



BOARD OF DIRECTORS MEETING AGENDA

December 17, 2020 -Thursday, 3:30 p.m.

COVID-19 NOTICE

RCEA AND HUMBOLDT BAY MUNICIPAL WATER DISTRICT OFFICES WILL NOT BE OPEN TO THE PUBLIC FOR THIS MEETING

Pursuant to the Governor's Executive Order [N-29-20](#) of March 17, 2020, and the Humboldt County Health Officer's March 30, 2020, [Shelter-in-Place Order](#), the RCEA Board of Directors meeting will not be convened in a physical location. Board members will participate in the meeting via an online Zoom video conference.

To listen to the meeting by phone, call (669) 900-6833 or (253) 215-8782. Enter webinar ID: 819 7236 8051. **To watch the meeting online**, join the Zoom webinar at <https://us02web.zoom.us/j/81972368051>.

You may submit written public comment before and during the meeting by email to PublicComment@redwoodenergy.org. Please identify the agenda item number in the subject line. Comments received before the agenda item is heard will be read into the record, with a maximum allowance of approximately 500 words per comment. Comments received after the agenda item is heard and before the meeting's end will be included in the meeting record but not read aloud during the meeting.

To make a comment during the public comment periods, raise your hand in the online Zoom webinar, or press star (*) 9 on your phone to raise your hand. You will continue to hear the meeting while you wait. When it is your turn to speak, a staff member will unmute your phone or computer. You will have 3 minutes to speak.

While downloading the Zoom application may provide a better meeting experience, Zoom does not need to be installed on your computer to participate. After clicking the webinar link above, click "start from your browser."

In compliance with the Americans with Disabilities Act, any member of the public needing special accommodation to participate in this meeting should call (707) 269-1700 or email Ltaketa@redwoodenergy.org at least 3 business days before the meeting. Advance notice enables RCEA staff to make their best effort to reasonably accommodate access to this meeting while maintaining public safety.

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 at www.redwoodenergy.org.

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 19, Board Meeting.

3.2 Approve Disbursements Report.

3.3 Accept Financial Reports.

3.4 Reappoint Norman Bell, Catherine Gurin, Richard Johnson, Luna Latimer and Kit Mann to the Community Advisory Committee for Two-Year Terms Ending on April 11, 2023.

3.5 Approve Amendment No. 6 to Agreement for Employment of Executive Director with Matthew Marshall.

3.6 Accept the Risk Management Team Report of the Annual Review of the Energy Risk Management Policy.

3.7 Adopt Resolution 2020-9 of the Redwood Coast Energy Authority Approving and Authorizing Loan "A8" From the United States Department of Agriculture, Rural Utilities Service (RUS) For Construction of The Redwood Coast – Humboldt County Airport Front of the Meter Backup Energy Storage System Microgrid and Authorize the Executive Director to Execute, After Final Review and Approval by RCEA General Counsel, All Associated Loan "A8" Documents.

Authorize the Executive Director to Make Minor Non-Material Revisions to the Loan "A8" Documents Prior to Executing, Subject to Approval of the General Counsel, as Necessary.

Adopt Resolution 2020-10 of the Redwood Coast Energy Authority Approving and Authorizing Collateral in Connection with Loan "A8" From the United States Department of Agriculture, Rural Utilities Service (RUS) for Construction of the Redwood Coast – Humboldt County Airport Front of the Meter Backup Energy Storage System Microgrid.

4. REMOVED FROM CONSENT CALENDAR ITEMS

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

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.

5. OLD CCE BUSINESS

5.1. CCE Customer Rate Setting for 2021

Approve changing the RCEA customer electricity rates to 0.5% below PG&E generation rates, inclusive of all PG&E charges to CCA customers, to be implemented no sooner than 60 days from the publishing of this document.

6. NEW CCE BUSINESS - None

END OF COMMUNITY CHOICE ENERGY (CCE) BUSINESS

7. OLD BUSINESS

7.1. Update on DG Fairhaven Biomass Power Purchase Agreement

Approve extending RCEA's existing power purchase agreement with DG Fairhaven Power, LLC through February 14, 2021.

8. NEW BUSINESS

8.1. California Community Power Super JPA Agreement

Approve Resolution No. 2020-11, Approving the California Community Power Agency Joint Powers Agreement and Authorizing the Executive Director to Execute the Agreement.

9. STAFF REPORTS – None

10. FUTURE AGENDA ITEMS

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

11. CLOSED SESSION

- 11.1. CONFERENCE WITH REAL PROPERTY NEGOTIATIONS** Pursuant to Government Code § 54956.8 in re: APNs 001-104-001-000, 001-114-006-000, 003-062-027-000, and 001-011-021-000; RCEA negotiator: Executive Director; Owner's negotiating party: Kramer Investment Corporation, Coldwell Banker Pacific Partners, and the City of Eureka; Under negotiation: price and terms.

12. RECONVENE TO OPEN SESSION

13. CLOSED SESSION REPORT

14. ADJOURNMENT

NEXT REGULAR MEETING

Thursday, January 28, 2021, 3:30 p.m.

This meeting will be an online teleconference following shelter-in-place orders.



BOARD OF DIRECTORS MEETING DRAFT MINUTES

November 19, 2020 - Thursday, 3:30 p.m.

Notice of this meeting was posted on November 16, 2020. Chair Austin Allison 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., stating that the teleconference meeting was being conducted pursuant to Brown Act waivers included in Governor Newsom's COVID-19 State of Emergency Executive Order [N-29-20](#) of March 17, 2020, and the Humboldt County Health Officer's March 30, 2020, [Shelter-in-Place Order](#). Chair Allison stated that the posted agenda contained public teleconference meeting participation instructions.

PRESENT: Chair Austin Allison, Chris Curran, Dean Glaser, David Grover, Frank Wilson, Alternate Director Mike Wilson, Michael Winkler, Sheri Woo. ABSENT: Stephen Avis, Vice Chair Estelle Fennell. STAFF AND CONSULTANTS PRESENT: General Counsel Nancy Diamond, Power Resources Director Richard Engel, Executive Director Matthew Marshall, Community Strategies Manager Nancy Stephenson, Board Clerk Lori Taketa. OTHERS PRESENT: Consultants Dr. Erick Eschker and Dr. Will Fisher.

REPORTS FROM MEMBER ENTITIES

Director Winkler reported that the Arcata City Council directed the Energy Committee to investigate implementation of mandatory all-electric construction.

ORAL COMMUNICATIONS

Chair Allison invited public comment. No member of the public came forward to speak or submitted public comment. Chair Allison closed the public comment period.

CONSENT CALENDAR

- 3.1 Approve Minutes of October 22, 2020, Regular Board Meeting
- 3.2 Approve Disbursements Report.
- 3.3 Accept Financial Reports.
- 3.4 Accept Staff Report on Adjusted RCEA Power Generation Rates, Maintaining the Previously Approved 1% Discount Relative to PG&E's Generation Rates, Effective October 15, 2020.
- 3.5 Approve Selection of Aiqueous to Provide Database Development and Operation Services to RCEA for an Amount Not to Exceed \$250,000 Through June 2023, and Authorize the Executive Director to Prepare and Execute a Professional Services Agreement with Aiqueous for These Services, and All Applicable Documents, Including Contract Extension Provisions.

Director Woo requested that item 3.3 be removed from the consent calendar. There was no public comment on consent calendar items.

M/S: Grover, Woo: Approve all consent calendar items except item 3.3.

The motion passed with a unanimous roll call vote. Ayes: Allison, Curran, Glaser, Grover, F. Wilson, M. Wilson, Winkler, Woo. Noes: None. Absent: Avis.

REMOVED FROM CONSENT CALENDAR ITEMS

To Director Woo's inquiry about the profit and loss statement's 444% reported net revenue, Executive Director Marshall explained that the CCE program's strong revenue numbers for 2020 are forecasted to be offset in the later part of the fiscal year by income shortfalls in 2021. There were no public comments on this item.

M/S: Woo, Grover: Approve consent calendar item 3.3.

The motion passed with a unanimous roll call vote. Ayes: Allison, Curran, Glaser, Grover, F. Wilson, M. Wilson, Winkler, Woo. Noes: None. Absent: Avis.

COMMUNITY CHOICE ENERGY (CCE) BUSINESS

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

OLD CCE BUSINESS

5.1 COVID Load Impact Analysis Report by HSU Consultants (Information only)

The directors received a presentation by Drs. Erick Eschker and Will Fisher of Humboldt State University's Economics Department, who created spreadsheet models of electricity demand during the COVID pandemic to help more accurately predict future electricity loads during pandemic situations. While the electricity use model matched other parts of the country, the researchers found large differences between local economy sectors in magnitude of load reduction and how quickly the sectors returned to normal. Much uncertainty remains about changes in energy consumption from future shutdowns and businesses' ability to adapt their operations during the pandemic.

OLD BUSINESS

7.1 DG Fairhaven Power Purchase Agreement Expiration

Executive Director Marshall noted to the Board and public that Director Woo recused herself at 4:04 p.m. because of a remote conflict of interest. DG Fairhaven is a client of Director Woo's employer, SHN. Director Woo is a minority SHN shareholder and does not supervise any SHN employee working with DG Fairhaven.

Power Resources Director Engel reported on DG Fairhaven's contract with RCEA which expires at the end of the year. The plant is currently shut down and the owner is not planning

to restart the plant as the current market prices for power make the costs of needed equipment repairs unfeasible. However, the plant's grid interconnection capacity and proximity to Samoa Peninsula industrial developments are valuable. A potential buyer has expressed interest in RCEA extending the contract and accepting a contract assignment to support the conversion of the site to battery energy storage, possibly paired with solar. Director Engel requested Board direction, presenting options without a DG Fairhaven contract or with the plant idle:

- Extend the contract to facilitate new buyer, non-biomass energy development;
- Include the procurement reduction as part of a 2021 renewable energy ramp down;
- Procure renewable energy at market prices, resulting in \$750,000 of savings;
- Maintain current local biomass procurement levels by increasing the volume of energy purchased from Humboldt Redwood Company (HRC), thereby maintaining local mill waste management levels; or
- Procure biomass power from the Blue Lake biomass plant.

The directors discussed: that DG Fairhaven and HRC power purchases prices are about the same; that the Blue Lake plant proposes to sell the same amount of power (10MW) that DG Fairhaven was contracted to produce; that the Blue Lake plant would need go through Air Quality Management District and City of Blue Lake approval processes; and that the City of Blue Lake has no interest in renewing the power plant's lease, which expires in a few years.

Community Advisory Committee member Colin Fiske, speaking as a member of the public, supported investigating potential uses of the Fairhaven site and letting the DG Fairhaven contract lapse. Mr. Fiske opposed replacing the contract with above-market biomass and purchasing power from the Blue Lake plant.

Member of the public Dr. Wendy Ring opposed renewing DG Fairhaven's contract due to negative health consequences of local biomass plants' fine particulate pollution. Dr. Ring supported replacing the contract with more clean renewable energy and opposed purchase of more HRC or Blue Lake biomass energy. Dr. Ring stated that finding alternative disposal for mill waste was beyond RCEA's mission and described California wood waste to hydrogen test sites and wood chips' value in composting, which will be important starting in 2022 when SB1383 will require jurisdictions to compost or recycle organic waste.

A member of the public identifying herself as Martha opposed any increase in biomass power procurement. She supported RCEA's continued phase out of biomass power.

David O'Neill of Redwood Coast Power LLC, the owner of the Blue Lake biomass plant, submitted a letter as public comment and stated at the meeting that the Blue Lake biomass plant's lease was in effect until the end of 2025, until which time the facility could operate as a carbon sequestration plant and manufacture biochar if RCEA would purchase the plant's electricity. Mr. O'Neill stated that past violations took place prior to improvements and that the plant's lease and permit allow it to operate in compliance with the Air Board standards.

Community Advisory Committee member and Blue Lake resident Kit Mann submitted written comment as a member of the public refuting claims made in Mr. O'Neill's November 18 letter and opposing restarting the Blue Lake power plant.

Member of the public Daniel Chandler submitted written comment opposing restarting the Blue Lake power plant, supporting replacement of DG Fairhaven's contracted load with wind or solar power, and supporting planning alternative sawmill waste uses such as biochar and energy production with modern equipment.

The directors discussed that, unlike wind and solar energy, biomass is an important local baseload power source, and that the DG Fairhaven contract should be allowed to lapse. The directors requested analysis of HRC's offer to increase output from the Scotia biomass plant, exploration of other local renewable baseload options, and inquired whether it was in RCEA's realm of work to investigate mill waste management options. The directors were informed that RCEA consultant Michael Furniss was investigating forest and mill waste options and working with a Community Advisory Committee subcommittee to develop recommendations to the Board. Staff was requested to present options regarding DG Fairhaven as they arise at subsequent meetings.

Director Woo returned to the meeting at 4:44 p.m.

NEW BUSINESS

8.1 2021 Community Choice Energy Program Budget Outlook and Options

Executive Director Marshall reported that while current forecasts indicate RCEA will experience net revenue losses in 2021 due to lower PG&E rates and increased exit fees, the losses are expected to be less severe than previously forecasted. Staff recommends fiscal conservatism in short-term power purchasing during the 2021 bridge year while the agency's long-term renewable power sources such as the Sandrini solar project, local feed-in-tariff solar projects and the airport microgrid are under construction, and before those projects' stable prices go into effect.

The agency has two primary ways to improve next year's fiscal outcomes: 1) reducing the CCE program's environmental procurement targets, and 2) reducing RCEA customer rate discounts relative to PG&E's rates. Staff recommended environmental procurement target reduction to compliance requirement levels and reducing RCEA's customer discount from 1% to 0.5% relative to PG&E's rates. In this scenario, the agency would continue to moderately build the financial reserves needed to survive fiscally-lean years. Rate setting changes require a two-month public comment period.

The directors discussed the exit fee, how PG&E may be using this fee to eliminate Community Choice Energy competition, and the importance of a customer rate discount to keep local customers from switching back to PG&E.

Director Winkler stated that having a lower greenhouse gas portfolio relative to PG&E is a higher priority than a rate discount and supported maintaining current renewable and carbon-free power procurement levels with no rate discount relative to PG&E rates.

Member of the public Colin Fiske stated that reducing the clean and renewable energy level in RCEA's power mix should be done as a last resort. He requested state-level exit fee advocacy to protect CCE customers, and stated that PG&E shareholders, not CCE customers, should shoulder stranded contract costs. Mr. Fiske supported renegotiating

expensive biomass contracts and replacing DG Fairhaven power purchases with market rate renewable energy contracts.

Member of the public Dr. Wendy Ring stated that measures should be taken in this order: 1) renegotiate biomass contracts for better pricing, 2) reduce large hydro power purchasing, then 3) reduce renewable energy percentages as a last resort. Dr. Ring requested a \$750,000 investment in a demand-response program that shifts customer energy use to a less expensive time of day, and more RCEA involvement in California CCA advocacy.

M/S: Glaser, F. Wilson: Approve scenario 2 directing staff to reduce procurement of renewable and carbon-free power from 80% to 36% and preserve the customer rate discount at 1% below PG&E rates.

The directors further discussed the importance of CCE survival. The directors requested community education that, even with a minimal customer discount, RCEA's CCE program results in significant reinvestment of revenues into Humboldt County that do not occur through PG&E's bundled generation service.

Dir. Glaser moved to amend the motion, F. Wilson seconded: Approve scenario 3 directing staff to reduce procurement of renewable and carbon-free power to as low as minimum compliance levels and reduce the customer rate discount to as little as 0.5% below PG&E rates, with final reduction amounts to be determined once complete 2021 PG&E rate forecasts are available.

The motion passed with a roll call vote. Ayes: Allison, Curran, Glaser, Grover, F. Wilson, M. Wilson, Woo. Noes: Winkler. Absent: Avis.

8.2 Long-Duration Storage Procurement, "Super JPA" Formation, and Creation of Ad Hoc Review Committee

Power Resources Director Richard Engel explained that Board members previously requested staff explore ways to improve the transparency around proposed power purchase agreement prices and terms prior to contract approval. In general, divulging this information in public meetings or documents would harm RCEA's ability to compete in the energy market and procure advantageous power pricing for the agency's customers.

Staff proposed formation of an ad hoc, non-Brown Act subcommittee of Board directors during an upcoming long-duration storage request for proposals (RFP) process through contract execution or December 31, 2021, whichever comes first. This RFP has been issued by a group of eight Community Choice Aggregators, with the intent to form a "super JPA" to contract with any selected project. To enable RCEA to participate in this and other future joint procurement efforts, staff will ask the Board to consider membership in this joint-procurement JPA at the December meeting.

The directors tabled the decision to form an ad hoc long-duration storage procurement review subcommittee until the Board's January 2021 meeting to allow new directors the opportunity to participate.

As this meeting was Chair Allison's last, the directors thanked him for his service. Chair Allison thanked the Board, praised RCEA for doing important work, and added that if every community engaged in energy issues as much as does Humboldt County, the planet would be a better place.

Chair Allison invited public comment on the closed session items. There being no public comment, the Board went into recess at 5:49 p.m. and adjourned to closed session at 6 p.m. to discuss the following:

11.1 CONFERENCE WITH REAL PROPERTY NEGOTIATIONS Pursuant to Government Code § 54956.8 in re: APNs 001-104-001-000, 001-114-006-000, 003-062-027-000, and 001-011-021-000; RCEA negotiator: Executive Director; Owner's negotiating party: Kramer Investment Corporation, Coldwell Banker Pacific Partners, and the City of Eureka; Under negotiation: price and terms.

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

No member of the public nor of the Board of Directors was present when the closed session ended at 6:50 p.m. Executive Director Marshall reported that there were no reports for either closed session and adjourned the meeting at 6:52 p.m.

Lori Taketa
Clerk of the Board

Redwood Coast Energy Authority
Disbursements Report
As of October 31, 2020

Type	Date	Num	Name	Memo	Amount
Liability Check	10/09/2020	E-pay	Internal Revenue Service	Taxes	-242.42
Liability Check	10/09/2020	E-pay	EDD	Taxes	-26.18
Liability Check	10/09/2020	E-pay	EDD	Taxes	-4,479.30
Liability Check	10/09/2020	E-pay	Internal Revenue Service	Taxes	-22,020.50
Liability Check	10/09/2020	E-pay	EDD	Taxes	-13.99
Liability Check	10/09/2020	E-pay	Internal Revenue Service	Taxes	-187.80
Check	10/09/2020	11282-94	NEM Customers	NEM Close Out payments	-1,453.40
Check	10/09/2020	11295	CCE Customer	E-Bike Rebate #EB37	-500.00
Check	10/09/2020	11296	NEM Customer	NEM Close Out payment	-172.16
Bill Pmt -Check	10/09/2020	11297	Braun Blaising Smith Wynne	Legal Services - Regulatory - August	-22,746.26
Bill Pmt -Check	10/09/2020	11298	CalCCA	Operational Member dues Q2 20/21	-28,783.00
Bill Pmt -Check	10/09/2020	11299	City of Arcata	Sep Utility User Tax	-8,900.66
Bill Pmt -Check	10/09/2020	11300	City of Eureka-Water	Water service, 8/25-9/24/20	-185.80
Bill Pmt -Check	10/09/2020	11301	Diamond, Nancy	Legal Services	-9,866.80
Bill Pmt -Check	10/09/2020	11302	DocuSign	DocuSign account set-up	-3,317.00
Bill Pmt -Check	10/09/2020	11303	Donald Dame	Professional Services - Sep 2020	-423.50
Bill Pmt -Check	10/09/2020	11304	Frontier Energy, Inc.	Professional Services - Program Support	-4,358.50
Bill Pmt -Check	10/09/2020	11305	Halvorsen, Nicole	Educational course reimbursement	-324.06
Bill Pmt -Check	10/09/2020	11306	Local Government Commission	Annual membership dues - Sustainable Energy Coalit	-2,675.00
Bill Pmt -Check	10/09/2020	11307	Mission Uniform & Linen	Sept mat service, janitorial supplies	-61.82
Bill Pmt -Check	10/09/2020	11308	NYLEX.net, Inc.	Network support services - September	-3,200.00
Bill Pmt -Check	10/09/2020	11309	PG&E CCA	August CCE Charges	-22,073.45
Bill Pmt -Check	10/09/2020	11310	PG&E Utility Account	8/21-9/21/20 utilities	-545.55
Bill Pmt -Check	10/09/2020	11311	Ray Morgan Company	Printer Charges: 9/6-10/5/20	-20.89
Bill Pmt -Check	10/09/2020	11312	SDRMA Medical	Nov 2020 Premium	-27,825.60
Bill Pmt -Check	10/09/2020	11313	SDRMA P&L	Additional Insured Certificate	-47.50
Bill Pmt -Check	10/09/2020	11314	Suddenlink Communications	Phone & Internet access - September	-1,095.28
Bill Pmt -Check	10/09/2020	11315	Taketa, L.	Reimbursement: CSDA training	-35.90
Bill Pmt -Check	10/09/2020	11316	VISA	Sept statement 8/21-9/18/20	-3,341.67
Bill Pmt -Check	10/09/2020	11318	City of Arcata	Sep Excessive Energy Use Tax	-3,023.40
Bill Pmt -Check	10/09/2020	11319	City of Arcata	Building permit - EV Station Arcata Tech	-149.93
Paycheck	10/09/2020	ACH	Employees	Payroll, 9/15-9/30/20	-54,249.41
Paycheck	10/12/2020	11317	Employee	Final Paycheck	-732.47
Liability Check	10/13/2020	6070714	Newport Group	Deferred compensation contribution	-11,256.55
Paycheck	10/15/2020	ACH	Employee	Final Paycheck	-1,983.26
Bill Pmt -Check	10/23/2020	ACH	CalPine Corporation	Calpine September 2020 Costs	-73,279.15
Bill Pmt -Check	10/23/2020	ACH	Humboldt Redwood Company	Humboldt Redwood Co. September 2020	-606,590.81
Liability Check	10/23/2020	E-pay	EDD	Taxes	-164.46
Liability Check	10/23/2020	E-pay	Internal Revenue Service	Taxes	-871.98
Liability Check	10/23/2020	E-pay	EDD	Taxes	-4,424.48
Liability Check	10/23/2020	E-pay	Internal Revenue Service	Taxes	-21,347.38
Liability Check	10/23/2020	11320	Newport Group	VOID: VS02703	0.00
Liability Check	10/23/2020	11321	Calvert	Deferred compensation contribution	-1,493.22
Liability Check	10/23/2020	11322	Umpqua Bank	Health Savings Account contribution	-806.14
Bill Pmt -Check	10/23/2020	11323	AT&T	September 707269177 telephone charges	-402.76
Bill Pmt -Check	10/23/2020	11324	Bithell, M.	Purchase reimbursement - USPS	-10.30
Bill Pmt -Check	10/23/2020	11325	Chargpoint	Fortuna bollards, cloud plan, etc.	-4,572.83
Bill Pmt -Check	10/23/2020	11326	CoPower	November premium - vision	-399.50
Bill Pmt -Check	10/23/2020	11327	Dell USA	Laptop & monitors	-1,862.43
Bill Pmt -Check	10/23/2020	11328	Developed Employment Services, LLC.	Facilities maintenance work	-65.21
Bill Pmt -Check	10/23/2020	11329	Environmental Indicator Accounting Svcs.	Services & support for climate action plan.	-5,695.00
Bill Pmt -Check	10/23/2020	11330	FedEx	ResKit Shipping	-63.87
Bill Pmt -Check	10/23/2020	11331	Frontier Energy, Inc.	Professional Services - Program Support	-2,010.50
Bill Pmt -Check	10/23/2020	11332	Humboldt Bay Coffee Co.	Office Coffee	-34.60

Redwood Coast Energy Authority
Disbursements Report
As of October 31, 2020

Type	Date	Num	Name	Memo	Amount
Bill Pmt -Check	10/23/2020	11333	Mission Uniform & Linen	Oct mat service, janitorial supplies	-7.57
Bill Pmt -Check	10/23/2020	11334	North Coast Cleaning	September monthly cleaning service	-210.00
Bill Pmt -Check	10/23/2020	11335	NYLEX.net, Inc.	Network support services - November	-3,200.00
Bill Pmt -Check	10/23/2020	11336	PG&E EV Account	EV stations September	-419.49
Bill Pmt -Check	10/23/2020	11337	Redwood Chem Dry	Annual carpet cleaning of office	-796.00
Bill Pmt -Check	10/23/2020	11338	Redwood Community Radio	Radio underwriting	-780.00
Bill Pmt -Check	10/23/2020	11339	SDRMA Dental	November Premium	-1,939.78
Bill Pmt -Check	10/23/2020	11340	Times Printing Company	Joint rate mailer	-21,120.37
Bill Pmt -Check	10/23/2020	11341	Verizon Wireless	Sept tablet/cell service for staff, + equipment	-3,657.08
Bill Pmt -Check	10/23/2020	11342	Winzler, John	Office Lease - November	-6,512.00
Paycheck	10/23/2020	ACH	Employees	Payroll, 10/1-10/15/20	-52,249.18
Liability Check	10/27/2020	E-pay	Internal Revenue Service	Taxes	-24.47
TOTAL					<u>-1,055,329.57</u>

Redwood Coast Energy Authority
Profit & Loss Budget vs. Actual
July through October 2020

	<u>Jul - Oct 20</u>	<u>Budget</u>	<u>% of Budget</u>
Ordinary Income/Expense			
Income			
5 REVENUE EARNED			
Total 5000 · Revenue - government agencies	13,375.00	737,317.00	1.81%
Total 5100 · Revenue - program related sales	3,873.26	9,000.00	43.04%
Total 5400 · Revenue-nongovernment agencies	267,899.53	1,556,600.00	17.21%
Total 5500 · Revenue - Electricity Sales	18,034,263.15	41,763,500.00	43.18%
Total 5 REVENUE EARNED	18,319,410.94	44,066,417.00	41.57%
Total Income	18,319,410.94	44,066,417.00	41.57%
Gross Profit	18,319,410.94	44,066,417.00	41.57%
Expense			
Total 6 WHOLESALE POWER SUPPLY	14,164,194.78	36,074,000.00	39.26%
Total 7 PERSONNEL EXPENSES	859,340.57	2,838,644.00	30.27%
Total 8.1 FACILITIES AND OPERATIONS	104,117.39	6,606,484.00	1.58%
Total 8.2 COMMUNICATIONS AND OUTREACH	27,376.21	114,000.00	24.01%
8.3 TRAVEL AND MEETINGS	0.00	18,450.00	0.0%
8.4 PROFESSIONAL & PROGRAM SRVS			
8400 · Regulatory	71,086.80	120,000.00	59.24%
8410 · Contracts - Program Related Ser	186,260.25	406,000.00	45.88%
8420 · Accounting	0.00	75,000.00	0.0%
8430 · Legal	44,267.99	125,000.00	35.41%
8450 · Wholesale Services - TEA	205,795.48	620,500.00	33.17%
8460 · Procurement Credit - TEA	220,502.49	650,500.00	33.9%
8470 · Data Management - Calpine	293,803.15	913,450.00	32.16%
Total 8.4 PROFESSIONAL & PROGRAM SRVS	1,021,716.16	2,910,450.00	35.11%
Total 8.5 PROGRAM EXPENSES	167,620.59	627,550.00	26.71%
Total 8.6 INCENTIVES & REBATES	11,118.84	601,000.00	1.85%
Total 9 NON OPERATING COSTS	18,283.00	35,500.00	51.5%
Total Expense	16,373,767.54	49,826,078.00	32.86%
Net Ordinary Income	1,945,643.40	-5,759,661.00	-33.78%
Other Income/Expense			
Other Income			
9500 · Debt proceeds	0.00	6,000,000.00	0.0%
Total Other Income	0.00	6,000,000.00	0.0%
Net Other Income	0.00	6,000,000.00	0.0%
Net Income	<u>1,945,643.40</u>	<u>240,339.00</u>	<u>809.54%</u>

Redwood Coast Energy Authority
Balance Sheet
As of October 31, 2020

	<u>Oct 31, 20</u>
ASSETS	
Current Assets	
Checking/Savings	
1010 · Petty Cash	493.22
1050 · GRANTS & DONATIONS 3840	15,204.58
1060 · Umpqua Checking Acct 0560	676,671.25
1071 · Umpqua Deposit Cntrol Acct 8215	8,661,495.17
1075 · Umpqua Reserve Account 2300	2,000,000.00
8413 · COUNTY TREASURY 3839	5,065.52
Total Checking/Savings	<u>11,358,929.74</u>
Total Accounts Receivable	210,301.24
Other Current Assets	
1101 · Allowance for Doubtful Accounts	-824,709.92
1103 · Accounts Receivable-Other	10,112,570.35
1120 · Inventory Asset	21,715.00
1202 · Prepaid Expenses	-51,439.30
1210 · Retentions Receivable	1,001.00
1499 · Undeposited Funds	1,377.00
Total Other Current Assets	<u>9,260,514.13</u>
Total Current Assets	20,829,745.11
Total Fixed Assets	151,725.39
Other Assets	
1700 · Retained Deposits	2,095,380.00
Total Other Assets	<u>2,095,380.00</u>
TOTAL ASSETS	<u><u>23,076,850.50</u></u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Total Accounts Payable	5,131,055.29
Total Credit Cards	-647.39
Other Current Liabilities	
2013 · Unearned Revenue - PA 2020-2023	1,827,997.00
Total 2100 · Payroll Liabilities	154,405.68
Total Other Current Liabilities	<u>1,982,402.68</u>
Total Current Liabilities	7,112,810.58
Total Liabilities	7,112,810.58
Equity	
2320 · Investment in Capital Assets	151,725.38
3900 · Fund Balance	13,866,671.14
Net Income	1,945,643.40
Total Equity	<u>15,964,039.92</u>
TOTAL LIABILITIES & EQUITY	<u><u>23,076,850.50</u></u>



STAFF REPORT Agenda Item # 3.4

AGENDA DATE:	December 17, 2020
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 provide decision-making support and input to the Board. In their advisory and outreach capacities, CAC members have helped educate Humboldt County residents about community choice aggregation and gathered input about community energy priorities during the CCE program's launch period, solicited and recommended community-proposed local customer energy projects for funding, and are currently assisting staff in developing potential project recommendations for revenue bond funding and drafting recommendations for RCEA involvement in alternative biomass uses.

Membership terms for six of the CAC's 13 members will expire on April 13, 2021. Staff requests member reappointment for five of the upcoming vacancies.

DISCUSSION

The six CAC members with terms expiring on April 13, 2021, are **in red** below:

REPRESENTING JURISDICTION	MEMBER NAME	TERM EXPIRATION DATE
ARCATA	Norman Bell	4/13/2021
AT-LARGE	Jerome Carman	4/12/2022
AT-LARGE	Colin Fiske	4/12/2022
AT-LARGE	Larry Goldberg, Chair	4/12/2022
AT-LARGE	Pam Halstead	4/12/2022
BLUE LAKE	Kit Mann	4/13/2021
COUNTY 1: ORLEANS - E. HUMBOLDT	Luna Latimer	4/13/2021
COUNTY 2: SOUTHERN HUMBOLDT	Matty Tittman	4/13/2021
COUNTY 3: MCKINLEYVILLE	Tom Hofweber (resigned)	4/12/2022
EUREKA	Catherine Gurin	4/13/2021
FERNDALE	Dennis Leonardi, Vice Chair	4/12/2022
FORTUNA	Elizabeth Burks	4/12/2022
HBMWD	Amin Younes	4/12/2022
RIO DELL	Roger Hess	4/12/2022
TRINIDAD	Richard Johnson	4/13/2021

All except Matty Tittmann have expressed interest in serving another two-year term. At the time of agenda publication and due to new RCEA Board director appointment timing, all but the

incoming Eureka director has recommended reappointment of the incumbent CAC members from their jurisdictions.

Director Fennell and Alternate Director Mike Wilson have been notified of the need to recommend appointment of community members to fill Matty Tittmann's and Richard Johnson's seats. Mr. Johnson resigned from the Community Advisory Committee on October 13, 2020.

STAFF RECOMMENDATION

Reappoint Norman Bell, Catherine Gurin, Richard Johnson, Luna Latimer and Kit Mann to the Community Advisory Committee for Two-Year Terms Ending on April 11, 2023.



REDWOOD COAST Energy Authority

STAFF REPORT Agenda Item # 3.5

AGENDA DATE:	December 17, 2020
TO:	Board of Directors
PREPARED BY:	Nancy Diamond, RCEA General Counsel
SUBJECT:	Employment Contract, Executive Director

BACKGROUND

On November 19, 2020, the Board completed its annual review of the Executive Director, Matthew Marshall. The Board determined that Mr. Marshall had an exemplary work performance, and is entitled to a meritorious step increase from Step 3 to Step 4 as defined by the Board approved Job Classifications and Pay Scales. The advance to Step 4 will bring his annual salary to \$135,622.50. Amendment No. 6 to the Executive Director Employment Agreement proposes to implement this salary adjustment, effective on the first pay period in February 2021.

STAFF RECOMMENDATION

Approve Amendment No. 6 to Agreement for Employment of Executive Director with Matthew Marshall.

ATTACHMENTS:

Amendment No. 6 to Agreement for Employment with Executive Director.

**AMENDMENT No. 6 TO
AGREEMENT FOR EMPLOYMENT
OF EXECUTIVE DIRECTOR**

This is an amendment (“Amendment”) to that certain agreement by and between the Redwood Coast Energy Authority (“RCEA”) and Matthew Marshall (“Employee”), entitled *Agreement for Employment of Executive Director*, effective November 15, 2010, and amended by Addendum on November 15, 2012, and further amendment on November 15, 2015, February 1, 2017, and February 1, 2018, February 28, 2019, and April 23, 2020. The initial 2010 Agreement, 2012 Addendum, and 2015-2020 Amendments are collectively referred to herein as the “Agreement.” This Amendment No. 6 is effective December 17, 2020.

RECITALS

WHEREAS, Employee has acted in the capacity of Executive Director for RCEA since November 15, 2010, pursuant to an employment agreement which was extended to March 1, 2024; and

WHEREAS, the Board has completed an annual performance evaluation of Employee and desires to provide a merit salary increase as set forth herein.

NOW THEREFORE, in consideration of the mutual covenants, conditions and terms recited herein and made a material part hereof, the parties agree as follows:

1. Salary. Section 1. A, *Salary*, is hereby amended by adjusting Employee’s annual base salary from Executive Director Step 3 to Step 4, effective with the first pay period in February 2021.

2. Ratification of Agreement. The terms and conditions of the Agreement, including all exhibits and attachments, are ratified in their entirety except to the extent inconsistent with the terms and provisions of this Amendment. In the event of such inconsistency, this Amendment No. 6 shall control.

IN WITNESS WHEREOF, Employer has caused this Amendment No. 6 to be signed and executed on its behalf by its Chair, and the Employee has executed this Agreement as of the day and year first above written.

AUTHORITY

EXECUTIVE DIRECTOR

Estelle Fennell, Vice Chair of RCEA Board

Matthew Marshall

Dated: _____

Dated: _____

Approved As to Form:

Nancy Diamond, RCEA General Counsel

Dated: _____



REDWOOD COAST Energy Authority

STAFF REPORT Agenda Item # 3.6

AGENDA DATE:	December 17, 2020
TO:	Board of Directors
PREPARED BY:	Richard Engel, Director of Power Resources Jocelyn Gwynn, Power Resources Manager
SUBJECT:	Energy Risk Management Policy Review

SUMMARY

Section 8 of RCEA's Energy Risk Management Policy (ERMP) directs that the risk management team review the Policy at least annually and submit any proposed amendments to the Board for approval. The Policy was initially adopted by the Board in December 2016 and is now due for review. The risk management team and RCEA's consultant The Energy Authority have reviewed the Policy and are not recommending any changes at this time.

The Energy Authority may recommend changes soon to the Policy's hedging strategy appendix. Per the Policy, changes to the appendices do not require Board review and approval but are to be reported to the Board. Staff will report back to the Board at a future meeting on any needed changes being made to the hedging strategy.

FINANCIAL IMPACTS

RCEA's Energy Risk Management Policy protects the organization from financial risk that could be incurred through its community choice energy program. Leaving the Policy unchanged is not expected to result in any financial impacts.

RECOMMENDED ACTION

Accept the Risk Management Team report of the annual review of the Energy Risk Management Policy.

ATTACHMENTS

None



REDWOOD COAST Energy Authority

STAFF REPORT Agenda Item # 3.7

AGENDA DATE:	December 17, 2020
TO:	Board of Directors
PREPARED BY:	Lori Biondini, Director of Business Planning & Finance
SUBJECT:	Application for USDA Loan

SUMMARY

In September 2017, the Board authorized participating in a grant response to the California Energy Commission which proposed a microgrid project that would serve the California Redwood Coast – Humboldt County Airport (ACV) and other County of Humboldt facilities, as well as the nearby Coast Guard station and others. RCEA's commitment to the project included financing a 2MW solar array and battery storage system to be owned and operated by RCEA. Staff proposed to the Board that the project might be financed with a loan or third-party power purchase agreement that would be paid for over time through energy revenue from the power that is generated and subsequently sold to CCE customers.

In April 2018, the Board approved staff to prepare a loan application to the US Department of Agriculture's (USDA) Rural Utility Service (RUS) program for funds to construct the ACV microgrid facility. Staff has completed the required application materials and in July 2020 received a commitment letter from the USDA for a loan of \$6,600,000. General Counsel Nancy Diamond has been working with the USDA to finalize the required loan documents that reflect this commitment.

These documents include:

- A Board resolution approving the loan
- A Board resolution approving the loan collateral, which includes a lien on the system assets, a deposit account control agreement between RCEA and RUS for a bank account with a balance in the amount of one year's worth of loan payments, and a pledge of revenue from the project to go towards repayment of the loan
- RUS Loan Contract between RCEA and the United States of America
- Federal Financing Bank Future Advance Promissory Bond
- RUS Reimbursement Note (as the Loan Administrator)
- Deposit Account Control Agreement

FINANCIAL IMPACTS

RCEA would be taking on a debt of up to \$6,600,000 advanced over the next three years. The last day for an advance would be 12/1/2024, however the current ACV microgrid project implementation schedule has the bulk of construction occurring in 2021, so staff would expect to receive most funds before 2022 and begin payments on the first principal payment date of 12/31/2022 as specified in the FFB Bond. The advances will accrue interest at the rate applicable at the time of the request, and RCEA may choose a final maturity date of 12/31/2044 or sooner. Assuming the full \$6,600,000 is advanced at an average interest rate of 3%, amortized until the final maturity date of 12/31/2044, yearly payments are expected to total about \$410,000 beginning in calendar year 2023.

RECOMMENDED ACTION

Adopt Resolution 2020-9 of the Redwood Coast Energy Authority Approving and Authorizing Loan “A8” From the United States Department of Agriculture, Rural Utilities Service (RUS) For Construction of The Redwood Coast – Humboldt County Airport Front of the Meter Backup Energy Storage System Microgrid and authorize the Executive Director to execute, after final review and approval by RCEA General Counsel, all associated Loan “A8” documents.

Authorize the Executive Director to make minor non-material revisions to the Loan “A8” documents prior to executing, subject to approval of the General Counsel, as necessary.

Adopt Resolution 2020-10 of the Redwood Coast Energy Authority Approving and Authorizing Collateral in Connection with Loan “A8” From the United States Department of Agriculture, Rural Utilities Service (RUS) for Construction of the Redwood Coast – Humboldt County Airport Front of the Meter Backup Energy Storage System Microgrid.

ATTACHMENTS

- Resolution 2020-9
- Resolution 2020-10
- Federal Financing Bank Future Advance Promissory Bond
- RUS Loan Contract
- RUS Reimbursement Note
- Form of Deposit Account Control Agreement

RESOLUTION NO. 2020 - 9
OF THE REDWOOD COAST ENERGY AUTHORITY (RCEA)
APPROVING AND AUTHORIZING LOAN “A8” FROM THE UNITED STATES
DEPARTMENT OF AGRICULTURE, RURAL UTILITIES SERVICE (RUS) FOR
CONSTRUCTION OF THE REDWOOD COAST – HUMBOLDT COUNTY AIRPORT
FRONT OF THE METER BACKUP ENERGY STORAGE SYSTEM MICROGRID

WHEREAS, in September 2017, the RCEA Board of Directors for the RCEA (“RCEA Board”) approved RCEA’s participation in a grant response to the California Energy Commission (CEC) for the installation of a solar microgrid facility with battery energy storage system (BESS) for resiliency and backup capability at the Redwood Coast – Humboldt County Airport (“Microgrid Facility”), which was awarded to RCEA’s project partner, Humboldt State University Sponsored Programs (HSUSP) / Schatz Energy Research Center (SERC) in February 2018 in the amount of \$5.0 million;

WHEREAS, on April 16, 2018, the RCEA Board adopted Resolution No. 2018-03 (revised for administrative purposes through Resolution No. 2018-05, adopted May 21, 2018) authorizing submittal of an application for loan assistance for construction of the microgrid facility from the United States Department of Agriculture’s (USDA) Rural Utilities Service (RUS) program pursuant to the Rural Electrification Act of 1936, as amended;

WHEREAS, on February 28, 2019, the RCEA Board approved a Memorandum of Understanding with the HSUSP/SERC and the County of Humboldt concerning the development, design, installation and operation of the Microgrid Facility, acknowledging RCEA’s estimated cost share of the total estimated \$11.6 million project cost to be an amount not to exceed \$7 million dollars;

WHEREAS, on July 22, 2020, the RUS approved RCEA’s application for loan financing in the amount of \$6,600,000.00, supported by an estimated project budget and subject to commitments as set forth in Attachment A, attached hereto and incorporated herein (the “Loan”); and

WHEREAS, on December 17, 2020, the RCEA Board of Directors adopted Resolution No. 2020-10 Approving and Authorizing Collateral to repay to RUS the Loan, in particular: 1) a personal property lien on the Tesla, Inc. engineered, procured and constructed front of the meter DC coupled PV-BESS system assets located at the Microgrid Facility (collectively, the “Tesla/FTM System”); 2) a pledge of revenue from the Tesla/FTM System up to the amount of the outstanding Loan balance; and 3) a reserve account to be established with a financial banking institution, which is to be made subject to a deposit account control agreement and is to be funded and maintained by RCEA in an amount equal to the principal and interest payable to RUS on the Loan for a period of one year (calculated based on the interest rate on the Loan, plus 1/8th of a percentage point, as calculated by RUS) for the life of the Loan.

NOW, THEREFORE, the Board of Directors of the Redwood Coast Energy Authority hereby resolves as follows:

1. Findings and Determinations. The above stated recitals are true and correct. The RCEA Board determines that it is necessary and desirable to provide for the Loan and that the actions authorized hereby constitute, and are in furtherance of, authorized purposes, policies and plans of the RCEA.
2. Approval of Loan. The RCEA is approved and authorized to borrow from the Rural Utilities Service (“RUS”) an amount not to exceed \$6,600,000.00, to be designated as Loan “A8” (the “Loan”), and hereby approves said Loan.
3. RCEA accepts the terms and conditions which the Administrator of RUS has established for obtaining the Loan, as such terms and conditions are set forth in the Loan Commitment Letter dated July 22, 2020, as revised on August 17, 2020 and clarified on A, set forth in Attachment A.
4. Authorized Representatives. The Board Chair, Vice-Chair, Executive Director, Director of Business Planning and Finance, Board Clerk, and other persons authorized by the Board to act on behalf on the RCEA shall each be an “Authorized Representative” of the RCEA for purposes of structuring and providing for the execution of the Loan documents. Each Authorized Representative is hereby authorized, jointly and severally, for and in the name of and on behalf of RCEA, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the Loan, and to do any and all things and take any and all actions which may be necessary or advisable, in their respective discretion, to effectuate the actions and transactions contemplated by this Resolution and the Loan documents.
5. Specific Authorization, Executive Director. The Executive Director of the RCEA is hereby authorized on behalf of the RCEA Board to execute and deliver to the RUS the following documents in connection with the Loan:
 - a. The RUS Loan Contract, substantially in the form as submitted to this meeting;
 - b. A promissory note in the form of a bond payable to the United States, acting through the Federal Financing Bank (FFB) and guaranteed by RUS in the principal amount of \$6,600,000, substantially in the form of the FFB Bond as submitted to this meeting;
 - c. A promissory note in the form of a bond payable to the United States, acting through the Administrator of RUS substantially in the form of the Reimbursement Note as submitted to this meeting; and
 - d. Such other documents and instruments in connection with the Loan as may be required by RUS.
6. The Executive Director is further authorized on behalf of RCEA to execute all such instruments, make all such payments and do all such other acts as in the opinion of the Executive Director as may be necessary or appropriate to carry out the purposes and intent of this Resolution.

7. The Business Planning and Finance Director of RCEA is authorized on behalf of RCEA in connection with the Loan (a) to execute and deliver from time to time advance requests, maturity extension election notices, prepayment election notices and refinancing election notices, in the form of such instruments attached to the bond payable to FFB, and (b) to specify information and select options as provided in such instruments.
8. This Resolution shall take effect from and upon the date of its adoption.

Adopted this 17th day of December, 2020.

Attachment A: USDA/RUS Commitment Letter, Form 10 Revised, and Form 740c (Cost Estimates and Loan Budget)

ATTEST:

Estelle Fennell, RCEA Vice Chair of the Board

Lori Taketa, Clerk of the Board

Date: _____

Date: _____

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Resolution No. 2020-9 passed and adopted at a regular meeting of the Redwood Coast Energy Authority, County of Humboldt, State of California, held on the 17th day of December, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Lori Taketa, Clerk of the Board
Redwood Coast Energy Authority



July 22, 2020

Rural Development
Rural Utilities Service
Electric Program
1400 Independence
Ave SW, Room 5135
Stop 1510
Washington, DC
20250
Voice 202.720.9540

Mr. Austin Allison
Board Chair
Redwood Coast Energy Authority
633 3rd Street
Eureka, California 95501

Dear Mr. Allison:

We are pleased to advise you that a loan commitment in the amount of \$6,600,000 has been approved for Redwood Coast Energy Authority (RCEA) by the Rural Utilities Service (RUS). Under this commitment, RUS will guarantee a loan of \$6,600,000 to RCEA from the Federal Financing Bank (FFB) under the terms and conditions set forth in the Note Purchase Commitment and Servicing Agreement dated as of January 1, 1992, as amended, between RUS and FFB. The proceeds of the guaranteed loan, designated "A8", are to be used by RCEA to finance only the system extensions and additions described in the RUS Form 740c, Cost Estimates and Loan Budget for Electric Borrowers, dated September 9, 2018, enclosed and made a part hereof. Written approval by RUS must be obtained prior to the advancement of any loan proceeds for use for system extensions and additions that are not specifically listed on the enclosed RUS Form 740c.

The "A8" Loan Contract and related documents, together with instructions, will be forwarded in the future for execution. The "A8" loan is approved with the understanding that the loan documents will be authorized and executed by your organization and returned to us by the date set forth in the letter transmitting the documents.

Please note that this letter does not constitute an approval to advance the loan proceeds. Proceeds are eligible for advancement on the "A8" loan after all conditions below have been met and the proper advance request documentation has been submitted to RUS:

1. RUS has entered into a contract of guarantee with RCEA and the FFB has agreed, with RUS approval, to make RCEA a guaranteed loan of \$6,600,000 to finance the system extensions and additions described on the enclosed RUS Form 740c;
2. RCEA has submitted evidence, in form and substance satisfactory to the Administrator, that the conditions in the contract of guarantee have been satisfied to the extent and in the manner prescribed by the Administrator;
3. RCEA has submitted evidence, in form and substance satisfactory to the Administrator, that RCEA has duly authorized, executed, and has delivered to the Administrator the RUS Loan Contract, the FFB Note and the Reimbursement Note in the manner prescribed by the Administrator;
4. RCEA has pledged to RUS a first lien on its revenues to secure the repayment of the RUS loan;

5. RCEA has granted a first lien to RUS on its Tesla, Inc. engineered, procured and constructed front of the meter DC coupled PV-BESS system (the "FTM System") assets, in a manner satisfactory to the Administrator;
6. RCEA has submitted an executed copy of the following agreement that the OLOA Engineering Branch has reviewed and found it to be acceptable:
 - i. County of Humboldt Department of Aviation, Agreement for Ground Lease California Redwood Coast-Humboldt County Airport, entered by and between the County of Humboldt and RCEA.
7. RCEA has submitted a copy of each of the following two (2) forms signed by Tesla, Inc. regarding the "Engineering, Procurement, and Construction Agreement, executed by and between Tesla, Inc. and Redwood Coast Energy Authority" that the OLOA Engineering Branch has reviewed and found it to be acceptable:
 - i. RUS Form AD-1048 "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions" as required per 7 CFR §1726.16; and
 - ii. The "Lobbying Certification" as required per 7 CFR §1726.17.
8. RCEA has submitted an amendment or modification to the "Engineering, Procurement, and Construction Agreement, executed by and between Tesla, Inc. and Redwood Coast Energy Authority" that includes the Equal Opportunity (EO) Provisions similar to that contained in Article VI, Section 6 of RUS Contract Form 200 that the OLOA Engineering Branch has approved.
9. RCEA has completed a Vulnerability and Risk Assessment (VRA) in accordance with Subpart B to 7 CFR Part 1730 and has submitted written certification of its completion to RUS.
10. RCEA has completed an Emergency Restoration Plan (ERP) in accordance with Subpart B to CFR Part 1730 and has submitted written certification of its completion to RUS.
11. An RUS representative has visited the Project site to assess its condition and confirmed in writing that the installation was acceptable and that the Project was operating as intended.
12. RCEA has submitted a copy of the approved electrical permit for the renewable energy systems as issued by the local Authority Having Jurisdiction (AHJ).
13. RCEA has submitted a copy of the signed Permission to Operate (PTO) letter from the interconnecting utility certifying that the behind-the-meter solar photovoltaic (PV) system and the front-of-the-meter solar PV array & battery energy storage system have passed all required interconnection testing and is authorized to operate and deliver electrical output to the interconnecting utility's grid.

14. RCEA has submitted a copy of the Substantial Completion Certificate signed by Tesla, Inc. and accepted by RCEA in accordance with the Project's Engineering, Procurement and Construction Agreement entered by and between Tesla, Inc. and Redwood Coast Energy Authority.
15. RCEA shall conduct a capacity performance test of the front-of-the meter solar PV array & battery energy storage system in form and substance satisfactory to the Administrator. Testing shall be comprised of one (1) representative day of data to be collected at least 30 days after the commercial operating date (COD) of the Facility. A test report shall be prepared detailing all aspects and findings of the test. The report must also provide credible data in order to determine, at a minimum, that the system throughout the test period continuously satisfied applicable permits and interconnection requirements.
16. The Borrower has submitted evidence, in form and substance satisfactory to the Administrator, that all contractors, developers, and/or construction related services, have been paid in full and (ii) there are no liens encumbered against RCEA or its property other than permitted lien agreed to by the Administrator.
17. The Borrower shall establish a Debt Service Reserve Fund (the Reserve Fund) subject to a Deposit Account Control Agreement satisfactory to the Administrator. The Borrower shall maintain the Reserve Fund in an amount equal to one year of the principal and interest due on the loan, assuming an initial advance of the full loan amount and based on an interest rate equal to the current applicable interest rate for the term of the loan plus 1/8th%, as such amount is calculated by RUS.

In addition, the RUS Loan Contract will contain the following covenants.

1. The Borrower shall have maintenance service agreements with third-party contractors to remain in effect for the term the RUS guaranteed loan, unless waived in writing by RUS acting through the Administrator, to ensure the behind-the meter solar PV system and the front-of-the meter solar PV array/battery energy storage system are both properly maintained in accordance with Prudent Utility Practices.
2. The Borrower shall not have the following agreements be amended or modified unless prior written approval is received by RUS:
 - Small Generator Interconnection Agreement, for Redwood Coast Airport Project 2179-WD, made and entered into on February 21, 2020, by PG&E and RCEA.
 - BESS Preventative Maintenance Agreement, entered into on March 28, 2019, by and between Tesla, Inc. and Redwood Coast Energy Authority.
3. The Borrower shall maintain the Debt Service Reserve Fund subject to a Deposit Control Agreement at a minimum amount equal to 12 months of total debt service.

Please note that the approval of this loan commitment is an offer to the RCEA, of the "A8" guaranteed loan. Your acknowledgement and acceptance of the "A8" guaranteed loan is subject to the specified terms and conditions identified above.

This award is subject to the provisions contained in the Consolidated Appropriations Act, 2019, P. L. 114-113, Division E, Title VII, Sections 745 and 746, as amended and/or subsequently enacted for USDA agencies and offices regarding corporate felony convictions and corporate federal tax delinquencies. Please see the attached certification for compliance with these requirements.

Your acknowledgement and acceptance must be received by RUS no later than 14 calendar days from the date of this letter; otherwise, the commitment will be VOID. The Chairman or the Board President authorized by your organization to execute the loan documents must execute by signing, dating and returning the commitment letter and completed Form AD-3031 via an E-Mail attachment to:

Karen Hargrove
E-Mail Address: LoanCommitment@usda.gov

If E-Mail is not possible, the signed document can be faxed to 1-844-875-8076. The original executed and dated commitment will remain in your files.

Sincerely,

ACKNOWLEDGED AND ACCEPTED BY:

CHAD
RUPE

Digitally signed
by CHAD RUPE
Date: 2020.07.22
13:15:40 -04'00'

Chad Rupe
Administrator
Rural Utilities Service

Name:

Austin L. Allison

Title:

Chair of the board, RCEA

Date:

7/28/2020

Enclosures: AD-3030
AD-3031

cc: Mr. Matthew Marshall, Executive Director

**Representations Regarding Felony Conviction
and Tax Delinquent Status for Corporate Applicants****AD-3030**

Note: You only need to complete this form if you are a corporation. A corporation includes, but is not limited to, any entity that has filed articles of incorporation in one of the 50 States, the District of Columbia, or the various territories of the United States including American Samoa, Federated States of Micronesia, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, Republic of Palau, Republic of the Marshall Islands, or the U.S. Virgin Islands. Corporations include both for profit and non-profit entities.

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). The authority for requesting the following information for U.S. Department of Agriculture (USDA) agencies and staff offices is in § 744 and 745 of the Consolidated Appropriations Act, 2019, Pub. L. 116-6 as amended and/or subsequently enacted. The information will be used to confirm applicant status concerning entity conviction of a felony criminal violation, and/or unpaid Federal tax liability status.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0025. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal, civil, fraud, privacy, and other statutes may be applicable to the information provided.

PART A APPLICANT


1. APPLICANT'S NAME	2. APPLICANT'S ADDRESS (Including Zip Code)	3. TAX ID NO. (Last 4 digits)
---------------------	---	-------------------------------

4A. Has the Applicant been convicted of a felony criminal violation under any Federal law in the 24 months preceding the date of application? ☐ YES ☒ NO

4B. Does the Applicant have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability? ☐ YES ☒ NO

Providing the requested information is voluntary. However, failure to furnish the requested information will make the applicant ineligible to enter into a contract, memorandum of understanding, grant, loan, loan guarantee, or cooperative agreement with USDA.

PART B SIGNATURE

5A. APPLICANT'S SIGNATURE (BY) 	5B. TITLE/RELATIONSHIP OF THE INDIVIDUAL IF SIGNING IN A REPRESENTATIVE CAPACITY Board Chair, RCEA	5C. DATE SIGNED (MM-DD-YYYY) 07-28-2020
---	---	--

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint \(https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer\)](https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442



**Assurance Regarding Felony Conviction
or Tax Delinquent Status for Corporate Applicants**

AD-3031

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). The authority for requesting the following information for U.S. Department of Agriculture (USDA) agencies and staff offices is in § 744 and 745 of the Consolidated Appropriations Act, 2019, Pub. L. 116-6 as amended and/or subsequently enacted. The information will be used to confirm applicant status concerning entity conviction of a felony criminal violation, and/or unpaid Federal tax liability status.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0025. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal, civil, fraud, privacy, and other statutes may be applicable to the information provided.

This award is subject to the provisions contained in the Consolidated Appropriations Act, 2019, Pub. L. 116-6, Division E, Title VII, sections § 744 and 745, as amended and/or subsequently enacted for U.S. Department of Agriculture (USDA) agencies and offices regarding corporate felony convictions and corporate federal tax delinquencies.

Accordingly, by accepting this award the corporation recipient acknowledges: (1) that it does not have a Federal tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, **and/or** (2) that it has not been convicted of a felony criminal violation under any Federal law within 24 months preceding the award, unless a suspending and debarring official of the USDA has considered suspension or debarment of the recipient corporation based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government. If the recipient fails to comply with these provisions, the agency will annul this agreement and may recover any funds the recipient has expended in violation of the above cited statutory provisions.

Austin L. Allison

APPLICANT'S SIGNATURE

Board Chair, RCEA

TITLE/RELATIONSHIP OF THE INDIVIDUAL IF SIGNING IN A
REPRESENTATIVE CAPACITY

BUSINESS NAME

07-28-2020

DATE SIGNED (MM-DD-YYYY)

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotope, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.


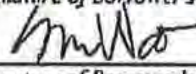
To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint \(https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer\)](https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442.

This data will be used by RUS to review your financial situation. Your response is required (7 USC 901 et seq.) and is not confidential.

RUS FORM 740c (V5, 5/29/09)

OFFICIAL

SECTION A. COST ESTIMATES (cont.)				BORROWER'S COST ESTIMATES	RUS USE ONLY
900	b. New Substation, Switching Station, etc				
	<u>Station Designation</u>	<u>kVA</u>	<u>kV TO kV</u>		
901				\$0	
902				0	
903				0	
904				0	
905				0	
906				0	
907				0	
	Subtotal Code 900			\$0	
1000	c. Line and Station Changes				
	<u>Line/Station Designation</u>	<u>Description of Changes</u>			
1001				\$0	
1002				0	
1003				0	
1004				0	
1005				0	
1006				0	
1007				0	
1008				0	
1009				0	
	Subtotal Code 1000			\$0	
1100	d. Other Transmission Items				
1101	(1)	R/W Procurement		\$0	
1102	(2)	Engineering Fees		0	
1103	(3)	Reimbursement of General Funds	Miles 0.00	0	
1104	(4)	Pole and Associated Hardware Replacement		0	
1105	(5)	Other Transmission		0	
	Subtotal			\$0	
	TOTAL TRANSMISSION.....			\$0	
1200	3 GENERATION (including Step-up Station at Plant)				
1201	a	Solar Array	Nameplate Rating 2,400 kW	\$9,439,007 \$3,500,000	\$9,439,007
1202	b	Batteries		3,100,000	
	TOTAL GENERATION.....			\$9,439,007 \$6,600,000	\$9,439,007
1300	4. HEADQUARTERS FACILITIES				
1301	a	New or additional Facilities (Attach RUS Form 740g)		\$0	
1302	b			0	
	TOTAL HEADQUARTERS FACILITIES.....			\$0	

COST ESTIMATE AND LOAN BUDGET FOR ELECTRICAL BORROWERS		BORROWER AND LOAN DESIGNATION	
		Redwood Coast Energy Authority-CA-A8	
SECTION A COST ESTIMATES		BORROWER'S COST ESTIMATES	RUS USE ONLY
1400	5 ACQUISITIONS		
1401	a _____ Consumers _____ Miles	\$0	
1402	b _____	0	
TOTAL ACQUISITIONS.....		\$0	
1500	6 ALL OTHER		
1501	_____	\$0	
1502	_____	0	
1503	_____	0	
1504-1511	_____	0	
1512	_____	0	
TOTAL ALL OTHER.....		\$0	
SECTION B. SUMMARY OF AMOUNTS AND SOURCES OF FINANCING			
1 GRAND TOTAL - ALL COSTS		\$9,429,007	\$6,600,000
2 FUNDS AND MATERIALS AVAILABLE FOR FACILITIES			\$9,429,007
a. Loan Funds		\$0	
b. Materials and Special Equipment		0	
c. General Funds			
Purpose 1		\$0	
Purpose 2		\$0	
Purpose 3		\$0 \$3,829,007	
Purpose 4		\$0	
Purpose 5		\$0	
Purpose 6		\$0	
Total General Funds Applied		\$0 \$3,829,007	
d. Total Available Funds and Materials		\$3,829,007	\$0
3. NEW FINANCING REQUESTED FOR FACILITIES		\$6,600,000	\$6,600,000
4 RUS LOAN REQUESTED FOR FACILITIES		100%	\$6,600,000
5 TOTAL SUPPLEMENTAL LOAN REQUESTED		\$0	\$0
N/A			
Name of Supplemental Lender			
6 CAPITAL TERM CERTIFICATE PURCHASES (CFC Loan only)		0%	\$0
7 SUPPLEMENTAL LOAN REQUESTED FOR FACILITIES		0%	\$0
8 100% SUPPLEMENTAL LOANS (SEE RUS Bulletin 20-14)*		\$0	\$0
* Identify in section A by budget purpose and separate subtotals			
SECTION C. CERTIFICATION			
We, the undersigned, certify that:			
1. Upon completion of the electrical facilities contained herein and any others uncompleted at this time but for which financing is available, the system will be capable of adequately and dependably serving the projected load for the loan period as contained in our current RUS approved Power Requirement Study and Construction Work Plan			
2. Negotiations have been or will be initiated with our power supplier, where necessary, to obtain new delivery points and/or additional capacity at existing ones to adequately supply the projected load upon which this loan application is based.			
3. The data contained herein and all supporting documents have, to the best of my knowledge, been prepared correctly and in accordance with 7 CFR 1710.401(a)(3)			
<u>9/25/2018</u> Date		 Signature of Borrower's Manager	
<u>9/25/18</u> Date		 Signature of Borrower's President	
Redwood Coast Energy Authority			
Corporate Name of Borrower			
GFR Initials			
<u>K.S.</u>			

STATEMENT

Statement certifying that at least 90% of the Loan funds are for facilities with a useful life of 33 years or longer as required by 7 CFR 1710.115.

To facilitate the determination of the final maturity for this RUS Loan,
Redwood Coast Energy Authority
does hereby certify that:

- ☒ At least 90% of the Loan funds requested as part of this loan application and included on the RUS Form 740c (Cost Estimates and Loan Budget for Electric Borrowers) are for facilities with an anticipated useful life of 33 years or longer.
- ☐ Less than 90% of the Loan funds requested as part of this loan application and included on the RUS Form 740c (Cost Estimates and Loan Budget for Electric Borrowers) are for facilities with an anticipated useful life of 33 years or longer. A schedule has been attached to this statement listing the facilities with an anticipated useful life of less than 33 years, the anticipated useful life of those facilities and the associated cost estimates (see attached).

4/18/19
Date


Title: Executive Director

OFFICIAL

<p style="text-align: center;">U. S. DEPARTMENT OF AGRICULTURE RURAL UTILITIES SERVICE REQUEST FOR SPECIAL CONTROL OF LOAN ADVANCES</p>	<p>BORROWER AND LOAN DESIGNATION</p> <p>California 48 "A8" Humboldt</p>
	<p>DATE OF THIS REQUEST</p> <p>August 17, 2020</p>
<p>SEE REVERSE FOR INSTRUCTIONS SEE STAFF INSTRUCTION 1710-2 FOR FURTHER GUIDANCE</p>	<p>AMOUNT OF LOAN:</p> <p>\$6,600,000</p>
<p>INITIATING OFFICE</p> <p>Financial Operations Branch Office of Loan Origination and Approval</p>	<p>TOTAL AMOUNT TO BE CONTROLLED</p> <p>B.P.3 \$6,600,000</p>
<p><small>EXPLANATION (Include reasons for action, budget purposes involved, requirements for release and time required for performance. Where additional space is required, use a plain sheet showing Borrower, loan designation and date in upper right-hand corner)</small></p>	

This Request for Special Control of Loan Advances supersedes the one dated 7/20/2020 which is attached for reference. Clarification was needed as it relates to #2, regarding a percentage of loan funds be held until items a, thru e are satisfied. Therefore, the revised Form 10 shall read below.

It is recommended that the entire amount of the "A8" loan guarantee commitment of \$6,600,000 made to Redwood Coast Energy Authority (RCEA or Borrower) be placed under special control, and held under conditional agreement until the following special conditions have been satisfied, unless waived in writing by the RUS Electric Program Office of Loan Origination (OLOA) Engineering Branch.

1. It is recommended that "A8" loan funds not be released until the following conditions have been satisfied, unless waived in writing by the RUS Electric Program Office of Loan Origination (OLOA) Engineering Branch:
 - a) The Borrower has submitted an executed copy of the following agreement that the OLOA Engineering Branch has reviewed and found it to be acceptable:
 - i. County of Humboldt Department of Aviation, Agreement for Ground Lease California Redwood Coast-Humboldt County Airport, entered by and between the County of Humboldt and RCEA.
 - b) The Borrower has submitted a copy of each of the following two (2) forms signed by Tesla, Inc. regarding the "Engineering, Procurement, and Construction Agreement, executed by and between Tesla, Inc. and Redwood Coast Energy Authority" that the OLOA Engineering Branch has reviewed and found it to be acceptable:
 - i. RUS Form AD-1048 "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions" as required per 7 CFR §1726.16; and
 - ii. The "Lobbying Certification" as required per 7 CFR §1726.17.
 - c) The Borrower has submitted an amendment or modification to the "Engineering, Procurement, and Construction Agreement, executed by and between Tesla, Inc. and Redwood Coast Energy Authority" that includes the Equal Opportunity (EO) Provisions similar to that contained in Article VI, Section 6 of RUS Contract Form 200 that the OLOA Engineering Branch has approved.
 - d) The Borrower has completed a Vulnerability and Risk Assessment (VRA) in accordance with Subpart B to 7 CFR Part 1730 and has submitted written certification of its completion to RUS.
 - e) The Borrower has completed an Emergency Restoration Plan (ERP) in accordance with Subpart B to 7 CFR Part 1730 and has submitted written certification of its completion to RUS.

- f) The Borrower shall establish a Debt Service Reserve Fund (the Reserve Fund) subject to a Deposit Account Control Agreement satisfactory to the Administrator. The Borrower shall maintain the Reserve Fund in an amount equal to one year of the principal and interest due on the loan, assuming an initial advance of the full loan amount and based on an interest rate equal to the current applicable interest rate for the term of the loan plus 1/8th%, as such amount is calculated by RUS.
2. It is recommended that 10% of the "A8" loan funds (i.e., \$660,000) not be released until the following conditions have been satisfied, unless waived in writing by the RUS OLOA Engineering Branch:
- a) An RUS representative has visited the Project site to assess its condition and confirmed in writing that the installation was acceptable and that the Project was operating as intended.
 - b) The Borrower has submitted a copy of the approved electrical permit for the renewable energy systems as issued by the local Authority Having Jurisdiction (AHJ).
 - c) The Borrower has submitted a copy of the signed Permission to Operate (PTO) letter from the interconnecting utility certifying that the behind-the-meter solar photovoltaic (PV) system and the front-of-the-meter solar PV array & battery energy storage system have passed all required interconnection testing and is authorized to operate and deliver electrical output to the interconnecting utility's grid.
 - d) The Borrower has submitted a copy of the Substantial Completion Certificate signed by Tesla, Inc. and accepted by the Borrower in accordance with the Project's Engineering, Procurement and Construction Agreement entered by and between Tesla, Inc. and Redwood Coast Energy Authority.
 - e) The Borrower shall conduct a capacity performance test of the front-of-the meter solar PV array & battery energy storage system in form and substance satisfactory to the Administrator. Testing shall be comprised of one (1) representative day of data to be collected at least 30 days after the commercial operating date (COD) of the Facility. A test report shall be prepared detailing all aspects and findings of the test. The report must also provide credible data in order to determine, at a minimum, that the system throughout the test period continuously satisfied applicable permits and interconnection requirements.
 - f) The Borrower has submitted evidence, in form and substance satisfactory to the Administrator, that all contractors, developers, and/or construction related services, have been paid in full and (ii) there are no liens encumbered against RCEA or its property other than permitted lien agreed to by the Administrator.

	CONCURRED IN / APPROVED BY	
Branch Chief OLOA, FOB		
Branch Chief OLOA, EB		
Deputy Assistant Administrator, OLOA		
Assistant Administrator, Electric Program		
ADMINISTRATOR, Rural Utilities Service		

RESOLUTION NO. 2020 - 10
OF THE REDWOOD COAST ENERGY AUTHORITY (RCEA)
APPROVING AND AUTHORIZING COLLATERAL IN CONNECTION WITH LOAN
“A8” FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL
UTILITIES SERVICE (RUS) FOR CONSTRUCTION OF THE REDWOOD COAST –
HUMBOLDT COUNTY AIRPORT FRONT OF THE METER BACKUP ENERGY
STORAGE SYSTEM MICROGRID

WHEREAS, on December 17, 2020, the RCEA Board of Directors (the “RCEA Board”) adopted Resolution No. 2020-9, Approving and Authorizing Loan “A8” in the amount of up to \$6,600,000 from the United States Department of Agriculture, Rural Utilities Service (RUS) for Construction of the Redwood Coast – Humboldt County Airport Front of the Meter Backup Energy Storage System Microgrid (the “Loan”);

WHEREAS, as a specific condition of receiving the Loan, RCEA agreed to provide the following collateral: 1) a lien on the Tesla, Inc. engineered, procured and constructed front of the meter DC coupled PV-BESS system assets located at the Microgrid Facility (collectively, the “Tesla/FTM System”); 2) a pledge of all of RCEA’s revenues, including RCEA’s revenues from the Tesla/FTM System up to the amount of the outstanding Loan balance; and 3) a reserve account to be established with a financial banking institution, which is to be made subject to a deposit account control agreement and is to be funded and maintained by RCEA in an amount equal to the principal and interest payable to RUS on the Loan for a period of one year (calculated based on the interest rate on the Loan, plus 1/8th of a percentage point, as calculated by RUS) for the life of the Loan.

NOW, THEREFORE, the Board of Directors of the Redwood Coast Energy Authority hereby resolves as follows:

1. Findings and Determinations. The above stated recitals are true and correct. The RCEA Board additionally incorporates by reference all recitals stated in Resolution No. 2020-9 as if recited here. The Board determines that it is necessary and desirable to provide for the Loan collateral and that the actions authorized hereby constitute, and are in furtherance of, authorized purposes, policies and plans of the RCEA.
2. Loan Collateral. The RCEA Board hereby grants to RUS the following security interests as collateral for the Loan (collectively, the “Collateral”):
 - a. *Lien*. A first lien in favor of RUS of all of RCEA’s right, title and interest now owned or later acquired in the front of the meter DC coupled PV-battery electric storage system assets, engineered, procured and constructed by Tesla, Inc., as part of the Microgrid Facility, and all associated equipment (collectively, the “Tesla/FTM System”). The Board further authorizes perfecting this first lien on the Tesla/FTM System in favor of RUS through the filing of a UCC Financing Statement with the California Secretary of State.

- b. *Pledge of Revenue.* A present and continuing first lien and pledge of revenues and moneys derived from the Tesla/FTM System, in an amount sufficient to pay the principal of and interest on the Loan as and when they shall become due, is hereby assigned and set aside for that purpose, which shall automatically terminate at the time the Loan has been repaid in full to RUS.
- c. *Debt Service Reserve Fund subject to Deposit Account Control Agreement.* A present and continuing security interest in the following:
 - i. A Debt Service Reserve Fund deposit account to be created, funded and maintained for the life of the Loan using revenue and moneys derived from the Tesla/FTM System to pay the principal and interest of the Loan as and when they should become due in an amount equal to one year of the principal and interest due on the loan, assuming an initial advance of the full loan amount and based on an interest rate equal to the current applicable interest rate for the term of the loan plus 1/8th%, as such amount is calculated by RUS (the “Deposit Account”);
 - ii. All contract rights, claims and privileges in respect of the Deposit Account; and
 - iii. All cash, checks, money orders and other items of value of RCEA now or hereafter paid, deposited, credited or held (whether for collection, provisionally or otherwise) to or in the Deposit Account or otherwise in the possession or under the control of, or in transit to, the financial institution holding the Deposit Account, or any agent, bailee or custodian thereof for deposit in or credit to the Deposit Account and all proceeds of the foregoing.
- 3. *Authorized Representatives.* The Board Chair, Vice-Chair, Executive Director, Director of Business Planning and Finance, Board Clerk, and other persons authorized by the Board to act on behalf on the RCEA shall each be an “Authorized Representative” of the RCEA for purposes of structuring and providing for the execution of the Loan documents. Each Authorized Representative is hereby authorized, jointly and severally, for and in the name of and on behalf of RCEA, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the Loan, and to do any and all things and take any and all actions which may be necessary or advisable, in their respective discretion, to effectuate the actions and transactions contemplated by this Resolution and the Loan documents.
- 4. The Executive Director of the RCEA is hereby authorized on behalf of the Authority to execute and deliver to the RUS in connection with the pledge of the Collateral to RUS as security for RCEA’s repayment of the Loan to RUS:
 - a. A UCC Financing Statement perfecting the first priority lien on the FTM/Tesla System substantially in the form of the UCC Financing Statement as submitted to this meeting;

- b. A Deposit Account Control Agreement substantially in the form of the RUS Deposit Account Control Agreement as submitted to this meeting; and
 - c. Such other documents in connection with the pledge of the Collateral as submitted to this meeting.
- 5. The Executive Director is further authorized on behalf of RCEA to execute all such instruments, make all such payments and do all such other acts as in the opinion of the Executive Director as may be necessary or appropriate to carry out the purposes and intent of this Resolution.
- 6. The Business Planning and Finance Director of RCEA is authorized and directed on behalf of RCEA to open the Deposit Account and deposit reserve funds in an amount specified in RUS's loan contract.
- 7. This Resolution shall take effect from and upon the date of its adoption.

Adopted this 17th day of December, 2020.

ATTEST:

Estelle Fennell, RCEA Vice Chair of the Board

Lori Taketa, Clerk of the Board

Date: _____

Date: _____

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Resolution No. 2020-10 passed and adopted at a regular meeting of the Redwood Coast Energy Authority, County of Humboldt, State of California, held on the 17th day of December, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Lori Taketa, Clerk of the Board
Redwood Coast Energy Authority

(10-01)

RUS

FOR FFB USE ONLY:

Note Identifier: _____

Purchase Date: _____

Last Day
for an
Advance (¶3)

12/01/2024

Maximum
Principal
Amount (¶4)

\$6,600,000.00

Final
Maturity
Date (¶5)

December 31, 2044

First Principal
Payment
Date (¶8)

12/31/2022

FOR RUS USE ONLY:RUS
Note
Number: _____Security
Instrument
(¶24)Resolution No.
dated as of _____, by
and between Redwood
Coast Energy Authority
and the United States of
America, acting by and
through the
Administrator of the
Rural Utilities Service,
as lenderNote
Date 12/01/2020Place
of
Issue Eureka, California**FUTURE ADVANCE PROMISSORY BOND****1. Promise to Pay.****FOR VALUE RECEIVED,**

REDWOOD COAST ENERGY AUTHORITY

(the "Borrower," which term includes any successors or assigns) promises to pay the **FEDERAL FINANCING BANK** ("FFB," which term includes any successors or assigns) at the times, in the manner, and with interest at the rates to be established as hereinafter provided, such amounts as may be advanced from time to time by FFB to the Borrower under this Note (each such amount being an "Advance", and more than one such amount being "Advances").

2. Reference to Note Purchase Commitment and Servicing Agreement; RUS as Successor to REA.

This Note is entitled to the benefits of, and is subject to the requirements of, the Note Purchase Commitment and Servicing Agreement dated as of January 1, 1992, between FFB and the Administrator of the Rural Electrification Administration ("REA"), as amended (such agreement, as it has heretofore been, and as it may hereafter be, amended, supplemented, or restated from time to time in accordance with its terms, being the "Agreement"). The Administrator of the Rural Utilities Service ("RUS") is the successor to the Administrator of REA pursuant to Public Law No. 103-354, 108 Stat. 3209 (1994), and Secretary of Agriculture Memorandum 1010-1 dated October 20, 1994.

3. Advances; Advance Requests; RUS Approval Requirement; Last Day for an Advance.

(a) FFB shall make Advances to the Borrower from time to time under this Note, in each case upon the written request by the Borrower for an Advance under this Note, in the form of request attached to this Note as Annex A (each such request being an "Advance Request"), making reference to the particular "Note Identifier" (as that term is defined in the Agreement) that FFB assigns to this Note (as provided in the Agreement) and specifying:

(1) the particular amount of funds that the Borrower requests to be advanced (such amount being the "Requested Advance Amount" for the respective Advance);

(2) the particular calendar date that the Borrower requests to be the date on which the respective Advance is to be made (such date being the "Requested Advance Date" for such Advance), which date must be a Business Day;

(3) the particular bank account to which the Borrower requests that the respective Advance be made;

(4) the particular calendar date that the Borrower selects to be the date on which the respective Advance is to mature (such date being the "Maturity Date" for such Advance), which date must meet the criteria for Maturity Dates prescribed in paragraph 5 of this Note;

(5) with respect to each Advance for which the Borrower selects a Maturity Date that will occur on or after the particular date specified on page 1 of this Note as being the "First Principal Payment Date," the particular method for the repayment of principal that the Borrower selects for the respective Advance from among the options described in subparagraph (b) of paragraph 8 of this Note; and

(6) with respect to each Advance for which the Borrower selects a Maturity Date that will occur on or after the fifth anniversary of the Requested Advance Date specified in the respective Advance Request, the particular prepayment/refinancing privilege that the Borrower elects for such Advance from between the options described in subparagraphs (b) and (c) of paragraph 16 of this Note.

(b) To be effective, an Advance Request must first be delivered to RUS for approval and be approved by RUS in writing, and such Advance Request, together with written notification of RUS's approval thereof, must be received by FFB on or before the third Business Day before the Requested Advance Date specified in such Advance Request.

(c) FFB shall make each requested Advance on the Requested Advance Date specified in the respective Advance Request, subject to the provisions of the Agreement describing certain circumstances under which a requested Advance shall be made on a later date; provided, however, that no Advance shall be made under this Note after the particular date specified on page 1 of this Note as being the "Last Day for an Advance."

(d) FFB shall make each requested Advance by electronic funds transfer to the particular bank account specified in the respective Advance Request.

(e) The Borrower hereby agrees that each Advance made by FFB in accordance with an RUS-approved Advance Request delivered to FFB shall reduce, by the amount of the respective Advance made, FFB's remaining commitment to make Advances under this Note.

4. Principal Amount of Advances; Maximum Principal Amount.

The principal amount of each Advance shall be the Requested Advance Amount specified in the respective Advance Request; provided, however, that the aggregate principal amount of all Advances made under this Note shall not exceed the particular amount specified on page 1 of this Note as being the "Maximum Principal Amount."

5. Maturity Dates for Advances.

Each Advance shall mature on the Maturity Date specified in the respective Advance Request, provided that such Maturity Date meets the following criteria:

(a) the Maturity Date for the respective Advance must be a "Payment Date" (as that term is defined in paragraph 7 of this Note);

(b) the Maturity Date for the respective Advance may not be a date that will occur after the particular date specified on page 1 of this Note as being the "Final Maturity Date" (such date being the "Final Maturity Date"); and

(c) the period of time between the Requested Advance Date for the respective Advance and the Maturity Date for such Advance may not be less than one complete calendar quarter.

6. Computation of Interest on Advances.

(a) Subject to paragraphs 11 and 17 of this Note, interest on the outstanding principal of each Advance shall accrue from the date on which the respective Advance is made to the date on which such principal is due.

(b) Interest on each Advance shall be computed on the basis of (1) actual days elapsed from (but not including) the date on which the respective Advance is made (for the first payment of interest due under this Note for such Advance) or the date on which the payment of interest was last due (for all other payments of interest due under this Note for such Advance), to (and including) the date on which the payment of interest is next due; and (2) a year of 365 days (except in calendar years including February 29, when the basis shall be a 366-day year).

(c) The basic interest rate for each Advance shall be established by FFB, as of the date on which the respective Advance is made, on the basis of the determination made by the Secretary of the Treasury pursuant to section 6(b) of the Federal Financing Bank Act of 1973, as amended (codified at 12 U.S.C. § 2281 et seq.) (the "FFB Act"); provided, however, that the shortest maturity used as the basis for any rate determination shall be the remaining maturity of the most recently auctioned United States Treasury bills having the shortest maturity of all United States Treasury bills then being regularly auctioned.

(d) In the event that (1) the Borrower has selected for any Advance a Maturity Date that will occur on or after the fifth anniversary of the Requested Advance Date for such Advance, and (2) the Borrower has elected for such Advance a prepayment/refinancing privilege described in subparagraph (c) of paragraph 16 of this Note, then the interest rate for such Advance shall also include a price (expressed in terms of a basis point increment to the applicable basic interest rate) for the particular prepayment/refinancing privilege that the Borrower selected, which price shall be established by FFB on the basis of a determination made by FFB as to the difference between (A) the estimated market yield of a notional obligation if such obligation were to (i) be issued by the Secretary of the

Treasury, (ii) have a maturity comparable to the maturity of such Advance, and (iii) include prepayment and refinancing privileges identical to the particular prepayment/refinancing privilege that the Borrower elected for such Advance, and (B) the estimated market yield of a notional obligation if such obligation were to (i) be issued by the Secretary of the Treasury, (ii) have a maturity comparable to the maturity of such Advance, but (iii) not include such prepayment and refinancing privileges.

7. Payment of Interest; Payment Dates.

Interest accrued on the outstanding principal amount of each Advance shall be due and payable quarterly on the last day of each calendar quarter (each such day being a "Payment Date"), beginning (except as provided below) on the first Payment Date to occur after the date on which the respective Advance is made, up through and including the Maturity Date of such Advance; provided, however, that with respect to each Advance that is made in the last month of any calendar quarter, payments of accrued interest on the outstanding principal amount of the respective Advance shall be due beginning on the second Payment Date to occur after the date on which such Advance is made.

8. Repayment of Principal; Principal Repayment Options.

(a) The principal amount of each Advance shall be payable in quarterly installments, which installments shall be due beginning on the particular date specified on page 1 of this Note as being the "First Principal Payment Date" (such date being the "First Principal Payment Date"), and shall be due on each Payment Date to occur thereafter until the principal amount of the respective Advance is repaid in full on or before the Final Maturity Date; provided, however, that with respect to each Advance that is made after the First Principal Payment Date, principal installments shall be due beginning on the second Payment Date to occur after the date on which the respective Advance is made; and provided, further, however, that for so long as the Borrower has not selected a method for the repayment of principal for any of the Advances made under this Note from among the options described in subparagraph (b) of this paragraph 8, the First Principal Payment Date of this Note may be deferred by the mutual agreement of the Borrower, RUS, and FFB, provided that a written amendment to this Note reciting the new and later First Principal Payment Date shall have been executed by the Borrower, approved by RUS, and received by FFB on or before the third Business Day before the First Principal Payment Date that is in effect immediately before such deferral.

(b) At the time that the Borrower first selects for any Advance a Maturity Date that will occur on or after the First Principal Payment Date, the Borrower must also select, subject to RUS approval, a method for the repayment of principal of such

Advance (each such Advance being an "Amortizing Advance") from among the following options:

(1) "equal principal installments" -- the amount of each quarterly principal installment shall be substantially equal to the amount of every other quarterly principal installment and shall be sufficient, when added to all other such quarterly installments of equal principal, to repay the principal amount of such Amortizing Advance in full on the Final Maturity Date (notwithstanding the fact that the Borrower may have selected a Maturity Date for such Amortizing Advance that will occur before the Final Maturity Date);

(2) "graduated principal installments" -- the amount of each of the first one-third (or nearest number of payments that rounds to one-third) of the total number of quarterly principal installments shall be substantially equal to one-half of the amount of each of the remaining quarterly principal installments, and shall be sufficient, when added to all other such quarterly installments of graduated principal, to repay the principal amount of such Amortizing Advance in full on the Final Maturity Date (notwithstanding the fact that the Borrower may have selected a Maturity Date for such Amortizing Advance that will occur before the Final Maturity Date); or

(3) "level debt service" -- the amount of each quarterly payment consisting of a principal installment and accrued interest shall be substantially equal to the amount of every other quarterly payment consisting of a principal installment and accrued interest, and shall be sufficient, when added to all other such level quarterly payments consisting of a principal installment and accrued interest, to repay the principal amount of such Amortizing Advance in full on the Final Maturity Date (notwithstanding the fact that the Borrower may have selected a Maturity Date for such Amortizing Advance that will occur before the Final Maturity Date).

(c) For each Amortizing Advance, the amount of principal that shall be due and payable on each of the dates specified in subparagraph (a) of this paragraph 8 shall be the amount of the principal installment due under a principal repayment schedule for the respective Amortizing Advance that is computed in accordance with the principles of the particular method for the repayment of principal that is selected by the Borrower for such Amortizing Advance from among the options described in subparagraph (b) of this paragraph 8. Except at the times described in the immediately following sentence, the method for the repayment of principal that is selected by the Borrower for any Amortizing Advance, and the resulting principal repayment

schedule that is so computed for such Amortizing Advance, may not be changed. Notwithstanding the foregoing, with respect to each Amortizing Advance for which the Borrower has selected a Maturity Date that will occur before the Final Maturity Date, the Borrower may change the particular method for the repayment of principal that was selected by the Borrower for the respective Amortizing Advance from either the "equal principal installments" method or the "graduated principal installments" method to the "level debt service" method at the time (if ever) that the Borrower elects to extend the maturity of such Amortizing Advance (as provided in paragraph 15 of this Note), effective as of the effective date of such maturity extension, or at the time (if ever) that the Borrower elects to refinance the outstanding principal amount of such Amortizing Advance (as provided in paragraph 18 of this Note), effective as of the effective date of such refinancing, and the principal repayment schedule for such Amortizing Advance shall thereupon be newly computed in accordance with the "level debt service" method for the repayment of principal. After the Borrower has selected the Final Maturity Date as the Maturity Date for any Amortizing Advance, the Borrower may so change the particular method for the repayment of principal of any Amortizing Advance, and the principal repayment schedule for such Amortizing Advance shall be so newly computed, only at the time (if ever) that the Borrower elects to refinance the outstanding principal amount of such Amortizing Advance (as provided in paragraph 18 of this Note), effective as of the effective date of such refinancing.

(d) With respect to each Advance that has a Maturity Date that will occur before the Final Maturity Date, the entire unpaid principal amount of the respective Advance shall be payable on such Maturity Date, subject to extensions of the maturity of such Advance (as provided in paragraph 15 of this Note).

(e) Notwithstanding which of the methods for the repayment of principal described in subparagraph (b) of this paragraph 8 is selected by the Borrower for any Amortizing Advance, the aggregate of all quarterly payments of principal and interest on such Amortizing Advance shall be such as will repay the entire principal amount of such Amortizing Advance, and pay all interest accrued thereon, on or before the Final Maturity Date.

9. Fee.

A fee to cover expenses and contingencies, assessed by FFB pursuant to section 6(c) of the FFB Act, shall accrue on the outstanding principal amount of each Advance from the date on which the respective Advance is made to the date on which the principal amount of such Advance is due. The fee on each Advance shall be equal to one-eighth of one percent (0.125%) per annum of the unpaid principal balance of such Advance. The fee on each Advance shall be computed in the same manner as accrued interest

is computed under paragraph 6(b) of this Note, and shall be due and payable at the same times as accrued interest is due and payable under paragraph 7 of this Note (adjusted as provided in paragraph 10 of this Note if a Payment Date is not a Business Day). The fee on each Advance shall be credited to RUS as required by section 505(c) of the Federal Credit Reform Act of 1990, as amended (codified at 2 U.S.C. § 661d(c)).

10. Business Days.

(a) Whenever any Payment Date, the Maturity Date for any Advance, or the Final Maturity Date shall fall on a day on which either FFB or the Federal Reserve Bank of New York is not open for business, the payment that would otherwise be due on such Payment Date, Maturity Date, or Final Payment Date, as the case may be, shall be due on the first day thereafter on which FFB and the Federal Reserve Bank of New York are both open for business (any such day being a "Business Day").

(b) In the event that any Payment Date falls on a day other than a Business Day, then the extension of time for making the payment that would otherwise be due on such Payment Date shall be (1) taken into account in establishing the interest rate for the respective Advance, (2) included in computing interest due in connection with such payment, and (3) excluded in computing interest due in connection with the next payment.

(c) In the event that the Maturity Date for any Advance or the Final Maturity Date falls on a day other than a Business Day, then the extension of time for making the payment that would otherwise be due on such Maturity Date or the Final Maturity, as the case may be, shall be (1) taken into account in establishing the interest rate for such Advance, and (2) included in computing interest due in connection with such payment.

11. Late Payments.

(a) In the event that any payment of any amount owing under this Note is not made when and as due (any such amount being then an "Overdue Amount"), then the amount payable shall be such Overdue Amount plus interest thereon (such interest being the "Late Charge") computed in accordance with this subparagraph (a).

(1) The Late Charge shall accrue from the scheduled date of payment for the Overdue Amount (taking into account paragraph 10 of this Note) to the date on which payment is made.

(2) The Late Charge shall be computed on the basis of (A) actual days elapsed from (but not including) the scheduled date of payment for such Overdue Amount (taking into account paragraph 10 of this Note) to (and including)

the date on which payment is made, and (B) a year of 365 days (except in calendar years including February 29, when the basis shall be a 366-day year).

(3) The Late Charge shall accrue at a rate (the "Late Charge Rate") equal to one and one-half times the rate to be determined by the Secretary of the Treasury taking into consideration the prevailing market yield on the remaining maturity of the most recently auctioned 13-week United States Treasury bills.

(4) The initial Late Charge Rate shall be in effect until the earlier to occur of either (A) the date on which payment of the Overdue Amount and the amount of the accrued Late Charge is made, or (B) the first Payment Date to occur after the scheduled date of payment for such Overdue Amount. In the event that the Overdue Amount and the amount of the accrued Late Charge are not paid on or before the such Payment Date, then the amount payable shall be the sum of the Overdue Amount and the amount of the accrued Late Charge, plus a Late Charge on such sum accruing at a new Late Charge Rate to be then determined in accordance with the principles of clause (3) of this subparagraph (a). For so long as any Overdue Amount remains unpaid, the Late Charge Rate shall be redetermined in accordance with the principles of clause (3) of this subparagraph (a) on each Payment Date to occur thereafter, and shall be applied to the Overdue Amount and all amounts of the accrued Late Charge to the date on which payment of the Overdue Amount and all amounts of the accrued Late Charge is made.

(b) Nothing in subparagraph (a) of this paragraph 11 shall be construed as permitting or implying that the Borrower may, without the written consent of FFB, modify, extend, alter or affect in any manner whatsoever (except as explicitly provided herein) the right of FFB to receive any and all payments on account of this Note on the dates specified in this Note.

12. Final Due Date.

Notwithstanding anything in this Note to the contrary, all amounts outstanding under this Note remaining unpaid as of the Final Maturity Date shall be due and payable on the Final Maturity Date.

13. Manner of Making Payments.

(a) For so long as FFB is the holder of this Note and RUS is the loan servicing agent for FFB (as provided in the Agreement), each payment under this Note shall be made in immediately available funds by electronic funds transfer to the account

specified from time to time by RUS, as loan servicing agent for FFB, in a written notice delivered by RUS to the Borrower.

(b) In the event that FFB is the holder of this Note but RUS is not the loan servicing agent for FFB, then each payment under this Note shall be made in immediately available funds by electronic funds transfer to the account specified from time to time by FFB in a written notice delivered by FFB to the Borrower.

(c) In the event that FFB is not the holder of this Note, then each payment under this Note shall be made in the manner and to the account specified from time to time by the holder in a written notice delivered by the holder to the Borrower.

14. Application of Payments.

Each payment made on this Note shall be applied, first, to the payment of Late Charges (if any) payable under paragraphs 11 and 19 of this Note, then to the payment of premiums (if any) payable under paragraphs 17 and 18 of this Note, then to the payment of unpaid accrued interest, then on account of outstanding principal, and then to the payment of the fee payable under paragraph 9 of this Note.

15. Maturity Extensions.

(a) With respect to each Advance for which the Borrower has selected a Maturity Date that will occur before the Final Maturity Date (each such Maturity Date being an "Interim Maturity Date"), the Borrower may, effective as of such Interim Maturity Date, elect to extend the maturity of all or any portion of the outstanding principal amount of the respective Advance (subject to subparagraph (c) of this paragraph 15) to a new Maturity Date to be selected by the Borrower in the manner and subject to the limitations specified in this subparagraph (a) (each such election being a "Maturity Extension Election"; each such elective extension of the maturity of any Advance that has an Interim Maturity Date being a "Maturity Extension"; and the Interim Maturity Date that is in effect for an Advance immediately before any such elective Maturity Extension being, from and after such Maturity Extension, the "Maturity Extension Effective Date").

(1) Except under the circumstances described in clause (3) of this subparagraph (a), the Borrower shall deliver to FFB (with a copy to RUS) written notification of each Maturity Extension Election, in the form of notification attached to this Note as Annex B-1 (each such notification being a "Maturity Extension Election Notice"), making reference to the "Advance Identifier" (as that term is defined in the Agreement) that FFB assigned to such

Advance (as provided in the Agreement) and specifying, among other things, the following:

(A) the amount of the outstanding principal of the such Advance with respect to which the Borrower elects to extend the maturity (subject to subparagraph (c) of this paragraph 15); and

(B) the new Maturity Date that the Borrower selects to be in effect for such principal amount after the respective Maturity Extension Effective Date, which date:

(i) may be either a new Interim Maturity Date or the Final Maturity Date; and

(ii) in the event that the Borrower selects a new Interim Maturity Date as the new Maturity Date for any Advance, must meet the criteria for Maturity Dates prescribed in paragraph 5 of this Note (provided, however, that, for purposes of selecting a new Maturity Date in connection with a Maturity Extension Election, the reference to "the Requested Advance Date for the respective Advance" in subparagraph (c) of paragraph 5 of this Note shall be deemed to be a reference to "the respective Maturity Extension Effective Date").

(2) To be effective, a Maturity Extension Election Notice must be received by FFB on or before the third Business Day before the Interim Maturity Date in effect for the respective Advance immediately before such Maturity Extension.

(3) In the event that either of the circumstances described in subclause (A) or (B) of the next sentence occurs, then a Maturity Extension Election Notice (in the form of notice attached to this Note as Annex B-2), to be effective, must first be delivered to RUS for approval and be approved by RUS in writing, and such Maturity Extension Election Notice, together with written notification of RUS's approval thereof, must be received by FFB on or before the third Business Day before the Interim Maturity Date in effect for the respective Advance immediately before such Maturity Extension. RUS approval of a Maturity Extension Election Notice will be required under either of the following circumstances:

(A) (i) any payment of any amount owing under this Note is not made by the Borrower when and as due,
(ii) payment is made by RUS in accordance with the guarantee set forth at the end of this Note, and

(iii) RUS delivers notice to both the Borrower and FFB advising each of them that each Maturity Extension Election Notice delivered by the Borrower after the date of such notice shall require the approval of RUS; or

(B) FFB at any time delivers notice to both the Borrower and RUS advising each of them that each Maturity Extension Election Notice delivered by the Borrower after the date of such notice shall require the approval of RUS.

(b) With respect to any Advance that has an Interim Maturity Date, in the event that FFB does not receive a Maturity Extension Election Notice (and, if required under clause (3) of subparagraph (a) of this paragraph 15, written notification of RUS's approval thereof) on or before the third Business Day before such Interim Maturity Date, then the maturity of such Advance shall be extended automatically in the manner and subject to the limitations specified in this subparagraph (b) (each such automatic extension of the maturity of any Advance that has an Interim Maturity Date also being a "Maturity Extension"; and the Interim Maturity Date that is in effect for an Advance immediately before any such automatic Maturity Extension also being, from and after such Maturity Extension, the "Maturity Extension Effective Date").

(1) The new Maturity Date for such Advance shall be the immediately following quarterly Payment Date.

(2) If the Interim Maturity Date that is in effect for such Advance immediately before such automatic Maturity Extension is:

(A) a Payment Date that occurs before the First Principal Payment Date (i.e., such Advance is not an Amortizing Advance), then the amount of principal that will have its maturity extended automatically shall be the entire outstanding principal amount of such Advance;

(B) the Payment Date that immediately precedes the First Principal Payment Date, then the method for the repayment of principal that shall apply to such Advance from and after the respective Maturity Extension Effective Date shall be the "level debt service" method; and

(C) either the First Principal Payment Date or a Payment Date that occurs after the First Principal Payment Date (i.e., such Advance is an Amortizing Advance), then:

(i) the amount of principal that will have its maturity extended automatically shall be the outstanding principal amount of such Advance less the principal installment that is due on the respective Maturity Extension Effective Date (as provided in subparagraph (c) of this paragraph 15; and

(ii) the method for the repayment of principal that shall apply to such Advance from and after the respective Maturity Extension Effective Date shall be the same method that applied to such Advance immediately before such Maturity Extension Effective Date.

(c) In the event that the maturity of any Amortizing Advance that has an Interim Maturity Date is extended under either subparagraph (a) or (b) of this paragraph 15, then the principal installment that is due on the respective Maturity Extension Effective Date, in accordance with the principal repayment schedule that applied to such Amortizing Advance immediately before such Maturity Extension Effective Date, shall nevertheless be due and payable on such Maturity Extension Effective Date notwithstanding such Maturity Extension.

(d) In the event that the maturity of any Advance that has an Interim Maturity Date is extended under either subparagraph (a) or (b) of this paragraph 15, then the basic interest rate for such Advance, from and after the respective Maturity Extension Effective Date, shall be the particular rate that is established by FFB, as of such Maturity Extension Effective Date, in accordance with the principles of subparagraph (c) of paragraph 6 of this Note.

(e) In the event that (1) the maturity of any Advance that has an Interim Maturity Date is extended under either subparagraph (a) or (b) of this paragraph 15, and (2) the Maturity Date for such extended Advance is a date that will occur before the fifth anniversary of the respective Maturity Extension Effective Date, then the prepayment/refinancing privilege described in subparagraph (b) of paragraph 16 of this Note shall apply automatically to such Advance.

(f) In the event that (1) the Borrower makes a Maturity Extension Election with respect to any Advance that has an Interim Maturity Date, and (2) the Borrower selects as the Maturity Date for such extended Advance a new Maturity Date that will occur on or after the fifth anniversary of the respective Maturity Extension Effective Date, then the Borrower must elect a prepayment/refinancing privilege for such extended Advance from between the options described in subparagraphs (b) and (c) of paragraph 16 of this Note (provided, however, that each of the

references to "the Requested Advance Date for such Advance" in subparagraph (c) of paragraph 16 of this Note shall be deemed to be a reference to "the respective Maturity Extension Effective Date"). The Maturity Extension Election Notice delivered by the Borrower in connection with each such Maturity Extension Election must also specify the particular prepayment/refinancing privilege that the Borrower elects for the respective extended Advance. In the event that the Borrower elects for any such extended Advance a prepayment/refinancing privilege described in subparagraph (c) of paragraph 16 of this Note, then the interest rate for such extended Advance, from and after the respective Maturity Extension Effective Date, shall include a price (expressed in terms of a basis point increment to the applicable basic interest rate) for the particular prepayment/refinancing privilege that the Borrower elects, which price shall be established by FFB, as of such Maturity Extension Effective Date, in accordance with the principles of subparagraph (d) of paragraph 6 of this Note.

(g) In the event that the maturity of any Amortizing Advance that has an Interim Maturity Date is extended under either subparagraph (a) or (b) of this paragraph 15, then the outstanding principal amount of such Amortizing Advance, after the respective Maturity Extension Effective Date, shall be due and payable in accordance with this subparagraph (g).

(1) With respect to each Amortizing Advance to which either the "equal principal installments" method or the "graduated principal installments" method for the repayment of principal applies, the amount of the quarterly principal installments that will be due after the respective Maturity Extension Effective Date shall be equal to the amount of the quarterly installments of equal principal or graduated principal, as the case may be, that were due in accordance with the principal repayment schedule that applied to such Amortizing Advance immediately before such Maturity Extension Effective Date.

(2) With respect to each Amortizing Advance to which the "level debt service" method for the repayment of principal applies, the amount of the level quarterly payments consisting of a principal installment and accrued interest that will be due after the respective Maturity Extension Effective Date shall be newly computed so that the amount of each such quarterly payment consisting of a principal installment and accrued interest (taking into account the new interest rate that is in effect for such Amortizing Advance from and after such Maturity Extension Effective Date) shall be substantially equal to the amount of every other quarterly payment consisting of a principal installment and accrued interest, and shall be sufficient, when added to all other such newly-computed level quarterly payments consisting of a principal installment and accrued

interest, to repay the outstanding principal amount of such Amortizing Advance in full on the Final Maturity Date (notwithstanding the fact that the Borrower may have selected an Interim Maturity Date for such Amortizing Advance).

(3) For each such Amortizing Advance, the quarterly installments of equal principal or graduated principal, or the newly-computed level quarterly payments consisting of a principal installment and accrued interest, as the case may be, shall be due beginning on the first Payment Date to occur after the respective Maturity Extension Effective Date, and shall be due on each Payment Date to occur thereafter up through and including the earlier to occur of either (A) the new Maturity Date for such extended Amortizing Advance, on which date the entire unpaid principal amount of such extended Amortizing Advance shall also be payable, subject to further Maturity Extensions if the new Maturity Date is an Interim Maturity Date, or (B) the date on which the entire principal amount of such extended Amortizing Advance, and all unpaid interest (and Late Charges, if any) accrued thereon, are paid.

(h) The maturity of each Advance may be extended more than once as provided in this paragraph 15, but upon the occurrence of the Final Maturity Date, no further Maturity Extensions may occur.

16. Prepayment/Refinancing Privileges.

(a) The prepayment/refinancing privilege described in subparagraph (b) of this paragraph 16 shall apply automatically to each Advance that has a Maturity Date that will occur before the fifth anniversary of the Requested Advance Date specified in the respective Advance Request. With respect to each Advance for which the Borrower has selected a Maturity Date that will occur on or after the fifth anniversary of the Requested Advance Date specified in the respective Advance Request, the Borrower must elect, at the time of requesting the respective Advance, the particular prepayment/refinancing privilege that is to apply to such Advance from between the options described in subparagraphs (b) and (c) of this paragraph 16.

(b) "Market Value Premium (or Discount)" -- The Borrower shall have the privilege to prepay the respective Advance (as provided in paragraph 17 of this Note) or to refinance such Advance (as provided in paragraph 18 of this Note) at a prepayment or refinancing price that will include, in either case, a premium (or discount credit) equal to the difference between:

(1) the price for such Advance that would, if such Advance (including all unpaid interest accrued thereon through the date of prepayment or refinancing, as the case may be) were purchased by a third party and held to the Maturity Date of such Advance, produce a yield to the third-party purchaser for the period from the date of purchase to the Maturity Date of such Advance substantially equal to the interest rate that would be set on a loan from the Secretary of the Treasury to FFB to purchase an obligation having a payment schedule identical to the payment schedule of such Advance for the period from the date of prepayment or refinancing, as the case may be, to the Maturity Date of such Advance; and

(2) the sum of:

(A) the outstanding principal amount of such Advance on the date of prepayment or refinancing, as the case may be (after taking into account the payment of the principal installment (if any) that is due on date of prepayment or refinancing, as the case may be, in accordance with the principal repayment schedule that applied to such Advance immediately before such prepayment or refinancing); and

(B) all unpaid interest accrued on such Advance through the date of prepayment or refinancing, as the case may be,

(the difference between the price described in clause (1) of this subparagraph (b) and the sum of the amounts described in clause (2) of this subparagraph (b) being the "Market Value Premium (or Discount)"). The price described in clause (1) of this subparagraph (b) shall be calculated by the Secretary of the Treasury as of the close of business on the second Business Day before the date of prepayment or refinancing, as the case may be, using standard calculation methods of the United States Department of the Treasury.

(c) "Fixed Premium" -- The Borrower shall have the privilege to prepay the respective Advance (as provided in paragraph 17 of this Note) or to refinance such Advance (as provided in paragraph 18 of this Note) at a prepayment or refinancing price that will include, in either case, a fixed premium determined by the Borrower having made, at the time of requesting such Advance, both the election and selection described in this subparagraph (c).

(1) "No-Call Period Option Election" -- First, the Borrower must elect whether or not the fixed premium prepayment/refinancing privilege that is to apply to the respective Advance shall include a 5-year period during

which such Advance shall not be eligible for any prepayment or refinancing (such time period being a "No-Call Period"). The options are:

(A) "yes" -- the Borrower elects to have the fixed premium prepayment/refinancing privilege include a 5-year No-Call Period, i.e., the Borrower shall have the privilege to prepay the respective Advance (as provided in paragraph 17 of this Note) or to refinance such Advance (as provided in paragraph 18 of this Note) on or after (but not before):

(i) the fifth anniversary of the Requested Advance Date for such Advance (if such fifth anniversary date is a Payment Date); or

(ii) the first Payment Date to occur after the fifth anniversary of the Requested Advance Date for such Advance (if such fifth anniversary date is not a Payment Date),

(in either case, such date being the "First Call Date" for such Advance); or

(B) "no" -- the Borrower elects to have the fixed premium prepayment/refinancing privilege not include a 5-year No-Call Period, i.e., the Borrower shall have the privilege to prepay the respective Advance (as provided in paragraph 17 of this Note) or to refinance such Advance (as provided in paragraph 18 of this Note) without a 5-year period during which such Advance shall not be eligible for any prepayment or refinancing.

(2) "Premium Option Selection" -- Second the Borrower must select the particular fixed premium that will be required in connection with any prepayment or refinancing of the respective Advance. The options are:

(A) "10 percent premium declining over 10 years" -- the price for any prepayment or refinancing of the respective Advance shall include a premium equal to 10 percent of the amount of principal being prepaid or refinanced, as the case may be, multiplied by a fraction:

(i) the numerator of which is the number of Payment Dates that occur between:

(aa) in the case of a prepayment, the date of prepayment (if such date is a Payment Date) or the Payment Date immediately preceding the date of prepayment (if the date

of prepayment is not a Payment Date), and, in the case of a refinancing, the date of refinancing, which date, in either case, shall be included in computing the number of Payment Dates; and

(bb) the earlier to occur of either:

(I) the Maturity Date that the Borrower selected for such Advance; or

(II) the tenth anniversary of the applicable First Call Date (if the Borrower elected to have the prepayment/refinancing privilege include a 5-year No-Call Period) or the tenth anniversary of the Requested Advance Date (if the Borrower elected to have the prepayment/refinancing privilege not include a 5-year No-Call Period),

which date, in either case, shall be excluded in computing the number of Payment Dates; and

(ii) the denominator of which is 40,

and no premium (x) on or after the tenth anniversary of the applicable First Call Date (if the Borrower elected to have the prepayment/refinancing privilege include a 5-year No-Call Period) or the tenth anniversary of the Requested Advance Date (if the Borrower elected to have the prepayment/refinancing privilege not include a 5-year No-Call Period), or (y) on the Maturity Date (if the Borrower selected a Maturity Date that will occur before the tenth anniversary of the First Call Date or the tenth anniversary of the Requested Advance Date, as the case may be);

(B) "5 percent premium declining over 5 years" -- the price for any prepayment or refinancing of the respective Advance shall include a premium equal to 5 percent of the amount of principal being prepaid or refinanced, as the case may be, multiplied by a fraction:

(i) the numerator of which is the number of Payment Dates that occur between:

(aa) in the case of a prepayment, the date of prepayment (if such date is a Payment Date) or the Payment Date immediately preceding the date of prepayment (if the date

of prepayment is not a Payment Date), and, in the case of a refinancing, the date of refinancing, which date, in either case, shall be included in computing the number of Payment Dates; and

(bb) the earlier to occur of either:

(I) the Maturity Date that the Borrower selected for such Advance; or

(II) the fifth anniversary of the applicable First Call Date (if the Borrower elected to have the prepayment/refinancing privilege include a 5-year No-Call Period) or the fifth anniversary of the Requested Advance Date (if the Borrower elected to have the prepayment/refinancing privilege not include a 5-year No-Call Period),

which date, in either case, shall be excluded in computing the number of Payment Dates; and

(ii) the denominator of which is 20,

and no premium on or after the fifth anniversary of the applicable First Call Date (if the Borrower elected to have the prepayment/refinancing privilege include a 5-year No-Call Period) or the fifth anniversary of the Requested Advance Date (if the Borrower elected to have the prepayment/refinancing privilege not include a 5-year No-Call Period); or

(C) "par" -- the price for any prepayment or refinancing of the respective Advance shall include no premium.

17. Prepayments.

(a) The Borrower may elect to prepay all or any portion of the outstanding principal amount of any Advance made under this Note, or to prepay this Note in its entirety, in the manner, at the price, and subject to the limitations specified in this paragraph 17 (each such election being a "Prepayment Election").

(b) For each Prepayment Election in which the Borrower elects to prepay a particular amount of the outstanding principal of an Advance, the Borrower shall deliver to RUS written notification of the respective Prepayment Election, in the form of notification attached to this Note as Annex C-1 (each such notification being a "Prepayment Election Notice"), making

reference to the Advance Identifier that FFB assigned to the respective Advance (as provided in the Agreement) and specifying, among other things, the following:

(1) the particular date on which the Borrower intends to make the prepayment on such Advance (such date being the "Intended Prepayment Date" for such Advance), which date:

(A) must be a Business Day; and

(B) for any Advance for which the Borrower has selected a fixed premium prepayment/refinancing privilege that includes a 5-year No-Call Period, may not be a date that will occur before the applicable First Call Date; and

(2) the amount of principal of the respective Advance that the Borrower intends to prepay, which amount may be either:

(A) the total outstanding principal amount of such Advance; or

(B) an amount less than the total outstanding principal amount of such Advance (subject to subparagraph (g) of this paragraph 17) (any such amount being a "Portion").

(c) For each Prepayment Election in which the Borrower elects to have a particular amount of funds applied by FFB toward the prepayment of the outstanding principal of an Advance, the Borrower shall deliver to RUS written notification of the respective Prepayment Election, in the form of notification attached to this Note as Annex C-2 (each such notification also being a Prepayment Election Notice"), making reference to the Advance Identifier that FFB assigned to the respective Advance (as provided in the Agreement) and specifying, among other things, the following:

(1) the particular date on which the Borrower intends to make the prepayment on such Advance (such date being the "Intended Prepayment Date" for such Advance), which date:

(A) must be a Business Day; and

(B) for any Advance for which the Borrower has selected a fixed premium prepayment/refinancing privilege that includes a 5-year No-Call Period, may not be a date that will occur before the applicable First Call Date; and

(2) the particular amount of funds that the Borrower elects to be applied by FFB toward a prepayment of the outstanding principal amount of such Advance.

(d) To be effective, a Prepayment Election Notice must be approved by RUS in writing, and such Prepayment Election Notice, together with written notification of RUS's approval thereof, must be received by FFB on or before the fifth Business Day before the date specified therein as the Intended Prepayment Date for the respective Advance or Portion.

(e) The Borrower shall pay to FFB a price for the prepayment of any Advance, any Portion of any Advance, or this Note in its entirety (such price being the "Prepayment Price" for such Advance or Portion or this Note, as the case may be) determined as follows:

(1) in the event that the Borrower elects to prepay the entire outstanding principal amount of any Advance, then the Borrower shall pay to FFB a Prepayment Price for such Advance equal to the sum of:

(A) the entire outstanding principal amount of such Advance on the Intended Prepayment Date;

(B) all unpaid interest (and Late Charges, if any) accrued on such Advance through the Intended Prepayment Date; and

(C) the amount of the premium or discount credit (if any) that is required under the particular prepayment/refinancing privilege that applies to such Advance;

(2) in the event that the Borrower elects to prepay a Portion of any Advance, then the Borrower shall pay to FFB a Prepayment Price for such Portion that would equal such Portion's pro rata share of the Prepayment Price that would be required for a prepayment of the entire outstanding principal amount of such Advance (determined in accordance with the principles of clause (1) of this subparagraph (e)); and

(3) in the event that the Borrower elects to prepay this Note in its entirety, then the Borrower shall pay to FFB an amount equal to the sum of the Prepayment Prices for all outstanding Advances (determined in accordance with the principles of clause (1) of this subparagraph (e)).

(f) Payment of the Prepayment Price for any Advance, any Portion of any Advance, or this Note in its entirety shall be due to FFB before 3:00 p.m. (Washington, D.C., time) on the Intended

Prepayment Date for such Advance or Portion or this Note, as the case may be.

(g) Each prepayment of a Portion shall, as to the principal amount of such Portion, be subject to a minimum amount equal to \$100,000.00 of principal.

(h) In the event that the Borrower makes a Prepayment Election with respect to any Portion of an Amortizing Advance, then the Prepayment Price paid for such Portion shall be applied as provided in paragraph 14 of this Note and, with respect to application to outstanding principal, such Prepayment Price shall be applied to principal installments in the inverse order of maturity.

(i) In the event that the Borrower makes a Prepayment Election with respect to any Portion of an Amortizing Advance, then the outstanding principal amount of such Amortizing Advance, after such partial prepayment, shall be due and payable in accordance with this subparagraph (i).

(1) With respect to each Amortizing Advance to which either the "equal principal installments" method or the "graduated principal installments" method for the repayment of principal applies, the amount of the quarterly principal installments that will be due after such partial prepayment shall be equal to the quarterly installments of equal principal or graduated principal, as the case may be, that were due in accordance with the principal repayment schedule that applied to such Amortizing Advance immediately before such partial prepayment.

(2) With respect to each Amortizing Advance to which the "level debt service" method for the repayment of principal applies, the amount of the quarterly payments consisting of a principal installment and accrued interest that will be due after such partial prepayment shall be equal to the amount of the level debt service payments that were due in accordance with the level debt service payment schedule that applied to such Amortizing Advance immediately before such partial prepayment, and such payments shall be allocated by FFB between principal and accrued interest, as appropriate.

(3) For each such Amortizing Advance, the quarterly installments of equal principal or graduated principal, or level quarterly payments consisting of a principal installment and accrued interest, as the case may be, shall be due beginning on the first Payment Date to occur after such partial prepayment, and shall be due on each Payment Date to occur thereafter up through and including the earlier to occur of either (A) the Maturity Date for such

Amortizing Advance, on which date the entire unpaid principal amount of such Amortizing Advance shall also be payable, subject to Maturity Extensions (as provided in paragraph 15 of this Note) if the Maturity Date is an Interim Maturity Date, or (B) the date on which the entire principal amount of such Amortizing Advance, and all unpaid interest (and Late Charges, if any) accrued thereon, are paid.

(j) The Borrower may make more than one Prepayment Election with respect to an Advance, each such Prepayment Election being made with respect to a different Portion of such Advance, until such time as the entire principal amount of such Advance is repaid in full.

18. Refinancings.

(a) The Borrower may elect to refinance the outstanding principal amount of any Advance (but not any Portion) in the manner, at the price, and subject to the limitations specified in this paragraph 18 (each such election being a "Refinancing Election").

(b) Except under the circumstances described in subparagraph (d) of this paragraph 18, the Borrower shall deliver to FFB (with a copy to RUS) written notification of each Refinancing Election, in the form of notification attached to this Note as Annex D-1 (each such notification being a "Refinancing Election Notice"), making reference to the Advance Identifier that FFB assigned to the respective Advance (as provided in the Agreement) and specifying, among other things, the following:

(1) the particular date on which the Borrower intends to refinance the respective Advance (such date being the "Intended Refinancing Date" for the respective Advance), which date:

(A) must be a Payment Date; and

(B) for any Advance for which the Borrower has selected a prepayment/refinancing privilege that includes a 5-year No-Call Period, may not be a date that will occur before the applicable First Call Date;

(2) the amount of the outstanding principal of the respective Advance that the Borrower elects to refinance (subject to the clause (1) of subparagraph (e) of this paragraph 18); and

(3) the Maturity Date that the Borrower selects to be in effect for such principal amount after such refinancing, which date may be:

(A) the Maturity Date that is in effect for such Advance immediately before such refinancing; or

(B) a new Maturity Date that the Borrower selects in connection with such Refinancing Election, provided that such new Maturity Date meets the criteria for Maturity Dates prescribed in paragraph 5 of this Note (provided, however, that for purposes of selecting a new Maturity Date in connection with a Refinancing Election, the reference to "the Requested Advance Date for the respective Advance" in subparagraph (c) of paragraph 5 of this Note shall be deemed to be a reference to "the respective Refinancing Effective Date").

(c) To be effective, a Refinancing Election Notice must be received by FFB on or before the fifth Business Day before the date specified therein as the Intended Refinancing Date.

(d) In the event that either of the circumstances described in clause (1) or (2) of the next sentence shall have occurred, then a Refinancing Election Notice (in the form of notice attached to this Note as Annex D-2), to be effective, must first be delivered to RUS for approval and be approved by RUS in writing, and such Refinancing Election Notice, together with written notification of RUS's approval thereof, must be received by FFB on or before the fifth Business Day before the date specified therein to be the Intended Refinancing Date. RUS approval of a Refinancing Election Notice will be required under either of the following circumstances:

(1) (A) payment of any amount owing under this Note is not made by the Borrower when and as due, (B) payment is made by RUS in accordance with the guarantee set forth at the end of this Note, and (C) RUS delivers notice to both the Borrower and FFB advising each of them that each Refinancing Election Notice delivered by the Borrower after the date of such notice shall require the approval of RUS; or

(2) FFB at any time delivers notice to both the Borrower and RUS advising each of them that each Refinancing Election Notice delivered by the Borrower after the date of such notice shall require the approval of RUS.

(e) The Borrower shall pay to FFB a price for the refinancing of any Advance (such price being the "Refinancing Price" for such Advance) equal to the sum of:

(1) the principal installment (if any) that is due on the particular Payment Date that the Borrower specified to be the Intended Refinancing Date, in accordance with the principal repayment schedule that applied to such Advance immediately before such refinancing;

(2) all unpaid interest (and Late Charges, if any) accrued on such Advance through the Intended Refinancing Date; and

(3) the amount of the premium (if any) that is required under the particular prepayment/refinancing privilege that applies to such Advance.

In the event that (A) the prepayment/refinancing privilege that applies to the particular Advance being refinanced is the privilege described in subparagraph (b) of paragraph 16 of this Note, and (B) the Market Value Premium (or Discount) that is to be included in the Refinancing Price for such Advance is a discount on such Advance, then such discount shall be applied by FFB in the manner requested by the Borrower in a written notice delivered by the Borrower to FFB and approved by RUS in writing.

(f) Payment of the Refinancing Price for any Advance shall be due to FFB before 3:00 p.m. (Washington, D.C., time) on the Intended Refinancing Date for such Advance.

(g) In the event that a Refinancing Election Notice (and, if required under subparagraph (d) of this paragraph 18, written notification of RUS's approval thereof) is received by FFB on or before the fifth Business Day before the Intended Refinancing Date specified therein, then the refinancing of the respective Advance shall become effective on such Intended Refinancing Date (in such event, the Intended Refinancing Date being the "Refinancing Effective Date"). In the event that a Refinancing Election Notice (and, if required under subparagraph (d) of this paragraph 18, written notification of RUS's approval thereof) is received by FFB after the fifth Business Day before the Intended Refinancing Date specified therein, then the refinancing of the respective Advance shall become effective on the fifth Business Day to occur after the day on which such Refinancing Election Notice (and, if required under subparagraph (d) of this paragraph 18, written notification of RUS's approval thereof) is received by FFB (in such event, the fifth Business Day to occur after the day on which such Refinancing Election Approval Notice (and, if required under subparagraph (d) of this paragraph 18, written notification of RUS's approval thereof) is received by FFB being the "Refinancing Effective Date"), provided that the Borrower shall have paid to FFB, in addition to the Refinancing Price required under subparagraph (e) of this paragraph 18, the interest accrued from the Intended Refinancing Date through such Refinancing Effective Date.

(h) In the event that the Borrower makes a Refinancing Election with respect to any Advance, the basic interest rate for such Advance, from and after the respective Refinancing Effective Date, shall be the particular rate that is established by FFB, as of such Refinancing Effective Date, in accordance with the principles of subparagraph (c) of paragraph 6 of this Note.

(i) In the event that (1) the Borrower makes a Refinancing Election with respect to any Advance, and (2) the Borrower selects as the Maturity Date for such refinanced Advance either (A) the Maturity Date that is in effect for such Advance immediately before such refinancing, and such Maturity Date will occur before the fifth anniversary of the respective Refinancing Effective Date, or (B) a new Maturity Date that will occur before the fifth anniversary of the respective Refinancing Effective Date, then the prepayment/refinancing privilege described in subparagraph (b) of paragraph 16 of this Note shall apply automatically to such Advance.

(j) In the event that (1) the Borrower makes a Refinancing Election with respect to any Advance, and (2) the Borrower selects as the Maturity Date for such refinanced Advance either (A) the Maturity Date that is in effect for such Advance immediately before such refinancing, and such Maturity Date will occur on or after the fifth anniversary of the respective Refinancing Effective Date, or (B) a new Maturity Date that will occur on or after the fifth anniversary of the respective Refinancing Effective Date, then the Borrower must elect a prepayment/refinancing privilege for such refinanced Advance from between the options described in subparagraphs (b) and (c) of paragraph 16 of this Note (provided, however, that each of the references to "the Requested Advance Date for such Advance" in subparagraph (c) of paragraph 16 of this Note shall be deemed to be a reference to "the respective Refinancing Effective Date"). The Refinancing Election Notice delivered by the Borrower in connection with each such Refinancing Election must also specify the particular prepayment/refinancing privilege that the Borrower elects for the respective refinanced Advance. In the event that the Borrower elects for any such refinanced Advance a prepayment/refinancing privilege described in subparagraph (c) of paragraph 16 of this Note, then the interest rate for such refinanced Advance, from and after the respective Refinancing Effective Date, shall include a price (expressed in terms of a basis point increment to the applicable basic interest rate) for the particular prepayment/refinancing privilege that the Borrower elects, which increment shall be established by FFB, as of such Refinancing Effective Date, in accordance with the principles of subparagraph (d) of paragraph 6 of this Note.

(k) In the event that the Borrower makes a Refinancing Election with respect to any Amortizing Advance, then the outstanding principal amount of such Amortizing Advance, after

the respective Refinancing Effective Date, shall be due and payable in accordance with this subparagraph (k).

(1) With respect to each Amortizing Advance to which either the "equal principal installments" method or the "graduated principal installments" method for the repayment of principal applies, the amount of the quarterly principal installments that will be due after the respective Refinancing Effective Date shall be equal to the amount of the quarterly installments of equal principal or graduated principal, as the case may be, that were due in accordance with the principal repayment schedule that applied to such Amortizing Advance immediately before the respective Refinancing Effective Date.

(2) With respect to each Amortizing Advance to which the "level debt service" method for the repayment of principal applies, the amount of the level quarterly payments consisting of a principal installment and accrued interest that will be due after the respective Refinancing Effective Date shall be newly computed so that the amount of each such quarterly payment consisting of a principal installment and accrued interest (taking into account the new interest rate that applies to such Amortizing Advance from and after such Refinancing Effective Date) shall be substantially equal to the amount of every other quarterly payment consisting of a principal installment and accrued interest, and shall be sufficient, when added to all other such newly-computed level quarterly payments consisting of a principal installment and accrued interest, to repay the outstanding principal amount of such refinanced Amortizing Advance in full on the Final Maturity Date (notwithstanding the fact that the Borrower may have selected a Maturity Date for such refinanced Amortizing Advance that will occur before the Final Maturity Date).

(3) The quarterly installments of equal principal or graduated principal, or the newly-computed level quarterly payments consisting of a principal installment and accrued interest, as the case may be, shall be due beginning on the first Payment Date to occur after the respective Refinancing Effective Date, and shall be due on each Payment Date to occur thereafter up through and including the earlier to occur of (A) the new Maturity Date that the Borrower selected for such refinanced Amortizing Advance, on which date the entire unpaid principal amount of such refinanced Amortizing Advance shall also be payable, subject to Maturity Extensions (as provided in paragraph 15 of this Note) if the new Maturity Date is an Interim Maturity Date, or (B) the date on which the entire principal amount of such refinanced Amortizing Advance, and all unpaid interest (and Late Charges, if any) accrued thereon, are paid.

(l) The Borrower may make more than one Refinancing Election with respect to any Advance.

19. Rescission of Prepayment Elections and Refinancing Elections; Late Charges for Late Payments.

(a) The Borrower may rescind any Prepayment Election made in accordance with paragraph 17 of this Note or any Refinancing Election made in accordance with paragraph 18 of this Note, but only in accordance with this paragraph 19.

(b) The Borrower shall deliver to both FFB and RUS written notification of each rescission of a Prepayment Election or a Refinancing Election (each such notification being an "Election Rescission Notice") specifying the particular Advance for which the Borrower wishes to rescind such Prepayment Election or Refinancing Election, as the case may be, which specification must make reference to both:

(1) the particular Advance Identifier that FFB assigned to such Advance (as provided in the Agreement); and

(2) the RUS account number for such Advance.

The Election Rescission Notice may be delivered by facsimile transmission to FFB at (202) 622-0707 and to RUS at (202) 720-1401, or at such other facsimile number or numbers as either FFB or RUS may from time to time communicate to the Borrower.

(c) To be effective, an Election Rescission Notice must be received by both FFB and RUS not later than 3:30 p.m. (Washington, D.C., time) on the second Business Day before the Intended Prepayment Date or the Intended Refinancing Date, as the case may be.

(d) In the event that the Borrower (1) makes a Prepayment Election in accordance with paragraph 17 of this Note or a Refinancing Election in accordance with paragraph 18 of this Note, (2) does not rescind such Prepayment Election or Refinancing Election, as the case may be, in accordance with this paragraph 19, and (3) does not, before 3:00 p.m. (Washington, D.C., time) on the Intended Prepayment Date or Intended Refinancing Date, as the case may be, pay to FFB the Prepayment Price described in subparagraph (e) of paragraph 17 of this Note or Refinancing Price described in subparagraph (e) of paragraph 18 of this Note, as the case may be, then a Late Charge shall accrue on any such unpaid amount from the Intended Prepayment Date or Intended Refinancing Date, as the case may be, to the date on which payment is made, computed in accordance with the principles of paragraph 11 of this Note.

20. Amendments to Note.

To the extent not inconsistent with applicable law, this Note, for so long as FFB or its agent is the holder thereof, shall be subject to modification by such amendments, extensions, and renewals as may be agreed upon from time to time by FFB and the Borrower, with the approval of RUS.

21. Certain Waivers.

The Borrower hereby waives any requirement for presentment, protest, or other demand or notice with respect to this Note.

22. Note Effective Until Paid.

This Note shall continue in full force and effect until all principal outstanding hereunder, all interest accrued hereunder, all premiums (if any) payable under paragraphs 17 and 18 of this Note, all Late Charges (if any) payable under paragraphs 11 and 19 of this Note, and all fees (if any) payable under paragraph 9 of this Note have been paid in full.

23. RUS Guarantee of Note.

Upon execution of the guarantee set forth at the end of this Note (the "Guarantee"), the payment by the Borrower of all amounts due and payable under this Note, when and as due, shall be guaranteed by the United States of America, acting through RUS, pursuant to the Rural Electrification Act of 1936, as amended (codified at 7 U.S.C. § 901 et seq.). In consideration of the Guarantee, the Borrower promises to RUS to make all payments due under this Note when and as due.

24. Security Instrument; RUS as "Holder" of Note for Purposes of the Security Instrument.

This Note is one of several notes permitted to be executed and delivered by, and is entitled to the benefits and security of, the particular security instrument or instruments specified on page 1 of this Note (such security instrument or instruments, as it or they may have heretofore been, and as it or they may hereafter be, amended, supplemented, restated, or consolidated from time to time in accordance with its or their terms, being, collectively, the "Security Instrument"), whereby the Borrower pledged and granted a security interest in certain property of the Borrower, described therein, to secure the payment of and performance of certain obligations owed to REA, predecessor to RUS, or to RUS, as the case may be, as set forth in the Security Instrument. For purposes of the Security Instrument, RUS shall be considered to be, and shall have the rights, powers, privileges, and remedies of, the holder of this Note.

25. Guarantee Payments; Reimbursement.

If RUS makes any payment, pursuant to the Guarantee, of any amount due and payable under this Note, when and as due, each and every such payment so made shall be deemed to be a payment hereunder; provided, however, that no payment by RUS pursuant to the Guarantee shall be considered a payment for purposes of determining the existence of a failure by the Borrower to perform its obligation to RUS to make all payments under this Note when and as due. RUS shall have any rights by way of subrogation, agreement or otherwise which arise as a result of such payment pursuant to the Guarantee and as provided in the reimbursement note executed and delivered by the Borrower to the United States of America, acting through RUS, to evidence the Borrower's obligation to reimburse RUS for payment made by RUS pursuant to the Guarantee.

26. Default and Enforcement.

In case of a default by the Borrower under this Note or a the occurrence of an event of default under the Security Instrument, then, in consideration of the obligation of RUS under the Guarantee, in that event, to make payments to FFB as provided in this Note, RUS, in its own name, shall have all rights, powers, privileges, and remedies of the holder of this Note, in accordance with the terms of this Note and the Security Instrument, including, without limitation, the right to enforce or collect all or any part of the obligation of the Borrower under this Note or arising as a result of the Guarantee, to file proofs of claim or any other document in any bankruptcy, insolvency, or other judicial proceeding, and to vote such proofs of claim.

27. Acceleration.

The entire unpaid principal amount of this Note, and all interest thereon, may be declared, and upon such declaration shall become, due and payable to RUS, under the circumstances described, and in the manner and with the effect provided, in the Security Instrument.

IN WITNESS WHEREOF, the Borrower has caused this Note to be signed in its corporate name and its corporate seal to be hereunder affixed and attested by its officers thereunto duly authorized, all as of the day and year first above written.

REDWOOD COAST ENERGY AUTHORITY

(name of Borrower)

BY:

Signature: _____

Print Name: _____

Title: _____

ATTEST:

(SEAL)

Signature: _____

Print Name: _____

Title: _____

RUS Project Designation:
California 48 “A8” Humboldt

RUS LOAN CONTRACT

An Agreement Made By And Between
REDWOOD COAST ENERGY AUTHORITY,
as Borrower
and
UNITED STATES OF AMERICA,
as Lender

Dated as of December 1, 2020

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE

No. _____

RUS LOAN CONTRACT

AGREEMENT, dated as of December 1, 2020, between REDWOOD COAST ENERGY AUTHORITY ("Borrower"), a joint powers agency organized and existing under the laws of the State of California, and the UNITED STATES OF AMERICA, acting by and through the Administrator of the Rural Utilities Service ("RUS").

RECITALS

The Borrower has applied to RUS for financial assistance for the purpose(s) set forth in Schedule 1 hereto.

RUS is willing to extend financial assistance to the Borrower pursuant to the Rural Electrification Act of 1936, as amended, on the terms and conditions stated herein.

THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto agree and bind themselves as follows:

ARTICLE I

DEFINITIONS

Capitalized terms that are not defined herein shall have the meanings as set forth in Resolution No. 2020-9") and Resolution No. 2020-10 ("Resolution No. 2020-10"), each dated December 17, 2020 (collectively, the "Resolutions"). The terms defined herein include the plural as well as the singular and the singular as well as the plural.

Act shall mean the Rural Electrification Act of 1936, as amended.

Advance or Advances shall mean advances of Loan funds to the Borrower which have been made or approved by RUS pursuant to the terms and conditions of this Agreement.

Agreement shall mean this Loan Contract together with all schedules and exhibits and also any subsequent supplements or amendments.

Board shall have the same meaning as "Board of Directors" as defined in the Resolutions.

Business Day shall mean any day that RUS is open for business.

Contemporaneous Loan shall mean any loan which the Borrower has used to satisfy RUS Regulations or loan conditions requiring that supplemental financing be obtained in order to obtain a loan from RUS. Any loan used to refinance or refund a Contemporaneous Loan is also considered to be a Contemporaneous Loan.

Coverage Ratios shall mean, collectively, the following financial ratios: (i) TIER of 1.25; (ii) Operating TIER of 1.1; (iii) DSC of 1.25; and Operating DSC of 1.1.

Debt Service Coverage Ratio ("DSC") shall mean the ratio determined as follows: for each calendar year add

- (i) Margins of the Borrower,
- (ii) Interest Expense on Total Long-Term Debt of the Borrower (as computed in accordance with the principles set forth in the definition of TIER); and

(iii) Depreciation and Amortization Expense of the Borrower, and divide the total so obtained by an amount equal to the sum of all payments of principal and interest required to be made on account of Total Long-Term Debt during such calendar year increasing said sum by any addition to interest expense on account of Restricted Rentals as computed with respect to the Times Interest Earned Ratio herein.

Distributions [reserved]

Electric System shall mean the Tesla/FTM System.

Equity shall mean the Borrower's total margins and equities computed pursuant to RUS Accounting Requirements but excluding any Regulatory Created Assets.

Event of Default shall have the meaning as defined in Section 7.1.

Final Maturity Date shall have the meaning as defined in the Note.

General Manager shall mean the General Manager of the Borrower or his/her authorized designee.

Independent when used with respect to any specified person or entity means such a person or entity who (1) is in fact independent, (2) does not have any direct financial interest or any material indirect financial interest in the Borrower or in any affiliate of the Borrower and (3) is not connected with the Borrower as an officer, employee, promoter, underwriter, trustee, partner, director or person performing similar functions.

Interest Expense shall mean the interest expense of the Borrower computed pursuant to RUS Accounting Requirements.

Loan shall mean the loan described in Article III which is being made or guaranteed pursuant to the RUS Commitment in furtherance of the objectives of the Act.

Loan Documents shall mean, collectively, this Agreement, the Resolutions and the Note and shall also include any Reimbursement Note.

Long-Term Debt shall mean the total of all amounts included in the long-term debt of the Borrower pursuant to RUS Accounting Requirements.

Maturity Date shall have the meaning as defined in the Note.

Monthly Payment Date shall have the meaning as defined in the Note.

Net Utility Plant shall mean the amount constituting the Total Utility Plant of the Borrower, less depreciation, computed in accordance with RUS Accounting Requirements.

Note shall mean a promissory note or notes executed by the Borrower in the form of Exhibit A hereto, and any note executed and delivered to RUS or to the Federal Financing Bank to refund, or in substitution for such a Note. If the RUS Commitment includes both a commitment by RUS to make a loan and also a commitment by RUS to guarantee a loan made by the Federal Financing Bank, then Exhibit A includes both forms.

Operating DSC or ODSC shall mean Operating Debt Service Coverage calculated as:

$$\text{ODSC} = \frac{\text{A+B+C}}{\text{D}}$$

where:

All amounts are for the same calendar year and are computed pursuant to RUS Accounting Requirements and RUS Form 7;

A = Depreciation and Amortization Expense of the Electric System;

B = Interest Expense on Total Long-Term Debt of the Electric System, except that such Interest Expense shall be increased by 1/3 of the amount, if any, by which the Restricted Rentals of the Electric System exceed 2 percent of the Borrower's Equity;

C = Patronage capital & operating margins of the Electric System, (which equals operating revenue and patronage capital of Electric System operations, less total cost of electric service, including Interest Expense on Total Long-Term Debt of the Electric System) plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System; and

D = Debt service billed which equals the sum of all payments of principal and interest required to be made on account of Total Long-Term Debt of the Electric System during the calendar year, plus 1/3 of the amount, if any, by which Restricted Rentals of the Electric System exceed 2 percent of the Mortgagor's Equity.

Operating TIER or OTIER shall mean Operating Times Interest Earned Ratio calculated as:

$$\text{OTIER} = \frac{A+B}{A}$$

where:

All amounts are for the same calendar year and are computed pursuant to RUS Accounting Requirements and RUS Form 7;

A = Interest Expense on Total Long-Term Debt of the Electric System, except that such Interest Expense shall be increased by 1/3 of the amount, if any, by which Restricted Rentals of the Electric System exceed 2 percent of the Borrower's Equity; and

B = Patronage capital & operating margins of the Electric System, (which equals operating revenue and patronage capital of Electric System operations, less total cost of electric service, including Interest Expense on Total Long-Term Debt of the Electric System) plus cash received from the retirement of patronage capital by suppliers of electric power and by lenders for credit extended for the Electric System.

Permitted Debt shall have the meaning as defined in Section 6.13.

Pledge of System Revenues shall have the same meaning as described in Section 2(b) of Resolution No. 2020-10.

Prior Loan Contracts shall mean all loan and loan guarantee agreements, if any, previously entered into by and between RUS and the Borrower.

Regulatory Created Assets shall mean the sum of any amounts properly recordable as unrecovered plant and regulatory study costs or as other regulatory assets, computed pursuant to RUS Accounting Requirements.

Reimbursement Note shall mean any demand Note of the Borrower which evidences the Borrower's obligation to immediately repay RUS any payments which RUS makes on behalf of the Borrower on the Note pursuant to a RUS guaranty if one has been provided under the terms of the RUS Commitment.

Resolution No. 2020-9 shall mean Resolution No. 2020-9 of the Borrower, dated December 17, 2020.

Resolution No. 2020-10 shall mean Resolution No. 2020-10 of the Borrower, dated December 17, 2020.

Resolutions shall mean, collectively, Resolution No. 2020-9 and Resolution No. 2020-10.

Restricted Rentals shall mean all rentals required to be paid under finance leases and charged to income, exclusive of any amounts paid under any such lease (whether or not designated therein as rental or additional rental) for maintenance or repairs, insurance, taxes, assessments, water rates or similar charges. For the purpose of this definition the term "finance lease" shall mean any lease having a rental term (including the term for which such lease may be renewed or extended at the option of the lessee) in excess of 3 years and covering property having an initial cost in excess of \$250,000 other than aircraft, ships, barges, automobiles, trucks, trailers, rolling stock and vehicles; office, garage and warehouse space; office equipment and computers.

RUS Accounting Requirements shall mean any system of accounts prescribed by RUS Regulations as such RUS Accounting Requirements exist at the date of applicability thereof.

RUS Commitment shall have the meaning as defined in Schedule 1 hereto.

RUS Regulations shall mean regulations of general applicability published by RUS from time to time as they exist at the date of applicability thereof, and shall also include any regulations of other federal entities which RUS is required by law to implement.

Secured Property [reserved].

Special Construction Account shall have the meaning as defined in Section 5.21.

Subsidiary shall mean a corporation or other entity that is a subsidiary of the Borrower and subject to the Borrower's control, as defined by RUS Accounting Requirements.

Termination Date shall mean the date specified in the Note after which no further Advances shall be made under the terms of the RUS Commitment.

Tesla/FTM System shall mean the Tesla, Inc. engineered, procured and constructed front of the meter DC coupled PV-BESS system assets, as further described in Resolution No. 2020-10.

Times Interest Earned Ratio ("TIER") shall have the meaning provided in the Resolution.

Total Assets shall mean an amount constituting the total assets of the Borrower secured by Resolution No. 2020-10, as computed pursuant to RUS Accounting Requirements, but excluding any Regulatory Created Assets.

Total Utility Plant shall mean the amount constituting the total electric utility plant of the Borrower computed in accordance with RUS Accounting Requirements.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties.

To induce RUS to make the Loan, and recognizing that RUS is relying hereon, the Borrower represents and warrants as follows:

- (a) Organization; Power, Etc. The Borrower: (i) is duly organized, validly existing, and in good standing as a joint powers agency of the State of California; (ii) is duly qualified to do business and is in good standing in each jurisdiction in which the transaction of its business makes such qualification necessary; (iii) has all requisite corporate and legal power as a municipal corporation to own and operate its assets and to carry on its business and to enter into and perform the Loan Documents; (iv) has duly and lawfully obtained and maintained all licenses, certificates, permits, authorizations, approvals, and the like which are material to the conduct of its business or which may be otherwise required by law; and (v) is eligible to obtain the financial assistance from RUS contemplated by this Agreement.
- (b) Authority. The execution, delivery and performance by the Borrower of this Agreement and the other Loan Documents and the performance of the transactions contemplated thereby have been duly authorized by action of the Board and shall not violate any provision of law or of the Resolutions of the Borrower or result in a breach of, or constitute a default under, any agreement, indenture or other instrument to which the Borrower is a party or by which it may be bound.
- (c) Consents. No consent, permission, authorization, order, or license of any governmental authority is necessary in connection with the execution, delivery, performance, or enforcement of the Loan Documents, except (i) such as have been obtained and are in full force and effect and (ii) such as have been disclosed on Schedule 1 hereto.
- (d) Binding Agreement. Each of the Loan Documents is, or when executed and delivered shall be, the legal, valid, and binding obligation of the Borrower, enforceable in accordance with its terms, subject only to limitations on enforceability imposed by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally.
- (e) Compliance with Laws. The Borrower is in compliance in all material respects with all applicable federal, state, and local laws, rules, regulations, ordinances, codes, and orders (collectively, "Laws"), the failure to comply with which could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents, except as the Borrower has disclosed to RUS in writing.
- (f) Litigation. There are no pending legal, arbitration, or governmental actions or proceedings to which the Borrower is a party or to which any of its property is subject which, if adversely determined, could have a material adverse effect on the condition, financial or otherwise, operations, properties, profits or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents, and to the best of the Borrower's knowledge, no such actions or proceedings are threatened or contemplated, except as the Borrower has disclosed to RUS in writing.
- (g) Title to Property. [reserved].

- (h) Financial Statements; No Material Adverse Change; Etc. All financial statements submitted to RUS in connection with the application for the Loan or in connection with this Agreement fairly and fully present the financial condition of the Borrower and the results of the Borrower's operations for the periods covered thereby and are prepared in accordance with RUS Accounting Requirements consistently applied. Since the dates thereof, there has been no material adverse change in the financial condition or operations of the Borrower. All budgets, projections, feasibility studies, and other documentation submitted by the Borrower to RUS are based upon assumptions that are reasonable and realistic, and as of the date hereof, no fact has come to light, and no event or transaction has occurred, which would cause any assumption made therein not to be reasonable or realistic.
- (i) Principal Place of Business; Records. The principal place of business and chief executive office of the Borrower is at the address of the Borrower shown on Schedule 1 attached hereto.
- (j) Location of Properties. All property owned by the Borrower is located in the counties identified in Schedule 1 hereto.
- (k) Subsidiaries. The Borrower has no subsidiary, except as the Borrower has disclosed to RUS in writing.
- (l) Defaults Under Other Agreements. The Borrower is not in default under any agreement or instrument to which it is a party or under which any of its properties are subject that is material to its financial condition, operations, properties, profits, or business.
- (m) Survival. All representations and warranties made by the Borrower herein or made in any certificate delivered pursuant hereto shall survive the making of the Advances and the execution and delivery to RUS of the Note.

ARTICLE III

LOAN

Section 3.1. Advances.

RUS agrees to make, or in the case of any loan guaranteed by RUS, approve, and the Borrower agrees to request, on the terms and conditions of this Agreement, Advances from time to time in an aggregate principal amount not to exceed the RUS Commitment. On the Termination Date, RUS may stop advancing funds and limit the RUS Commitment to the amount advanced prior to such date. The obligation of the Borrower to repay the Advances shall be evidenced by the Note in the principal amount of the unpaid principal amount of the Advances from time to time outstanding. The Borrower shall give RUS written notice of the date on which each Advance is to be made.

Section 3.2. Interest Rate and Payment.

The Note shall be payable and bear interest as follows:

- (a) Payments and Amortization. Principal shall be amortized in accordance with the methods stated in Schedule 1 hereto and more fully described in the form of Note attached hereto as Exhibit A.
- (b) Application of Payments. All payments which the Borrower sends to RUS on any outstanding obligation owed to or guaranteed by RUS shall be applied in the manner

provided in the Borrower's Loan Documents to which such payments relate and in a manner consistent with RUS policies, practices, and procedures for obligations that have been similarly classified by RUS.

- (c) Electronic Funds Transfer. Except as otherwise prescribed by RUS, the Borrower shall make all payments on the Note utilizing electronic funds transfer procedures as specified by RUS.
- (d) Fixed or Variable Rate. The Note shall bear interest at either a fixed or variable rate in accordance with the method stated in Schedule 1 hereto and as more particularly described in the form of Note attached hereto as Exhibit A.

Section 3.3. Prepayment.

The Borrower has no right to prepay the Note in whole or in part except such rights, if any, as are expressly provided for in the Note or applicable federal statutes. However, prepayment of the Note (and any penalties) shall be mandatory under Section 5.3 hereof if the Borrower has used a Contemporaneous Loan in order to qualify for the RUS Commitment, and later prepays the Contemporaneous Loan.

Section 3.4. Last Date for Advance.

Funds will only be advanced pursuant to this Agreement and the Note on or before the Last Date for an Advance, as specified in the Note. No funds will be advanced subsequent to the Last Date for an Advance unless prior to such date the Administrator has extended this date by written agreement. However, under no circumstances shall RUS ever make or approve an advance, regardless of the Last Date for an Advance or any extension by the Administrator, later than September 30 of the fifth year after the Fiscal Year of Obligation as identified in Schedule 1 if such date would result in RUS obligating or permitting advances of funds contrary to the Antideficiency Act (31 USC §1341).

ARTICLE IV

CONDITIONS OF LENDING

Section 4.1. General Conditions.

The obligation of RUS to make or, in the case of any Loan guaranteed by RUS, approve to be made any Advance hereunder is subject to satisfaction of each of the following conditions precedent on or before the date of such Advance:

- (a) Legal Matters. All legal matters incident to the consummation of the transactions hereby contemplated shall be satisfactory to counsel for RUS.
- (b) Loan Documents. That RUS receive duly executed originals of this Agreement and the other Loan Documents.
- (c) Authorization. That RUS receive evidence satisfactory to it that all documents and proceedings of the Borrower necessary for duly authorizing the execution, delivery and performance of the Loan Documents have been obtained and are in full force and effect.
- (d) Approvals. That RUS receive evidence satisfactory to it that all consents and approvals (including without limitation the consents referred to in Section 2.1(c) of this Agreement)

which are necessary for, or required as a condition of, the validity and enforceability of each of the Loan Documents have been obtained and are in full force and effect.

- (e) Event of Default. That no Event of Default specified in Article VII and no event which, with the lapse of time or the notice and lapse of time specified in Article VII would become such an Event of Default, shall have occurred and be continuing, or shall have occurred after giving effect to the Advance on the books of the Borrower.
- (f) Continuing Representations and Warranties. That the representations and warranties of the Borrower contained in this Agreement be true and correct on and as of the date of such Advance as though made on and as of such date.
- (g) Opinion of Counsel. That RUS receive an opinion of counsel for the Borrower (who shall be acceptable to RUS) in form and content acceptable to RUS.
- (h) Resolution Under Law. The lien of the Pledge of System Revenues created by Resolution No. 2020-10 is valid, binding, perfected and enforceable from the time the pledge is made, all in accordance with applicable law, and the Borrower shall have caused satisfactory evidence thereof to be furnished to RUS.
- (i) Wholesale Power Contract. That the Borrower shall not be in default under the terms of, or contesting the validity of, any contract for sales for resale that has been pledged by any entity to RUS as security for the repayment of any loan made or guaranteed by RUS under the Act.
- (j) Material Adverse Change. That there has occurred no material adverse change in the business or condition, financial or otherwise, of the Borrower and nothing has occurred which in the opinion of RUS materially and adversely affects the Borrower's ability to meet its obligations hereunder.
- (k) Requisitions. That the Borrower shall requisition all Advances by submitting its requisition to RUS in form and substance satisfactory to RUS. Requisitions shall be made only for the purpose(s) set forth herein. The Borrower agrees to apply the proceeds of the Advances in accordance with its loan application with such modifications as may be mutually agreed.
- (l) Flood Insurance. That for any Advance used in whole or in part to finance the construction or acquisition of any building in any area identified by the Secretary of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973 (the "Flood Insurance Act") or any rules, regulations or orders issued to implement the Flood Insurance Act ("Rules") as any area having special flood hazards, or to finance any facilities or materials to be located in any such building, or in any building owned or occupied by the Borrower and located in such a flood hazard area, the Borrower has submitted evidence, in form and substance satisfactory to RUS, or RUS has otherwise determined, that (i) the community in which such area is located is then participating in the national flood insurance program, as required by the Flood Insurance Act and any Rules, and (ii) the Borrower has obtained flood insurance coverage with respect to such building and contents as may then be required pursuant to the Flood Insurance Act and any Rules.
- (m) Compliance with Loan Contract and Resolutions. That the Borrower is in material compliance with all provisions of this Agreement and the Resolutions.

Section 4.2. Special Conditions.

The obligation of RUS to make or, in the case of any Loan guaranteed by RUS, approve to be made any Advance hereunder is also subject to satisfaction, on or before the date of such Advance, of each of the special conditions, if any, listed in Schedule 1 hereto.

ARTICLE V

AFFIRMATIVE COVENANTS

Section 5.1. Generally.

Unless otherwise agreed to in writing by RUS, while this Agreement is in effect, whether or not any Advance is outstanding, the Borrower agrees to duly observe each of the affirmative covenants contained in this Article.

Section 5.2. Annual Certificates.

- (a) Performance under Loan Documents. The Borrower shall duly observe and perform all of its obligations under each of the Loan Documents.
- (b) Annual Certification. Within ninety (90) days after the close of each calendar year, commencing with the year following the year in which the initial Advance hereunder shall have been made, the Borrower shall deliver to RUS a written statement signed by its General Manager, stating that during such year the Borrower has fulfilled all of its obligations under the Loan Documents throughout such year in all material respects or, if there has been a default in the fulfillment of any such obligations, specifying each such default known to said person and the nature and status thereof.

Section 5.3. Simultaneous Prepayment of Contemporaneous Loans.

If the Borrower shall at any time prepay in whole or in part the Contemporaneous Loan described on Schedule 1, the Borrower shall prepay the RUS Note correspondingly in order to maintain the ratio that the Contemporaneous Loan bears to the RUS Commitment. If the RUS Note calls for a prepayment penalty or premium, such amount shall be paid but shall not be used in computing the amount needed to be paid to RUS under this section to maintain such ratio. In the case of Contemporaneous Loans and RUS Notes existing prior to the date of this Agreement under previous agreements, prepayments shall be treated as if governed by this section. Provided, however, in all cases prepayments associated with refinancing or refunding a Contemporaneous Loan, if any, pursuant to the Resolutions are not considered to be prepayments for purposes of this Agreement if they satisfy each of the following requirements:

- (a) Principal. The principal amount of such refinancing or refunding loan is not less than the amount of loan principal being refinanced; and
- (b) Weighted Average Life. The weighted average life of the refinancing or refunding loan is not less than the weighted average remaining life of the loan being refinanced.

Section 5.4. Rates to Provide Revenue Sufficient to Meet Coverage Ratios Requirements.

- (a) Prospective Requirement. The Borrower shall design and implement rates for utility service furnished by it to provide sufficient revenue (along with other revenue available to the Borrower in the case of TIER and DSC) (i) to pay all fixed and variable expenses when and as due, (ii) to provide and maintain reasonable working capital, and (iii) to maintain, on an annual basis, the Coverage Ratios. In designing and implementing rates under this paragraph, such rates should be capable of producing at least enough revenue to meet the

requirements of this paragraph under the assumption that average weather conditions in the Borrower's service territory shall prevail in the future, including average Electric System damage and outages due to weather and the related costs.

- (b) Retrospective Requirement. The average Coverage Ratios achieved by the Borrower in the 2 best years out of the 3 most recent calendar years must be not less than any of the following:

TIER =	1.25
DSC =	1.25
OTIER =	1.1
ODSC =	1.1

- (c) Prospective Notice of Change in Rates. The Borrower shall give thirty (30) days prior written notice of any proposed change in its general rate structure to RUS if RUS has requested in writing that it be notified in advance of such changes.
- (d) Routine Reporting of Coverage Ratios. Promptly following the end of each calendar year, the Borrower shall report, in writing, to RUS the TIER, Operating TIER, DSC and Operating DSC levels which were achieved during that calendar year.
- (e) Reporting Non-achievement of Retrospective Requirement. If the Borrower fails to achieve the average levels required by paragraph (b) of this section, it must promptly notify RUS in writing to that effect.
- (f) Corrective Plans. Within 30 days of sending a notice to RUS under paragraph (e) of this section, or of being notified by RUS, whichever is earlier, the Borrower in consultation with RUS, shall provide a written plan satisfactory to RUS setting forth the actions that shall be taken to achieve the required Coverage Ratios on a timely basis.
- (g) Noncompliance. Failure to design and implement rates pursuant to paragraph (a) of this section and failure to develop and implement the plan called for in paragraph (f) of this section shall constitute a General Event of Default under this Agreement in the event that RUS so notifies the Borrower to that effect under section 7.1(d) of this Agreement.

Section 5.5. Depreciation Rates.

The Borrower shall adopt as its depreciation rates only those which have been previously approved for the Borrower by RUS.

Section 5.6. Property Maintenance.

The Borrower shall maintain and preserve its Electric System in compliance in all material respects with the provisions of Resolution No. 2020-10, RUS Regulations and all applicable laws.

Section 5.7. Financial Books.

The Borrower shall at all times keep, and safely preserve, proper books, records and accounts in which full and true entries shall be made of all of the dealings, business and affairs of the Borrower and its Subsidiaries, in accordance with any applicable RUS Accounting Requirements.

Section 5.8. Rights of Inspection.

The Borrower shall afford RUS, through its representatives, reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect the Electric System, any other property encumbered by Resolution No. 2020-10, and any or all books, records, accounts, invoices, contracts, leases, payrolls, canceled checks, statements and other documents and papers of every kind belonging to or in the possession of the Borrower or in any way pertaining to its property or business, including its Subsidiaries, if any, and to make copies or extracts therefrom.

Section 5.9. Area Coverage.

- (a) The Borrower shall make diligent effort to extend electric service to all unserved persons within the service area of the Borrower who (i) desire such service and (ii) meet all reasonable requirements established by the Borrower as a condition of such service.
- (b) If economically feasible and reasonable considering the cost of providing such service and/or the effects on consumers' rates, such service shall be provided, to the maximum extent practicable, at the rates and minimum charges established in the Borrower's rate schedules, without the payment by such persons, other than seasonal or temporary consumers, of a contribution in aid of construction. A seasonal consumer is one that demands electric service only during certain seasons of the year. A temporary consumer is a seasonal or year-round consumer that demands electric service over a period of less than five years.
- (c) The Borrower may assess contributions in aid of construction provided such assessments are consistent with this section.

Section 5.10. Real Property Acquisition.

In acquiring real property, the Borrower shall comply in all material respects with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (the "Uniform Act"), as amended by the Uniform Relocation Act Amendments of 1987, and 49 CFR part 24, referenced by 7 CFR part 21, to the extent the Uniform Act is applicable to such acquisition.

Section 5.11. "Buy American" Requirements.

The Borrower shall use or cause to be used in connection with the expenditures of funds advanced on account of the Loan only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States or any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or any eligible country substantially all from articles, materials, and supplies mined, produced or manufactured, as the case may be, in the United States or any eligible country, except to the extent RUS shall determine that such use shall be impracticable or that the cost thereof shall be unreasonable. For purposes of this section, an "eligible country" is any country that applies with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative.

Section 5.12. Power Requirements Studies.

The Borrower shall prepare and use power requirements studies of its electric loads and future energy and capacity requirements in conformance with RUS Regulations.

Section 5.13. Long Range Engineering Plans and Construction Work Plans.

The Borrower shall develop, maintain and use up-to-date long-range engineering plans and construction work plans in conformance with RUS Regulations.

Section 5.14. Design Standards, Construction Standards, and List of Materials.

The Borrower shall use design standards, construction standards, and lists of acceptable materials in conformance with RUS Regulations.

Section 5.15. Plans and Specifications.

The Borrower shall submit plans and specifications for construction to RUS for review and approval, in conformance with RUS Regulations, if the construction will be financed in whole or in part by a loan made or guaranteed by RUS.

Section 5.16. Standard Forms of Construction Contracts, and Engineering and Architectural Services Contracts.

The Borrower shall use the standard forms of contracts promulgated by RUS for construction, procurement, engineering services and architectural services in conformance with RUS Regulations, if the construction, procurement, or services are being financed in whole or in part by a loan being made or guaranteed by RUS.

Section 5.17. Contract Bidding Requirements.

Consistent with Navajo Business Preference Law, the Borrower shall follow RUS contract bidding procedures in conformance with RUS Regulations when contracting for construction or procurement financed in whole or in part by a loan made or guaranteed by RUS.

Section 5.18. Nondiscrimination.

- (a) Equal Opportunity Provisions in Construction Contracts. The Borrower shall incorporate or cause to be incorporated into any construction contract, as defined in Executive Order 11246 of September 24, 1965 and implementing regulations, which is paid for in whole or in part with funds obtained from RUS or borrowed on the credit of the United States pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any RUS program involving such grant, contract, loan, insurance or guarantee, the equal opportunity provisions set forth in Exhibit B hereto entitled Equal Opportunity Contract Provisions.
- (b) Equal Opportunity Contract Provisions Also Bind the Borrower. The Borrower further agrees that it shall be bound by such equal opportunity clause as set forth in Exhibit B in any federally assisted construction work which it performs itself other than through the permanent work force directly employed by an agency of government.
- (c) Sanctions and Penalties. The Borrower agrees that it shall cooperate actively with RUS and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that it shall furnish RUS and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it shall otherwise assist the administering agency in the discharge of RUS's primary responsibility for securing compliance. The Borrower further agrees that it shall refrain from entering into any

contract or contract modification subject to Executive Order 11246 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to Part II, Subpart D of Executive Order 11246 and shall carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by RUS or the Secretary of Labor pursuant to Part II, Subpart D of Executive Order 11246. In addition, the Borrower agrees that if it fails or refuses to comply with these undertakings RUS may cancel, terminate or suspend in whole or in part this contract, may refrain from extending any further assistance under any of its programs subject to Executive Order 11246 until satisfactory assurance of future compliance has been received from such Borrower, or may refer the case to the Department of Justice for appropriate legal proceedings.

Section 5.19. Financial Reports.

The Borrower shall cause to be prepared and furnished to RUS a full and complete annual report of its financial condition and of its operations in form and substance satisfactory to RUS, audited and certified by Independent certified public accountants satisfactory to RUS and accompanied by a report of such audit in form and substance satisfactory to RUS. The Borrower shall also furnish to RUS from time to time such other reports concerning the financial condition or operations of the Borrower, including its Subsidiaries, as RUS may reasonably request or RUS Regulations require.

Section 5.20. Miscellaneous Reports and Notices.

The Borrower shall furnish to RUS:

- (a) Notice of Default. Promptly after becoming aware thereof, notice of: (i) the occurrence of any default; and (ii) the receipt of any notice given pursuant to the Resolutions with respect to the occurrence of any event which with the giving of notice or the passage of time, or both, could become an "Event of Default" under the Resolutions.
- (b) Notice of Non-Environmental Litigation. Promptly after the commencement thereof, notice of the commencement of all actions, suits or proceedings before any court, arbitrator, or governmental department, commission, board, bureau, agency, or instrumentality affecting the Borrower which, if adversely determined, could have a material adverse effect on the condition, financial or otherwise, operations, properties or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents.
- (c) Notice of Environmental Litigation. Without limiting the provisions of Section 5.20(b) above, promptly after receipt thereof, notice of the receipt of all pleadings, orders, complaints, indictments, or other communications alleging a condition that may require the Borrower to undertake or to contribute to a cleanup or other response under laws relating to environmental protection, or which seek penalties, damages, injunctive relief, or criminal sanctions related to alleged violations of such laws, or which claim personal injury or property damage to any person as a result of environmental factors or conditions for which the Borrower is not fully covered by insurance, or which, if adversely determined, could have a material adverse effect on the condition, financial or otherwise, operations, properties or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents.
- (d) Notice of Change of Place of Business. Promptly in writing, notice of any change in location of its principal place of business or the office where its records concerning accounts and contract rights are kept.

- (e) Regulatory and Other Notices. Promptly after receipt thereof, copies of any notices or other communications received from any governmental authority with respect to any matter or proceeding which could have a material adverse effect on the condition, financial or otherwise, operations, properties, or business of the Borrower, or on the ability of the Borrower to perform its obligations under the Loan Documents.
- (f) Material Adverse Change. Promptly, notice of any matter which has resulted or may result in a material adverse change in the condition, financial or otherwise, operations, properties, or business of the Borrower, or the ability of the Borrower to perform its obligations under the Loan Documents.
- (g) Other Information. Such other information regarding the condition, financial or otherwise, or operations of the Borrower as RUS may, from time to time, reasonably request.

Section 5.21. Special Construction Account.

The Borrower shall hold all moneys advanced to it by RUS hereunder in trust for RUS and shall deposit such moneys promptly after the receipt thereof in a bank or banks which meet the requirements of Section 6.7 of this Agreement. Any account (hereinafter called "Special Construction Account") in which any such moneys shall be deposited shall be insured by the Federal Deposit Insurance Corporation or other federal agency acceptable to RUS and shall be designated by the corporate name of the Borrower followed by the words "Trustee, Special Construction Account." Moneys in any Special Construction Account shall be used solely for the construction and operation of the Electric System and may be withdrawn only upon checks, drafts, or orders signed on behalf of the Borrower and countersigned by an executive officer thereof.

Section 5.22. Additional Affirmative Covenants.

The Borrower also agrees to comply with any additional affirmative covenant(s) identified in Schedule 1 hereto.

ARTICLE VI

NEGATIVE COVENANTS

Section 6.1. General.

Unless otherwise agreed to in writing by RUS, while this Agreement is in effect, whether or not any Advance is outstanding hereunder, the Borrower shall duly observe each of the negative covenants set forth in this Article.

Section 6.2. Limitations on System Extensions and Additions.

- (a) The Borrower shall not extend or add to its Electric System either by construction or acquisition without the prior written approval of RUS if the construction or acquisition is financed or will be financed, in whole or in part, by a RUS loan or loan guarantee.
- (b) The Borrower shall not extend or add to its Electric System with funds from other sources without prior written approval of RUS in the case of:
 - (1) Generating facilities if the combined capacity of the facilities to be built, procured, or leased, including any future facilities included in the planned project, will exceed the lesser of 5 Megawatts or 30 percent of the Borrower's Equity;

- (2) Existing electric facilities or systems in service whose purchase price, or capitalized value in the case of a lease, exceeds ten percent of the Borrower's Net Utility Plant; and
- (3) Any project to serve a customer whose annual kWh purchases or maximum annual kW demand is projected to exceed 25 percent of the Borrower's total kWh sales or maximum kW demand in the year immediately preceding the acquisition or start of construction of facilities.

Section 6.3. Limitations on Changing Principal Place of Business.

The Borrower shall not change its principal place of business or keep property in a county not shown in the Resolutions if the change would cause the lien in favor of RUS to become unperfected or fail to become perfected, as the case may be, unless, prior thereto, the Borrower shall have taken all steps required by law in order to assure that the lien in favor of RUS remains or becomes perfected, as the case may be, and, in either event, such lien has the priority accorded by Resolution No. 2020-10.

Section 6.4. Limitations on Employment and Retention of Manager.

At any time any Event of Default, or any occurrence which with the passage of time or giving of notice would be an Event of Default, occurs and is continuing the Borrower shall not employ any general manager of the Electric System or any person exercising comparable authority to such a manager unless such employment shall first have been approved by RUS. If any Event of Default, or any occurrence which with the passage of time or giving of notice would be an Event of Default, occurs and is continuing and RUS requests the Borrower to terminate the employment of any such manager or person exercising comparable authority, or RUS requests the Borrower to terminate any contract for operating the Electric System, the Borrower shall do so within thirty (30) days after the date of such notice. All contracts in respect of the employment of any such manager or person exercising comparable authority, or for the operation of the Electric System, shall contain provisions to permit compliance with the foregoing covenants.

Section 6.5. Limitations on Certain Types of Contracts.

Without the prior approval of RUS in writing, the Borrower shall not enter into any of the following contracts:

- (a) Construction contracts. Any contract for construction or procurement or for architectural and engineering services in connection with its Electric System if the project is financed or will be financed, in whole or in part, by a RUS loan or loan guarantee;
- (b) Large retail power contracts. Any contract to sell electric power and energy for periods exceeding two (2) years if the kWh sales or kW demand for any year covered by such contract shall exceed 25 percent of the Borrower's total kWh sales or maximum kW demand for the year immediately preceding the execution of such contract;
- (c) Wholesale power contracts. Any contract to sell electric power or energy for resale and any contract to purchase electric power or energy that, in either case, has a term exceeding two (2) years;
- (d) Power supply arrangements. Any interconnection agreement, interchange agreement, wheeling agreement, pooling agreement or similar power supply arrangement that has a term exceeding two (2) years;

- (e) System management and maintenance contracts. Any contract for the management and operation of all or substantially all of its Electric System; or
- (f) Other contracts. Any contracts of the type described on Schedule 1.

Section 6.6. Limitations on Mergers and Sale, Lease or Transfer of Capital Assets.

- (a) The Borrower shall not consolidate with, or merge, or sell all or substantially all of its business or assets, to another entity or person except to the extent it is permitted to do so under the Resolutions. The exception contained in this paragraph (a) is subject to the additional limitation set forth in paragraph (b) of this section.
- (b) The Borrower shall not, without the written approval of RUS, voluntarily or involuntarily sell, convey or dispose of any portion of its business or assets (including, without limitation, any portion of its franchise or service territory) to another entity or person if such sale, conveyance or disposition could reasonably be expected to reduce the Borrower's existing or future requirements for energy or capacity being furnished to the Borrower under any wholesale power contract which has been pledged as security to RUS.

Section 6.7. Limitations on Using non-FDIC Insured Depositories.

Without the prior written approval of RUS, the Borrower shall not place the proceeds of the Loan or any loan which has been made or guaranteed by RUS in the custody of any bank or other depository that is not insured by the Federal Deposit Insurance Corporation or other federal agency acceptable to RUS.

Section 6.8. [Reserved]

Section 6.9. Limitations on Loans, Investments and Other Obligations.

The Borrower shall not make any loan or advance to, or make any investment in, or purchase or make any commitment to purchase any stock, bonds, notes or other securities of, or guaranty, assume or otherwise become obligated or liable with respect to the obligations of, any other person, firm or corporation, except as permitted by the Act and RUS Regulations.

Section 6.10. Depreciation Rates.

The Borrower shall not file with or submit for approval of regulatory bodies any proposed depreciation rates which are inconsistent with RUS Regulations.

Section 6.11. Historic Preservation.

The Borrower shall not, without approval in writing by RUS, use any Advance to construct any facilities which shall involve any district, site, building, structure or object which is included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior pursuant to the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

Section 6.12. Rate Reductions.

Without the prior written approval of RUS, the Borrower shall not decrease its rates if it has failed to achieve all of the Coverage Ratios for the calendar year prior to such reduction.

Section 6.13. Limitations on Additional Indebtedness.

Except as expressly permitted by the Resolutions and subject to the further limitations expressed in the next section, the Borrower shall not incur, assume, guarantee or otherwise become liable in respect of any debt for borrowed money and Restricted Rentals (including Subordinated Indebtedness) other than the following ("Permitted Debt"):

- (a) Purchase money indebtedness in non-Electric System property, in an amount not exceeding 10% of Net Utility Plant;
- (b) Restricted Rentals in an amount not to exceed 5% of Equity during any 12 consecutive calendar month period;
- (c) Unsecured lease obligations incurred in the ordinary course of business except Restricted Rentals;
- (d) Unsecured indebtedness for borrowed money, except when the aggregate amount of such indebtedness exceeds 15% of Net Utility Plant and after giving effect to such unsecured indebtedness the Borrower's Equity is less than 30% of its Total Assets;
- (e) Debt represented by dividends declared but not paid; and
- (f) Subordinated Indebtedness approved by RUS.

PROVIDED, However, that the Borrower may incur Permitted Debt without the consent of RUS only so long as there exists no Event of Default hereunder and there has been no continuing occurrence which with the passage of time and giving of notice could become an Event of Default hereunder.

PROVIDED, FURTHER, by executing this Agreement any consent of RUS that the Borrower would otherwise be required to obtain under this section is hereby deemed to be given or waived by RUS by operation of law to the extent, but only to the extent, that to impose such a requirement of RUS consent would clearly violate federal laws or RUS Regulations.

Section 6.14. Limitations on Issuing Additional Indebtedness Secured Under the Resolution.

The Borrower shall not issue any additional indebtedness on parity with the Note without the prior written consent of RUS.

Section 6.15. Impairment of Contracts Pledged to RUS.

The Borrower shall not materially breach any obligation to be paid or performed by the Borrower on any contract, or take any action which is likely to materially impair the value of any contract, which has been pledged as security to RUS by the Borrower or any other entity.

Section 6.16. Additional Negative Covenants.

The Borrower also agrees to comply with any additional negative covenant(s) identified in Schedule 1 hereto.

ARTICLE VII

EVENTS OF DEFAULT

Section 7.1. Events of Default.

The following shall be Events of Default under this Agreement:

- (a) Representations and Warranties. Any representation or warranty made by the Borrower in Article II hereof or any certificate furnished to RUS hereunder or under the Resolutions shall prove to have been incorrect in any material respect at the time made and shall at the time in question be untrue or incorrect in any material respect and remain uncured;
- (b) Payment. Default shall be made in the payment of or on account of interest on or principal of the Note or any other Government Note when and as the same shall be due and payable, whether by acceleration or otherwise, which shall remain unsatisfied for five (5) Business Days;
- (c) Borrowing n Violation of the Loan Contract. Default by the Borrower in the observance or performance of any covenant or agreement contained in Section 6.14 of this Agreement;
- (d) Other Covenants. Default by the Borrower in the observance or performance of any other covenant or agreement contained in any of the Loan Documents, which shall remain unremedied for 30 calendar days after written notice thereof shall have been given to the Borrower by RUS;
- (e) Legal Existence. The Borrower shall forfeit or otherwise be deprived of its charter, franchises, permits, easements, consents or licenses required to carry on any material portion of its business;
- (f) Other Obligations. Default by the Borrower in the payment of any obligation, whether direct or contingent, for borrowed money or in the performance or observance of the terms of any instrument pursuant to which such obligation was created or securing such obligation;
- (g) Bankruptcy. A court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Borrower in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official, or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of ninety (90) consecutive days or the Borrower shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian or trustee, of a substantial part of its property, or make any general assignment for the benefit of creditors; and
- (h) Dissolution or Liquidation. Other than as provided in the immediately preceding subsection, the dissolution or liquidation of the Borrower, or failure by the Borrower promptly to forestall or remove any execution, garnishment or attachment of such consequence as shall impair its ability to continue its business or fulfill its obligations and such execution, garnishment or attachment shall not be vacated within 30 days. The term "dissolution or liquidation of the Borrower," as used in this subsection, shall not be

construed to include the cessation of the corporate existence of the Borrower resulting either from a merger or consolidation of the Borrower into or with another corporation following a transfer of all or substantially all its assets as an entirety, under the conditions permitting such actions.

ARTICLE VIII

REMEDIES

Section 8.1. Generally.

Upon the occurrence of an Event of Default, then RUS may pursue all rights and remedies available to RUS that are contemplated by this Agreement or the Resolutions in the manner, upon the conditions, and with the effect provided in this Agreement or the Resolutions, including, but not limited to, a suit for specific performance, injunctive relief or damages. Nothing herein shall limit the right of RUS to pursue all rights and remedies available to a creditor following the occurrence of an Event of Default listed in Article VII hereof. Each right, power and remedy of RUS shall be cumulative and concurrent, and recourse to one or more rights or remedies shall not constitute a waiver of any other right, power or remedy.

Section 8.2. Suspension of Advances.

In addition to the rights, powers and remedies referred to in the immediately preceding section, RUS may, in its absolute discretion, suspend making or, in the case of any Loan guaranteed by RUS, approving Advances hereunder if (i) any Event of Default, or any occurrence which with the passage of time or giving of notice would be an Event of Default, occurs and is continuing; (ii) there has occurred a change in the business or condition, financial or otherwise, of the Borrower which in the opinion of RUS materially and adversely affects the Borrower's ability to meet its obligations under the Loan Documents, or (iii) RUS is authorized to do so under RUS Regulations.

ARTICLE IX

MISCELLANEOUS

Section 9.1. Notices.

All communications, notices, requests, demands, consents, waivers or other modifications provided, permitted or required by this Agreement shall be communicated in writing or electronic mail or telecommunications device capable of creating a written record as specified herein, and any such notice shall become effective: (a) upon personal delivery thereof, including, without limitation, by overnight mail or courier service, (b) in the case of notice by the United States mail, certified or registered postage prepaid, return receipt requested, upon receipt thereof, or (c) in the case of notice by electronic mail or by such a telecommunications device, upon transmission thereof, provided such transmission shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return electronic mail or other written acknowledgment) provided that, if such notice electronic mail or other communication is not sent during the normal business hours of the recipient such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, in each case addressed to each party hereto at its address set forth on Schedule 1 or, in the case of any such party hereto, at such other address as such party may from time to time designate by written notice to the other parties hereto or to such other addresses the party hereto may from time to time designate.

Section 9.2. Expenses.

To the extent allowed by law, the Borrower shall pay all costs and expenses of RUS, including reasonable fees of counsel, incurred in connection with the enforcement of the Loan Documents or with the preparation for such enforcement if RUS has reasonable grounds to believe that such enforcement may be necessary.

Section 9.3. Late Payments.

If payment of any amount due hereunder is not received at the United States Treasury in Washington, DC, or such other location as RUS may designate to the Borrower within five (5) Business Days after the due date thereof or such other time period as RUS may prescribe from time to time in its policies of general application in connection with any late payment charge (such unpaid amount being herein called the "delinquent amount", and the period beginning after such due date until payment of the delinquent amount being herein called the "late-payment period"), the Borrower shall pay to RUS, in addition to all other amounts due under the terms of the Note, the Resolutions and this Agreement, any late-payment charge as may be fixed by RUS Regulations from time to time on the delinquent amount for the late-payment period.

Section 9.4. Filing Fees.

To the extent permitted by law, the Borrower agrees to pay all expenses of RUS (including the fees and expenses of its counsel) in connection with the filing or recordation of all financing statements and instruments as may be required by RUS in connection with this Agreement, including, without limitation, all documentary stamps, recordation and transfer taxes and other costs and taxes incident to recordation of any document or instrument in connection herewith. Borrower agrees to save harmless and indemnify RUS from and against any liability resulting from the failure to pay any required documentary stamps, recordation and transfer taxes, recording costs, or any other expenses incurred by RUS in connection with this Agreement. The provisions of this subsection shall survive the execution and delivery of this Agreement and the payment of all other amounts due hereunder or due on the Note.

Section 9.5. No Waiver.

No failure on the part of RUS to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof nor shall any single or partial exercise by RUS of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

Section 9.6. Governing Law.

EXCEPT TO THE EXTENT GOVERNED BY APPLICABLE FEDERAL LAW, THE LOAN DOCUMENTS SHALL BE DEEMED TO BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA.

Section 9.7. Holiday Payments.

If any payment to be made by the Borrower hereunder shall become due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing any interest in respect of such payment.

Section 9.8. Rescission.

The Borrower may elect not to borrow the RUS Commitment in which event RUS shall release the Borrower from its obligations hereunder, provided the Borrower complies with such terms and conditions as RUS may impose for such release and provided also that if the Borrower has any

remaining obligations to RUS for loans made or guaranteed by RUS under any Prior Loan Contracts, RUS may, under Section 9.15 of this Loan Contract, withhold such release until all such obligations have been satisfied and discharged.

Section 9.9. Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the Borrower and RUS and their respective successors and assigns, except that the Borrower may not assign or transfer its rights or obligations hereunder without the prior written consent of RUS.

Section 9.10. Complete Agreement; Waivers and Amendments.

Subject to RUS Regulations, this Agreement and the other Loan Documents are intended by the parties to be a complete and final expression of their agreement. However, RUS reserves the right to waive its rights to compliance with any provision of this Agreement and the other Loan Documents. No amendment, modification, or waiver of any provision hereof or thereof, and no consent to any departure of the Borrower herefrom or therefrom, shall be effective unless approved in writing by RUS in the form of either a RUS Regulation or other writing signed by or on behalf of RUS, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 9.11. Headings.

The headings and sub-headings contained in the titling of this Agreement are intended to be used for convenience only and do not constitute part of this Agreement.

Section 9.12. Severability.

If any term, provision or condition, or any part thereof, of this Agreement or the Resolutions shall for any reason be found or held invalid or unenforceable by any governmental agency or court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of such term, provision or condition nor any other term, provision or condition, and this Agreement, the Note, and the Resolutions shall survive and be construed as if such invalid or unenforceable term, provision or condition had not been contained therein.

Section 9.13. Right of Setoff.

Upon the occurrence and during the continuance of any Event of Default, RUS is hereby authorized at any time and from time to time, without prior notice to the Borrower, to exercise rights of setoff or recoupment and apply any and all amounts held or hereafter held, by RUS or owed to the Borrower or for the credit or account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing hereunder or under the Note. RUS agrees to notify the Borrower promptly after any such setoff or recoupment and the application thereof, provided that the failure to give such notice shall not affect the validity of such setoff, recoupment or application. The rights of RUS under this section are in addition to any other rights and remedies (including other rights of setoff or recoupment) which RUS may have. Borrower waives all rights of setoff, deduction, recoupment or counterclaim.

Section 9.14. Schedules and Exhibits.

Each Schedule and Exhibit attached hereto and referred to herein is each an integral part of this Agreement.

Section 9.15. Prior Loan Contracts.

[Reserved]

Section 9.16. Authority of Representatives of RUS.

In the case of any consent, approval or waiver from RUS that is required under this Agreement or any other Loan Document, such consent, approval or waiver must be in writing and signed by an authorized RUS representative to be effective. As used in this section, "authorized RUS representative" means the Administrator of RUS, and also means a person to whom the Administrator has officially delegated specific or general authority to take the action in question.

Section 9.17. Term.

This Agreement shall remain in effect until one of the following two events has occurred:

- (a) The Borrower and RUS replace this Agreement with another written agreement; or
- (b) All of the Borrower's obligations under the Prior Loan Contracts and this Agreement have been discharged and paid.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

REDWOOD COAST ENERGY AUTHORITY

By: _____
Name: _____
Title: _____

(Seal)

Attest:

UNITED STATES OF AMERICA

By: _____
Name: _____
Title: _____

RUS LOAN CONTRACT SCHEDULE 1

1. The purpose of this loan is to finance construction of electric distribution facilities, and such other purposes that RUS may agree to in writing in order to carry out the purposes of the Act.
2. The Fiscal Year of Obligation referred to in Section 3.4 is 2020.
3. "Resolutions" means Resolution No. 2020-9, dated December 17, 2020, and Resolution No. 2020-10, dated December 17, 2020, as they may have been or shall be supplemented, amended, consolidated, or restated from time to time.
4. The date of the Borrower's financial information referred to in Section 2.1(h) is _____.
5. The principal place of business of the Borrower referred to in Section 2.1(i) is 633 3rd Street, Eureka, California 95501.
6. All of the property of the Borrower is located in the County of Humboldt, and the Cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna and Rio Dell, in the State of California.
7. The subsidiary/subsidiaries referred to in Section 2.1(k) is/are not applicable.
8. The Contemporaneous Loan referred to in Section 5.3 is described as follows:

None
9. The RUS Commitment referred to in the definitions means a loan in the principal amount of \$6,600,000, which is being made by RUS to Redwood Coast Energy Authority, by the Federal Financing Bank (FFB) and guaranteed as to payment by RUS, pursuant to the Rural Electrification Act and RUS Regulations.
10. Amortization of Advances shall be based upon the method for the repayment of principal for an Advance selected for such Advance, in accordance with that certain Note dated as of even date herewith, evidencing the RUS-guaranteed FFB loan.
11. The SPECIAL conditions referred to in Section 4.2 are as follows:
 1. RUS shall not release Loan funds until the following conditions have been satisfied, unless waived in writing by the RUS Electric Program Office of Loan Origination (OLOA) Engineering Branch:
 - a) Borrower has pledged to RUS, to the satisfaction of RUS, a first lien on all of its revenues (the Pledge of System Revenues) to secure the Borrower's repayment of the Loan.
 - b) Borrower has pledged to RUS, to the satisfaction of RUS, a first lien on the Borrower's Tesla/FTM System to secure the Borrower's repayment of the Loan.
 - c) The Borrower has submitted and RUS's OLOA Engineering Branch has approved the form of the following agreement prior to the Borrower entering into such agreement: the County of Humboldt Department of Aviation, Agreement for Ground Lease California Redwood Coast-Humboldt County Airport, entered into by and between the County of Humboldt and RCEA.
 - d) The Borrower has submitted to RUS copies of each of the following two (2) forms signed by Tesla, Inc. relating to the "Engineering, Procurement, and Construction Agreement, executed by and between

Tesla, Inc. and Redwood Coast Energy Authority” that RUS’s OLOA Engineering Branch deems acceptable:

- i. RUS Form AD-1048 “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions” as required per 7 CFR §1726.16; and
- ii. The “Lobbying Certification” as required per 7 CFR §1726.17.

e) The Borrower has submitted an amendment or modification to the “Engineering, Procurement, and Construction Agreement, executed by and between Tesla, Inc. and Redwood Coast Energy Authority” that includes the Equal Opportunity (EO) Provisions similar to that contained in Article VI, Section 6 of RUS Contract Form 200 that the OLOA Engineering Branch has approved.

f) The Borrower has completed a Vulnerability and Risk Assessment (VRA) in accordance with Subpart B to 7 CFR Part 1730 and has submitted written certification of its completion to RUS.

g) The Borrower has completed an Emergency Restoration Plan (ERP) in accordance with Subpart B to 7 CFR Part 1730 and has submitted written certification of its completion to RUS.

h) The Borrower shall establish a Debt Service Reserve Fund (the Reserve Fund) subject to a Deposit Account Control Agreement satisfactory to the Administrator. The Borrower shall maintain the Reserve Fund in an amount equal to one year of the principal and interest due on the loan, assuming an initial advance of the full loan amount and based on an interest rate equal to the current applicable interest rate for the term of the loan plus 1/8th%, as such amount is calculated by RUS.

2. RUS shall not release the final 10% of the Loan funds (i.e., \$660,000) until the following conditions have been met to the satisfaction of RUS, unless waived in writing by RUS’s OLOA Engineering Branch:

a) A RUS representative has visited the Project site to assess its condition and such representative has confirmed in writing that the installation was acceptable and that the Project is operating as intended.

b) The Borrower has submitted to RUS a copy of the approved electrical permit for the renewable energy systems as issued by the local Authority Having Jurisdiction (AHJ), such approval being in a form satisfactory to RUS.

c) The Borrower has submitted to RUS a copy of the signed Permission to Operate (PTO) letter from the interconnecting utility certifying that the behind-the-meter solar photovoltaic (PV) system and the front-of-the-meter solar PV array & battery energy storage system have passed all required interconnection testing and are authorized to operate and deliver electrical output to the interconnecting utility’s grid to the satisfaction of RUS. Such PTO letter must be in a form satisfactory to RUS.

d) The Borrower has submitted to RUS a copy of the Substantial Completion Certificate signed by Tesla, Inc. in accordance with the Project’s Engineering, Procurement and Construction Agreement entered by and between Tesla, Inc. and Redwood Coast Energy Authority, such certificate being in a form satisfactory to RUS.

e) The Borrower shall conduct a capacity performance test of the front-of-the meter solar PV array & battery energy storage system in form and substance satisfactory to the Administrator. Testing shall be comprised of one (1) representative day of data to be collected at least 30 days after the commercial operating date (COD) of the Facility. A test report shall be prepared detailing all aspects and findings of the test. The report must also provide credible data in order to determine, at a minimum, that the system throughout the test period continuously satisfied applicable permits and interconnection requirements.

f) The Borrower has submitted evidence, in form and substance satisfactory to the Administrator, that all contractors, developers, and/or construction related services have been paid in full and (ii) there are no

liens encumbered against the Borrower or its property other than any permitted liens agreed to by the Administrator.

12. The additional AFFIRMATIVE covenants referred to in Section 5.22 are as follows:

None.

13. The additional NEGATIVE covenants referred to in Section 6.16 are as follows:

None.

14. The addresses of the parties referred to in Section 9.1 are as follows:

RUS

Rural Utilities Service
U.S. Department of Agriculture
Room No. 4121 South
1400 Independence Avenue, SW
Washington, DC 20250-1500
Attention: Administrator

And via electronic mail to: RUSElectric@usda.gov

BORROWER

Redwood Coast Energy Authority
633 3rd Street
Eureka, CA 95501
Attention: Mr. Austin Allison, Board Chair
Fax: [REDACTED]

The additional types of contract referred to in Section 6.5(f) are described as follows:

None.

EXHIBIT A
FORMS OF PROMISSORY NOTES

This Exhibit A of this Loan Contract consists of the following sample documents:

FFB Promissory Note
FFB Reimbursement Note

**BLANK PAGE TO BE REPLACED BY FORMS OF FFB AND REIMBURSEMENT
NOTES**

EXHIBIT B

EQUAL OPPORTUNITY CONTRACT PROVISIONS

During the performance of this contract, the contractor agrees as follows:

Except as permitted by Title VII of the Civil Rights Act, 42 U.S.C. Section 2000(e)-2(i), and as required by the Navajo Preference in Employment Act, 15 N.T.C. 601 et seq., during the performance of this contract, the contractor agrees as follows:

- (a) The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (b) The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex or national origin.
- (c) The contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (d) The contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.
- (e) The contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (f) In the event of the contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.
- (g) The contractor shall include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, dated September 24, 1965, as amended, so that such provisions shall be binding upon each subcontractor or vendor. The contractor shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

FFB Note Identifier:

RUS Note Identifier:

Eureka, California

December 1, 2020

REIMBURSEMENT NOTE

REDWOOD COAST ENERGY AUTHORITY (the "Borrower"), which term includes any successors or assigns, a Joint Powers Authority, organized and existing under the laws of the State of California, for value received, promises to pay on demand to the order of the UNITED STATES OF AMERICA (the "Government"), acting through the Administrator of the Rural Utilities Service ("RUS"), at the United States Treasury, Washington, D.C., a sum equal to:

- (1) all amounts, including, without limitation, principal and interest (the "Reimbursed Amount"), paid by the Government from time to time pursuant to that certain guarantee by RUS (the "RUS Guarantee"), made by RUS to the Federal Financing Bank ("FFB") of amounts payable to FFB under a note dated December 1, 2020, in the principal amount of \$6,600,000, made by the Borrower payable to FFB and guaranteed by RUS (the "FFB Note") pursuant to the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.), Section 6 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2285), and the Note Purchase Commitment and Servicing Agreement, as amended and as it may be amended, supplemented, or restated from time to time, dated as of January 1, 1992, between FFB and RUS (all such amounts hereinafter collectively called the "Principal Amount"), and
- (2) with interest on the Principal Amount from the respective date of such payment by RUS to FFB, at the Late Charge Rate as that term is defined in the FFB Note, and
- (3) administrative costs and penalty charges assessed in accordance with applicable regulations, and
- (4) any and all costs and expenses incurred in connection with the exercise of rights or the enforcement of remedies, as set forth in the Security Instrument, as hereinafter defined.

The obligations of the Borrower hereunder are absolute and unconditional, irrespective of any defense or any right to set off, recoupment or counterclaim it might otherwise have against the Government.

So long as FFB has received all amounts then due to it under the RUS Guarantee, the Borrower agrees to pay all amounts due on this Note directly to RUS. Nothing herein shall limit the Government's rights of subrogation which may arise as a result of payments made by RUS pursuant to the RUS Guarantee.

This Note is an "Obligation" (as defined in the Security Instrument which is hereinafter defined) permitted to be executed and delivered by, and is entitled to the benefits and security of, Resolution No. 2020-09 of the Borrower, and Resolution No. 2020-10 of the Borrower, each dated December 17, 2020, as supplemented, as they may have heretofore been, or as they may hereinafter be, amended, supplemented, restated, or consolidated from time to time in accordance with its terms (collectively, the "Security Instrument"). The Security Instrument provides that the Obligation (as defined in the Security Instrument) shall be equally and ratably secured thereby, and reference is hereby made to the Security Instrument for a description of the property pledged, the nature and extent of the security and the rights, powers, privileges, and remedies of, the holders of obligations with respect thereto. This Note is an "Obligation" (as defined in the Security Instrument) and is entitled to the benefit of the Security Instrument.

Neither the execution and delivery of this Note by the Borrower to the Government, nor the failure of the Government to exercise any of its rights, powers, privileges or remedies under the Security Instrument shall be

deemed to be a waiver of any right, power, privilege or remedy of the Government, as a holder of this Note, under the Security Instrument. Neither the acceptance nor the enforcement of this Note by the Government shall relieve the Borrower of its obligation to repay the FFB Note in accordance with its terms or deprive the holder of the FFB Note, which may be the Government, of any benefit, right or privilege such holder may enjoy as a "Holder" (as defined in the Security Instrument) of an Obligation secured by the Security Instrument.

IN WITNESS WHEREOF, the Borrower has caused this Note to be signed in its corporate name and its corporate seal to be hereunto affixed and attested by its officers thereunto duly authorized, all as of the day and year first above written.

REDWOOD COAST ENERGY AUTHORITY

By: _____

Name: _____

Title: _____

Attest:

Secretary

FOR DEBT SERVICE RESERVE FUND
FOR THE BENEFIT OF THE RURAL UTILITIES SERVICE

Form of Deposit Account Control Agreement (DACA)

U.S. Department of Agriculture
Rural Utilities Services

RUS Project Designation:
CALIFORNIA 48 "A8" HUMBOLDT

DEPOSIT ACCOUNT CONTROL AGREEMENT

This Deposit Account Control Agreement ("Agreement") is made and entered into as of _____, 2020, among **REDWOOD COAST ENERGY AUTHORITY** ("Company"), the UNITED STATES OF AMERICA (the "Government"), acting by and through the Administrator (together with any person succeeding to the powers and rights of the Administrator with respect to this Agreement, the "Administrator") of the Rural Utilities Service (together with any agency succeeding to the power and rights of the Rural Utilities Service with respect to this Agreement, the "RUS") (the "Lender"); and _____ ("Financial Institution") with respect to the following:

A. Pursuant to that certain Loan Contract, dated as of _____, 2020, by and between Company and Lender (the "Security Agreement"), Company has agreed to provide certain collateral, including, without limitation, the Deposit Account (as defined herein), to Lender to secure the Loan (defined in the Security Agreement) being made by Lender to Company pursuant to the Rural Electrification Act of 1936.

B. Company has established the following deposit account with Financial Institution (whether one or more, individually and collectively, the "Deposit Account"):

Name in Which Account is Maintained	Branch in which Account is Maintained / Routing Number	Account Number
REDWOOD COAST ENERGY AUTHORITY Debt Service Reserve Fund Account	_____, _____ Branch	_____

C. The parties hereto desire to enter into this Agreement in order to set forth their respective rights and obligations with respect to the Deposit Account and all funds on deposit

therein from time to time and to perfect Lender's security interest in the Deposit Account.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual covenants and agreements hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. Effectiveness. This Agreement shall take effect immediately upon its execution by all parties hereto and shall supersede any deposit account control agreement or similar agreement in effect with respect to any Deposit Account.

2. Security Interest: Agency. As collateral security for Company's obligations to Lender under the Security Agreement and the other loan documents described therein, Company hereby grants to Lender a present and continuing security interest in (a) the Deposit Account, (b) all contract rights, claims and privileges in respect of the Deposit Account, and (c) all cash, checks, money orders and other items of value of Company now or hereafter paid, deposited, credited or held (whether for collection, provisionally or otherwise) to or in the Deposit Account or otherwise in the possession or under the control of, or in transit to, Financial Institution or any agent, bailee or custodian thereof for deposit in or credit to the Deposit Account and all proceeds of the foregoing (collectively, "Receipts"). Financial Institution acknowledges the security interests of Lender in the Deposit Account and Receipts and that this Agreement constitutes notice of such security interests and Financial Institution further acknowledges and agrees that it does not and shall not object to or contest Lender's security interests in such collateral.

3. Control of Deposit Account.

(a) Company and Financial Institution acknowledge and agree that Lender has control (as defined in Section 9-104 of the Uniform Commercial Code) of the Deposit Account.¹ Financial Institution will not permit the withdrawal or other disposition of any funds in the Deposit Account except as expressly provided in this Agreement.

(b) Until such time as Lender delivers a Notice of Exclusive Control (in form substantially the same as attached hereto as Exhibit A and incorporated herein by this reference) to Financial Institution, Financial Institution shall comply with instructions directing the withdrawal, payment, transfer or other disposition of funds in the Deposit Account ("Disposition Instructions") originated by Company which Company is entitled to give concerning the Deposit Account in accordance with the Security Agreement; provided, however, that the Financial Institution will not permit the Company to withdraw sums from the Deposit Account without the prior approval of the Lender if the credit balance remaining would be less than One Hundred

¹ Pursuant to and in accordance with Section 9-104 of the Uniform Commercial Code, "control" by a secured party of a deposit account is effectuated, among other things, where the debtor, the secured party, and the Financial Institution with which the deposit account is maintained have agreed in an authenticated record that the Financial Institution will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Dollars (\$100.00) or close the Deposit Account without the written approval of the Lender. Nothing in the foregoing shall, or shall be construed to, limit, impair, or otherwise adversely affect any of Lender's rights or remedies under the Security Agreement. A "Notice of Exclusive Control" is a written notice from Lender to Financial Institution that Lender is thereby exercising exclusive control over the Deposit Account and the funds therein; for an example, see Sample Exhibit A. Lender may, at any time deliver to Financial Institution a Notice of Exclusive Control.

(c) Within a reasonable time after Financial Institution receives a Notice of Exclusive Control in accordance with this Section 2, but in all events no later than three (3) business days after such receipt, and until the Lender has rescinded or withdrawn such Notice of Exclusive Control: (i) Financial Institution will comply solely with instructions originated by Lender with respect to the Deposit Account and any and all funds therein, including, without limitation, any stop payment orders for any items presented to the Deposit Account for payment, withdrawals from the Deposit Account or any other disposition thereof, without further consent by Company; (ii) Financial Institution will cease, without further consent of Company, complying with instructions concerning the Deposit Account or funds on deposit therein originated by Company or the representatives of Company; and (iii) Financial Institution will provide notice to Company of actions taken with respect to the Deposit Account. Without in any way limiting the foregoing, in the event of any dispute between Lender and Company, Financial Institution shall, in all circumstances after a Notice of Exclusive Control has been given, follow the directions of the Lender and shall not follow the directions of the Company.

(d) Lender is entitled to give a Notice of Exclusive Control and Financial Institution is obligated to follow the directions of Lender in respect of the Deposit Account, without any right or duty to inquire further.

(e) The Deposit Account will use Company's taxpayer identification number.

4. Fees. Company shall be responsible only for those usual and customary service charges, transfer fees, and account maintenance fees (collectively, "Fees") of Financial Institution in connection with the Deposit Account that would otherwise exist in the absence of this Agreement. Lender shall not have any responsibility or liability for the payment of any Fees.

5. Representations and Warranties. The Financial Institution represents and warrants to the Lender that the Financial Institution (i) is an organization engaged in the business of banking and is insured by the FDIC, (ii) maintains the Deposit Account as a demand deposit account(s) in the ordinary course of the Financial Institution's business and (iii) has not entered into any currently effective agreement with any person under which the Financial Institution may be obligated to comply with Disposition Instructions originated by a person other than the Company or the Lender. The Financial Institution will not enter into any agreement with any person under which the Financial Institution may be obligated to comply with Disposition Instructions originated by a person other than the Company or the Lender.

6. Setoff. Except for Fees of Financial Institution payable pursuant to Section 3 hereof, Financial Institution hereby agrees that Financial Institution will not exercise or claim any right of setoff or security interest or banker's lien against the Deposit Account or any Receipts on

deposit therein, and Financial Institution hereby further waives any such right or lien that it may have against any Receipts deposited in the Deposit Account.

7. Limits of Financial Institution's Liability.

(a) Financial Institution will not be liable to Company (debtor) for any expense, claim, loss, damage or cost ("Damages") arising out of or relating to its performance under this Agreement other than those Damages which result directly from Financial Institution's acts or omissions constituting gross negligence or willful misconduct.

(b) Notwithstanding any of the other provisions in this Agreement, in the event of the commencement of a case pursuant to Title 11, United States Code, filed by or against Company, or in the event of the commencement of any similar case under then applicable federal or state law providing for the relief of debtors or the protection of creditors by or against Company, Financial Institution may act as Financial Institution deems necessary to comply with all applicable provisions of governing statutes and shall not be in violation of this Agreement as a result.

(c) Financial Institution shall be permitted to comply with any writ, levy order or other similar judicial or regulatory order or process concerning the Deposit Account and shall not be in violation of this Agreement for so doing.

8. Termination. This Agreement may be terminated by Company only upon delivery to Financial Institution of a written notification jointly executed by Company and Lender. This Agreement may be terminated by Lender at any time, upon its delivery of written notice to Company and Financial Institution. This Agreement may be terminated by Financial Institution at any time on not less than 60 days' prior written notice delivered to Company and Lender. Upon delivery or receipt of such notice of termination by Financial Institution, and upon subsequent direction by the Lender, Financial Institution will immediately transmit to such deposit account as Lender may direct all funds, if any, then on deposit in the Deposit Account. Notwithstanding the foregoing, this Agreement shall terminate automatically upon payment in full of the Loan and the Notes.

9. Notices. Any notice or document required or permitted to be delivered hereunder shall be in writing and shall be effective upon (i) delivery, if personally delivered or sent by overnight courier, or (ii) three business days after mailing, if mailed. All notices shall be personally delivered, delivered by overnight courier or sent by United States Mail, postage prepaid, Certified or Registered Mail, addressed to the parties hereto at the respective addresses set forth on the signature pages, or at such other address as they have theretofore specified by written notice delivered in accordance herewith. Any party hereto, at any time, by written notice given to the other in accordance with this Section, may designate a different address to which such communications shall thereafter be directed. Any notice issued or made by Lender to Financial Institution shall simultaneously be issued or made to Company. Any notice issued or made by Financial Institution shall simultaneously be issued or made to Company.

10. Deposit Account Information. The Financial Institution will provide to the Lender, whether by Internet access, to the extent that the Financial Institution has the operational ability to do so, or otherwise, a copy of each periodic account statement relating to the Deposit Account

ordinarily furnished by the Financial Institution to the Company. The Financial Institution's liability for failing to provide the account statement will not exceed the Financial Institution's cost of providing the statement. The Company authorizes the Financial Institution to provide to the Lender, whether by internet access or otherwise, any other information concerning the Deposit Account that the Financial Institution may agree to provide to the Lender at the Lender's request.

11. Miscellaneous.

(a) This Agreement shall be binding on and shall inure to the benefit of the parties and their respective successors and assigns, but neither Company nor Financial Institution shall be entitled to assign or delegate any of its rights and/or duties under this Agreement without mutual agreement of all of the parties.

(b) Lender may assign its rights and/or duties under this Agreement by written notice to Financial Institution and Company and such assignment shall be effective as to Company and Financial Institution upon written notice to same.

(c) This Agreement may be executed in any number of several counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. A signature delivered by facsimile transmission or other electronic means shall be deemed the equivalent of an original signature for all purposes.

(d) This Agreement shall be governed by Federal law and the laws of the State of California.

(e) This Agreement may be amended only by a written instrument executed by Lender, Financial Institution, and Company acting by their respective duly authorized representatives.

(f) Company acknowledges that the agreements made by it and the authorizations granted by it in this Agreement are irrevocable and that the authorizations granted in this Agreement are powers coupled with an interest.

[SIGNATURES ON FOLLOWING PAGES]

In Witness Whereof, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

("Company")

Redwood Coast Energy Authority

By: _____

Name: _____

Title: _____

Address for notices:

Redwood Coast Energy Authority
633 3rd Street
Eureka, California 95501
Attn: Board Chair

("Lender")

United States of America

By: _____

Name: _____

Title: Administrator,
Rural Utilities Service

Address for notices:

U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, D.C. 20250-1500
Attn: Administrator

("Financial Institution")

By: _____

Name: _____

Title: _____

Address for notices:

Sample Exhibit A

NOTICE OF EXCLUSIVE CONTROL

[Letterhead of Lender]

[Date]

Depository Financial Institution
Title/Office
Address

Re: Deposit Account Number(s): _____
Notice of Exclusive Control

Ladies and Gentlemen:

Reference is made to the Deposit Account Control Agreement dated as of _____, 20__ (the “**Agreement**”) by and among **Redwood Coast Energy Authority** (the “**Company**”), the **Rural Utilities Service** (as “**Lender**”), and _____ (“**Financial Institution**”) regarding the above-described deposit account(s) (whether one or more, individually and collectively, the “**Deposit Account(s)**”). A copy of the Agreement is attached hereto.

In accordance with this Agreement, we hereby give you notice of our exercise of exclusive control over the Deposit Account, and we hereby instruct you to transfer collected and available funds to our account as follows:

Financial Institution Name:	_____
Address:	_____
ABA Routing:	_____
Account No.:	_____
Reference:	_____

Very truly yours,

Rural Utilities Service
as Lender

By: _____
Name: _____
Title: _____



STAFF REPORT
Agenda Item # 5.1

AGENDA DATE:	December 17, 2020
TO:	Board of Directors
PREPARED BY:	Mahayla Slackerelli-Account Services Manager
SUBJECT:	CCE Customer Rate Setting for 2021

SUMMARY

January 2021 Rate Adjustment

PG&E has indicated that a generation rate decrease and Power Charge Indifference Adjustment (PCIA) increase will be implemented January 1, 2021. The PCIA is a charge paid by all CCE customers as part of their electric bill. In the spirit of RCEA's commitment to customers, RCEA will adjust rates as soon as possible after PG&E implements its rate adjustment. However, staff have observed that PG&E isn't always able to enact rate adjustments as originally scheduled.

Discount Percentage Change

In January 2019, RCEA adjusted its CCE-rates value proposition, adopting a 1% discount relative to PG&E's generation rates. Since then, PG&E has adjusted their generation rates a number of times and RCEA has correspondingly adjusted rates to maintain that 1% discount. In the November 2020 meeting, the board guided staff to change the discount to 0.5% below PG&E's generation rate in light of the 2021 financial outlook for RCEA's CCE program. RCEA's CCE implementation plan filed with the California Public Utilities Commission calls for customers to be provided with a 60-day notification period when rates are changed. Staff propose that publication of this staff report be considered the beginning of this 60-day period, allowing new rates based on the adjusted rate discount to be implemented as early as mid-February.

Since RCEA is changing the percentage discount around the same time PG&E is adjusting rates, RCEA customers could be confused by two rate changes happening in quick succession and resulting complexity to their bills. If PG&E's rate adjustment occurs on or around January 1, staff proposes to postpone the percentage discount change until March in order to allow a two-month buffer between rate changes. If PG&E's January 1 rate adjustment is delayed significantly, staff propose to implement the percentage discount change and the rate adjustment following PG&E at the same time in a single event.

FINANCIAL IMPACTS

Adjusting the customer electric discount rate relative to PG&E from 1% to 0.5% will result in an estimated \$295,000 in additional revenue from March 2021 through the end of the year while still delivering projected annual customer rate savings county wide of approximately the same amount compared to PG&E rates (inclusive of the PCIA).

RECOMMENDED ACTIONS

Approve changing the RCEA customer electricity rates to 0.5% below PG&E generation rates, inclusive of all PG&E charges to CCA customers, to be implemented no sooner than 60 days from the publishing of this document.



STAFF REPORT
Agenda Item # 7.1

AGENDA DATE:	December 17, 2020
TO:	Board of Directors
PREPARED BY:	Richard Engel, Director of Power Resources
SUBJECT:	DG Fairhaven Biomass Power Purchase Agreement

SUMMARY

Following up on discussion in the November 2020 Board meeting about the future of the currently idle DG Fairhaven biomass power plant, staff have spoken with the owner EWP Renewable Corporation (EWPRC), who continue to have discussions with multiple prospective buyers. EWPRC is interested in extending its power purchase agreement (PPA) with RCEA for the DG Fairhaven facility, currently set to expire December 31 of this year, into 2021, as having an active agreement with a power buyer may facilitate sale of the plant, whether it is operating or not.

EWPRC has indicated that prospective buyers of the plant are interested in alternative uses of the site and its interconnection capacity, possibly for energy storage, solar power, or biochar production plus biopower. A new, local energy resource could help RCEA to meet an expected 2021 reliability procurement mandate from the California Public Utilities Commission (CPUC), expanding on the one issued in 2019 that drove RCEA's recent energy storage and demand response procurements. A new generation or storage project at Fairhaven could provide an opportunity for RCEA to meet a new CPUC reliability mandate from a clean, local source instead of having to commit to long-term contracts for non-local resources as we were forced to do to comply with the CPUC's last incremental reliability mandate.

The location of the DG Fairhaven project on the Samoa Peninsula is also of importance, given the ongoing development of the Nordic Aquafarms aquaculture project, a data center tied to a new transoceanic data cable, onshore support facilities for offshore wind, and other major industrial development planned or underway on adjacent or nearby properties. A revitalized clean energy facility in Samoa could play an important role in supporting these energy-intensive projects.

Staff proposes that the Board give approval to extend the PPA to February 14, 2021.¹ This will keep the PPA active while staff continue discussions with EWPRC and prospective buyers of the plant. Depending on outcomes of these discussions, staff can return to the Board in January with a one-year extension of RCEA's PPA with DG Fairhaven Power, as provided for in the PPA's renewal terms, for Board approval. Staff can also develop an amendment of the PPA for Board approval to allow assignment of the seller role to a new facility owner as needed.

Staff will also follow up in the month ahead on the Board's direction to consult with management of Humboldt Redwood Company about possibly increasing procurement from their biomass facility.

¹ The specific end date is proposed by The Energy Authority (TEA), RCEA's scheduling coordinator for DG Fairhaven PPA, in order to give TEA adequate time to terminate their scheduling coordinator role with the California Independent System Operator, should the PPA not be extended further.

FINANCIAL IMPACTS

Assuming the biomass facility remains idle during an extended PPA, RCEA's portfolio manager TEA will continue to procure replacement energy and capacity through short-term market transactions as they are currently doing. TEA's recent analysis indicates that this will save RCEA approximately \$60,000 per month during 2021 compared with the above-market cost of the biomass PPA, were the facility to resume operation and produce power at its 10 MW contract level.

RECOMMENDED ACTIONS

Approve extending RCEA's existing power purchase agreement with DG Fairhaven Power, LLC through February 14, 2021.

ATTACHMENTS

None



STAFF REPORT Agenda Item # 8.1

AGENDA DATE:	December 17, 2020
TO:	Board of Directors
PREPARED BY:	Nancy Diamond, General Counsel Richard Engel, Director of Power Resources Jocelyn Gwynn, Power Resources Manager
SUBJECT:	California Community Power Agency Joint Powers Authority

SUMMARY

Background

At the July meeting, the Board approved RCEA's 2020 Integrated Resource Plan (IRP), which included procurement of 6-7 MW of long-duration energy storage to come online within the next 6 years. Long-duration storage (LDS) is recognized as a much-needed technology to transition to a net-zero greenhouse gas (GHG) emission electricity grid, as it enables storage of intermittent renewable energy over longer periods of 8+ hours than conventional batteries, which typically provide energy over 4 hours. The need for LDS and other long-lead time resources, such as offshore wind, is underscored by the recent capacity shortages during the August heat storm events, and the upcoming closure of PG&E's Diablo Canyon Nuclear Power Plant in 2024-2025.

Given the scale and lead time of these resources, their procurement is best facilitated through a joint procurement effort of multiple Community Choice Aggregators (CCAs), as opposed to individual CCAs procuring their portions separately. To enable this joint procurement, several CCAs who are currently engaged in a joint request for offers for LDS resources¹, including RCEA, are working to form a new joint powers agency called California Community Power (CC Power) which will be comprised of CCAs joining together to procure energy, capacity, storage and other energy products.

JPA Scope

The purpose of the CC Power is to facilitate joint procurement among its Members, and is intended to have minimal staffing needs. CC Power is not intended to be a policy-maker but may address or support public policies related to its purpose of joint procurement, provided these policies do not conflict with the interests or policies of any CCA Member. CC Power expects to have one General Manager plus legal and technical consultants. Other staffing needs, for example the Treasurer, will be met through individual Members' existing staff. CC Power will be governed by a Board of Directors comprised of the Member agency Executive Officers or their appointees. Voting will not be weighted, and each Member will have one vote.

¹ More information about the joint-CCA LDS RFO can be found here: <https://www.svcleanenergy.org/joint-lds-rfo/>

The JPA contemplates a process which allows its Members to choose which transactions to participate in by entering into individual project agreements only for those transactions. Those agreements would then dictate the terms of each transaction and what portion of the corresponding resource each participating Member would procure. While the commercial arrangements of each individual agreement cannot be known at this time, the anticipated structure will be to have CC Power as the party to the agreement with the developer or service provider, with a multiparty agreement among the participating JPA Members defining the rights and obligations of the Members to each other, including the portion of the contract cost allocated to each Member.

Liabilities of the JPA are expected to be largely driven by individual project risks. There is no obligation to enter into project agreements and the JPA specifies that the debts and obligations of CC Power do not constitute the debts and obligations of the Members. Any risks associated with joint procurement would be addressed in individual project agreements.

Members of CC Power have the option to withdraw from the JPA at any time provided the Member's Governing Body executes a resolution describing its desire to withdraw and the Member has satisfied its share of costs and obligations of CC Power. There is no risk to remaining Members of CC Power should CCAs wish to withdraw from the JPA. However, withdrawing Members are still subject to the obligations under any Project Agreements they have entered into, the details of which will be addressed in the individual Project Agreements.

FINANCIAL IMPACTS

General and administrative costs of CC Power will be borne equally by the Member agencies. Individual project costs will be borne by only those Members participating in the specific transactions. Changing the allocation of administrative costs can be done by a two-thirds majority of the entire CC Power Board. In addition to long-term administrative costs of the CC Power JPA, RCEA separately committed to a one-time administrative cost share for the joint LDS request for offers, outside the framework of the CC Power JPA, which will not exceed \$12,500.

RCEA's portion of administrative costs for managing the super JPA are expected to be within the Executive Director's annual \$20,000 spending authority. Should actual expenses exceed this amount, staff will return to the Board for direction.

RECOMMENDED ACTION

Approve Resolution No. 2020-11, Approving the California Community Power Agency Joint Powers Agreement and Authorizing the Executive Director to Execute the Agreement.

ATTACHMENTS

- Resolution 2020-11
- California Community Power Agency Joint Powers Agreement

RESOLUTION NO. 2020-11
OF THE BOARD OF DIRECTORS OF THE REDWOOD COAST ENERGY
AUTHORITY APPROVING THE CALIFORNIA COMMUNITY POWER AGENCY
JOINT POWERS AGREEMENT AND AUTHORIZING THE EXECUTIVE
DIRECTOR TO EXECUTE THE AGREEMENT

WHEREAS, the Redwood Coast Energy Authority (RCEA) launched its community choice aggregation (CCA) program on December 15, 2015 through an Amended and Restated Joint Powers Agreement for the purpose of developing and implementing 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; and

WHEREAS, several CCA's have explored the establishment of a Joint Powers Authority made up of CCA's to combine administrative resources to more efficiently procure energy, capacity, storage and other energy products than as an individual CCA; and

WHEREAS, a draft Joint Powers Agreement has been prepared after extensive review by the Chief Executive Officers and General Counsels of the interested parties; and

WHEREAS, the Board desires to enter in the California Community Power Agency Joint Powers Agreement in order to acquire energy resources and promote energy resilience that would be difficult for RCEA to achieve by itself.

NOW THEREFORE, the Board of Directors of the Redwood Coast Energy Authority does hereby approve the California Community Power Agency Joint Powers Agreement and authorizes the Executive Director to execute the attached Agreement with any minor, non-substantive modifications also approved by General Counsel.

Adopted this 17th day of December, 2020.

Attachment A: California Community Power (CC Power) Agency Joint Powers Agreement

ATTEST:

Estelle Fennell, RCEA Vice Chair of the Board

Lori Taketa, Clerk of the Board

Date: _____

Date: _____

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of Resolution No. 2020-11 passed and adopted at a regular meeting of the Redwood Coast Energy Authority, County of Humboldt, State of California, held on the 17th day of December, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Lori Taketa, Clerk of the Board,
Redwood Coast Energy Authority

CALIFORNIA COMMUNITY POWER AGENCY JOINT POWERS AGREEMENT

This Joint Powers Agreement ("Agreement") is made by and among those public agencies who are signatories to this Agreement, and those public agencies which may hereafter become signatories to this Agreement, for the purpose of operating a separate joint powers agency, which is named "California Community Power" or "CC Power."

WITNESSETH

WHEREAS, it is to the mutual benefit of the Members and in the public interest that the Members join together to engage in the exercise of powers they have in common including, but not limited to, (i) the acquisition and operation of wholesale power supplies, resource adequacy and renewable attributes, (ii) the provision of joint consulting and contracting services via master agreements and bulk purchasing and financing of decarbonization products, (iii) the offering of energy risk management and California Independent System Operator ("CAISO") scheduling services; and (iv) other energy services or programs which may be of benefit to Members (collectively, hereinafter "energy related programs");

WHEREAS, CC Power's primary objective is to provide for joint procurement of electrical power and storage and other energy projects for its Members, as set forth in this Agreement;

WHEREAS, the Members intend that CC Power shall better position the Members to administer community choice energy programs, and achieve their local agency goals, including but not limited to meeting or exceeding California's greenhouse gas emission reduction targets through procurement of renewable resources.

WHEREAS, each of the public community choice aggregation agencies which is a Member to this Agreement has the power to establish, manage, operate and maintain Community Choice Aggregation ("CCA") programs, electric service enterprises available to cities and counties pursuant to California Public Utilities Code Section 331.1(c) and 366.2 and to study, promote, develop, conduct, operate and manage energy related programs; and

WHEREAS, Title I, Division 7, Chapter 5, Article 1 of the California Government Code (the "Joint Powers Act" or "Act") authorizes the joint exercise by two or more public agencies of any power which is common to each of them.

NOW, THEREFORE, the Members, for and in consideration of the mutual promises and agreements herein contained, do hereby agree as follows:

Article I. DEFINITIONS

In addition to the other terms defined herein, the following terms, whether in the singular or in the plural, when used herein and initially capitalized, shall have the meanings specified throughout this Agreement.

Section 1.01 "Board" means the Board of Directors of CC Power as established by this Agreement.

Section 1.02 "CC Power" means the Joint Powers Authority established by this Agreement.

Section 1.03 "Member" means a Public CCA Agency, or other public agency the Board determines to be eligible pursuant to Section 3.02, that is a signatory to this Agreement and has met the requirements of

Article III; the term “Member” shall, however, exclude any Public CCA Agency or other eligible public agency which shall have withdrawn or been excluded from CC Power pursuant to Section 3.04 below.

Section 1.04 “Project” means any and all of the following matters, which are approved by the Board pursuant to Article VI: (i) the construction, financing or acquisition of a wholesale power resource, resource adequacy and/or renewable and environmental attributes for use by the Members, and such other transactions, services, and goods that may be necessary or convenient to construct, finance, acquire or optimize the value of such resources, (ii) the bulk purchasing and/or financing of decarbonization products, including, but not limited to, heat pump water heaters, space heater heat pumps and electric vehicle charging services, (iii) energy risk management and CAISO scheduling products and services, (iv) acquisition, construction and financing of facilities for the generation or transmission of electrical energy and any related transactions, services, and goods that may be necessary or convenient to acquire, construct, and finance these facilities, (v) grid integration services, (vi) acquisition of capacity rights in any facility for the generation or transmission of electric energy, and (vii) any other energy related programs.

Section 1.05 “Project Agreement” means a contract between and among CC Power and Project Participants.

Section 1.06 “Project Participants” means any Member or group of Members who participate in a Project pursuant to Article VI below.

Section 1.07 “Public CCA Agency” means any public agency, or such joint powers agencies/authorities consisting of one or more public agencies, that has implemented a CCA program pursuant to California Public Utilities Code Sections 331.1 and 366.2.

Article II. FORMATION OF AUTHORITY

Section 2.01 Creation of CC Power. Pursuant to the Joint Powers Act, there is hereby created a public entity, to be known as “CC Power,” which shall be a public entity separate and apart from its Members.

Section 2.02 Purpose. The purpose of this Agreement is for CC Power to develop, acquire, construct, own, manage, contract for, engage in, finance and/or provide energy related programs for the use of and by its Members. CC Power is not intended to be a policy-maker or advocate, though it may, from time to time, advance or support public policies in support of its purpose that do not conflict with interests or policies advanced by any Member.

Section 2.03 Powers. CC Power is authorized, in its own name, to do all acts necessary to fulfill the purposes of this Agreement as referred to in Section 2.02 above, and engage in the exercise of powers the Members have in common including, but not limited to, each of the following:

- (a) Acquire, purchase, finance, offer, arrange, construct, maintain, utilize and/or operate one or more Projects;
- (b) Establish, operate, maintain and/or fund energy related programs;
- (c) Make and enter into contracts;
- (d) Employ agents and employees;
- (e) Acquire, contract, manage, maintain, sell or otherwise dispose of real and personal property and operate any buildings, infrastructure, works, or improvements;
- (f) Receive contributions and donations of property, funds, services and other forms of assistance from any source;
- (g) Lease real or personal property as lessee and as lessor;
- (h) Sue and be sued in its own name;

- (i) Incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Sections 53850 et seq. and authority under the Act;
- (j) Receive, collect, invest and disburse moneys;
- (k) Issue revenue bonds and other forms of indebtedness, as provided by law;
- (l) Apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state, or local public agency;
- (m) Make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer energy related programs;
- (n) Adopt from time to time such policies, procedures, bylaws, rules or regulations for the conduct of its affairs as deemed necessary by the Board;
- (o) Exercise all other powers necessary and proper to carry out this Agreement; and
- (p) Defend, hold harmless, and indemnify, to the fullest extent permitted by law, each Member from any liability, claims, suits, or other actions.

Such powers shall be exercised in the manner provided in Section 6509 of the Government Code of the State of California, as amended, subject only to such restrictions upon the manner of exercising such powers as are imposed upon Silicon Valley Clean Energy in the exercise of similar powers. Should Silicon Valley Clean Energy withdraw or be excluded from this Agreement pursuant to Section 3.04 hereof, the manner of exercising any power shall be subject only to the restrictions upon the manner of exercising such powers as are imposed upon Marin Clean Energy.

Section 2.04 Compliance with Local Zoning and Building Laws and CEQA. Unless state or federal law provides otherwise, any facilities, buildings or structures located, constructed, or caused to be constructed by CC Power within the territory of CC Power shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed and comply with the California Environmental Quality Act.

Article III. MEMBERSHIP

Section 3.01 Member Agencies. Any Public CCA Agency, or other public agency determined by the Board to be eligible pursuant to Section 3.02, may become a Member upon meeting the following conditions:

- (a) The Public CCA Agency or other eligible public agency shall file with the Board a certified copy of a resolution of its governing body whereby it (i) agrees to the provisions of this Agreement, and (ii) requests to become a Member; and
- (b) No such Public CCA Agency or other eligible public agency shall become a Member until (i) its admission is approved at a regular or special meeting of the Board by at least two-thirds (2/3) of the entire Board, and (ii) it deposits or agrees to pay CC Power a share of organization, planning and other costs and charges as determined by the Board to be appropriate, if any.

Upon completion of the foregoing, the Public CCA Agency or other eligible public agency shall become a Member for all purposes of this Agreement.

Section 3.02 Eligible Public Agency Members. The Board may adopt policies to determine whether public agencies that are not Public CCA Agencies may be eligible to become a Member of CC Power.

Section 3.03 Cost Allocations.

- (a) Unless otherwise determined by a two-thirds (2/3) vote of the entire Board, each Member shall pay an equal share of one member one share for general and administrative costs as determined by the Board associated with all operations of CC Power. General and administrative costs do not include any costs that relate solely to any specific Project Agreement.

- (b) Project Agreements and other program agreements between and among any Member and/or CC Power will determine cost allocation and may consider, among other relevant factors, credit strength of the Members and may differ in price and collateral requirements as determined solely for such Project Agreement or other program agreements.

Section 3.04 Withdrawal or Exclusion of Member.

- (a) Any Member may withdraw from CC Power upon the following conditions:
 - (i) The Member shall have filed with the Board Secretary a certified copy of a resolution of its governing body expressing its desire to so withdraw. Once a Member files a resolution to withdraw with the Board Secretary, that Member no longer has any voting rights on the Board;
 - (ii) Members participating in Projects, programs or services pursuant to Project Agreements or other program agreements approved by the Board are subject to the participation and withdrawal terms and conditions described in the applicable agreement; and
 - (iii) Prior to accepting the Member's filing of such resolution, any Member so terminating shall be obligated to pay its share of all debts, liabilities, and obligations of CC Power specifically assumed by the Member. However, this obligation shall take into account any refunds due to the Member and shall not extend to debts, liabilities and obligations secured or otherwise committed pursuant to Project Agreements or other program agreements between and among any Member and/or CC Power. The debts, liabilities and obligations of the Members to such Project Agreements or other program agreements shall be determined by their terms. Any obligations under this Agreement are subject to the limitations set forth in Article VIII.
- (b) Upon compliance with the conditions specified in Section 3.04(a), the Board shall accept the withdrawing Member's resolution and the withdrawing Member shall no longer be considered a Member for any reason or purpose under this Agreement and its rights and obligations under this Agreement shall terminate. The withdrawal of a Member shall not affect any obligations of such Member under any Project Agreement or other program agreement.
- (c) Any Member which has (i) defaulted under this Agreement, a Project Agreement, or other program agreement, (ii) failed to appoint a Director to serve on the Board in accordance with Section 4.02 below, or (iii) failed to pay any required share of costs in accordance with Sections 3.01 and 3.03 above, may have its rights under this Agreement terminated and may be excluded from participation in CC Power by the vote (taken at a regular or special meeting of the Board) of at least two-thirds (2/3) of the entire Board (including the Director representing the defaulting Member). Prior to any vote to terminate participation of any Member, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Member whose termination is proposed at least 60 days prior to the Board meeting at which such matter shall first be discussed as an agenda item. The written notice of the proposed termination shall specify the particular provisions of this Agreement or a Project Agreement or other program agreement which the Member has allegedly defaulted on, or whether the proposed termination is based on failure to appoint a Director or pay any required share of costs. The Member subject to possible termination shall have the opportunity to cure the violation prior to the meeting at which termination will be considered. At the meeting where termination of the Member is considered, the Member shall be given the opportunity to respond to any reasons and allegations that may be cited as a basis for termination prior to a termination vote. Any excluded Member shall continue to be liable for its obligations under any Project Agreement or other program agreement and for any unpaid contribution, payment, or advance approved by the Board prior to such Member's exclusion.

- (d) The withdrawal or termination of a Member shall not affect the provisions or obligations set forth in Article VIII or Section 11.03 below.

Article IV. POWERS OF BOARD & MANAGEMENT OF CC POWER

Section 4.01 Board. CC Power shall be administered by a Board which shall consist of one Director representing each Member. Such Board shall be the governing body of this CC Power, and, as such, shall be vested with the powers set forth in this Agreement, and shall execute and administer this Agreement in accordance with the purposes and functions provided herein. The Board shall have the authority to provide for the general management and oversight of the affairs, property and business of CC Power.

Section 4.02 Appointment and Vacancies. Each Director shall be the Chief Executive Officer, General Manager, or designee of the Chief Executive Officer or General Manager of each Member and shall be appointed by and serve at the pleasure of the Member that the Director represents, and may be removed as Director by such Member at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed by the Member to fill the position of the previous Director in accordance with the provisions of this Article IV within 60 days of the date that such position becomes vacant or the Member shall be subject to the exclusion procedures in Section 3.04(c) above. Each Director may appoint an alternate to serve in their absence.

Section 4.03 Notices. The Board shall comply with the applicable provisions of Sections 6503.5, 6503.6 and 53051 of the Government Code requiring the filing of notices and a statement with the Secretary of State, the State Controller, the applicable county clerk and local agency formation commissions, including, but not limited to:

- (a) Causing a notice of the Agreement or any amendment to the Agreement to be prepared and filed with the office of the Secretary of State within 30 days of the effective date of the Agreement or amendment, and
- (b) Filing a statement of facts with the Secretary of State within 70 days after the date of commencement of CC Power's legal existence. Upon any change in the statement of facts presented to the Secretary of State, an amended statement of facts shall be filed with the Secretary of State within 10 days of the change.

Section 4.04 Committees. The Board may create committees to provide advice to the Board or conduct the business of CC Power subject to delegation of authority from the Board.

Section 4.05 Director Compensation. Compensation for work performed by Directors, including alternates, on behalf of CC Power shall be borne by the Member that appointed the Director. The Board, however, may adopt by resolution a policy relating to the reimbursement of expenses incurred by Directors.

Section 4.06 Board Officers. At its first meeting in each calendar year, the Board shall elect or re-elect a Chair and a Vice-Chair each of whom shall be selected from among the Directors and shall also appoint or re-appoint a Secretary and a Treasurer/Controller each of whom may, but need not, be selected from among the Directors.

- (a) **Chair and Vice-Chair.** The duties of the Chair shall be to preside over the Board meetings, sign all ordinances, resolutions, contracts and correspondence adopted or authorized by the Board, and to help ensure the Board's directives and resolutions are carried out. In the absence or inability of the Chair to act, the Vice Chair shall act as Chair.
- (b) **Treasurer and Controller.** The Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Controller, neither of whom needs to be a Director. If the Board so designates, and in accordance with the provisions of applicable law,

a qualified person may hold both the office of Treasurer and the office of Controller of CC Power. The Treasurer shall be the depository of CC Power to have custody of all the money of CC Power, from whatever source. The Controller shall draw warrants to pay demands against CC Power when the demands have been approved by the Chair or Vice Chair of CC Power. The Treasurer and Controller shall have the other powers, duties and responsibilities of such officers as specified in Section 6505 of the Government Code of the State of California, as amended, except insofar as such powers, duties and responsibilities are assigned to a trustee appointed, as is provided for and authorized in Section 6550 of the Government Code of the State of California, as amended, pursuant to any resolution, indenture or other instrument providing for the issuance of bonds or notes of CC Power pursuant to this Agreement. The Board may require the Treasurer and/or Controller to file with CC Power an official bond in an amount to be fixed by the Board, and if so requested CC Power shall pay the cost of premiums associated with the bond. The Treasurer and Controller shall cause an independent audit to be made by a certified public accountant, or public accountants, in compliance with Section 6505 of the Government Code.

- (c) **Secretary.** The Secretary shall be responsible for keeping the minutes of all meetings of the Board and all other official records of CC Power, and responding to public records requests of the JPA.

Section 4.07 Management of CC Power. The Board shall appoint a part-time or full-time General Manager, and may appoint one or more part-time or full-time Assistant General Managers, to serve at the pleasure of the Board. The General Manager shall be responsible for the day-to-day operation and management of CC Power. The General Manager may enter into and execute contracts in accordance with the policies established and direction provided by the Board, and shall file an official bond in the amount determined from time to time by the Board.

Section 4.08 Other Officers and Employees. The Board shall have the power to appoint such other officers and staff as it may deem necessary who shall have such powers, duties and responsibilities as are determined by the Board, and to retain independent accountants, legal counsel, engineers and other consultants. The Members may contract with CC Power to provide staff to perform services for CC Power, but such employees shall at all times, and for all purposes including benefits and compensation, remain employees of the Member only.

Section 4.09 Budget. The budget shall be approved by the Board. The Board may revise the budget from time-to-time as may be reasonably necessary to address contingencies and expected expenses. All subsequent budgets of CC Power shall be approved by the Board in accordance with rules as may be adopted by the Board from time to time. All expenditures must be made in accordance with the adopted budget.

Article V. MEETINGS OF THE BOARD

Section 5.01 Regular Meetings. The Board shall hold at least one regular meeting per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution of the Board. Regular meetings may be adjourned to another meeting time.

Section 5.02 Special Meetings. Special and emergency meetings of the Board may be called in accordance with the provisions of California Government Code Sections 54956 and 54956.5, as amended.

Section 5.03 Brown Act Compliance. All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Section 54950 et seq.), and as

augmented by rules of the Board not inconsistent therewith. Directors may participate in meetings telephonically or by other electronic means, with full voting rights, only to the extent permitted by law.

Section 5.04 Minutes. The Secretary shall cause to be kept minutes of the meetings of the Board, both regular and special, and shall cause a copy of the minutes to be forwarded promptly to each Director.

Section 5.05 Quorum. A quorum of the Board shall consist of a majority of the Directors, except that less than a quorum may adjourn from time to time in accordance with law.

Section 5.06 Voting. Except to the extent set forth in a Project Agreement or as otherwise specified in this Agreement, each Member shall have one vote, which may be cast on any matter before the Board by each Director or alternate. Except to the extent otherwise specified in this Agreement, or by law, a vote of the majority of the Directors in attendance shall be sufficient to constitute action, provided a quorum is established and maintained.

(a) Special Voting Requirements as specified in this Agreement:

- (i)** Action of the Board to amend Section 3.03 related to cost allocations shall require the affirmative vote of at least two-thirds (2/3) of the entire Board.
- (ii)** Action of the Board on the matters set forth in Section 3.04(c) related to involuntary termination of a Member shall require the affirmative vote of at least two-thirds (2/3) of the entire Board.
- (iii)** Action of the Board on the matters set forth in Section 9.01 related to termination of this Agreement shall require the affirmative vote of at least two-thirds (2/3) of the entire Board approved by resolution of each Member's governing body.
- (iv)** Action of the Board to amend this Agreement shall be subject to the voting requirements set forth in Section 11.02 below.

Article VI. PROJECTS

Section 6.01 Projects. The Board has the power, upon majority vote of the Directors in attendance, provided a quorum is established and maintained, to establish Projects within the purpose and power of CC Power and to adopt guidelines for their implementation.

Section 6.02 Right to Participate in Projects. The Board shall provide at least sixty (60) days prior written notice to all Members, unless such notice is otherwise waived, before any Project may be considered for adoption by a vote of the Board. Such notice shall be provided to the Director of each Member. Once a Project is approved by the Board as set forth in Section 6.01 above, all Members shall have the right, but not the obligation, to participate in a pro-rata share in the Project as determined by the Project Agreement. All Members who elect not to participate in the Project have no obligations under the Project.

Section 6.03 Project Agreement. All expenses, rights and obligations to any specific Projects will be handled through Project Agreements that will be separate and distinct from this Agreement.

Article VII. BONDS AND OTHER INDEBTEDNESS

CC Power shall also have the power to issue, sell and deliver bonds in accordance with the provisions of the Joint Powers Act for the purpose of acquiring, financing, performing or constructing one or more Projects and to enter into other indebtedness for the purpose of financing one or more studies or Projects and for the purpose of providing temporary financing of costs of development, construction or acquisition of one or more Projects. The terms and conditions of the issuance of any such bonds or indebtedness shall be set forth in such resolution, indenture or other instrument, as required by law and as approved by the Board. Bonds issued under this article and contracts or obligations entered into to carry out the purposes for which bonds are issued, payable in whole or in part from the proceeds of said bonds, shall not constitute a debt, liability or

obligation of any of the Members unless the governing body of the Member by resolution expressly agrees that the Member will be obligated under the bond or other indebtedness or the Member takes on obligations pursuant to a Project Agreement.

Article VIII. LIMITATION ON LIABILITY OF MEMBERS

Section 8.01 Pursuant to Section 6508.1 of the Government Code of the State of California, no debt, liability or obligation of CC Power shall be a debt, liability or obligation of any Member unless such Member agrees in writing to assume any of the debts, liabilities, or obligations of CC Power pursuant to a Project Agreement. Nothing contained in this Article VIII shall in any way diminish the liability of any Member with respect to any Project Agreement such Member enters into pursuant to this Agreement.

Section 8.02 Individual Member Provisions.

- (a) The City of San José is a municipal corporation and is precluded under the California State Constitution and applicable law from entering into obligations that financially bind future governing bodies, and, therefore, nothing in the Agreement shall constitute an obligation of future legislative bodies of the City to appropriate funds for purposes of the Agreement. Any obligations under this Agreement and any Project Agreement are special limited obligations of San José Clean Energy payable solely from the Designated Fund (defined as the San Jose Energy Operating Fund established pursuant to City of San Jose Municipal Code, Title 4, Part 63, Section 4.80.4050 *et seq.*) (“Designated Fund”) and shall not be a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.
- (b) CleanPowerSF’s payment obligations under this Agreement are special limited obligations of CleanPowerSF payable solely from the revenues of CleanPowerSF. CleanPowerSF’s payment obligations under this Agreement are not a charge upon the revenues or general fund of the San Francisco Public Utilities Commission or the City and County of San Francisco or upon any non-CleanPowerSF moneys or other property of the San Francisco Public Utilities Commission or the City and County of San Francisco. CleanPowerSF’s obligations hereunder shall not at any time exceed the amount certified by the San Francisco City Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of CleanPowerSF are not authorized to request, and CleanPowerSF is not required to reimburse CC Power for, commodities or services beyond the agreed upon contract scope unless the changed scope is authorized by amendment and approved as required by law. Officers and employees of CleanPowerSF are not authorized to offer or promise, nor is CleanPowerSF required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the contract is certified without certification of the additional amount by the San Francisco City Controller. The San Francisco City Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

Article IX. TERM; TERMINATION; LIQUIDATION; DISTRIBUTION

Section 9.01 Term and Termination. This Agreement shall become effective when at least two Members execute this Agreement. This Agreement shall continue in full force and effect until terminated as provided in this Article; provided however, this Agreement cannot be terminated until such time as all principal of and interest on bonds and other forms of indebtedness issued by CC Power are paid in full. Thereafter, this Agreement may be terminated by a two-thirds (2/3) vote of the entire Board approved by resolution of each Member’s governing body; provided, however, that this Agreement and CC Power shall continue to exist after termination for the purpose of disposing of all claims, distribution of assets and all other functions necessary to conclude the obligations and affairs of CC Power. In no event shall this

Agreement or the powers herein granted to CC Power be terminated until (a) all bonds and other indebtedness of CC Power and the interest thereon shall have been paid or adequate provision for such payment shall have been made in accordance with the instruments governing such bonds and indebtedness and (b) all other obligations and liabilities of CC Power shall have been met or adequately provided for.

Section 9.02 Liquidation; Distribution. Upon termination of this Agreement, the Board shall liquidate the business and assets and the property of CC Power as expeditiously as possible, and distribute any net proceeds, after the conclusions of all debts and obligations of CC Power, to any Members in proportion to the contributions made or in such manner as otherwise provided by law. The Board is vested with all powers of CC Power for the purpose of concluding and dissolving the business affairs of CC Power.

ARTICLE X. ACCOUNTS AND REPORTS

Section 10.01 Establishment and Administration of Funds. CC Power is responsible for the strict accountability of all funds and reports of all receipts and disbursements. It will comply with every provision of law relating to the establishment and administration of funds, particularly Section 6505 of the California Government Code. CC Power shall establish and maintain such funds and accounts as may be required by good accounting practice or by any provision of any resolution, indenture or other instrument of CC Power securing its bonds or other indebtedness, except insofar as such powers, duties and responsibilities are assigned to a trustee appointed pursuant to such resolution, indenture or other instrument. The books and records of CC Power shall be open to inspection at all reasonable times to each Member and its representatives.

Section 10.02 Annual Audits and Audit Reports. The Treasurer/Controller shall cause an annual independent audit of the accounts and records of CC Power to be made by a certified public accountant or public accountant in accordance with all applicable laws. If permitted by applicable law and authorized by the Board, the audit(s) may be conducted at the longer interval authorized by applicable law. A report of the financial audit will be filed as a public record with each Member. CC Power will pay the cost of the financial audit and charge the cost against the Members in the same manner as other administrative costs.

ARTICLE XI. GENERAL PROVISIONS

Section 11.01 Successors and Assigns. No Member may assign any right or obligation under this Agreement without the consent of all other Members. This section shall not affect, in any respect, any right of assignment under any Project Agreement.

Section 11.02 Amendments. Subject to any requirements of law, a two-thirds (2/3) vote of the entire Board will be required to amend Articles II, III, VIII, and IX of this Agreement. Once an amendment of Articles II, III, VIII, or IX is adopted by the Board, the amendment must be approved by two-thirds of the Members pursuant to that Members' applicable approval process. All other provisions of this Agreement may be amended at any time or from time to time by an amendment approved by at least two-thirds (2/3) vote of the entire Board. Written notice shall be provided to all Members of proposed amendments to this Agreement, including the effective date of such amendments, at least 60 days prior to the date upon which the Board votes on such amendments.

Section 11.03 Indemnification and Insurance. To the fullest extent permitted by law, CC Power shall defend, indemnify, and hold harmless the Members and each of their respective Directors, alternates, officers, employees and agents from any and all claims losses damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of CC Power under this Agreement to the extent not otherwise provided under a Project Agreement. CC Power shall acquire such insurance coverage as the Board deems is necessary and appropriate to protect the interests of CC Power and the Members.

Section 11.04 Notices. The Board shall designate its principal office as the location at which it will receive notices, correspondence, and other communications, and shall designate one of its Directors or staff as an officer for the purpose of receiving service on behalf of the Board. Any notice given pursuant to this Agreement shall be in writing and shall be dated and signed by the Member giving such notice. Notice to each Member under this Agreement is sufficient if mailed to the Member and separately to the Member's Director to their respective addresses on file with CC Power.

Section 11.05 Severability. Should any portion, term, condition, or provision of this Agreement be determined by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, or be otherwise rendered unenforceable or ineffectual, the remaining portions, terms, conditions, and provisions shall not be affected thereby.

Section 11.06 Section Headings. The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section to which they refer.

Section 11.07 Choice of Law. This Agreement will be governed and construed in accordance with the laws of the State of California.

Section 11.08 Counterparts. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all Members had signed the same instrument.

Section 11.09 Dispute Resolution. The Members shall make reasonable efforts to informally settle all disputes arising out of, or in connection with, this Agreement. Should such informal efforts to settle a dispute fail, the dispute shall be mediated in accordance with policies and procedures established by the Board.

[Signature Page Follows]

IN WITNESS WHEREOF, each of the Members hereto has caused this Agreement to be executed as an original counterpart by its duly authorized representative on the date indicated below.

	Date:	_____
(Seal)	CCA Name:	_____
Attest:	Address:	_____
_____		_____

	Date:	_____
(Seal)	CCA Name:	_____
Attest:	Address:	_____
_____		_____

	Date:	_____
(Seal)	CCA Name:	_____
Attest:	Address:	_____
_____		_____

	Date:	_____
(Seal)	CCA Name:	_____
Attest:	Address:	_____
_____		_____

(Seal)

Attest:

Date:

CCA Name:

Address:

(Seal)

Attest:

Date:

CCA Name:

Address:

(Seal)

Attest:

Date:

CCA Name:

Address:

(Seal)

Attest:

Date:

CCA Name:

Address:
