3.9(c)(iv)(D) shall not limit other rights and remedies Seller may have for the default by Buyer in obtaining necessary metering arrangements).

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to Section 3.9(c)(iv)(D) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and no extension shall be given if (I) the delay was the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, (II) Seller failed to provide requested documentation as provided below, or (III) Seller failed to provide written Notice to Buyer as required in the next sentence. Seller shall provide prompt written Notice to Buyer of a delay, but in no case more than thirty (30) days after Seller became aware of such delay, except that in the case of a delay occurring within sixty (60) days of the Expected Commercial Operation Date, or after such date, Seller must provide written Notice within five (5) Business Days of Seller becoming aware of such delay. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction

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

(d) Resize of Project Due to Permit Failure.

(i) If Seller has not received or obtained by the earlier of the Expected Construction Start Date and the date that is six (6) months after the Effective Date final and non-appealable Governmental Approvals required for the construction of the Project with the Contract Capacity set forth in the Cover Sheet, after using commercially reasonable efforts to do so (including timely filings with all applicable Governmental Authorities and timely payment of any required fees) ("Permit Failure"), Seller may make a Contract Capacity Commitment on the Expected Construction Start Date (as may be extended), equal to, at a minimum, seventy percent (70%) of the Contract Capacity set forth in the Cover Sheet, provided that such amount shall also be the maximum amount of the generation capacity permitted under the final and non-appealable Governmental Approvals that Seller has received as of the Expected Construction Start Date (as may be extended), and may not be under one (1) MW, and provided further that for a period of two (2) years from any such resizing pursuant to this Section 3.9(d), Seller must offer Buyer a Right of First Offer for any Products from the Project up to the Contract Capacity set forth in the Cover Sheet as further provided in Section 3.9(e), below. Seller shall provide Notice of such Contract Capacity Commitment to Buyer no later than ten (10) Business Days following the Expected Construction Start Date.

(ii) In the event that the Contract Capacity is reduced pursuant to Section 3.9(d)(i) above, the Contract Quantity during each Contract Year set forth in the Delivery Term Contract Schedule in the Cover Sheet shall be adjusted proportionately with such reduction.

(iii) In the event that the Contract Capacity and Contract Quantity are reduced pursuant to Sections 3.9(d)(i) and (ii), the revised Contract Capacity and Contract Quantity shall be used to determine Seller's performance under the Agreement, including the amount of Guaranteed Energy Production under Section 3.1(e) and the amount of Delivery Term Security or Term Security required under Section 8.4.

(iv) If the final Contract Capacity is less than the initial Contract Capacity due to a resize of the Project pursuant to Sections 3.1(e)(ii) and 3.9(d)(i), then Seller shall forfeit a proportional share of the Project Development Security on a percent-for-percent basis.

(e) Right of First Offer.

(i) If Seller resizes the Project due to Permit Failure, then for a period of three (3) years from the date on which Seller Notifies Buyer of the Contract Capacity Commitment ("Exclusivity Period"), neither Seller, its successors and assigns, nor its Affiliates shall enter into an obligation or agreement to sell or otherwise transfer any Products from the Project in excess of the Contract Capacity Commitment, up to the Contract Capacity set forth in the Cover Sheet, to any third party, unless Seller first offers, in writing, to sell to Buyer such Products from the Project on the same terms and conditions as this Agreement, subject to permitted modifications identified in subpart (ii) below, (the "First Offer") and Buyer either accepts or rejects such First Offer in accordance with the provisions herein.

(ii) If Buyer accepts the First Offer, Buyer shall Notify Seller within thirty (30) days of receipt of the First Offer subject to Buyer's management approval and CPUC Approval ("Buyer's Notice of First Offer Acceptance"), and then the Parties shall have not more than ninety (90) days from the date of Buyer's Notice to enter into a new power purchase agreement, in substantially the

same form as this Agreement, or amend this Agreement, subject to CPUC Approval, if necessary; provided that the Contract Price may only be increased to reflect Seller's documented incremental costs in overcoming the Permit Failure.

(iii) If Buyer rejects or fails to accept Seller's First Offer within thirty (30) days of receipt of such offer, Seller shall thereafter be free to sell or otherwise transfer, and to enter into agreements to sell or otherwise transfer, any Products from the Project to any third party, so long as the material terms and conditions of such sale or transfer are not more favorable to the third party than those of the First Offer to Buyer. If, during the Exclusivity Period, Seller desires to enter into an obligation or agreement with a third party, Seller shall deliver to Buyer a certificate of an authorized officer of Seller (A) summarizing the material terms and conditions of such agreement and (B) certifying that the proposed agreement with the third party will not provide Seller with a lower rate of return than that offered in the First Offer to Buyer. If Seller is unable to deliver such a certificate to Buyer, then Seller may not sell or otherwise transfer, or enter into an agreement to sell or otherwise transfer, the Products from the Project without first offering to sell or otherwise transfer such Products to Buyer on such more favorable terms and conditions (the "Revised Offer") in accordance with subpart (ii) above. If within thirty (30) days of receipt of Seller's Revised Offer the Buyer rejects, or fails to accept by Notice to Seller, the Revised Offer, then Seller will thereafter be free to sell or otherwise transfer, and to enter into agreements to sell or otherwise transfer, such Products from the Project to any third party on such terms and conditions as set forth in the certificate.

ARTICLE FOUR: COMPENSATION; MONTHLY PAYMENTS

4.1 Price.

(a) Contract Price. The Contract Price for each MWh of Product as measured by Delivered Energy in each Contract Year is set forth in Section C of the Cover Sheet.

For the avoidance of doubt, Seller shall not be compensated for any Surplus Delivered Energy.

(b) Test Energy. Test Energy is compensated in accordance with Section 3.1(p).

4.2 Monthly Payment. Except as otherwise provided in this Article 4, for each Delivery Month, Buyer shall pay Seller, or cause to be paid to Seller, for all Delivered Energy and Deemed Delivered Energy ("Monthly Payment") an amount equal to (i) the product of (A) the Contract Price multiplied by (B) the sum of (I) for each hour in the month, the Delivered Energy (exclusive of Surplus Delivered Energy) during the hour plus (II) for each hour in the month, the amount of Deemed Delivered Energy during the hour, plus (ii) during the period in which Seller is eligible to receive PTCs, Buyer shall pay Seller the product of (A) the PTC Amount multiplied by (B) for each hour in the month, the amount of Deemed Delivered Energy during the hour.

Monthly Payment = [sum over all hours] [Contract Price \$ × (Delivered Energy MWh_{hour} + Deemed Delivered Energy MWh_{hour})] + (PTC Amount \$ × Deemed Delivered Energy MWh_{hour})

For the avoidance of doubt, Excess Energy shall be compensated as set forth in Section 4.4 and shall not be included in the determination of payment set forth above; and "Delivered Energy" as used in the formula above excludes Surplus Delivered Energy, for which Seller will receive no compensation.

4.3 Capacity Factor. The Capacity Factor shall be calculated and defined as the percentage amount resulting from Delivered Energy plus Deemed Delivered Energy, if any, per Contract Year

divided by the product resulting from multiplying the Contract Capacity times the number of hours in the applicable Contract Year minus Seller Excuse Hours (“Capacity Factor”):

$$\text{Capacity Factor} = (\text{Delivered Energy} + \text{Deemed Delivered Energy}) / (\text{Contract Capacity} \times (\text{Hours in Contract Year minus Seller Excuse Hours})).$$

4.4 Excess Delivered and Deemed Delivered Energy.

(a) Excess Energy Price. If, at any point in any Contract Year, the amount of Delivered Energy (exclusive of Surplus Delivered Energy) plus the amount of Deemed Delivered Energy exceeds [REDACTED] percent ([REDACTED]%) of the annual Contract Quantity amount, then:

(i) each MWh of additional Delivered Energy during such Contract Year shall be deemed “Excess Delivered Energy” and each MWh of additional Deemed Delivered Energy during such Contract Year shall be deemed “Excess Deemed Delivered Energy” (Excess Delivered Energy and Excess Deemed Delivered Energy, cumulatively, “Excess Energy”); and

(ii) for the remainder of such Contract Year:

(A) for every MWh of Excess Delivered Energy, the price paid to Seller shall be the hourly DA Price at the Delivery Point, [REDACTED] (the “Excess Delivered Energy Price”); and

(B) for every MWh of Excess Deemed Delivered Energy the price paid to Seller shall be the hourly DA Price at the Delivery Point, [REDACTED] (the “Excess Deemed Delivered Energy Price”).

$$\text{Excess Delivered Energy Price}_{\text{hour}} = (\text{DA Price}_{\text{hour}}), [REDACTED]$$

$$\text{Excess Deemed Delivered Energy Price}_{\text{hour}} = (\text{DA Price}_{\text{hour}}), [REDACTED]$$

For the avoidance of doubt, Excess Energy shall not include any Surplus Delivered Energy and no PTC Amount will be paid for Excess Deemed Delivered Energy.

(b) Monthly Payment for Excess Energy. Buyer shall pay Seller for Excess Energy in each hour (“Monthly Payment for Excess Energy”) the amount resulting from (i) multiplying the Excess Delivered Energy Price applicable to that hour times the Excess Delivered Energy for such hour plus (ii) the Excess Deemed Delivered Energy Price applicable to that hour times the amount of Excess Deemed Delivered Energy for such hour:

$$\text{Monthly Payment for Excess Energy} = \{\text{sum over all hours}\} (\text{Excess Delivered Energy Price}_{\text{hour}} \times \text{Excess Delivered Energy MWh}_{\text{hour}}) + (\text{Excess Deemed Delivered Energy Price}_{\text{hour}} \times \text{Excess Deemed Delivered Energy MWh}_{\text{hour}})$$

4.5 CAISO Charges.

(a) Seller shall assume all liability and reimburse Buyer for any and all CAISO Penalties incurred by Buyer because of Seller’s failure to perform any covenant or obligation set forth in this Agreement. Buyer shall assume all liability and reimburse Seller for any and all CAISO Penalties incurred by Seller as a result of Buyer’s actions, including those resulting in a Buyer Curtailment Period.

(b) Buyer, acting through its Third-Party SC, shall (i) be responsible for all costs and charges assessed by the CAISO with respect to scheduling and Imbalance Energy, subject to Sections

4.5(a) and (c) and (ii) retain the credits and other payments received as a result of Energy from the Project delivered to the Integrated Forward Market or Real-Time Market, including revenues associated with CAISO dispatches. Seller and Buyer shall cooperate to minimize such charges and Uninstructed Imbalance Energy to the extent possible. Seller shall use commercially reasonable efforts to monitor imbalances and shall promptly notify Buyer as soon as possible after it becomes aware of any material imbalance that is occurring or has occurred. Such notification shall not alter Seller's and Buyer's respective responsibilities for payment for Imbalance Energy and costs and CAISO Penalties under this Agreement. Throughout the Delivery Term, Buyer shall be entitled to all Integrated Forward Market Load Uplift Obligation credits (as defined or required for MRTU under the CAISO Tariff) associated with the Energy generated from the Project.

(c) Forecasting Penalties.

(i) Subject to Force Majeure, Seller will be responsible for Forecasting Penalties as set forth below if (i) Seller does not in a given hour either (A) provide the access and information required in Section 3.1(l)(i), (B) comply with the installation, maintenance, and repair requirements of Section 3.1(l)(iii), or (C) provide the forecast of Available Capacity required in Section 3.4(c)(iii); and (ii) the sum of Energy Deviations for each of the Settlement Intervals in the given hour exceeded the Performance Tolerance Band defined below.

(ii) The Performance Tolerance Band is [REDACTED] percent ([REDACTED]%) multiplied by Contract Capacity multiplied by one (1) hour.

(iii) Forecasting Penalties. The "Forecasting Penalty" shall be equal to the greater of (A) [REDACTED] percent ([REDACTED]%) of the Contract Price or (B) the absolute value of the Real-Time Price, in each case for each MWh of Energy Deviation outside the Performance Tolerance Band, or any portion thereof, in every hour for which Seller fails to meet the requirements in Section 4.5(c)(i). Settlement of Forecasting Penalties shall occur as set forth in Section 6.1 of this Agreement.

4.6 Additional Compensation.

(a) To the extent not otherwise provided for in this Agreement, in the event that Seller is compensated by a third party for any Products produced by the Project, including compensation for Capacity Attributes or Green Attributes, Seller shall remit all such compensation directly to Buyer; provided that for avoidance of doubt, nothing herein precludes Seller from retaining credits related to Electric System Upgrades contemplated in Section 3.1(h)(i).

(b) To the extent that during the Delivery Term Seller (at a nominal or no cost to Seller) is exempt from, reimbursed for or receives any refunds, credits or benefits from CAISO for congestion charges or Congestion Revenue Rights (as defined in the CAISO Tariff), whether due to any adjustments in Congestion Revenue Rights or any Locational Marginal Price (as defined in the CAISO Tariff), market adjustments, invoice adjustments, or any other hedging instruments associated with the Product (collectively, any such refunds, credits or benefits are referred to as "Reductions"), then, at Buyer's option, either (i) Seller shall transfer any such Reductions and their related rights to Buyer less any costs incurred by Seller in connection with such Reductions; or (ii) Buyer shall reduce payments due to Seller under this Agreement in amounts equal to the Reductions less any costs incurred by Seller in connection with such Reduction and Seller shall retain the Reductions.

4.7 EIRP Forecasts. If Seller determines that an alternative methodology for determining Deemed Delivered Energy is more accurate than the EIRP Forecast, based upon no less than six months of recorded data comparing the EIRP Forecast, the results of the alternative methodology, and actual

Delivered Energy data, such alternative methodology (or such other methodology as agreed to by the Parties) shall, subject to Buyer's consent (not to be withheld or delayed unreasonably), be considered the EIRP Forecast and used to determine the Deemed Delivered Energy; provided, that any such successor EIRP Forecast shall itself be subject to periodic review by the Parties under the foregoing criteria.

ARTICLE FIVE: EVENTS OF DEFAULT; PERFORMANCE REQUIREMENT; REMEDIES

5.1 Events of Default. An "Event of Default" shall mean,

(a) with respect to a Party that is subject to the Event of Default, the occurrence of any of the following:

(i) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within five (5) Business Days after written Notice is received by the Party failing to make such payment;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or with respect to Section 10.1(b), becomes false or misleading in any material respect during the Delivery Term, and such default is not remedied within thirty (30) days after Notice thereof; provided that, if a change in Law occurs after the Execution Date that causes the representation and warranty made by Seller in Section 10.1(b) to be materially false or misleading, such breach of the representation or warranty in Section 10.1(b) shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in Law during the Delivery Term in order to make the representation and warranty no longer false or misleading;

(iii) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default), if such failure is not remedied within forty-five (45) days after Notice from the Non-Defaulting Party, which time period shall be extended if the Defaulting Party is making diligent efforts to cure such failure to perform, provided that such extended period shall not exceed forty-five (45) additional days;

(iv) such Party becomes Bankrupt; or

(v) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time during the Delivery Term, Seller delivers or attempts to deliver to the Delivery Point for sale under this Agreement Energy that was not generated by the Project;

(ii) failure by Seller to satisfy the creditworthiness/collateral requirements agreed to pursuant to Sections 8.2, 8.3, or 8.4 of this Agreement and such failure is not cured within any applicable cure period;

(iii) if Seller has provided, and Buyer has accepted, a Guaranty to satisfy the collateral obligations under this Agreement, then with respect to such guarantor or the Guaranty, if Seller had not replaced the Guaranty in accordance with Section 8.5 within five (5) Business Days following Buyer's Notice of a request for replacement;

(iv) failure by Seller to achieve the Guaranteed Energy Production requirement as set forth in Section 3.1(e)(ii) of this Agreement as follows:

(A) after the one (1) year GEP Cure period Seller has failed to cure the GEP Failure and has failed to pay GEP Damages in the time period set forth in Section 3.1(e)(ii); or

(B) if, after any Performance Measurement Period the cumulative GEP Shortfall for all preceding Performance Measurement Periods occurring during the Delivery Term equals or exceeds two times the Contract Quantity (as may be adjusted pursuant to Section 3.1(e)(ii)); provided, however, that if all or a portion of the GEP Shortfall during an applicable Performance Measurement Period is principally caused by a non-Force Majeure major equipment malfunction, breakdown, or failure resulting in a reduction of Energy production of the Project by at least fifty percent (50%) of the Contract Quantity in one or both years of the Performance Measurement Period, as applicable, and such malfunction, breakdown, or failure was not caused by Seller and could not have been avoided through the exercise of Good Utility Practice, such failure shall be excluded from the calculation of the cumulative GEP Shortfall for purposes of this subsection;

5.2 **Remedies.** If an Event of Default with respect to a Defaulting Party shall have occurred and is continuing, the other Party ("Non-Defaulting Party") shall have the following rights:

(a) send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("Early Termination Date") on which to (i) collect the Damage Payment (in the case of any Event of Default of Seller that arose at any time prior to the commencement of the Delivery Term), or (ii) collect the Termination Payment (in the case of any Event of Default of Seller that arose during the Delivery Term or in the case of any Event of Default of Buyer at any time);

(b) accelerate all amounts owing between the Parties, terminate the Transaction and end the Delivery Term effective as of the Early Termination Date;

(c) collect the Termination Payment or Damage Payment, as applicable;

(d) withhold any payments due to the Defaulting Party under this Agreement;

(e) suspend performance;

(f) exercise its rights pursuant to Section 8.2 to draw upon and retain Performance Assurance;

(g) demand payment for damages due to Buyer's unexcused failure to take delivery or pay for Product; and

(h) exercise any other rights or remedies available at Law or in equity (including the collection of monetary damages) to the extent otherwise permitted under this Agreement.

Notwithstanding anything to the contrary contained herein, Seller may exercise the rights or remedies set forth in Sections 5.2(e), (g), and (h) without terminating this Agreement.

5.3 Calculation of Termination Payment.

(a) In the case where the Non-Defaulting Party is entitled to collect the Termination Payment pursuant to Section 5.2(a), the Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. If the Non-Defaulting Party uses the market price for a comparable transaction to determine the Gains or Losses, such price should be determined by using the average of market quotations provided by three (3) or more bona fide unaffiliated market participants. If the number of available quotes is three, then the average of the three quotes shall be deemed to be the market price. Where a quote is in the form of bid and ask prices, the price that is to be used in the averaging is the midpoint between the bid and ask price. The quotes shall be obtained in a commercially reasonable manner and shall be: (i) for a like amount, (ii) of the same Product, (iii) at the same Delivery Point, and (iv) for the remaining Delivery Term. Regardless of the method chosen by the Non-Defaulting Party to calculate the Settlement Amount, the Settlement Amount must still be reasonable under the circumstances.

(b) If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of the Terminated Transaction, the Settlement Amount shall be zero.

(c) The Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

5.5 Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within ten (10) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment shall be determined in accordance with Article Twelve.

5.6 Rights and Remedies and Cumulative. The rights and remedies of a Party pursuant to this Article Five shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

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

ARTICLE SIX: PAYMENT

6.1 Billing and Payment; Remedies. On or about the tenth (10th) day of each month beginning with the second month of the first Contract Year, and every month thereafter, and continuing through and including the first month following the end of the Delivery Term, Seller shall provide to Buyer: (a) records of metered data, including CAISO metering and transaction data sufficient to document and verify the generation of Product by the Project for any CAISO settlement time interval during the preceding months; (b) access to any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy or amount of any Reductions; and (c) an invoice, in the format specified by Buyer, covering the services provided in the preceding month determined in accordance with the applicable provisions of Article Four. Seller shall continue to provide to Buyer an invoice of CAISO charges, net any sums Buyer owes Seller under this Agreement, on or about the tenth (10th) day of each month until the date of the Final True-Up. Buyer shall pay the undisputed amount of such invoices less the amount of any Forecasting Penalties, as applicable, on or before the later of the twenty-fifth (25th) day of each month and fifteen (15) days after receipt of the invoice. If either the invoice date or payment date is not a Business Day, then such invoice or payment shall be provided on the next following Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any undisputed amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full. Invoices may be sent by facsimile or e-mail.

6.2 Disputes and Adjustments of Invoices. In the event an invoice or portion thereof or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with Notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Subject to Section 3.6, in the event adjustments to payments are required as a result of inaccurate meter(s), Buyer shall use corrected measurements to recompute the amount due from Buyer to Seller for the Product delivered under the Transaction during the period of inaccuracy. The Parties agree to use good faith efforts to resolve the dispute or identify the adjustment as soon as possible. Upon resolution of the dispute or calculation of the adjustment, any required payment shall be made within fifteen (15) days of such resolution along with interest accrued at the Interest Rate from and including the due date, but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment, but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.2 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made; provided that, any disputes with respect to a statement of CAISO Revenues is waived unless Seller notifies Buyer in accordance with this Section 6.2 within one (1) month after the last statement of CAISO Revenues is provided. If an invoice is not rendered within twelve (12) months after the close of the month during which performance under the Transaction occurred, the right to payment for such performance is waived.

ARTICLE SEVEN: LIMITATIONS

7.1 Limitation of Remedies, Liability and Damages. EXCEPT AS MAY OTHERWISE BE EXPRESSLY PROVIDED IN THIS AGREEMENT, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND

EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED UNLESS EXPRESSLY HEREIN PROVIDED. NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF SECTION 10.4 ("INDEMNITIES"), IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

8.1 Seller Financial Information.

(a) Prior to the Execution Date, Seller shall provide Buyer the documentation listed in Appendix VIII (Seller Documentation).

(b) If requested by Buyer, Seller shall deliver to Buyer (a) within one hundred twenty (120) days following the end of each of Seller's fiscal years, a copy of Seller's or Seller's guarantor's, if applicable, annual report containing unaudited consolidated financial statements for such fiscal year (or audited consolidated financial statements for such fiscal year if otherwise available) and (b) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with Generally Accepted Accounting Principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

8.2 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent Seller delivers the Project Development Security, or Delivery Term Security, as applicable hereunder, Seller hereby grants to Buyer, as the secured party, a first priority security interest in, and lien on (and right of setoff against), and assignment of, all such Performance Assurance posted with Buyer in the form of cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, Buyer. Within thirty (30) days of the delivery of the Project Development Security or Delivery Term Security as applicable, Seller agrees to take such action as Buyer reasonably requires in order to perfect a first-priority security interest in, and lien on (and right of setoff against), such Performance Assurance and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, Buyer, as the Non-Defaulting Party, may do any one or more of the following: (a)

exercise any of the rights and remedies of a secured party with respect to all Project Development Security or Delivery Term Security, as applicable, including any such rights and remedies under the Law then in effect; (b) exercise its rights of setoff against any and all property of Seller, as the Defaulting Party, in the possession of the Buyer or Buyer's agent; (c) draw on any outstanding Letter of Credit issued for its benefit; and (d) liquidate all Project Development Security or Delivery Term Security, as applicable, then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller. Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller's obligations under the Agreement (Seller remaining liable for any amounts owing to Buyer after such application), subject to the Buyer's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

8.3 Performance Assurance.

(a) Security. Seller agrees to deliver to Buyer collateral to secure its obligations under this Agreement, which Seller shall maintain in full force and effect for the period posted with Buyer, as follows:

(i) Project Development Security pursuant to this Section 8.3(a)(i) in the amount set forth for the Project Development Security in Section E of the Cover Sheet, within fifteen (15) Business Days following the sooner of (A) the later of the Effective Date or the final approval of the conditional use permit for the Project by the Humboldt County Planning Commission, or (B) February 1, 2020, until Seller posts Delivery Term Security pursuant to Section 8.3(a)(ii) below with Buyer; provided, however, that if final approval of the conditional use permit for the Project by the Humboldt County Planning Commission has not occurred by February 1, 2020, then Seller will have the right to terminate this Agreement by providing written notice of termination to Buyer and upon such termination, neither Party will have any further liability to the other Party.

(ii) Delivery Term Security pursuant to this Section 8.3(a)(ii) in the amount equal to the Damage Payment from the date required pursuant to Section 2.4(a)(vii) as a condition precedent to the Initial Energy Delivery Date until the end of the Term; provided that, with Buyer's consent, Seller may elect to apply the Project Development Security posted pursuant to Section 8.3(a)(i) toward the Delivery Term Security posted pursuant to this Section 8.3(a)(ii).

The amount of Performance Assurance required under this Agreement shall not be deemed a limitation of damages. Except as specifically provided for in this Section 8.3(a), Buyer acknowledges that Seller shall not be required to post any additional security.

(b) Use of Project Development Security or Term Security. Buyer shall be entitled to draw upon the Project Development Security or Term Security for any damages arising upon Buyer's declaration of an Early Termination Date.

(c) Termination of Project Development Security. If after the Initial Energy Delivery Date, no damages are due and owing to Buyer under this Agreement, then Seller shall no longer be required to maintain the Project Development Security, and Buyer shall return to Seller the Project Development Security, less the amounts drawn in accordance with Section 8.3(b). The Project Development Security (or portion thereof) due to Seller shall be returned to Seller within five (5) Business Days of Seller's provision of the Delivery Term Security, as applicable unless, with Buyer's consent, Seller elects to apply the Project Development Security posted pursuant to Section 8.3(a)(i) toward the Delivery Term Security posted pursuant to Section 8.3(a)(ii), as applicable.

(d) Payment and Transfer of Interest. Buyer shall pay interest on cash held as Pre-Delivery Term Security, Delivery Term Security or Term Security, as applicable, at the Interest Rate; provided that, the interest on Project Development Security shall be retained by Buyer until Seller posts the Delivery Term Security pursuant to Section 8.3(a)(ii). Upon Seller's posting of the Delivery Term Security, all accrued interest on the unused portion of Project Development Security shall be transferred from Buyer to Seller in the form of cash by wire transfer to the bank account specified under "Wire Transfer" in the Cover Sheet (Notices List). After Seller posts the Delivery Term Security or Term Security, Buyer shall transfer (as described in the preceding sentence) on or before each Interest Payment Date the Interest Amount due to Seller for such Delivery Term Security or Term Security.

(e) Return of Performance Assurance. Buyer shall return the unused portion of Project Development Security, Delivery Term Security or Term Security, as applicable, including the payment of any interest due thereon, pursuant to Section 8.3(d) above, to Seller promptly after the following has occurred: (i) the Term of the Agreement has ended, or subject to Section 8.2, an Early Termination Date has occurred, as applicable; and (ii) all payment obligations of the Seller arising under this Agreement, including payments pursuant to Section 4.5 ("CAISO Charges"), Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting).

8.4 Letter of Credit. Performance Assurance provided in the form of a Letter of Credit shall be subject to the following provisions:

(a) If Seller has provided a Letter of Credit pursuant to any of the applicable provisions in this Article Eight, then Seller shall renew or cause the renewal of each outstanding Letter of Credit on a timely basis in accordance with this Agreement.

(b) In the event the issuer of such Letter of Credit at any time (i) fails to maintain the requirements of an Eligible LC Bank or Letter of Credit, (ii) indicates its intent not to renew such Letter of Credit, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, Seller shall cure such occurrence by complying with either (A) or (B) below in an amount equal to the outstanding Letter of Credit, and by completing the action within five (5) Business Days after the date of Buyer's Notice to Seller of an occurrence listed in this subsection (Seller's compliance with either (A) or (B) below is considered the "LC Cure"):

(A) providing a substitute Letter of Credit that is issued by an Eligible LC Bank, other than the bank which is the subject of Buyer's Notice to Seller in Section 8.4(b) above; or

(B) posting cash.

If Seller fails to provide an LC Cure or if such Letter of Credit expires or terminates without a full draw thereon by Buyer, or fails or ceases to be in full force and effect at any time that such Letter of Credit is required pursuant to the terms of this Agreement, then Seller shall have failed to meet the creditworthiness or collateral requirements of Article Eight.

(c) Notwithstanding the foregoing in Section 8.4(b), if, at any time, the issuer of such Letter of Credit has a Credit Rating on "credit watch" negative or developing by S&P, or is on Moody's "watch list" under review for downgrade or uncertain ratings action (either a "Watch"), then Buyer may make a demand to Seller by Notice ("LC Notice") to provide a substitute Letter of Credit that is issued by an Eligible LC Bank, other than the bank on a Watch ("Substitute Letter of Credit"). The

Parties shall have thirty (30) Business Days from the LC Notice to negotiate a Substitute Letter of Credit (“Substitute Bank Period”).

(i) If the Parties do not agree to a Substitute Letter of Credit by the end of the Substitute Bank Period, then Buyer shall provide Seller with Notice within five (5) Business Days following the expiration of the Substitute Bank Period (“Ineligible LC Bank Notice Period”) that either:

(A) Buyer agrees to continue accepting the then currently outstanding Letter of Credit from the bank that is the subject of the LC Notice, but such bank shall no longer be an Eligible LC Bank (“Ineligible LC Bank”) and Buyer will not accept future or renewals of Letters of Credit from the Ineligible LC Bank; or

(B) the bank that is the subject of the LC Notice is an Ineligible LC Bank and Seller shall then have thirty (30) days from the date of Buyer’s Notice to provide an LC Cure pursuant to Section 8.4(b) and, if Seller fails to provide an LC Cure, then the last paragraph in Section 8.4(b) shall apply to Seller.

(ii) If the Parties have not agreed to a Substitute Letter of Credit and Buyer fails to provide a Notice during the Ineligible LC Bank Notice Period above, then Seller may continue providing the Letter of Credit posted immediately prior to the LC Notice.

(d) In all cases, the reasonable costs and expenses of establishing, renewing, substituting, canceling, increasing, reducing, or otherwise administering the Letter of Credit shall be borne by Seller.

8.5 **Guaranty.** If at any time Seller’s guarantor or Guaranty is no longer acceptable to Buyer in its sole discretion, Seller shall replace the Guaranty with Performance Assurance as provided herein. Within five (5) Business Days following Buyer’s written request for replacement of the Guaranty, Seller shall deliver to Buyer replacement Performance Assurance in the form of a replacement Guaranty, Letter of Credit or cash in an amount equal to the applicable amount of the Guaranty issued pursuant to this Agreement. In the event Seller shall fail to provide replacement Performance Assurance to Buyer as required in the preceding sentence, then Buyer may declare an Event of Default pursuant to Section 5.1(b)(iii) by providing Notice thereof to Seller in accordance with Section 5.2.

ARTICLE NINE: GOVERNMENTAL CHARGES

9.1 **Cooperation.** Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the Parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

9.2 **Governmental Charges.** Seller shall pay or cause to be paid all taxes imposed by any Governmental Authority (“Governmental Charges”) on or with respect to the Product or the Transaction arising at the Delivery Point, including ad valorem taxes and other taxes attributable to the Project, land, land rights or interests in land for the Project. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or the Transaction from the Delivery Point. In the event Seller is required by Law or regulation to remit or pay Governmental Charges which are Buyer’s responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by Law or regulation to remit or pay Governmental Charges which are Seller’s responsibility hereunder, Buyer may deduct such amounts from payments to Seller with respect to payments under the Agreement; if Buyer elects not to deduct such amounts from Seller’s payments, Seller shall promptly reimburse Buyer for such amounts upon request. Nothing shall obligate or cause a Party to pay or be liable to pay any

Governmental Charges for which it is exempt under the Law. A Party that is exempt at any time and for any reason from one or more Governmental Charges bears the risk that such exemption shall be lost or the benefit of such exemption reduced; and thus, in the event a Party's exemption is lost or reduced, each Party's responsibility with respect to such Governmental Charge shall be in accordance with the first four sentences of this Section.

ARTICLE TEN: MISCELLANEOUS

10.1 Representations and Warranties.

(a) General Representations and Warranties. On the Execution Date, each Party represents and warrants to the other Party that:

(i) it is duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation;

(ii) it has all regulatory authorizations necessary for it to perform its obligations under this Agreement, except all permits and authorizations necessary to install, operate and maintain the Project and make sales therefrom in the case of Seller;

(iii) it is a "forward contract merchant" within the meaning of the United States Bankruptcy Code (as in effect as of the Execution Date of this Agreement);

(iv) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Laws applicable to it;

(v) this Agreement and each other document executed and delivered in accordance with this Agreement constitute legally valid and binding obligations enforceable against it in accordance with its terms, subject to any Equitable Defenses;

(vi) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

(vii) there is not pending or, to its knowledge, threatened against it or any of its Affiliates, any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

(viii) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

(ix) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement; and

(x) it has entered into this Agreement in connection with the conduct of its business and it has the capacity or the ability to make or take delivery of the Product as provided in this Agreement.

(b) Seller Representations and Warranties.

(i) Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource (“ERR”) as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; (ii) the Product meets the RPS compliance requirements for Portfolio Content Category 1 as set forth in California Public Utilities Code Section 399.16(b)(1)(A) in a manner consistent with Commission Decision 11-12-052, as it may be subsequently revised; and (iii) the Project’s output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to become materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

(ii) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

(iii) Seller, and, if applicable, its successors, represents and warrants that beginning with the Execution Date and throughout the Delivery Term of this Agreement, the Project is operated in compliance with all applicable Laws, as determined by the Governmental Authority charged with implementation and/or enforcement of the specific Law at issue, provided, however that if Seller remedies a violation of a Law within thirty (30) days after Notice thereof, consistent with Section 5.1(a)(ii), then such violation will not be considered a breach of this Section 10.1(b)(iii).

(c) Buyer’s Representations and Warranties.

Buyer represents and warrants as follows:

(i) Buyer is a joint powers authority, and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the members to the Amended and Restated Joint Powers Agreement of the Redwood Coast Energy Authority, dated as of December 15, 2015 (the “Joint Powers Agreement”). All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Law.

(ii) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer’s performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all

necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(iii) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.), competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(iv) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(v) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

(vi) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

(vii) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

10.2 Covenants.

(a) General Covenants. Each Party covenants that throughout the Delivery Term:

(i) it shall continue to be duly organized, validly existing and in good standing under the Laws of the jurisdiction of its formation;

(ii) it shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement and the Transaction; and

(iii) it shall perform its obligations under this Agreement and the Transaction in a manner that does not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Law, rule, regulation, order or the like applicable to it.

(b) Seller Covenants.

(i) [Intentionally Omitted].

(ii) Seller covenants that it shall comply with all CAISO Tariff requirements and/or Participating TO tariff requirements, as applicable, that are applicable to an Interconnection Customer (as defined in the CAISO Tariff or Participating TO's tariff, as applicable) and shall take any other necessary action, including payment of fees and submission of requests, applications or other documentation, to promote the completion of the Electric System Upgrades prior to the Initial Energy Delivery Date.

10.3 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Product free and clear of all liens, security interests, Claims and encumbrances or any interest therein or thereto by any person or entity arising prior to or at the Delivery Point.

10.4 Indemnities.

(a) Indemnity by Seller. Seller shall release, indemnify and hold harmless Buyer or Buyers' respective directors, officers, agents, and representatives against and from any and all loss, Claims, actions or suits, including costs and attorney's fees resulting from, or arising out of or in any way connected with (i) the Product delivered under this Agreement to the Delivery Point, or (ii) Seller's operation and/or maintenance of the Project, including any loss, Claim, action or suit, for or on account of injury to, bodily or otherwise, or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such loss, Claim, action or suit as may be caused solely by the willful misconduct or gross negligence of Buyer, its Affiliates, or Buyers' and Affiliates' respective agents, employees, directors, or officers.

(b) Indemnity by Buyer. Buyer shall release, indemnify and hold harmless Seller, its directors, officers, agents, and representatives against and from any and all loss, Claims, actions or suits, including costs and attorney's fees resulting from, or arising out of or in any way connected with (i) the Product delivered by Seller under this Agreement after the Delivery Point, or (ii) Buyer's, or Third-Party SC's, performance as Scheduling Coordinator for the Project, including any loss, Claim, action or suit, for or on account of injury to, bodily or otherwise, or death of persons, or for damage to or destruction of property belonging to Buyer, Seller, or others, excepting only such loss, Claim, action or suit as may be caused solely by the willful misconduct or gross negligence of Seller, its Affiliates, or Seller's and Affiliates' respective agents, employees, directors or officers.

(c) No Dedication. Without limitation of each Party's obligations under Sections 10.5(a) and 10.5(b) herein, nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person or entity not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or the public, nor affect the status of Buyer as an independent public utility corporation or Seller as an independent individual or entity.

10.5 Assignment.

(a) General Assignment. Except as provided in Sections 10.5(b) and (c), neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld so long as among other things (i) the assignee assumes the transferring Party's payment and performance obligations under this Agreement, (ii) the assignee agrees in writing to be bound by the terms and conditions hereof, (iii) the transferring Party delivers evidence satisfactory to the non-transferring Party of the proposed assignee's technical and financial capability to fulfill the assigning Party's obligations hereunder and (iv) the transferring Party

delivers such tax and enforceability assurance as the other Party may reasonably request. Notwithstanding the foregoing and except as provided in Section 10.5(b), consent shall not be required for an assignment of this Agreement where the assigning Party remains subject to liability or obligation under this Agreement, provided that (i) the assignee assumes the assigning Party's payment and performance obligations under this Agreement, (ii) the assignee agrees in writing to be bound by the terms and conditions hereof, and (iii) the assigning Party provides the other Party hereto with at least thirty (30) days' prior written notice of the assignment. Notwithstanding anything to the contrary in this Section 10.5, any assignment of this Agreement by Buyer will only be permitted to an entity that (x) has a Credit Rating of Baa3 or higher by Moody's or BBB- or higher by S&P, and (y) is a community choice aggregator or publicly-owned electric utility with retail customers located in the state of California.

(b) Assignment to Financing Providers. Seller shall be permitted to assign this Agreement as collateral for any financing or refinancing of the Project with the prior written consent of the Buyer, which consent shall not be unreasonably withheld. If Buyer gives its consent, then such consent shall be in a form substantially similar to the Form of Consent to Assignment attached hereto as Appendix VII provided that (i) Buyer shall in good faith negotiate and agree upon changes to the form in Appendix VII as reasonably requested by Seller or its financing providers, and (ii) Seller shall be responsible at Buyer's request for Buyer's reasonable costs associated with the review, negotiation, execution and delivery of documents in connection with such assignment, attorneys' fees.

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

(d) Unauthorized Assignment. Any assignment or purported assignment in violation of this Section 10.5 is void.

10.6 Confidentiality.

(a) Each Party agrees, and shall use reasonable efforts to cause its parent, subsidiary and Affiliates, and its and their respective directors, officers, employees and representatives, as a condition to receiving confidential information hereunder, to keep confidential, except as required by Law, including without limitation the California Public Records Act (Government Code §§ 6250 et seq, "CPRA"), all documents, data (including operating data provided in connection with the scheduling of energy or otherwise pursuant to this Agreement), drawings, studies, projections, plans and other written information that relate to economic benefits to, or amounts payable by, any Party under this Agreement, and with respect to documents that are clearly marked "Confidential" at the time a Party shares such information with the other Party ("Confidential Information"). The provisions of this Section 10.6 shall survive and shall continue to be binding upon the Parties for a period of one (1) year following the date of termination or expiration of this Agreement. Notwithstanding the foregoing, information shall not be considered Confidential Information if such information (i) is disclosed with the prior written consent of the originating Party, (ii) was in the public domain prior to disclosure or is or becomes publicly known or available other than through the action of the receiving Party in violation of this Agreement, (iii) was lawfully in a Party's possession or acquired by a Party outside of this Agreement, which acquisition was not known by the receiving Party to be in breach of any confidentiality obligation, or (iv) is developed independently by a Party based solely on information that is not considered confidential under this Agreement.

(b) Subject to the CPRA, either Party may, without violating this Section 10.6, disclose matters that are made confidential by this Agreement:

(i) to its counsel, accountants, auditors, advisors, and other professional consultants; credit rating agencies; and actual or prospective co-owners, investors, purchasers, lenders, underwriters, contractors, suppliers, and others involved in construction, operation, and financing transactions and arrangements for a Party or its subsidiaries or Affiliates;

(ii) to governmental officials and parties involved in any proceeding in which a Party is seeking a Permit, certificate, or other regulatory approval or order necessary or appropriate to carry out this Agreement; and

(iii) to governmental officials or the public as required by any law, regulation, order, rule, order, ruling or other Requirement of Law, including oral questions, discovery requests, subpoenas, civil investigations or similar processes and laws or regulations requiring disclosure of financial information, information material to financial matters, and filing of financial reports.

(c) If a Party is requested or required, pursuant to any applicable Law, regulation, order, rule, or ruling, discovery request, subpoena, civil investigation or similar process to disclose any of the Confidential Information, such Party shall provide prompt written notice to the other Party of such request or requirement so that at such other Party's expense, such other Party can seek a protective order or other appropriate remedy concerning such disclosure.

(d) Notwithstanding the foregoing or any other provision of this Agreement, Seller acknowledges that Buyer is subject to disclosure as required by CPRA. Seller acknowledges that Buyer shall not be in breach of this Agreement or have any liability whatsoever under this Agreement or otherwise for any claims or causes of action whatsoever resulting from or arising out of Buyer copying or releasing to a third party any of the Confidential Information of Seller pursuant to CPRA; *provided* that Buyer shall (i) provide notice to Seller prior to any such disclosure in accordance with Section 10.6(c), (ii) endeavor, in good faith, not to disclose any of Seller's "trade secrets" as consistent with the CPRA and (iii) support, to the extent in compliance with Buyer's rights and obligations under applicable laws, Seller in its efforts to obtain a protective order or other appropriate remedy with respect to the disclosure of operating data from the Project or any engineering drawings, project plans, technical specifications or other similar information regarding the Project.

(e) Notwithstanding the foregoing or any other provision of this Agreement, Buyer may record, register, deliver and file all such notices, statements, instruments and other documents as may be necessary or advisable to render fully valid, perfected and enforceable under all applicable law the credit support contemplated by this Agreement, and the rights, Liens and priorities of Buyer with respect to such credit support.

(f) If Buyer receives a CPRA request for Confidential Information of Seller, and Buyer determines that such Confidential Information is subject to disclosure under CPRA, then Buyer shall notify the other Buyer and Seller of the request and its intent to disclose the documents. Buyer, as required by CPRA, shall release such documents unless Seller timely obtains a court order prohibiting such release. If Seller, at its sole expense, chooses to seek a court order prohibiting the release of Confidential Information pursuant to a CPRA request, then Seller undertakes and agrees to defend, indemnify and hold harmless Buyer and the Indemnitees from and against all suits, claims, and causes of action brought against Buyer or any Indemnitees for Buyer's refusal to disclose Confidential Information of Seller to any person making a request pursuant to CPRA. Seller's indemnity obligations shall include, but are not limited to, all actual costs incurred by Buyer and any Indemnitees, and specifically including costs of experts and consultants, as well as all damages or liability of any nature whatsoever arising out of any suits, claims, and causes of action brought against Buyer or any Indemnitees, through and including

any appellate proceedings. Seller's obligations to Buyer and all Indemnitees under this indemnification provision shall be due and payable on a Monthly, on-going basis within thirty (30) days after each submission to Seller of Buyer's invoices for all fees and costs incurred by Buyer and all Indemnitees, as well as all damages or liability of any nature.

(g) Each Party acknowledges that any disclosure or misappropriation of Confidential Information by such Party in violation of this Agreement could cause the other Party or their Affiliates irreparable harm, the amount of which may be extremely difficult to estimate, thus making any remedy at law or in damages inadequate. Therefore, each Party agrees that the non-breaching Party shall have the right to apply to any court of competent jurisdiction for a restraining order or an injunction restraining or enjoining any breach or threatened breach of this Agreement and for any other equitable relief that such non-breaching Party deems appropriate. This right shall be in addition to any other remedy available to the Parties in law or equity, subject to the limitations set forth in Section 7.1.

10.7 Audit. Each Party has the right, at its sole expense and during normal working hours, after reasonable Notice, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement including amounts of Delivered Energy. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.8 Insurance. Seller shall, at its sole cost and expense, obtain and maintain the following insurance coverages and be responsible for its subcontractors, including Seller's EPC Contractors, maintaining sufficient limits of the appropriate insurance coverage. The obligations of the Seller in this Section 10.8 constitute material obligations of the Agreement.

(a) Workers' Compensation and Employers' Liability.

(i) Workers' Compensation insurance indicating compliance with any applicable labor codes, acts, Laws or statutes, state or federal, where Seller performs Work.

(ii) Employers' Liability insurance shall not be less than one million dollars (\$1,000,000.00) for injury or death occurring as a result of each accident.

(b) Commercial General Liability.

(i) Coverage shall be at least as broad as the Insurance Services Office Commercial General Liability Coverage "occurrence" form, with no alterations to the coverage form.

(ii) The limit shall not be less than three million dollars (\$3,000,000.00) each occurrence for bodily injury, property damage, personal injury and products/completed operations. Defense costs shall be provided as an additional benefit and not included within the limits of liability. Coverage limits may be satisfied using an umbrella or excess liability policy or an Owners Contractors Protective (OPC) policy. Limits shall be on a per project basis.

(iii) Coverage shall:

(A) by “Additional Insured” endorsement add as insureds RCEA, its directors, officers, agents and employees with respect to liability arising out of the Work performed by or for the Seller. In the event the Commercial General Liability policy includes a “blanket endorsement by contract,” the following language added to the certificate of insurance will satisfy Buyer’s requirement: “RCEA, its directors, officers, agents and employees with respect to liability arising out of the Work performed by or for the Seller has been endorsed by blanket endorsement;”

(B) be endorsed (blanket or otherwise) to specify that the Seller’s insurance is primary and that any insurance or self-insurance maintained by RCEA shall not contribute with it; and

(C) include a severability of interest clause.

(c) Business Auto.

(i) Coverage shall be at least as broad as the Insurance Services Office Business Auto Coverage form covering Automobile Liability, code 1 “any auto”.

(ii) The limit shall not be less than one million dollars (\$1,000,000.00) each accident for bodily injury and property damage.

(iii) If scope of Work involves hauling hazardous materials, coverage shall be endorsed in accordance with Section 30 of the Motor Carrier Act of 1980 (Category 2) and the CA 99 48 endorsement.

(d) Additional Insurance Requirements.

(i) Before commencing performance of the Work, Seller shall furnish Buyer with certificates of insurance and endorsements of all required insurance for Seller.

(ii) The documentation shall state that coverage shall not be cancelled except after thirty (30) days prior written Notice has been given to Buyer.

(iii) Certificates of insurance and endorsements shall be signed and submitted by a person authorized by that insurer to issue certificates of insurance and endorsements on its behalf, and shall be Noticed and delivered to Buyer’s authorized representative.

(iv) Reviews of such insurance may be conducted by Buyer on an annual basis.

(v) Upon request, Seller shall furnish Buyer evidence of insurance for its subcontractors.

(e) Form and Content.

All policies or binders with respect to insurance maintained by Seller shall waive any right of subrogation of the insurers hereunder against Buyer, its officers, directors, employees, agents and representatives of each of them, and any right of the insurers to any setoff or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under such policy.

10.9 Governing Law. This Agreement and the rights and duties of the parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement.

10.10 General. Except to the extent provided for, no amendment or modification to this Agreement shall be enforceable unless reduced to writing and executed by both Parties. The Parties acknowledge and agree that this Agreement is a “forward contract” (within the meaning of the Bankruptcy Code, as in effect as of the Execution Date). This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The headings used herein are for convenience and reference purposes only. Facsimile or PDF transmission will be the same as delivery of an original document; provided that at the request of either Party, the other Party will confirm facsimile or PDF signatures by signing and delivering an original document; provided, however, that the execution and delivery of this Agreement and its counterparts shall be subject to Section 10.12. This Agreement shall be binding on each Party’s successors and permitted assigns.

10.11 Severability. If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement and the Parties shall use their best efforts to modify this Agreement to give effect to the original intention of the Parties.

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

10.13 Mobile Sierra. Notwithstanding any provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to the FERC pursuant to the provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party, or the FERC acting *sua sponte* shall be the “public interest” standard of review set forth in *United States Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

10.14 Public Announcements. Except as required by Law, Seller shall make no public announcement regarding any non-public aspect of this Agreement without the prior written consent of Buyer, which consent shall not be unreasonably withheld. Any public announcement by Seller must comply with California Business and Professions Code § 17580.5 and with the *Guides for the Use of Environmental Marketing Claims*, published by the FTC, as it may be updated from time to time.

10.15 Compliance Cost Cap

(a) **Compliance Expenditure Cap.** If Seller establishes to Buyer's reasonable satisfaction that a change in Laws occurring after the Effective Date has increased Seller's cost above the cost that could reasonably have been contemplated as of the Effective Date to take all actions to comply with Seller's obligations under the Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable), the items listed in Sections 10.15(a)(i) and (ii), then the Parties agree that the maximum amount of costs and expenses Seller shall be required to bear during the Delivery Term shall be capped at [REDACTED] dollars (\$ [REDACTED]) per MW of Contract Capacity in any Contract Year and [REDACTED] dollars (\$ [REDACTED]) per MW of Contract Capacity in the aggregate over the Delivery Term ("Compliance Expenditure Cap"):

(i) CEC Certification and Verification;
(ii) Capacity Attributes, Green Attributes, WREGIS and Future Environmental Attributes.

(b) Any actions required for Seller to comply with its obligations set forth in the Section 10.15(a) above, the cost of which will be included in the Compliance Expenditure Cap, shall be referred to collectively as the "Compliance Actions."

(c) If Seller reasonably anticipates the need to incur out-of-pocket expenses in excess of the Compliance Expenditure Cap in order to take any Compliance Action Seller shall provide Notice to Buyer of such anticipated out-of-pocket expenses. Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "Accepted Compliance Costs"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 10.15(c) within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, these Compliance Actions for the remainder of the Term.

(d) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

10.16 **Community Investment.** The Parties shall perform the obligations related to community investment set forth in Appendix XIII.

ARTICLE ELEVEN: TERMINATION EVENT

11.1 Force Majeure Termination Event.

(a) **Force Majeure Failure.** Either Party shall have the right, but not the obligation, to terminate this Agreement after the occurrence of any of the following: (each constituting a "Force Majeure Failure"):

(i) If during the Delivery Term:

(A) the Project fails to deliver at least forty percent (40%) of the Contract Quantity to the Delivery Point for a period of twelve (12) consecutive rolling months following a Force Majeure event that materially and adversely impacts the Project and Buyer has provided Notice to Seller of such failure; provided that, if Seller within forty-five (45) days of receipt of Notice from Buyer, presents Buyer with a plan for mitigation of the effect of the Force Majeure within a period not to exceed six (6) months from the above-mentioned Notice date, which plan is commercially reasonable and satisfactory to Buyer, as evidenced by Buyer's written acknowledgement of such plan, then Buyer shall not have the right to terminate this Agreement pursuant to this Section 11.1(a) until the expiration of the mitigation period deemed necessary by Seller to repair the Project (which shall not exceed six (6) months); provided that Seller diligently pursues such mitigation plan throughout the mitigation period, and after which time Buyer may terminate this Agreement unless the Project has been repaired, and the Seller has resumed and is satisfying all of its obligations under this Agreement; or

(B) the Project is destroyed or rendered inoperable by a Force Majeure event caused by a catastrophic natural disaster; provided that Seller shall have up to ninety (90) days following such Force Majeure event to obtain a report from an independent, third party engineer stating whether the Project is capable of being repaired or replaced no later than twenty-four (24) months from the date of the report and Seller shall provide Buyer with a copy of the engineer's report, at no cost to Buyer; provided further that if such engineer's report concludes that the Project is capable of being repaired or replaced within such twenty-four (24) month period and Seller undertakes and continues such repair or replacement with due diligence, then Buyer shall not have the right to terminate this Agreement pursuant to this Section 11.1(a) until the expiration of the period deemed necessary by the engineer's report (which shall not exceed twenty-four (24) months), after which time, Buyer may terminate this Agreement unless the Project has been repaired or replaced, as applicable, and the Seller has resumed and is satisfying all of its obligations under this Agreement.

(b) Termination and Right of First Offer.

(i) If Buyer exercises its termination right in connection with the Force Majeure Failure, then the Agreement shall terminate without further liability of either Party to the other, effective upon the date set forth in Buyer's Notice of termination, subject to each Party's satisfaction of all of the final payment and survival obligations set forth in Sections 2.5(a) and (b). The Parties agree that for a period of two (2) years from the date on which Buyer Notifies Seller of termination due to the Force Majeure Failure ("Exclusivity Period"), neither Seller, its successors and assigns, nor its Affiliates shall enter into an obligation or agreement to sell or otherwise transfer any Products from the Project to any third party, unless Seller first offers, in writing, to sell to Buyer such Products from the Project on the same terms and conditions as this Agreement, subject to permitted modifications identified in subpart (ii) below, (the "First Offer") and Buyer either accepts or rejects such First Offer in accordance with the provisions herein.

(ii) If Buyer accepts the First Offer, Buyer shall Notify Seller within thirty (30) days of receipt of the First Offer subject to Buyer's governing board approval ("Buyer's Notice of First Offer Acceptance"), and then the Parties shall have not more than ninety (90) days from the date of Buyer's Notice of First Offer Acceptance to enter into a new power purchase agreement, in substantially the same form as this Agreement, or amend this Agreement, if necessary; provided that the Contract Price may only be increased to reflect Seller's documented incremental costs in overcoming the Force Majeure event.

(iii) If Buyer rejects or fails to accept Seller's First Offer within thirty (30) days of receipt of such offer, Seller shall thereafter be free to sell or otherwise transfer, and to enter into agreements to sell or otherwise transfer, any Products from the Project to any third party.

ARTICLE TWELVE: DISPUTE RESOLUTION

12.1 Dispute Resolution.

(a) In the event of any claim, controversy or dispute between the Parties arising out of or relating to or in connection with this Agreement (including any dispute concerning the validity of this Agreement or the scope and interpretation of this Section 12.1) (a “Dispute”), any Party (the “Notifying Party”) may deliver to the other Parties (the “Recipient Party”) notice of the Dispute with a detailed description of the underlying circumstances of such Dispute (a “Dispute Notice”). The Dispute Notice shall include a schedule of the availability of the Notifying Party’s senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute during the thirty (30) day period following the delivery of the Dispute Notice.

(b) The Recipient Party shall, within five (5) Business Days following receipt of the Dispute Notice, provide to the Notifying Party a brief summary of the Recipient Party’s position on the Dispute and a parallel schedule of availability of the Recipient Party’s senior officers (having a title of senior vice president (or its equivalent) or higher) duly authorized to settle the Dispute. Following delivery of the respective senior officers’ schedules of availability, the senior officers of the Parties shall meet and confer as often as they deem reasonably necessary during the remainder of the thirty (30) day period in good faith negotiations to resolve the Dispute to the satisfaction of each Party.

(c) In the event a Dispute is not resolved pursuant to the procedures set forth in Sections 12.1(a) and (b) by the expiration of the thirty (30) day period set forth in Section 12.1(b), then a Party may pursue any legal remedy available to it in accordance with this Agreement.

ARTICLE THIRTEEN: NOTICES

Whenever this Agreement requires or permits delivery of a “Notice” (or requires a Party to “notify”), the Party with such right or obligation shall provide a written communication in the manner specified herein; provided, however, that notices of Outages or other Scheduling or dispatch information or requests, as provided in Appendix VI, shall be provided in accordance with the terms set forth in the relevant section of this Agreement. Notices may be sent by facsimile or e-mail. A Notice sent by facsimile transmission or e-mail will be recognized and shall be deemed received on the Business Day on which such Notice was transmitted if received before 5:00 p.m. (and if received after 5:00 p.m., on the next Business Day) and a Notice of overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party. Either Party may periodically change any address, phone number, e-mail, website, or contact, including such information in Appendix VI and the “Notices List” in the Cover Sheet, to which Notice is to be given it by providing Notice of such change to the other Party.

SIGNATURES

Agreement Execution

In WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the dates provided below:

HUMBOLDT WIND, LLC, a Delaware limited liability company

REDWOOD COAST ENERGY AUTHORITY, a California joint powers authority

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX I

FORM OF LETTER OF CREDIT

Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXXX

Date: [insert issue date]

Beneficiary: Redwood Coast Energy Authority

633 3rd St,
Eureka, CA 95501

Attention:

Applicant: [Insert name and address of Applicant]

Letter of Credit Amount: [insert amount]

Expiry Date: [insert expiry date]

Ladies and Gentlemen:

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

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

1. Beneficiary’s signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. **[insert number]** and stating the amount of the demand; and
2. One of the following statements signed by an authorized representative or officer of Beneficiary:
 - A. “Pursuant to the terms of that certain **[insert name of the agreement]** (the “Agreement”), dated **[insert date of the Agreement]**, between Beneficiary and **[insert name of Seller under the Agreement]**, Beneficiary is entitled to draw under Letter of Credit No. **[insert number]** amounts owed by **[insert name of Seller under the Agreement]** under the Agreement; or
 - B. “Letter of Credit No. **[insert number]** will expire in thirty (30) days or less and **[insert name of Seller under the Agreement]** has not provided replacement security acceptable to Beneficiary.

Special Conditions:

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

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

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

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

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

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

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

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

Very truly yours,

[insert name of issuing bank]

By: _____
Authorized Signature

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

Title: _____

Exhibit A SIGHT DRAFT

TO
[INSERT NAME AND ADDRESS OF PAYING BANK]

AMOUNT: \$ _____ DATE: _____

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF REDWOOD COAST ENERGY
AUTHORITY THE AMOUNT OF U.S.\$ _____ (_____ U.S. DOLLARS)

DRAWN UNDER [INSERT NAME OF ISSUING BANK] LETTER OF CREDIT NO. XXXXXX.

REMIT FUNDS AS FOLLOWS:

[INSERT PAYMENT INSTRUCTIONS]

DRAWER

BY: _____
NAME AND TITLE

APPENDIX II

INITIAL ENERGY DELIVERY DATE CONFIRMATION LETTER

In accordance with the terms of that certain Power Purchase Agreement dated _____ (“Agreement”) by and between _____ (“Buyer”) and _____ (“Seller”), this letter (“Initial Energy Delivery Date Confirmation Letter”) serves to document the Parties’ further agreement that (i) the Conditions Precedent to the occurrence of the Initial Energy Delivery Date have been satisfied, and (ii) Buyer has accepted delivery of the Product, as specified in the Agreement, as of this _____ day of _____, _____ (the “Initial Energy Delivery Date”). All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

IN WITNESS WHEREOF, each Party has caused this Initial Energy Delivery Date Confirmation Letter to be duly executed by its authorized representative as of the date of last signature provided below:

HUMBOLDT WIND, LLC

REDWOOD COAST ENERGY AUTHORITY

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX III
FORM OF PROGRESS REPORT

Progress Report

of

("Seller")

provided to

REDWOOD COAST ENERGY AUTHORITY
("Buyer")

[Date]

Instructions.

Any capitalized terms used in this report which are not defined herein shall have the meaning ascribed to them in the Power Purchase Agreement by and between _____, (“Seller”) and Redwood Coast Energy Authority dated _____, (the “Agreement”).

Seller shall review the status of each Milestone of the construction schedule for the Project and Seller shall identify such matters referenced in clauses (i)-(v) below as known to Seller and which in Seller’s reasonable judgment are expected to adversely affect the schedule, and with respect to any such matters, shall state the actions which Seller intends to take to ensure that the Milestones will be attained by their required dates. Such matters may include, but shall not be limited to:

(i) Any material matter or issue arising in connection with a Governmental Approval, or compliance therewith, with respect to which there is an actual or threatened dispute over the interpretation of a Law, actual or threatened opposition to the granting of a necessary Governmental Approval, any organized public opposition, any action or expenditure required for compliance or obtaining approval that Seller is unwilling to take or make, or in each case which could reasonably be expected to materially threaten or prevent financing of the Units or related Project, attaining any Milestone, or obtaining any contemplated agreements with other parties which are necessary for attaining any Milestone or which otherwise reasonably could be expected to materially threaten Seller’s ability to attain any Milestone.

(ii) Any development or event in the financial markets or the independent power industry, any change in taxation or accounting standards or practices or in Seller’s business (including a change of 50% or more of any ownership interest in Seller’s business) or prospects which reasonably could be expected to materially threaten financing of the Project, attainment of any Milestone or materially threaten any contemplated agreements with other parties which are necessary for attaining any Milestone or could otherwise reasonably be expected to materially threaten Seller’s ability to attain any Milestone;

(iii) A change in, or discovery by Seller of, any legal or regulatory requirement which would reasonably be expected to materially threaten Seller’s ability to attain any Milestone, including any failure or delay in obtaining necessary easements;

(iv) Any material change in the Seller’s schedule for initiating or completing any material aspect of Project;

(v) The status of any matter or issue identified as outstanding in any prior Progress Report and any material change in the Seller’s proposed actions to remedy or overcome such matter or issue.

For guidance, each “overview” subsection shall include a summary of the status and progress of major activities associated with that section, whether planned, in progress, or completed, including relevant dates. Each “recent activities” subsection shall include details of activities during the previous month. Each “expected activities” subsection shall include a brief list of major activities planned for the current month.

Seller shall complete, certify, and deliver this form of Progress Report to Richard Engel, together with all attachments and exhibits, with copies of this report delivered to insert information here and insert information here.

1. Executive Summary

Please provide a brief chronological cumulative summary of the **major** activities completed for each of the following aspects of the Project. Include the date each item was added to the summary (e.g., in *Milestone section “January 2020 – notice of Construction Start Date milestone achieved was reported to RCEA on January 15, 2020”* and in *Construction section “January 2020 - Notice to Proceed was issued to EPC contractor on January 10, 2020”*):

- 1.1 Milestones**
- 1.2 Governmental Approvals**
- 1.3 Financing**
- 1.4 Property Acquisition**
- 1.5 Design and Engineering**
- 1.6 Major Equipment procurement**
- 1.7 Construction**
- 1.8 Interconnection**
- 1.9 Startup**

2. Milestones

In this section, please include information on each Milestone listed in the Cover Sheet, plus any additional significant milestones related to the project.

2.1 Milestone schedule

Please state the status and progress of each Milestone. Provide the date of completion of completed Milestone(s) and the expected date of completion of uncompleted Milestone(s). The expected date is the current best estimate, and may change from time to time as better information becomes available.

2.2 Remedial Action Plan (applicable if Seller fails to achieve a Milestone by the Milestone Date)

Please describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates. Describe the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor). Describe Seller’s Remedial Action Plan which shall include detailed plans to achieve the missed Milestone and subsequent Milestones.

3. Governmental Approvals

In this section, please include information on each of the Governmental Approvals required for the construction of the Units and the status thereof. List the applicable government agency, the type of application/approval requested, and the dates (expected or actual) of significant activity. Significant activity includes, but is not limited to, application submission, notice of complete application, notice of preparation, public hearing or comment period, draft documents and/or

approvals, final documents and/or approvals, notice of determination, and/or issuance of permit. If the government agency maintains a website with information on the approval process for the Project, please provide a link.

3.1 Environmental Impact Report/Statement (EIR/EIS)

Please describe the environmental review process and each of the Governmental Approval(s) to be obtained for the Project. Provide the status and completion date (expected or actual) of each significant activity in the process.

3.2 Other Governmental Approvals

Please describe each of the other Governmental Approvals to be obtained for the Project. Provide the status and completion date (expected or actual) of each significant activity.

3.3 Recent Governmental Approval activities

Please describe in detail the Governmental Approval activities that occurred during the previous calendar month.

3.4 Expected Governmental Approval activities

Please list all Governmental Approval activities that are expected to be performed during the current calendar month.

3.5 Governmental Approval Notices received

Please attach to this Progress Report copies of any Notices related to Governmental Approval activities received during the previous calendar month.

4. Financing Activities

In this section, please include information on each separate phase of financing for the Project. Include information on debt, equity, and/or federal or state loans or grants.

4.1 Overview of financing activities

Please provide a summary of the status and progress of each major financing activity, including the date of execution of significant documents, and information on the expected timing of future significant activities.

4.2 Recent financing activities

Please describe in detail the financing activities that occurred during the previous calendar month.

4.3 Expected financing activities

Please list the financing activities that are expected to be performed during the current calendar month.

5. Property Acquisition Activities

In this section, please include information on property acquisition or site control activities for the Project.

5.1 Overview of property acquisition activities

Please provide a summary of the status and progress of each major property acquisition activity, including the date of execution of significant documents, and information on the expected timing of future significant activities.

5.2 Recent property acquisition activities

Please describe in detail the property acquisition activities that occurred during the previous calendar month.

5.3 Expected property acquisition activities

Please list the property acquisition activities that are expected to be performed during the current calendar month.

6. Design and Engineering Activities

In this section, please include information on the status of design and engineering for the Project.

6.1 Overview of design activities

Please provide a summary of the status and progress of each major design or engineering activity, including dates of completion of significant activities and expected timing of future activities.

6.2 Recent design activities

Please describe in detail the design activities that occurred during the previous calendar month.

6.3 Expected design activities

Please list the design activities that are expected to be performed during the current calendar month.

7. Major Equipment Procurement

In this section, please include information on all major equipment to be procured for all portions of the Project to be completed by Seller, including switchyards, substations and any other interconnection equipment, in addition to generating and auxiliary equipment.

7.1 Overview of major equipment procurement activities

For each type of equipment, list the number of each major item to be procured, the manufacturer, model number (if applicable), and rating. List the delivery schedule (expected or actual as applicable), breaking out the number of each item (to be) procured or delivered in each month.

7.2 Recent major equipment procurement activities

Please describe in detail the major equipment procurement activities that occurred during the previous calendar month.

7.3 Expected major equipment procurement activities

Please list the major equipment procurement activities that are expected to be performed during the current calendar month.

8. Construction Activities

In this section, please include information on the status of any construction-related factors that may affect the ability of the Project to deliver Product to the Buyer. Include information on the Project infrastructure, generating equipment, and major auxiliary equipment. Also include information on the substations, switchyards, gen-ties, telecommunications equipment or other interconnection facilities that are the direct responsibility of the Project.

8.1 Overview of major construction activities

Please provide a summary of the status and progress of each major construction activity for all portions of the Project, including a schedule showing expected or actual dates as applicable. Provide the name of the EPC Contractor, the date of execution of the EPC Contract, and the date of issuance of a full Notice to Proceed (or equivalent). For each major type of equipment, break out the number of each item (to be) installed and/or commissioned in each month.

8.2 Recent construction activities

Please describe in detail the construction activities that occurred during the previous calendar month.

8.3 Expected construction activities

Please list the interconnection activities that are expected to be performed during the current calendar month.

8.4 Look-ahead construction schedule

Please provide a look-ahead construction schedule covering at least three months.

8.5 OSHA Recordables

Please list all OSHA recordables from the previous calendar month.

8.6 Work stoppages

Please describe any work stoppage from the previous calendar month and its effect on the construction schedule.

9. Interconnection Activities

In this section, please include information on interconnection-related factors that may affect the ability of the Project to deliver Product to the Buyer. Include information on the status of interconnection studies, Interconnection Agreements, design and construction of Interconnection Facilities (e.g., substations, switchyards, gen-ties, system protection schemes, telecommunications equipment to the extent not already covered in the Project construction information in Section 8), Network Upgrades, and grid outage and/or interconnection schedules.

9.1 Overview of interconnection activities

Please provide a summary of the status and progress of each major interconnection activity including dates of completion of significant activities and expected timing of future activities.

9.2 Recent interconnection activities

Please describe in detail the interconnection activities that occurred during the previous calendar month.

9.3 Expected interconnection activities

Please list the interconnection activities that are expected to be performed during the current calendar month.

10. Startup

In this section, please include information on the status of activities related to preparation for Commercial Operation, including equipment testing, commissioning, release to operations, requirements of the grid operator, and any other activities that must be conducted before the Project may deliver Energy to the grid and/or declare Commercial Operation.

10.1 Overview of startup activities

Please provide a summary of the status and progress of each major startup activity including dates of completion of significant activities and expected timing of future activities.

10.2 Recent startup activities

Please describe in detail the startup activities that occurred during the previous calendar month.

Expected startup activities

Please list the startup activities that are expected to be performed during the current calendar month.

I, _____, on behalf of and as an authorized representative of _____, do hereby certify that any and all information contained in this Seller's Progress Report is true

and accurate, and reflects, to the best of my knowledge, the current status of the construction of the Project as of the date specified below.

By: _____

Name: _____

Title: _____

Date: _____

APPENDIX IV

CONSTRUCTION START AND COMMERCIAL OPERATION CERTIFICATION FORMS AND PROCEDURES

Appendix IV-1: CONSTRUCTION START FORM OF CERTIFICATION

Appendix IV-2: COMMERCIAL OPERATION CERTIFICATION PROCEDURE

Attachment A Commercial Operation Form of Certification

APPENDIX IV-1

**CONSTRUCTION START
FORM OF CERTIFICATION**

_____(Date)_____

Director of Power Resources
Redwood Coast Energy Authority
633 3rd St
Eureka, CA 95501

Re: Construction Start Date

This certification ("Certification") of the Construction Start Date is delivered by Humboldt Wind, LLC ("Seller") to Redwood Coast Energy Authority ("Buyer") in accordance with the terms of that certain Power Purchase Agreement dated _____ ("Agreement") by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement. Seller hereby certifies and represents to Buyer all of the following:

- a) the EPC Contract related to the Project was executed on _____;
- b) [permitting agency name] _ issued grading permits to the Seller on _____; and
- c) the Notice to Proceed was issued on _____ (attached), and.
- d) mobilization at the Project Site commenced on _____.

IN WITNESS WHEREOF, the undersigned has executed this certificate on behalf of the Seller as of the ____ day of _____.

(Seller)

(Name)

(Position)

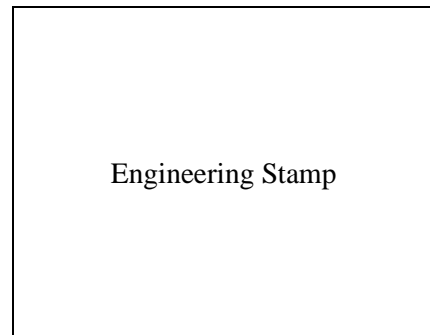
[LICENSED PROFESSIONAL ENGINEER]

By: _____

Name: _____

Title: _____

Date: _____



APPENDIX IV-2

COMMERCIAL OPERATION CERTIFICATION PROCEDURE

In accordance with the terms of that certain Power Purchase Agreement dated _____, 20__ by and between Redwood Coast Energy Authority (“Buyer”) and Humboldt Wind, LLC (“Seller”) to declare and recognize the Commercial Operation Date of the Project, Seller shall provide all of the documents set forth herein to Buyer as of the Commercial Operation Date. All terms not defined herein shall have the meaning set forth in the Agreement.

- (1) A certification from an authorized officer of Seller, substantially in the form of Attachment A to this Appendix IV-2, dated as of the Commercial Operation Date; and
- (2) A certificate or report from a Licensed Professional Engineer containing all of the following:
 - (a) A statement that the Project has achieved Mechanical Completion and the date on which it was achieved;
 - (b) A statement that the Project has successfully completed Project Testing and the dates on which Seller has accepted the test results; and
 - (c) A statement that the Project has achieved Substantial Completion and the date on which it was achieved.
- (3) Seller has provided to Buyer all documents which demonstrate that Seller has satisfied all of the CAISO agreement, interconnection agreement, and metering requirements in Sections 3.4 and 3.6 and has enabled Buyer to schedule the Project with the CAISO for the Project’s full unrestricted output.
- (4) Definitions.
 - (a) “Mechanical Completion” means that (i) all components and systems of the Project have been properly constructed, installed and functionally tested according to EPC Contract requirements in a safe and prudent manner that does not void any equipment or system warranties or violate any permits, approvals or Laws; (ii) the Project is ready for startup testing and commissioning; (iii) Seller has provided written acceptance to the EPC Contractor of mechanical completion as that term is specifically defined in the EPC Contract.
 - (b) “Project Testing Completion” means the written acceptance to the EPC Contractor of the completion of startup testing / commissioning, emissions testing (as applicable), and performance / acceptance / warranty testing (all such testing shall be collectively referred to as “Project Testing”) as required under the EPC Contract. The objectives of the tests shall be generally (i) to verify that the Project has been properly designed and constructed to meet the performance and operating requirements of the EPC Contract; (ii) to assure warranty coverage for equipment and systems over their warranty periods.
 - (c) “Substantial Completion” means when the following has occurred: (i) the Project is sufficiently complete, in accordance with the EPC Contract, that Seller has full and unrestricted use and benefit of the Project in the use for which it is intended; (ii) the Project has achieved Mechanical Completion; (iii) utilities are fully connected and operating normally; (iv) all necessary permits have been issued; (v) the Project is fully and properly interconnected and synchronized with the electrical grid and is capable of producing electricity in accordance with the EPC Contract; (vi) the operating manual has been approved by Seller; (vii) all work other than incidental corrective and incidental punch list work is complete; and (viii) Seller has provided written acceptance to the EPC Contractor of substantial completion as that term is specifically defined in the EPC Contract.

APPENDIX IV-2 –Attachment A

**COMMERCIAL OPERATION
FORM OF CERTIFICATION**

This certification (“Certification”) of Commercial Operation is delivered by Humboldt Wind, LLC (“Seller”) to Redwood Coast Energy Authority (“Buyer”) in accordance with the terms of that certain Power Purchase Agreement dated _____ (“Agreement”) by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

- (1) Mechanical Completion of the Project was achieved on ____ [DATE] ____.
- (2) Project Testing Completion successfully occurred on:

[Seller to indicate each type of Project Testing and date completed]

- (a) NAME OF TEST [DATE]
 - (b) NAME OF TEST [DATE]
 - (c) NAME OF TEST [DATE]
- (3) Substantial Completion of the Project was achieved on ____ [DATE] ____
- (4) Pre-parallel inspection of the Project was successfully completed on ____ [DATE] ____
- (5) Authorization to parallel the Project was obtained on ____ [DATE] ____
- (6) Telemetry / SCADA visibility with PTO and CAISO grid control and power dispatch centers was obtained for the Project on ____ [DATE] ____
- (7) Reliability Network Upgrades (as defined in the CAISO Tariff) were completed on the Project on ____ [DATE] ____
- (8) Power system stabilizer testing and calibration was obtained for the Project on ____ [DATE] ____
or, ☐ was not required
- (9) Full Capacity Deliverability Status Finding from CAISO was obtained for the Project on ____ [DATE] ____ or, ☐ was not required because the Project is Energy Only.
- (10) The Participating Transmission Provider or Distribution Provider has provided documentation supporting full unrestricted release for Commercial Operation by [Name of Participating Transmission Owner as appropriate] on ____ [DATE] ____.
- (11) The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO tariff on ____ [DATE] ____.

A certified statement of the Licensed Professional Engineer, attached hereto, has been provided as evidence of Commercial Operation of the Project to provide Product and meet, at a minimum, the requirements indicated herein.

EXECUTED by SELLER this _____ day of _____, 20__.

		[Licensed Professional Engineer]	
Signature: _____		Signature: _____	
Name: _____		Name: _____	
Title: _____		Title: _____	
		Date: _____	
		License Number and LPE Stamp _____	

APPENDIX V

GEP DAMAGES CALCULATION

In accordance with the provisions in Section 3.1(e)(ii), GEP Damages means the liquidated damages payment due by Seller to Buyer, calculated as follows:

$$[(A-B) \times (C-D)]$$

Where:

A = the Guaranteed Energy Production for the Performance Measurement Period, in MWh

B = Sum of Delivered Energy plus Deemed Delivered Energy, if any, over the Performance Measurement Period, in MWh

C = Replacement price for the Performance Measurement Period, in \$/MWh, which is the sum of (a) the simple average of the Integrated Forward Market hourly price for all the hours in the Performance Measurement Period, as published by the CAISO, for the Existing Zone Generation Trading Hub (as defined in the CAISO Tariff), in which the PNode resides, plus (b) \$■/MWh

D = the unweighted Contract Price specified in the Cover Sheet for the Performance Measurement Period, in \$/MWh

The Parties agree that in the above calculation of GEP Damages, the result of “(C-D)” is less than \$■/MWh, the “(C-D)” will be replaced with \$■/MWh.

APPENDIX VI

NOTIFICATION REQUIREMENTS FOR AVAILABLE CAPACITY AND PROJECT OUTAGES

A. NOTIFICATION REQUIREMENTS FOR ROUTINE START-UP AND SHUTDOWNS

Prior to paralleling or after disconnecting from the electric system, ALWAYS follow your balancing authority rules and notify the applicable Participating Transmission Owner's (PTO) switching center

- Call the applicable Participating Transmission Owner's (PTO) switching center and TEA's Real-Time Desk to advise of the intent to parallel before any Start-up.
- Call the applicable Participating Transmission Owner's (PTO) switching center and TEA's Real-Time Desk after the unit has been paralleled and report the parallel time and intended unit output.
- Call the applicable Participating Transmission Owner's (PTO) switching center and TEA's Real-Time Desk after any routine separation and report the separation time as well as the date and time estimate for return to service.

B. SUBMISSION OF AVAILABLE CAPACITY AND PLANNED OUTAGES

1. Implement the procedures set forth below:

- a. For all email correspondence, enter the following in the email subject field: Delivery Date Range, Company Name, Contract Name, Email Purpose, Date Range (For example: "dd/mm/yyyy through dd/mm/yyyy, XYZ Company Project #2, Daily Forecast of Available Capacity,")
- b. For Annual Forecasts of Available Capacity, email to [REDACTED].
- c. For Daily Forecasts of Available Capacity after fourteen (14) hours before the WECC Preschedule Day, but before the CAISO deadline for submitting Schedules into the Day-Ahead Market, call primary phone [REDACTED] or backup phone [REDACTED]. Also send email to [REDACTED].
- d. For Hourly Forecasts of Available Capacity, call TEA's Real Time Desk at [REDACTED] and email to [REDACTED].
- e. For Planned Outages and Prolonged Outages, complete the specifics below and submit by email to [REDACTED].
 - i. *Email subject field:* Company Name, Contract Name, Email Purpose, Date Range (For example: "dd/mm/yyyy through dd/mm/yyyy, XYZ Company Project #2, Daily Forecast of Available Capacity")

ii. Email body:

1. Type of Outage: Planned Outage or Prolonged Outage
2. Start Date and Start Time
3. Estimated or Actual End Date and End Time for Outage
4. Date and time when reported to TEA and name(s) of TEA representative(s) contacted
5. Text description of additional information as needed, including, but not limited to, changes to a Planned Outage or Prolonged Outage.
6. Contact name: first and last name of the individual at the Unit to contact regarding the outage(s) at issue in the email.

C. FORCED OUTAGE REPORTING

1. Forced Outages – Seller shall notify TEA’s Real Time Desk verbally at [REDACTED] within ten (10) minutes of event or as soon as reasonably possible, after the safety of all personnel and securing of all facility equipment.
 - a. Verbal notification shall include time of forced outage, cause, current availability and estimated return date and time.
 - b. After verbally notifying TEA’s Real Time Desk of the forced outage, Seller shall also submit the following information via email to [REDACTED].
 - i. *Email subject field:* Company Name, Contract Name, Email Purpose, Date Range (For example: “dd/mm/yyyy through dd/mm/yyyy, XYZ Company Project #2, Daily Forecast of Available Capacity”)

ii. Email body:

1. Type of Outage: Forced Outage
2. Start Date and Start Time
3. Estimated or Actual End Date and End Time
4. Date and time when reported to TEA and name(s) of TEA representative(s) contacted.
5. Text description of additional information as needed.
6. Primary and secondary causes of Forced Outage, including a detailed description of specific equipment involved and the nature of the problem or condition.
7. Equipment description and nature of work being performed. For generation outages, include NERC Generation Availability Data System

(GADS) numbers (as available) that identify the specific equipment and type of work that affect restrictions. Include additional equipment designations as available.

8. Text description of additional information as needed, including, but not limited to, changes to a previously scheduled Outage, links/cross-references to related outage cards and log entries, outage classifications per the CAISO Tariff, etc.
9. Associated events, e.g. operation of Special Protection Schemes.
10. Impact on CAISO-controlled Grid.

APPENDIX VII

FORM OF CONSENT TO ASSIGNMENT

CONSENT AND AGREEMENT

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

Recitals

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

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

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

Agreement

1. Definitions. Any capitalized term used but not defined herein shall have the meaning specified for such term in the Assigned Agreement.

2. Consent. Subject to the terms and conditions below, RCEA consents to and approves the pledge and assignment by Seller to Financing Provider pursuant to the Loan Agreement and/or Security Agreement of (a) the Assigned Agreement, and (b) the accounts, revenues and proceeds of the Assigned Agreement (collectively, the “Assigned Agreement Accounts”).

3. Limitations on Assignment. Financing Provider acknowledges and confirms that, notwithstanding any provision to the contrary under applicable law or in any Financing Document executed by Seller, Financing Provider shall not assume, sell or otherwise dispose of the Assigned Agreement (whether by foreclosure sale, conveyance in lieu of foreclosure or otherwise) unless, on or before the date of any such assumption, sale or disposition, Financing Provider or any third party, as the case may be, assuming, purchasing or otherwise acquiring the Assigned Agreement (a) cures any and all defaults of Seller under the Assigned Agreement which are capable of being cured and which are not personal to the Seller, (b) executes and delivers to RCEA a written assumption of all of Seller’s rights and obligations under the Assigned Agreement in form and substance reasonably satisfactory to RCEA, (c) otherwise satisfies and complies with all requirements of the Assigned Agreement, (d) provides such tax and enforceability assurance as RCEA may reasonably request, and (e) is a Permitted Transferee (as

defined below). Financing Provider further acknowledges that the assignment of the Assigned Agreement and the Assigned Agreement Accounts is for security purposes only and that Financing Provider has no rights under the Assigned Agreement or the Assigned Agreement Accounts to enforce the provisions of the Assigned Agreement or the Assigned Agreement Accounts unless and until an event of default has occurred and is continuing under the Financing Documents between Seller and Financing Provider (a “Financing Default”), in which case Financing Provider shall be entitled to all of the rights and benefits and subject to all of the obligations which Seller then has or may have under the Assigned Agreement to the same extent and in the same manner as if Financing Provider were an original party to the Assigned Agreement.

“Permitted Transferee” means any person or entity that satisfies, or is controlled by another person or entity that satisfies, the following requirements: (i) a tangible net worth of not less than fifty million dollars (\$50,000,000) or a Credit Rating of at least BBB- from S&P or Baa3 from Moody’s; and (ii) at least two (2) years of experience in the ownership and operations of power generation facilities similar to the Project, or has retained a third-party with such experience to operate the Project.

4. Cure Rights.

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

(b) Cure Period Available to Financing Provider Prior to Any Termination by RCEA. Upon the occurrence of an Event of Default, subject to (i) the expiration of the relevant cure periods provided to Seller under the Assigned Agreement, and (ii) Section 4(a) above, RCEA shall not terminate the Assigned Agreement unless it or Seller provides Financing Provider with notice of the Event of Default and affords Financing Provider an Additional Cure Period (as defined below) to cure such Event of Default. For purposes of this Agreement “Additional Cure Period” means (i) with respect to a monetary default, thirty (30) days in addition to the cure period (if any) provided to Seller in the Assigned Agreement, and (ii) with respect to a non-monetary default, ninety (90) days in addition to the cure period (if any) provided to Seller in the Assigned Agreement.

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

(d) Extension for Foreclosure Proceedings. If possession of the Project (as defined in the Assigned Agreement) is necessary for Financing Provider to cure an Event of Default and Financing Provider commences foreclosure proceedings against Seller within thirty (30) days of receiving notice of an Event of Default from RCEA or Seller, whichever is received first, Financing Provider shall be allowed a reasonable additional period to complete such foreclosure proceedings, such period not to exceed one hundred eighty (180) days; provided, however, that Financing Provider shall provide a written

notice to RCEA that it intends to commence foreclosure proceedings with respect to Seller within thirty (30) business days of receiving a notice of such Event of Default from RCEA or Seller, whichever is received first. In the event Financing Provider succeeds to Seller's interest in the Project as a result of foreclosure proceedings, the Financing Provider or a purchaser or grantee pursuant to such foreclosure shall be subject to the requirements of Section 3 of this Consent and Agreement.

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

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

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

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

9. Miscellaneous.

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

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

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

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

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

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

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

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

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

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

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

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

Redwood Coast Energy Authority (RCEA)

By: _____
Name: _____
Title: _____

[_____] (Financing Provider), as collateral agent

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT

The undersigned hereby acknowledges the Consent and Agreement set forth above, makes the agreements set forth therein as applicable to Seller, including the obligation of Seller to provide a copy of any Default Notice it receives from RCEA to Financing Provider the next business day after receipt by Seller, and confirms that the Financing Provider identified above and the Secured Parties have provided or are providing financing to the undersigned.

[_____] [name of Seller]

By: _____
Name: _____
Title: _____

APPENDIX VIII
SELLER DOCUMENTATION

Seller shall provide to Buyer all of the following documentation prior to the Execution Date:

1. A copy of each of (A) the articles of incorporation or organization, certificate of incorporation, operating agreement or similar applicable organizational documents of Seller and (B) the by-laws or other similar documents of Seller (collectively, “Charter Documents”) as in effect, or anticipated to be in effect, on the Execution Date.
2. A certificate signed by an authorized officer of Seller (who must be a different person than the officers listed in clause (C) below), dated no earlier than ten (10) Business Days prior to the Execution Date, certifying (A) that attached thereto is a true and complete copy of the Charter Documents of the Seller, as in effect at all times from the date on which the resolutions referred to in clause (B) below were adopted to and including the date of such certificate; (B) that attached thereto is a true and complete copy of resolutions duly adopted by the board of directors (or other equivalent body) or evidence of all corporate or limited liability company action, as the case may be, of Seller, authorizing the execution, delivery and performance of this Agreement, and that such resolutions have not been modified, rescinded or amended and are in full force and effect, and (C) as to the name, incumbency and specimen signature of each officer of Seller executing this Agreement.
3. A certificate from the jurisdiction of Seller’s incorporation or organization certifying that Seller is duly organized, validly existing and in good standing under the laws of such jurisdiction.
4. Evidence of Site control (e.g. lease with redacted price terms) satisfactory to Buyer.
5. A copy of the most recent financial statements (which may be unaudited) from Seller together with a certificate from the Chief Financial or equivalent officer of Seller, dated no earlier than ten (10) Business Days prior to the Execution Date, to the effect that, to the best of such officer’s knowledge, (A) such financial statements are true, complete and correct in all material respects and (B) there has been no material adverse change in the financial condition, operations, Properties, business or prospects of Seller since the date of such financial statements.

APPENDIX IX

FORM OF ACTUAL AVAILABILITY REPORT

Pursuant to Section 3.1(l)(i), Seller shall prepare an Actual Availability Report in accordance with the procedures described in this Appendix IX.

- (a) Availability Workbook. Seller shall (i) collect the measurement data, listed in (b) below, in one (1) or more Microsoft Excel Workbooks (the “Availability Workbook”) provided in a form and naming convention approved by Buyer and (ii) electronically send the Availability Workbook to an address provided by Buyer. The Actual Availability Report shall reflect the sum of the Settlement Interval Actual Available Capacity of all generators as measured by such generator’s internal turbine controller.
- (b) Log of Availability. The Availability Workbook shall be created on a single, dedicated Excel worksheet and shall be in the form of Attachment A to this Appendix IX.

APPENDIX IX

Attachment A

Form of Actual Availability Report

Seller's Actual Availability Report

All amounts are in MWs

Settlement Interval No.	Date	HE1	HE2	HE3	HE4	HE5	HE6	HE7	HE8	HE9	HE10	HE11	HE12	HE13	HE14	HE15	HE16	HE17	HE18	HE19	HE20	HE21	HE22	HE23	HE24
1	mm/dd/yyyy																								
2	mm/dd/yyyy																								
3	mm/dd/yyyy																								
4	mm/dd/yyyy																								
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5	mm/dd/yyyy																								
6	mm/dd/yyyy																								

Date/Time of Submittal

APPENDIX X

TELEMETRY PARAMETERS FOR WIND FACILITY

Technology Type	Telemetry Parameters	Units
Wind	Wind Speed (measured at hub height)	m/s
	Peak Wind Speed (Within 1 minute, measured at hub height)	m/s
	Wind Direction	Degrees
	Wind Speed Standard Deviation	--
	Wind Direction Standard Deviation	--
	Barometric Pressure (measured at hub height)	Millibars or Hecto Pascals (hPa)
	Ambient Temperature (measured at hub height)	°C

APPENDIX XI

NOT USED

APPENDIX XII

PROJECT SPECIFICATIONS AND CONTRACT CAPACITY CALCULATION

I. PROJECT SPECIFICATIONS

“MVA” means megavolt ampere, the unit of apparent power.

“Nameplate Rated Output” means, with respect to an inverter or electric generator, the MVA that the manufacturer of the inverter or generator has designed such equipment to produce under normal operating conditions as specified by such manufacturer.

“Designated Power Factor” means, with respect to an inverter or electric generator, the power factor required to satisfy the portion of the Project’s reactive power requirements that are specified in *[please identify the applicable source, such as the PTO’s Interconnection Handbook, the CAISO’s Phase II Study, or the Generator Interconnection Agreement for the Project]* and are not being satisfied by other sources of reactive power within the Project.

“Nameplate Rated Power” means, with respect to an inverter or electric generator, the multiplication product of the Nameplate Rated Output and the Designated Power Factor for such inverter or generator, in MWs.

The project specifications shall consist of the following eleven (11) items (each item of which shall be a “Project Specification”). As provided in Section 3.1(g), Seller shall not make any change or modification to any Project Specification that would result in a change to the Contract Capacity of the Project without Buyer’s prior written consent.

1. Project name:
2. Project Site name:
3. Project physical address:
4. Total number of Units at the Project:
5. Technology Type:
6. Interconnection Point of Project:
7. Service Territory of Project:
8. Substation:
9. CAISO Pricing Node:
10. CAISO Resource ID:
11. Description of Units:
 - a. For each steam turbine, specify the rated conditions (MW rating, steam inlet temperature, steam inlet pressure, condensing temperature, mass flow rate):
 - b. For each electric generator, specify the Nameplate Rated Output, Designated Power Factor and Nameplate Rated Power:
12. Description of Land:

The Site contains the following Assessor Parcel Numbers upon which the Project is located and as identified on the topographical map included in this Appendix XII: [Insert Map]

13. Description of Interconnection Facilities and metering:

The Project will use the following Interconnection Facilities and metering configuration as identified in this one-line diagram included in this Appendix XII:

[Insert One-Line Diagram for Interconnection Facilities and Metering]

14. Maps: The Site is identified in the following topographical map:

[INSERT MAP]

II. CONTRACT CAPACITY CALCULATION

The Contract Capacity specified in Section B of the Cover Sheet shall be the factor (A) minus each of the factors (B) through (E) provided below:

A	Sum of the Nameplate Rated Power of all inverters/generators	_____ MW
B	Calculated electrical losses from inverter/generator output terminals to Delivery Point (with all inverters/generators operating at Nameplate Rated Outputs)	_____ MW
C	Electrical Losses	_____ MW
D	Auxiliary and station loads coincident with inverters/generators operating at Nameplate Rated Outputs	_____ MW
E	Other factors (explain below)	_____ MW
F	Contract Capacity at the Delivery Point ($F = A - B - C - D - E$), which shall be the same as the MW amount specified for the Contract Capacity in Section B of the Cover Sheet	_____ MW

Inputs for the Nameplate Rated Power calculation:

Designated Power Factor:

	Leading	Lagging
Project power factor requirements	_____	_____
Seller's Designated Power Factor for inverters/generators	_____	_____

Power factor requirement is measured at (check one):

☐ inverter/generator terminals; ☐ Point of Interconnection; ☐ Other: _____

APPENDIX XIII

COMMUNITY INVESTMENT

Seller agrees to fund a “Community Investment Fund” (“CI Fund”) through a onetime payment by Seller of one hundred fifty thousand dollars (\$150,000). Within sixty (60) days after the Commercial Operation Date, Seller will deposit the funds in a distinct and separate account established and maintained at a bank or financial institution selected by Buyer that is reasonably acceptable to Seller.

The CI Fund will be administered by Buyer for the direct benefit of Humboldt County residents and subject to mutual agreement by the Parties. The CI Fund will be allocated towards activities related to workforce development, education, and other community investments. Notwithstanding any provision to the contrary, the CI Fund shall not be allocated in a manner that is inconsistent with the applicable provisions of law pertaining to conflicts of interest, including the California Political Reform Act (Gov. Code §§ 87100 et seq.) and California Government Code Section 1090.



STAFF REPORT
Agenda Item # 6.2

AGENDA DATE:	December 19, 2019
TO:	Board of Directors
PREPARED BY:	Lori Biondini, Director of Business Planning & Finance
SUBJECT:	Fiscal Year 2019-2020 1 st Quarter Budget Summary

SUMMARY

This report is meant to provide a summary of actual revenue and expenses for the first quarter of the fiscal year as compared to RCEA's adopted 2019-2020 budget. Total revenue and expenses for July through September were tracking very close to a quarter of their respective budgets (26% and 24%).

Below is a more detailed look into the line items:

- Revenue from government and non-government agencies is tracking low as compared to their respective budgets. These line items include work on the County Climate Action Plan, a majority of which was not billed until the second quarter.
- Revenue from electricity sales was at 28% of its budget line, associated with higher summer electricity rates.
- Expenses related to wholesale power supply were on track at 24% of the budget line.
- Personnel expenses were low at 20% of the budget line, associated with the departure of one director and employee leaves of absences.
- Facilities and Operations expenses were high at 34% of the budget line due to a large milestone payment made to Tesla for the airport microgrid project.
- Communications and Outreach expenses were high at 37% due to the expansive outreach and workshops associated with the RePower Humboldt/CAPE update.
- Travel and Meetings expenses were high at 30% due to preparation for the annual CalCCA meeting in Los Angeles which occurred in early November.
- Professional and Program Services:
 - Regulatory expenses were tracking a little high at 27% of the budget line
 - Program Related Services expenses were very low at 7% as this line mostly includes approved offshore wind related expenses which have not been contracted for yet.
 - Accounting expenses were very low at below 1% of the budget line as RCEA has not received a bill for audit services yet.
 - Legal expenses are also tracking a little high at 27% of the budget line due to power purchase agreement negotiations as part of the request for proposals effort last fiscal year.
 - Wholesale Services from TEA were on track at 25% of the budget line.
 - Procurement Credit by TEA was a little low at 21% of the budget line.
 - Data Management by Calpine was right on track at 25% of the budget line.
- Program Expenses were high at 29% of the budget line. Program expenses include CCA franchise fees, City of Arcata and Blue Lake excess energy use taxes, and State of California

energy surcharge taxes. If these expenses continue to track higher than their budget line, it is likely underbudgeted and may warrant adjustment.

- Incentives and Rebates expenses were low at 11% of their budget line. These costs are directly related to our PG&E local government partnership revenue which was also low.
- Non-Operating Costs expenses were low at 9% of its budget line. This budget line item includes credit card and bank charges, as well as repayment of debt. RCEA is current on all repayment of debt (on-bill financing for the office lighting upgrade in 2012, and The Energy Authority Phase 1 expenses). If these expenses continue to track lower than the budget line, it is likely overbudgeted and may warrant adjustment.

RECOMMENDED ACTION

None. Information Only.

ATTACHMENTS

1. Profit & Loss Budget vs. Actual July through September 2019

Redwood Coast Energy Authority
Profit & Loss Budget vs. Actual
July through September 2019

	Jul - Sep 19	Budget	% of Budget
Ordinary Income/Expense			
Income			
Total 4 GRANTS AND DONATIONS	270.00		
5 REVENUE EARNED			
Total 5000 · Revenue - government agencies	10,409.19	125,000.00	8.33%
Total 5100 · Revenue - program related sales	7,471.35	16,000.00	46.7%
Total 5400 · Revenue-nongovernment agencies	302,237.97	2,576,300.00	11.73%
Total 5500 · Revenue - Electricity Sales	14,706,348.40	53,482,965.00	27.5%
Total 5 REVENUE EARNED	15,026,466.91	56,200,265.00	26.74%
9500 Debt Proceeds	0.00	2,730,300.00	0.0%
Total Income	15,026,736.91	58,930,565.00	25.5%
Gross Profit	15,026,736.91	58,930,565.00	25.5%
Expense			
Total 6 WHOLESALE POWER SUPPLY	10,195,308.74	42,295,190.00	24.11%
Total 7 PERSONNEL EXPENSES	599,022.03	3,026,492.00	19.79%
Total 8.1 FACILITIES AND OPERATIONS	1,522,038.18	4,539,920.00	33.53%
Total 8.2 COMMUNICATIONS AND OUTREACH	42,305.24	115,000.00	36.79%
Total 8.3 TRAVEL AND MEETINGS	18,758.05	68,000.00	27.59%
8.4 PROFESSIONAL & PROGRAM SRVS			
8400 · Regulatory	49,458.90	184,000.00	26.88%
Total 8410 · Contracts - Program Related Ser	30,359.45	435,000.00	6.98%
8420 · Accounting	105.00	68,950.00	0.15%
8430 · Legal	33,968.16	125,000.00	27.18%
8450 · Wholesale Services - TEA	149,851.05	602,401.00	24.88%
8460 · Procurement Credit - TEA	160,454.41	753,809.00	21.29%
8470 · Data Management - Calpine	220,280.56	882,348.00	24.97%
Total 8.4 PROFESSIONAL & PROGRAM SRVS	644,477.53	3,051,508.00	21.12%
Total 8.5 PROGRAM EXPENSES	159,933.02	555,786.00	28.78%
Total 8.6 INCENTIVES & REBATES	94,652.34	881,500.00	10.74%
Total 9 NON OPERATING COSTS	15,371.18	169,518.00	9.07%
Total Expense	13,291,866.31	54,702,914.00	24.3%
Net Ordinary Income	1,734,870.60	4,227,651.00	41.04%
Net Income	1,734,870.60	4,227,651.00	41.04%

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STAFF REPORT
Agenda Item # 11.1

AGENDA DATE:	December 19, 2019
TO:	Board of Directors
PREPARED BY:	Richard Engel, Director of Power Resources
SUBJECT:	2020 Carbon Free Power Procurement Plan

SUMMARY

As discussed previously with the Board, the market for carbon-free energy, which generally comes from large hydropower projects in the Pacific Northwest, has become tighter in the past year, meaning significantly higher prices and lower availability of this product. Causes of this phenomenon are believed to include the widespread launch of community choice energy (CCE) programs across California with aggressive decarbonization goals, more of the power being retained in the Northwest for that region's own decarbonization efforts, and increased variability in power generation due to climate change. The scarcity and costliness of this resource is expected to continue in 2020 and beyond.

Staff have consulted with our power portfolio manager The Energy Authority (TEA) and propose the following plan for our remaining carbon-free power procurement in 2020. Staff will attempt to procure the remaining amount of carbon-free power needed to meet our existing goal of a 5% lower emissions factor than PG&E's portfolio, but will limit the unit price paid to no more than 160% of the unit price paid for 2020 carbon-free power that has already been procured. Based on recent trading observed by TEA, this appears to be a realistic price level. Considering the total quantity of carbon-free energy sought, we will set a total expenditure cap for remaining procurement at \$1.5 million. For whatever portion of our procurement target that is not met by May 1, 2020¹, we propose to redirect an equivalent amount of funds (current unmet volume in MWh times the per-unit price cap) to fund a program for solar plus energy storage at public facilities. This strategy will allow RCEA to pursue carbon emissions reductions through alternative means that cannot be cost-effectively met through existing power generation projects, and that are local to RCEA's service territory.

The solar plus energy storage program would be a proposed expansion of our existing Public Agency Solar Program (PASP). Since its launch in February 2018, PASP has provided administrative and technical support to nineteen local agencies seeking to develop on-site solar generation. Currently, 6 PASP projects have been fully funded through CEC low- and no-interest loans or grants that were accepted and/or approved by their respective governing bodies, resulting in 500 kW of new solar capacity to be installed over the next year.

¹ Due to the timing of the hydrologic cycle, most large hydroelectric generation for the year is procured well before this date, after which the chance of finding reasonably priced hydropower is slim.

Staff are working to determine how the additional funding could best be leveraged to incentivize the addition of energy storage, but possible strategies include: (1) matching state funds for battery-based energy storage available through the Self-Generation Incentive Program (SGIP); (2) developing the storage resources as RCEA-owned assets to be managed collectively as a virtual power plant; (3) providing the same administrative and technical assistance currently available for solar installations for public agencies that are pursuing the addition of energy storage. Staff will bring details on this proposed PASP expansion to the Board for review at a future meeting.

FINANCIAL IMPACTS

The proposed expenditure limit, plus the amount already expended to date on carbon-free energy for 2020, is within the amount allotted for this purpose in the CCE program's financial model, which is in turn used for setting our annual energy procurement budget. There would be no financial impact other than what is already budgeted.

RECOMMENDED ACTION

Authorize staff to expend up to \$1.5 million for procurement of carbon-free power for calendar year 2020, at a unit price not to exceed 160% of 2020 carbon-free power procured to date, redirecting any portion of these funds not committed by May 1, 2020 to an incentive program for energy storage at critical public facilities.

ATTACHMENTS

None



STAFF REPORT
Agenda Item # 11.2

AGENDA DATE:	December 19, 2019
TO:	Board of Directors
PREPARED BY:	Jocelyn Gwynn, Power Resources Manager Richard Engel, Director of Power Resources
SUBJECT:	CCE Program Updates

SUMMARY

CPUC Decision Requiring Reliability Procurement

In November 2019, the California Public Utilities Commission (CPUC) mandated that the collective load-serving entities in most of California¹ procure 3,300 megawatts of new electric generation capacity to meet the state's forecasted shortage starting in 2021. The CPUC purports that this incremental capacity is necessary for the integration of large amounts of renewables on the electricity grid. RCEA's share of this capacity is 10.7 MW, and the interim procurement amounts can be seen in the table below.

Procurement year (by August 1)	2021	2022	2023
Percent of obligation	50%	75%	100%
RCEA cumulative obligation (MW)	5.4	8.0	10.7

For purposes of this mandate, new resources are not accounted for by their nameplate generating capacities, but by their contribution to electric system reliability (resource adequacy), which is drastically less for intermittent resources such as solar and wind. For example, a 2 MW solar array² would count as 0.3 MW toward system reliability, because only 15% of the nameplate capacity of solar resources in California contributes toward meeting the system peak demand, according to the CPUC's valuation methodology.

The Redwood Coast Airport Microgrid and RCEA's long term power purchase agreements currently in progress are considered incremental, but both fall short of the full compliance amounts due to size and timing, respectively. In addition to these, staff anticipate conducting a variety of procurement strategies including but not limited to (1) opening a solicitation for new RA capacity in early 2020 and (2) considering the development of customer battery storage for dual resiliency and reliability purposes.

¹ Includes investor-owned utilities, community choice aggregators, and all other electric service providers within the California Independent System Operator's service territory

² This is the size of the Redwood Coast Airport Microgrid solar array; RA capacity valuation of the microgrid's battery storage component is still being determined.

RCEA Energy Risk Policy Update

RCEA's Energy Risk Management Policy calls for yearly review, with updates as needed. The last review and updates were presented to the Board in December 2018. Staff have begun the latest annual review process and have identified some needed updates. Due to the several other time-sensitive matters currently in progress, staff will bring the policy updates to the Board for approval in January 2020.

FINANCIAL IMPACTS

None at this time.

RECOMMENDED ACTIONS

None – informational only.

ATTACHMENTS

None