



Redwood Coast Energy Authority
633 3rd Street, Eureka, CA 95501
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E-mail: info@redwoodenergy.org Web: www.redwoodenergy.org

BOARD OF DIRECTORS REGULAR MEETING AGENDA

NEW MEETING LOCATION

**Wharfinger Building, downstairs Bay Room
1 Marina Way, Eureka, CA 95501**

**November 16, 2023
Thursday, 3:30 p.m.**

Any member of the public needing special accommodation to participate in this meeting or access the meeting materials should email LTaketa@redwoodenergy.org or call (707) 269-1700 at least 3 business days before the meeting. Assistive listening devices are available.

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, including those received less than 72 hours prior to the Committee's meeting, will be made available to the public at www.RedwoodEnergy.org.

NOTE: Speakers wishing to distribute materials to the Board at the meeting, please provide 13 copies to the Board Clerk.

THIS IS A HYBRID IN-PERSON AND VIRTUAL MEETING.

The Board of Directors has returned to in-person hybrid meetings. When attending Board meetings, please socially distance as much as possible and be courteous to those who choose to wear a mask.

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

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.

You may submit written public comment by email to PublicComment@redwoodenergy.org. Please identify the agenda item number in the subject line. Comments will be included in the meeting record but not read aloud during the meeting.

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."

OPEN SESSION Call to Order

1. ROLL CALL - REMOTE DIRECTOR PARTICIPATION

- 1.1. Approve teleconference participation request for this meeting by Director pursuant to Brown Act revisions of AB 2449 due to an emergency circumstance to be briefly described.

2. REPORTS FROM MEMBER ENTITIES

3. 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.

4. 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.

- 4.1 Approve Minutes of October 26, 2023, Board Meeting.
4.2 Approve Disbursements Report.
4.3 Accept Quarterly Budget Report for Fiscal Year 2023-24 Q1.
4.4 Accept Financial Reports.
4.5 Authorize Staff to Sign Check or Authorize ACH Payment for the Purchase of ChargePoint Electric Vehicle Charging Equipment from Campton Electric at a Price Not to Exceed \$235,946 in Fulfillment of CEC Rural Electric Vehicle Charging Grant Requirements.

5. 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.

6. OLD CCE BUSINESS – None.

7. NEW CCE BUSINESS

7.1. Bioenergy Market Adjusting Tariff

Authorize the Executive Director to approve final RCEA BioMAT program documents for submission to the CPUC, consistent with the substantive terms and conditions of PG&E's BioMAT program, with approval by RCEA General Counsel.

END OF COMMUNITY CHOICE ENERGY (CCE) BUSINESS

8. OLD BUSINESS

8.1 Sandrini Sol 1 Power Purchase Agreement Amendment 2

Staff will recommend one of the following actions pending mutual agreement by parties on a finalized proposed agreement amendment by meeting time:

Approve Resolution 2023-10 Approving the Form of and Authorizing the Execution of the Second Amendment to the Sandrini Power Purchase Agreement with EDPR CA Solar Park II LLC

or

Establish an ad hoc subcommittee to review and approve the Second Amendment to the Sandrini Power Purchase Agreement with EDPR CA Solar Park II LLC, including (1) extension of the Guaranteed Commercial Operation Date, (2) revision of the replacement product provisions, (3) revision of the financial settlement structure, and (4) any additional amendment that does not measurably increase risk exposure for RCEA.

NOTE: A staff report attachment for this agenda item was not available at the time of agenda publication. If finalized prior to the meeting, it will be published on <https://redwoodenergy.org/board-of-directors> by 3:30 p.m. Thursday, November 16, 2023.

8.2 RCEA New Office Building Development

Authorize staff to issue the request for qualifications for architectural and engineering design work for new construction of RCEA office building at 805 Third Street Eureka, CA.

Authorize the ad hoc building relocation subcommittee to act as a review committee and authorize it to take the following actions: (i) approve evaluation criteria, (ii) approve selected proposal based on the selection criteria to bring to the full Board for review and approval of resulting contract.

9. NEW BUSINESS

9.1 Sonoma Clean Power Mid-Term Reliability Resource Adequacy Agreement

Approve Resolution 2023-11 Approving the Form of and Authorizing the Execution of the Resource Adequacy Agreement with Sonoma Clean Power Authority.

9.2 Rural REN Statewide Energy Efficiency Program Implementation: PG&E, Southern California Edison and SoCalGas Funding Contracts

Authorize the Executive Director to execute the 2024-2027 PG&E Funding Agreement for \$40,420,550; and, upon full execution, authorize the Executive Director to issue solicitations and contracts for consultant and subcontractor services to implement the RuralREN in regions covered by PG&E funding.

Authorize the Executive Director to execute the 2024-2027 Southern California Edison Funding Agreement for \$33,683,792 and SoCalGas Funding Agreement for \$10,105,138 following the review and approval by RCEA staff and legal counsel; and upon full execution of each agreement, authorize the Executive Director to issue solicitations and contracts for consultant and subcontractor services to implement the RuralREN in the respective regions covered by Southern California Edison and SoCalGas funding.

10. STAFF REPORTS

10.1 Deputy Executive Director's Report

11. FUTURE AGENDA ITEMS

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

12. CLOSED SESSION

12.1. Conference with Legal Counsel: Anticipated litigation, pursuant to Government Code Section 54956.9(d)(2).

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

13. ADJOURNMENT

NEXT REGULAR MEETING

Thursday, December 21, 2023, 3:30 p.m.

Wharfinger Building downstairs Bay Room, 1 Marina Way, Eureka, CA 95501

Online and phone participation will also be possible via Zoom.



STAFF REPORT

Agenda Item # 1.1

AGENDA DATE:	November 16, 2023
TO:	RCEA Board of Directors
FROM:	Eileen Verbeck, Deputy Executive Director
SUBJECT:	Member Teleconference Participation

BACKGROUND

Since emergency Brown Act meeting law changes went into effect in 2020 due to the COVID-19 public health emergency, the RCEA Board of Directors, Community Advisory Committee and the subcommittees of those bodies met online with no physical, public meeting location. Governor Newsom signed AB 361 into law in September 2021, which allowed these bodies to continue meeting completely virtually without publishing each member's participation location while the COVID state of emergency continued and state or local officials recommended social distancing measures or the RCEA Board determined that meeting in person posed health and safety risks.

The COVID-19 State of Emergency ended on February 28, 2023, and RCEA Board and CAC meetings returned to meeting in-person at a physical location, with allowances under existing Brown Act rules or new AB 2449 Brown Act rules should a Board or CAC member need to participate from a remote location for certain reasons. If another state of emergency is declared, these bodies may be able to return to completely remote meetings.

SUMMARY

RCEA Board Directors may attend up to two meetings per year from a remote location without making the location accessible to the public for the following reasons:

1. "Just cause"
 - a. To provide childcare or caregiving need to a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner;
 - b. Due to a contagious illness that prevents the member from attending in-person;
 - c. Due to a need related to a physical or mental disability as defined in Government Code sections 12926 and 12926.1 not otherwise accommodated; and
 - d. Due to travel while on official business of the legislative body or another state or local agency.
2. "Emergency circumstance" due to a physical or family medical emergency that prevents the member from attending in person.

If a Board Director would like to attend the meeting remotely due to an emergency circumstance, the Board will take action by majority vote to approve the Director's remote participation. A vote is not necessary for a request to attend remotely for just cause. A brief

description, protecting the Director's (or Director's family member's) medical privacy, needs to be provided in both cases.

The remotely participating Board Director needs to publicly disclose at the meeting before any action (vote) is taken, whether anyone 18 years of age or older is present in the room at the remote location with the Director, and the general nature of the individual's relationship with the Director.

If the Board Director anticipates needing to participate remotely for more than 2 meetings per year, staff recommends arranging for a publicly and ADA accessible space with visual and audio meeting capabilities from which to participate.

Staff asks to be notified one-week in advance, if possible, of remote meeting attendance so the Director's publicly and ADA accessible remote meeting address can be published in the agenda, if required per Brown Act open meeting laws.

Current Remote Participation Requests

As of the writing of this staff report, there are no requests for "just cause" or "emergency circumstances" remote director participation.

RECOMMENDED ACTION (if needed)

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



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BOARD OF DIRECTORS DRAFT MEETING MINUTES

Jefferson Community Center Auditorium
1000 B Street, Eureka, CA 95501

October 26, 2023
Thursday, 3:30 p.m.

Chair Sheri Woo called a regular meeting of the Board of Directors of the Redwood Coast Energy Authority to order on the above date at 3:32 p.m. Notice of this meeting was posted on October 21, 2023.

PRESENT: Natalie Arroyo, Scott Bauer, Alternate Director Jana Ganion, Skip Jorgensen, Alternate Director Sherri Provolt, Elise Scafani, Vice Chair Sarah Schaefer, Jack Tuttle, Frank Wilson, Chair Sheri Woo. ABSENT: Kris Mobley, Frankie Myers, Jason Ramos.

STAFF AND OTHERS PRESENT: Business Planning and Finance Director Lori Biondini, Finance Specialist Ronnie Chausse, General Counsel Nancy Diamond, Senior Power Resources Manager Jocelyn Gwynn, TEA California Account Director Jaclyn Harr, Executive Director Matthew Marshall, Account Services Manager Sally Regli, Baker Tilly US Partner Bethany Ryers, Board Clerk Lori Taketa, Deputy Executive Director Eileen Verbeck.

ORAL COMMUNICATIONS

Member of the public Jesse Noell submitted written comment comparing greenhouse gas emissions of wind vs. solar energy generation. Member of the public Wendy Ring submitted comment outlining the Humboldt Sawmill Company biomass energy plant's community health impacts and comparing HSC's air quality violations with those of other biomass power plants. Chair Woo closed the non-agenda item public comment period.

CONSENT CALENDAR

- 4.1 Approve Minutes of September 28, 2023, Board Meeting.
- 4.2 Approve Disbursements Report.
- 4.3 Accept Financial Reports.
- 4.4 Approve Conflict of Interest Waiver with Braun Blaising & Wynne for representation in contract negotiations with Sonoma Clean Power Authority.

No Director nor member of the public requested discussion of consent calendar items.

M/S: Schaefer, Bauer: Approve Consent Calendar items.

The motion passed with a unanimous vote. Ayes: Arroyo, Bauer, Ganion, Jorgensen, Provolt, Scafani, Schaefer, Tuttle, Wilson, Woo. Noes: None. Absent: Mobley. Abstain: None.

OLD BUSINESS

6.1 2018-2019 Financial Audit Report and Presentation by Auditor Baker Tilly US

Business Planning and Finance Director Biondini described previous Board approval to perform the financial audit for two years concurrently. Baker Tilly Partner Bethany Ryers described the audit procedures and results to the Board. The audit focused on reviewing key transaction cycles, areas with significant estimates and implementation of new accounting standards. The financial statements included normal adjusting journal entries for material corrected misstatements and received an unmodified opinion, the auditor's highest level of assurance. The auditor report contains recommendations regarding the financial statement close and billing cycle processes. Ms. Ryers described upcoming work to audit implementation of updated accounting standards.

The Directors congratulated staff on the unmodified opinion and thanked the auditors. There were no comments from the public and Chair Woo closed the comment period.

M/S: Schaefer, Arroyo: Accept and Approve Redwood Coast Energy Authority Financial Statements June 30, 2019 and 2018 and Associated Independent Auditors' Report By Baker Tilly US, LLP.

The motion passed with a unanimous vote. Ayes: Arroyo, Bauer, Ganion, Jorgensen, Provolt, Scafani, Schaefer, Tuttle, Wilson, Woo. Noes: None. Absent: Mobley. Abstain: None.

CCE BUSINESS - Chair Woo confirmed there was a CCE Business quorum present.

OLD CCE BUSINESS

7.1 Proposed RCEA Net Billing Tariff Adoption

Account Services Manager Sally Regli recapped previous Board direction to mirror PG&E's Net Billing Tariff methods and described rates and billing implementation for RCEA solar NBT customers.

The directors discussed the need to support solar paired with storage to help make the new NBT more affordable for RCEA customers, and the possibility of redirecting NBT program savings to solar and storage incentives. Staff will monitor impacts of NBT implementation and bring proposals to incentivize solar and energy storage adoption to the Board for consideration in spring 2024. There were no comments from the public and Chair Woo closed the comment period.

M/S: Arroyo, Schaefer: Adopt Resolution No. 2023-9, Approving the RCEA Net Billing Tariff.

The motion passed with a unanimous vote. Ayes: Arroyo, Bauer, Jorgensen, Scafani, Schaefer, Tuttle, Wilson. Noes: None. Absent: Mobley. Abstain: None. Non-Voting: Ganion, Provolt, Woo.

NEW CCE BUSINESS

8.1 Energy Risk Management Quarterly Report – Information only

The Energy Authority California Account Director Jaclyn Harr presented the general CCE program financial report. Forecasted net revenues for 2023 and 2025 remain positive. Market projections point to RCEA financial losses in 2024, which are expected to be less severe than the July projection. RCEA's long-term power purchase agreements and short-term financial hedge transactions will protect its customers from the full impact of anticipated large power costs increases. Net revenue is expected to improve in 2024 if the Sandrini solar project begins operation earlier than the current assumption of January 2025.

Ms. Harr explained how the Renewable Portfolio Standard program and Renewable Energy Certificates (RECs) work in California. California's program was designed in the early 2000s to green the state's power grid and incubate its renewable energy industry. Twenty years later, California's best renewable energy project sites have been developed and the industry no longer needs incubation, but rather opportunities to export expertise to other states where renewable projects can be developed more cost-effectively.

Ms. Harr described and the directors discussed:

- Current status of the Sandrini solar project and negotiations with the developer, EDPR,
- how RCEA's Net Billing Tariff program will allow CCE customers to sell RECs from behind-the-meter solar,
- how competition to meet RPS and RA requirements have driven up power contract prices, which will likely remain high for the next decade unless there are significant technological breakthroughs,
- how RCEA has incurred and will continue to incur fines for not procuring enough resource adequacy in certain months of 2023 and 2024, which are lower than the current cost of RA given its scarcity,
- the extremely complex RA program restructuring in 2025, with testing in 2024, and
- efforts to regionalize California's energy market to make it easier to sell excess energy supply across grid borders.

There were no comments from the public and Chair Woo closed the comment period.

STAFF REPORTS

10.1 Executive Director's Report

Executive Director Marshall reported that the lot at 805 Third Street, site of RCEA's future office building, was purchased. There were no public comments on this agenda item.

CLOSED SESSION

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

There was no public comment regarding the closed session item and the Board adjourned to closed session at 4:58 p.m. The directors reconvened in open session at 5:55 p.m. Chair Woo stated that there were no closed session reports and adjourned the meeting at 5:56 p.m.

Lori Taketa, Clerk of the Board

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Redwood Coast Energy Authority
Disbursements Report
As of September 30, 2023

Type	Date	Num	Name	Memo	Amount
Liability Check	09/01/2023	ACH	EDD	Taxes Paydate 9/1/23	-7,609.68
Liability Check	09/01/2023	ACH	Internal Revenue Service	Taxes Paydate 9/1/23	-34,416.46
Liability Check	09/01/2023	ACH	Newport Group	Deferred compensation Paydate 9/1/23	-13,551.12
Check	09/01/2023	16298	NEM Customer	NEM Closeout Reissued	-91.07
Check	09/01/2023	16299	NEM Customer	NEM Closeout Check reissued	-26.54
Check	09/01/2023	16300	NEM Customer	NEM Closeout Check Reissued	-137.17
Check	09/01/2023	16301	NEM Customer	NEM Closeout Check Reissued	-171.54
Check	09/01/2023	16302	NEM Customer	NEM Closeout Ck Reissued	-63.48
Check	09/01/2023	16303	NEM Customer	NEM Closeout Check reissued	-1.91
Check	09/01/2023	16304	NEM Customer	NEM Closeout Check Reissued	-16.62
Check	09/01/2023	16305	CCE Customer	Res EVSE rebate #REVSE34	-352.09
Check	09/01/2023	16306	CCE Customer	Res EVSE rebate #REVSE33	-254.72
Check	09/01/2023	16307	CCE Customer	Res EVSE rebate #REVSE35	-255.91
Check	09/01/2023	16308	Willdan Energy Solutions	Arcata House PRJ-04551684	-1,600.00
Check	09/01/2023	16309	Willdan Energy Solutions	City of Arcata PRJ-04434364	-800.00
Check	09/01/2023	16310	Willdan Energy Solutions	Arcata Fire Prot. PRJ-04434222	-800.00
Check	09/01/2023	16311	Willdan Energy Solutions	Fortuna Fire Prot. PRJ-04434230	-800.00
Check	09/01/2023	16312	CCE Customer	PA Equipment Rebate - Res #DS-R-230815-1515	-100.00
Check	09/01/2023	16313	CCE Customer	PA Equipment Rebate - Res #DS-R-230627-1427	-250.00
Bill Pmt -Check	09/01/2023	16314	Hilson, D.	Mileage reimbursement - July 2023	-27.77
Bill Pmt -Check	09/01/2023	16315	Humboldt Bay Coffee Co.	August 2023 invoices	-77.85
Bill Pmt -Check	09/01/2023	16316	Kerekes, C.	Mileage reimbursement - August 2023	-34.06
Bill Pmt -Check	09/01/2023	16317	Kullmann, S.	August Mileage and Sept Travel	-261.60
Bill Pmt -Check	09/01/2023	16318	Mission Uniform & Linen	August 2023 invoices	-301.71
Bill Pmt -Check	09/01/2023	16319	Nicklas, Alida M	Mileage & Purchase reimbursement - August 2023	-101.16
Bill Pmt -Check	09/01/2023	16320	PG&E EV Account	EV stations 07/17/2023-078/14/2023	-1,179.49
Bill Pmt -Check	09/01/2023	16321	PG&E Office Utility	07/17-08/14/23 utilities for 633 3rd Street	-954.28
Bill Pmt -Check	09/01/2023	16322	Quest	VEEAM O365 Backup 1 yr for 3 users	-60.18
Bill Pmt -Check	09/01/2023	16323	Scrapper's Edge	Certificate Frames for RCEA Awards	-62.24
Bill Pmt -Check	09/01/2023	16324	Stitch Witch	Logo gear order - 50% Deposit	-271.11
Bill Pmt -Check	09/01/2023	16325	Times Printing Company	Qty 51,019 Joint Rate Mailer w/Postage	-25,133.00
Bill Pmt -Check	09/01/2023	16326	Times Printing Company	August 2023 Late Notice & Move in Invoices	-2,430.53
Bill Pmt -Check	09/01/2023	16327	Verbeck, E.	917 3rd St: Soundproofing Office Supplies	-105.94
Bill Pmt -Check	09/01/2023	16328	Bithell, M.	August 2023 Mileage Reimb	-217.46
Bill Pmt -Check	09/01/2023	16329	Boudreau, D.	RE+ 2023 Conference Per Diem Meals	-260.00
Bill Pmt -Check	09/01/2023	16330	Braun Blaising & Wynne	Legal Services - Regulatory -July 2023	-4,994.89
Bill Pmt -Check	09/01/2023	16331	Colonial Life	Colonial Life Premiums August 2023	-2,256.20
Bill Pmt -Check	09/01/2023	16332	DocuSign	eSignature Business Pro Edition, 11 seats & Support	-5,368.99
Bill Pmt -Check	09/01/2023	16333	Engel, R.	CalCCA Meeting Lodging, Parking, Gas	-1,397.02
Bill Pmt -Check	09/01/2023	16334	Food For People, Inc.	Donations March- August 2023	-1,300.00
Bill Pmt -Check	09/01/2023	16335	Frontier Energy, Inc.	PA Program Consulting - July 2023	-1,584.00
Check	09/01/2023	16336	VISA	August 2023 Statement 07/21/2023 - 08/22/2023	-8,265.92
Check	09/01/2023	16337	CCE Customer	CCE Equipment Rebate - Res #DS-R-230712-1468	-100.00
Check	09/01/2023	16338	CCE Customer	CCE Equipment Rebate - Res #DS-R-230823-1532	-100.00
Check	09/01/2023	16339	CCE Customer	CCE Equipment Rebate - Res #DS-R-230823-1533	-150.00
Check	09/01/2023	16340	CCE Customer	CCE Equipment Rebate - Res #DS-R-230823-1530	-350.00
Check	09/01/2023	16341	CCE Customer	CCE Equipment Rebate - Res #DS-R-230815-1512	-470.00
Check	09/01/2023	16342	CCE Customer	Heat Pump Rebate #DS-R-230608-1386	-975.00
Check	09/01/2023	16343	CCE Customer	Heat Pump Rebate #DS-R-230627-1431	-1,050.00
Check	09/01/2023	16344	CCE Customer	Heat Pump Rebate #DS-R-230719-1480	-2,250.00
Check	09/01/2023	16345	CCE Customer	Heat Pump Rebate #DS-R-230810-1504	-800.00
Check	09/01/2023	16346	CCE Customer	Heat Pump Rebate #DS-R-230711-1464	-1,550.00
Check	09/01/2023	16347	California Heating	Heat Pump Rebate #DS-R-230404-1176	-17,830.00

Redwood Coast Energy Authority
Disbursements Report
As of September 30, 2023

Type	Date	Num	Name	Memo	Amount
Check	09/01/2023	16348	CCE Customer	Heat Pump Rebate #DS-R-230404-1176	-750.00
Paycheck	09/01/2023	ACH	Employees	Payroll	-83,284.06
Liability Check	09/15/2023	ACH	EDD	Taxes, Paydate 9/15/23	-8,177.40
Liability Check	09/15/2023	ACH	Internal Revenue Service	Taxes, Paydate 9/15/23	-36,733.04
Liability Check	09/15/2023	ACH	Newport Group	Deferred compensation, Paydate 9/15/23	-13,731.77
Bill Pmt -Check	09/15/2023	ACH	Humboldt Sawmill Co.	August 2023 Electricity generation	-488,409.15
Bill Pmt -Check	09/15/2023	ACH	Keenan	Anthem Medical Insurance September 2023	-31,565.69
Bill Pmt -Check	09/15/2023	ACH	Leapfrog Energy	August 2023 RA	-36,740.00
Liability Check	09/15/2023	16349	HealthEquity Inc	HSA contribution, Paydate 9/1/23	-72.07
Liability Check	09/15/2023	16350	HealthEquity Inc	HSA contribution, Paydate 9/15/23	-72.07
Check	09/15/2023	16351	HealthEquity Inc	HAS contribution, Paydate 8/18/23	-72.07
Check	09/15/2023	16352	NEM Customer	NEM Account Close Out	-3,803.63
Check	09/15/2023	16371	CCE Customer	CCE Equipment Rebate - Res #DS-R-230907-1563	-150.00
Check	09/15/2023	16372	CCE Customer	CCE Equipment Rebate - Res #DS-R-230712-1466	-50.00
Check	09/15/2023	16373	CCE Customer	CCE Equipment Rebate - Res #DS-R-230817-1517	-100.00
Check	09/15/2023	16374	CCE Customer	CCE Equipment Rebate - Res #DS-R-230824-1536	-500.00
Check	09/15/2023	16375	CCE Customer	CCE Equipment Rebate - Res #DS-R-230815-1513	-150.00
Check	09/15/2023	16376	CCE Customer	CCE Equipment Rebate - Res #DS-R-230824-1538	-400.00
Check	09/15/2023	16377	CCE Customer	Heat Pump Rebate #DS-R-230503-1291	-937.50
Check	09/15/2023	16378	CCE Customer	Heat Pump Rebate #DS-R-230711-1465	-975.00
Check	09/15/2023	16379	CCE Customer	Heat Pump Rebate #DS-R-230609-1405	-1,700.00
Bill Pmt -Check	09/15/2023	16380	Aiqueous, LLC	Stage 6 Next 90 & Stage 7 Jan-Dec 2023	-2,212.50
Bill Pmt -Check	09/15/2023	16381	Alber's Tractor and Ag Work	Mowing services for ACV solar site on 9/11	-1,000.00
Bill Pmt -Check	09/15/2023	16382	Ameritas - Dental	#010-055098-00001 Dental - October 2023	-2,350.24
Bill Pmt -Check	09/15/2023	16383	Ameritas - Vision	010-055098-00002 Vision - October 2023	-483.32
Bill Pmt -Check	09/15/2023	16384	AT&T	RCAM Router charges - ACV: 07/19 - 08/18	-163.00
Bill Pmt -Check	09/15/2023	16385	AT&T	RCAM data charges: 08/29 - 09/28/2023	-853.90
Bill Pmt -Check	09/15/2023	16386	AT&T Long Distance	Phone charges 08/25/2023 - 09/24/2023	-113.07
Bill Pmt -Check	09/15/2023	16387	Baker Tilly US, LLP	Accounting services - period ending 8/30/23	-22,575.00
Bill Pmt -Check	09/15/2023	16388	Boudreau, D.	Mileage Reimburement Aug 2023	-20.96
Bill Pmt -Check	09/15/2023	16389	City of Arcata	August 2023 Excessive Energy Use Tax #6315	-1,432.64
Bill Pmt -Check	09/15/2023	16390	City of Arcata	August 2023 Utility User Tax #6310	-16,982.31
Bill Pmt -Check	09/15/2023	16391	City of Eureka-Water	Water service	-302.17
Bill Pmt -Check	09/15/2023	16392	Diamond, Nancy	Legal Services	-7,836.80
Bill Pmt -Check	09/15/2023	16393	Donald Dame	Professional Services Aug 2023	-336.00
Bill Pmt -Check	09/15/2023	16394	Enterprise	R. Engel Car rental 8/16/23-8/18/23 CalCCA Meeting	-85.24
Bill Pmt -Check	09/15/2023	16395	Gwynn, J.	Empl Purchase Reimb-Office furniture	-160.00
Bill Pmt -Check	09/15/2023	16396	HCOE	Business card printing services	-194.25
Bill Pmt -Check	09/15/2023	16397	Hilson, D.	Mileage reimbursement - Aug 2023	-43.16
Bill Pmt -Check	09/15/2023	16398	HireRight	Background Check	-163.82
Bill Pmt -Check	09/15/2023	16399	Humboldt Bay Coffee Co.	Office Coffee-633 3rd St	-51.90
Bill Pmt -Check	09/15/2023	16400	Law Office of David Pepper	July 2023 - RuralREN regulatory and legal support	-2,976.00
Bill Pmt -Check	09/15/2023	16401	Liebert Cassidy Whitmore	Aug 2023 Legal Opinion/Personnel Rule Review	-1,251.00
Bill Pmt -Check	09/15/2023	16402	Local Worm Guy	Compost pickup - Aug 2023 917 & 633 3rd	-60.00
Bill Pmt -Check	09/15/2023	16403	Mission Uniform & Linen	Janitorial services	-27.53
Bill Pmt -Check	09/15/2023	16404	North Coast Cleaning	Cleaning services	-970.00
Bill Pmt -Check	09/15/2023	16405	NYLEX.net, Inc.	Onsite network support services - September 2023	-70.00
Bill Pmt -Check	09/15/2023	16406	Optimum Business-633	633 3rd St: Phone & Internet access - 08/28 - 09/27/2023	-1,101.17
Bill Pmt -Check	09/15/2023	16407	Pierson Building Center	633 3rd St: Pest Control supplies	-20.93
Bill Pmt -Check	09/15/2023	16408	Recology	917 3rd St.: July & Aug 2023 garbage service	-207.68
Bill Pmt -Check	09/15/2023	16409	Recology	633 3rd St: Aug 2023 garbage service	-40.80
Bill Pmt -Check	09/15/2023	16410	Rennie, J	Mileage reimbursement	-69.63
Bill Pmt -Check	09/15/2023	16411	Stitch Witch	Logo gear order - 50% Deposit	-73.32

Redwood Coast Energy Authority

Disbursements Report

As of September 30, 2023

Type	Date	Num	Name	Memo	Amount
Bill Pmt -Check	09/15/2023	16412	Times Printing Company	Rebate Catalog Qty 500	-198.18
Bill Pmt -Check	09/15/2023	16413	Ubeo Business Services	633 3rd St Printer Charges: 08/06-09/05/23	-163.73
Bill Pmt -Check	09/15/2023	16414	Verizon Wireless	Tablet/cell service - 07/29 - 08/28/2023	-1,608.85
Paycheck	09/15/2023	ACH	Employees	Payroll	-86,607.81
Liability Check	09/29/2023	ACH	CICCS	EAP services Invoice 2023-9	-63.24
Liability Check	09/29/2023	ACH	EDD	Taxes, Paydate 9/29/23	-7,627.44
Liability Check	09/29/2023	ACH	Internal Revenue Service	Taxes, Paydate 9/29/23	-34,450.24
Liability Check	09/29/2023	ACH	Newport Group	Deferred compensation, Paydate 9/29/23	-13,696.98
Bill Pmt -Check	09/29/2023	ACH	CalPine Corporation	Calpine August 2023 Costs	-62,379.36
Bill Pmt -Check	09/29/2023	ACH	USDA	Loan Payment Q3-2023	-99,885.88
Liability Check	09/29/2023	ACH	Ascensus	First upload for paydates: 7/7,7/21,8/4,8/18,9/1,9/15 & 9/29	-78,496.62
Liability Check	09/29/2023	16416	HealthEquity Inc	HSA Paydate 09/29/23	-72.07
Check	09/29/2023	16417	NEM Customer	NEM Account Close Out	-386.55
Check	09/29/2023	16418	CCE Customer	Res EVSE rebate #REVSE36	-322.71
Check	09/29/2023	16419	CCE Customer	CCE Equipment Rebate - Res #DS-R-230914-1596	-100.00
Check	09/29/2023	16420	CCE Customer	CCE Equipment Rebate - Res #DS-R-230801-1494	-350.00
Check	09/29/2023	16421	CCE Customer	CCE Equipment Rebate - Res #DS-R-230912-1585	-400.00
Check	09/29/2023	16422	CCE Customer	Heat Pump Rebate #DS-R-230607-1384-Panel Upgrade	-500.00
Check	09/29/2023	16423	CCE Customer	CCE Equipment Rebate - Res #DS-R-230922-1608	-50.00
Check	09/29/2023	16424	CCE Customer	CCE Equipment Rebate - Res #DS-R-230922-1614	-100.00
Check	09/29/2023	16425	CCE Customer	Heat Pump Rebate #DS-R-230303-1110	-1,050.00
Check	09/29/2023	16426	CCE Customer	Heat Pump Rebate #DS-R-230925-1617	-1,200.00
Check	09/29/2023	16427	CCE Customer	Heat Pump Rebate #DS-R-230823-1528	-700.00
Check	09/29/2023	16428	CCE Customer	Heat Pump Rebate #DS-R-230608-1386 Panel Upgrade	-500.00
Check	09/29/2023	16429	CCE Customer	PA Direct Install Non-RES #DI-NR-221123-0730	-433.79
Bill Pmt -Check	09/29/2023	16430	Amazon.com	Monthly billing - August 2023	-5,025.17
Bill Pmt -Check	09/29/2023	16431	Bithell, M.	Mileage reimbursement	-56.95
Bill Pmt -Check	09/29/2023	16432	Carter Properties, LLC	917 3rd Street Office Lease -Oct 2023 rent	-2,300.00
Bill Pmt -Check	09/29/2023	16433	Colonial Life	Colonial Life Premiums Sept 2023	-3,412.35
Bill Pmt -Check	09/29/2023	16434	Humboldt Bay Coffee Co.	Office Coffee-633 3rd St	-34.60
Bill Pmt -Check	09/29/2023	16435	Marshall, M.	Per diem - CalCCA board retreat	-180.00
Bill Pmt -Check	09/29/2023	16436	Mission Uniform & Linen	Janitorial services	-215.86
Bill Pmt -Check	09/29/2023	16437	Nicklas, Alida M	Mileage reimbursement - Sept 2023	-22.01
Bill Pmt -Check	09/29/2023	16438	NYLEX.net, Inc.	Onsite network support services - October 2023	-3,690.00
Bill Pmt -Check	09/29/2023	16439	PG&E CCA	August 2023 CCE Charges	-21,799.68
Bill Pmt -Check	09/29/2023	16440	PG&E EV Account	EV stations 08/15/2023-09/13/2023	-1,181.25
Bill Pmt -Check	09/29/2023	16441	PG&E Office Utility	08/07-09/05/23 utilities for 917 3rd Street	-268.08
Bill Pmt -Check	09/29/2023	16442	PG&E Office Utility	08/15-09/13/23 utilities for 633 3rd Street	-1,101.44
Bill Pmt -Check	09/29/2023	16443	Reider, S	Purchase reimbursement - So. Hum. Workshop pastries	-172.04
Bill Pmt -Check	09/29/2023	16444	Shred Aware	Shredding services - Sept 2023	-66.95
Bill Pmt -Check	09/29/2023	16445	Stitch Witch	2 Logo gear orders - 50% Remaining Balances	-344.42
Bill Pmt -Check	09/29/2023	16446	Times Printing Company	Move-in mailers	-1,361.95
Bill Pmt -Check	09/29/2023	16447	Winzler, John	Office Lease - 633 3rd St October 2023	-7,752.50
Bill Pmt -Check	09/29/2023	16448	Braun Blaising & Wynne	Legal Services - Regulatory -August 2023	-10,442.39
Bill Pmt -Check	09/29/2023	16449	Times Printing Company	Mailers	-865.38
Check	09/29/2023	16450	VISA	September 2023 Statement 08/23/2023 - 09/20/2023	-16,158.85
Paycheck	09/29/2023	ACH	Employees	Payroll	-82,958.95
TOTAL					-1,466,924.77

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REDWOOD COAST Energy Authority

STAFF REPORT Agenda Item # 4.3

AGENDA DATE:	November 16, 2023
TO:	Board of Directors
PREPARED BY:	Lori Biondini, Business Planning and Finance Director
SUBJECT:	Fiscal Year 2023-2024 Q1 Budget Versus Actual Report

SUMMARY

The September 2023 Profit and Loss Budget versus Actual report presented this month reflects RCEA's revenue and expenses for the first quarter (Q1) of the 2023-2024 fiscal year. The income and expense line items are generally expected to total 25% of their respective budgeted amounts at the end of Q1. Net income is at 22%, or very close to the expected number. The largest driver of RCEA's budget is electricity sales which are at 20% of the expected total for the year. This is also a chance for the Board to review and approve any proposed changes to the budget.

Revenue

Direct Donations - \$250

This category is not in the budget and includes any donations made to RCEA.

State Contracts and Grants - \$66,828.63

This category income is at less than 1% of the budgeted amount and includes grant funds from the California Energy Commission (CEC) for alternative transportation activities and Program Administrator funds from the State. However, the largest portion of this budget line item is funding for the RuralREN program which Staff are not expecting to receive until late Q2.

Programs - \$818,931.45

This category typically includes revenues collected through RCEA's electric vehicle charging network, REVNet, as well as application fees for other programs such as the Feed-In Tariff. Last quarter and continuing into this quarter, RCEA received delay damage payments from electricity-generation counterparties that failed to meet agreed-upon project milestones. The damage payments are meant to cover the cost of replacement power.

Non-Government Contracts - \$72,882.95

This category is at 18% of the budgeted amount and includes the revenue for implementing the Local Government Partnership program with PG&E. The budget total for the fiscal year also includes remaining CEC sub-award funds for the Airport Microgrid which were invoiced in Q2.

Electricity Sales - \$20,135,005.69

Revenue from electricity sales is at 20% of the fiscal year budgeted amount. Because this line item is the biggest component of RCEAs budget, load forecasts and anticipated rate changes are tracked daily, and any significant changes that may affect the budget will be communicated to the Board as they come up.

Expenses

Wholesale Power Supply - \$16,396,808.08

RCEA's largest expense is at 21% of the budgeted amount.

Personnel - \$1,051,553.04

This category is at 19% of the budgeted amount.

Facilities and Operations - \$158,327.76

This category is at 9% of the budgeted amount. This year's budget includes expenses associated with the design and preliminary development of RCEAs new office space on property acquired in Q2.

Communications and Outreach - \$25,024.79

This category is at 4% of the budgeted amount and typically includes large CCE customer mailings that only occur twice per year, as well as RuralREN outreach that will occur in the latter half of the fiscal year.

Professional and Program Services - \$574,981.91

This category is at 5% of the budgeted amount. Most category expenses are tracking closer to a quarter of their respective budget however the largest line item, Program Related Services, includes RuralREN administrative and implementation contracts which are in progress and will occur alongside receiving revenue in late Q2 or Q3.

Programs Expenses - \$124,114.54

This category is at 42% of the budgeted amount and includes REVNet site host reimbursements which correspond to RCEAs REVNet revenue and is difficult to accurately forecast.

Incentives and Rebates - \$83,829.84

This category is at 14% of the budgeted amount. RCEA's rebates and incentives budget often presents a best-case scenario, and expenses in this category depend on customer uptake of offerings. Some of RCEA's programs are agile and can pivot to expend dollars where they are most needed.

Non-Operating - \$31,157.28

This category is at 10% of the budgeted amount and includes interest on long-term debt as well as regular bank fees.

RECOMMENDED ACTIONS

Accept Quarterly Budget Report for Fiscal Year 2023-2024 Q1.

ATTACHMENTS

1. September 2023 Profit and Loss Budget versus Actual*
 2. September 2023 Balance Sheet*
- Included in this Board packet as agenda item 4.4.

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Redwood Coast Energy Authority
Profit & Loss Budget vs. Actual
July through September 2023

	<u>Jul - Sep 23</u>	<u>Budget</u>	<u>% of Budget</u>
Ordinary Income/Expense			
Income			
Total 4 GRANTS AND DONATIONS	250.00	0.00	100.0%
5 REVENUE EARNED			
Total 5000 · Revenue - government agencies	66,828.63	10,641,170.00	0.63%
Total 5100 · Revenue - program related	818,931.45	35,000.00	2,339.8%
Total 5400 · Revenue-nongovernment agencies	72,882.95	400,000.00	18.22%
Total 5500 · Revenue - Electricity Sales	20,135,005.69	98,822,720.00	20.38%
Total 5 REVENUE EARNED	21,093,648.72	109,898,890.00	19.19%
Total Income	21,093,898.72	109,898,890.00	19.19%
Gross Profit	21,093,898.72	109,898,890.00	19.19%
Expense			
Total 6 WHOLESALE POWER SUPPLY	16,396,808.08	77,731,548.00	21.09%
Total 7 PERSONNEL EXPENSES	1,051,553.04	5,434,518.00	19.35%
Total 8.1 FACILITIES AND OPERATIONS	158,327.76	1,754,484.00	9.02%
Total 8.2 COMMUNICATIONS AND OUTREACH	25,024.79	622,590.00	4.02%
8.4 PROFESSIONAL & PROGRAM SRVS			
8400 · Regulatory	32,106.52	205,000.00	15.66%
8410 · Contracts - Program Related Ser	17,967.50	8,080,900.00	0.22%
8420 · Accounting	54,278.51	191,000.00	28.42%
8430 · Legal	37,024.70	195,000.00	18.99%
8450 · Wholesale Services - TEA	204,281.07	766,853.00	26.64%
8460 · Procurement Credit - TEA	42,695.53	635,821.00	6.72%
8470 · Data Management - Calpine	186,628.08	887,187.00	21.04%
Total 8.4 PROFESSIONAL & PROGRAM SRVS	574,981.91	10,961,761.00	5.25%
Total 8.5 PROGRAM EXPENSES	124,114.54	290,014.00	42.8%
Total 8.6 INCENTIVES & REBATES	83,829.84	591,500.00	14.17%
Total 9 NON OPERATING COSTS	31,157.28	304,500.00	10.23%
Total Expense	18,445,797.24	97,690,915.00	18.88%
Net Ordinary Income	2,648,101.48	12,207,975.00	21.69%
Net Income	<u>2,648,101.48</u>	<u>12,207,975.00</u>	<u>21.69%</u>

Redwood Coast Energy Authority
Balance Sheet
As of September 30, 2023

	<u>Sep 30, 23</u>
ASSETS	
Current Assets	
Checking/Savings	
1010 · Petty Cash	300.00
1060 · Umpqua Checking Acct 0560	21,850.44
1071 · Umpqua Deposit Cntrol Acct 8215	14,802,648.45
1075 · Umpqua Reserve Account 2300	1,700,000.00
1076 · First Republic Bank - 4999	400,068.04
Total Checking/Savings	16,924,866.93
Total Accounts Receivable	78,486.70
Other Current Assets	
1101 · Allowance for Doubtful Accounts	-5,377,982.30
1103 · Accounts Receivable-Other	18,510,493.55
1120 · Inventory Asset	35,452.21
1205 · Prepaid Insurance	8,370.99
1210 · Retentions Receivable	6,609.18
1499 · Undeposited Funds	26.00
Total Other Current Assets	13,182,969.63
Total Current Assets	30,186,323.26
Total Fixed Assets	9,052,761.14
Other Assets	
1700 · Security Deposits	4,153,623.26
Total Other Assets	4,153,623.26
TOTAL ASSETS	<u>43,392,707.66</u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Total Accounts Payable	4,662,712.68
Total Credit Cards	3,329.61
Other Current Liabilities	
2002 · Deposits Refundable	1,521,045.01
2011 · NEM Escrow Liability	145,802.73
2013 · Unearned Revenue - PA 2020-2023	89,808.97
Total 2100 · Payroll Liabilities	168,474.74
2200 · Accrued Expenses	
2221 · Electrical Energy Surcharge	39,121.33
Total 2200 · Accrued Expenses	39,121.33
Total Other Current Liabilities	1,964,252.78
Total Current Liabilities	6,630,295.07
Long Term Liabilities	
Total 2700 · Long-Term Debt	6,149,403.16
Total Long Term Liabilities	6,149,403.16
Total Liabilities	12,779,698.23
Equity	
2320 · Investment in Capital Assets	153,263.67
3900 · Fund Balance	27,811,644.28
Net Income	2,648,101.48
Total Equity	30,613,009.43
TOTAL LIABILITIES & EQUITY	<u>43,392,707.66</u>



STAFF REPORT

Agenda Item # 4.5

AGENDA DATE:	November 16, 2023
TO:	Board of Directors
PREPARED BY:	Dana Boudreau, Director of Infrastructure Planning Mike Avcollie, Senior Manager
SUBJECT:	Rural Electric Vehicle Charging CEC Grant Equipment Purchase

BACKGROUND

On December 14, 2021, the California Energy Commission (CEC) released a Grant Solicitation entitled "Rural Electric Vehicle (REV) Charging" under the Clean Transportation Program. This grant solicitation was an offer to demonstrate replicable and scalable business and technology models for deployment of public electric vehicle (EV) charging infrastructure capable of maximizing access and EV travel for rural residents.

In September 2022, RCEA received a Notice of Proposed Award, and the contract was fully executed, with Board approval, in March 2023. On September 28, 2023, the Board approved entering into an agreement with Whitchurch Engineering based on their proposal submitted in response to a competitive solicitation for design and engineering services for the project. The goal of this project is to install sixteen (16) dual-port Level 2 electric vehicle charging stations at ten (10) sites at strategic community hub locations around Humboldt County. The project started in April 2023, with a deadline of March 2028. Construction plan sets are expected to be finalized by the end of the year.

SUMMARY

RCEA currently owns and operates 27 charging stations, the oldest of which was installed in 2011. Up until 2019, equipment selection was based on cost effectiveness, availability, perceived quality of hardware, funder specifications, and networking support. Over time, the maintenance record for the network has demonstrated that stations manufactured by ChargePoint have significantly less call-out incidents and significantly less non-operational hours in comparison to the non-ChargePoint stations. It was also determined that a single network provider/user platform would require less staff time to learn and monitor. This led to a decision to update non-ChargePoint stations with ChargePoint equipment in 2019 when State funding became available to do so. Staff continues to propose ChargePoint equipment for additions to RCEA's network.

Staff are requesting approval to purchase ChargePoint equipment hardware from a vendor, based on lowest cost and availability for on-schedule project construction. Staff received pricing quotes from three different vendors that ranged from \$214,497.08 (local vendor, Campton Electric) to \$279,103.72 (directly from ChargePoint, the equipment manufacturer). Staff is requesting the

Board authorize the purchase of ChargePoint equipment from Campton Electric in an amount not to exceed \$235,946 (the quoted price plus a 10% contingency).

Staff will be issuing a public works solicitation in December to secure an installation contractor to be ready for construction in Spring 2024. The solicitation will be drafted with input from general counsel.

ALIGNMENT WITH RCEA'S STRATEGIC PLAN

By expanding our existing EV charging network and enabling future resiliency work at locations across the county, this project contributes to these Strategic Plan goals:

- 2.1.5 *Integrate Distributed Energy Resources.*
- 3.2.2 *Promote Advanced Fuels.*
- 3.2.3 *Support Electric Vehicle Adoption.*
- 3.3.1 *Develop Transportation Electrification Infrastructure.*
- 3.3.4 *Promote Vehicle-to-Grid Connection.*

EQUITY IMPACTS

The grant solicitation required that at least 50% of project budget be spent on low-income or disadvantaged communities or both. RCEA's "North Coast Plug-In Electric Vehicle Charging Network Phase 2" project will support switching from gasoline vehicles to EVs and reduce criteria air pollutants and greenhouse gas (GHG) emissions in California. All project sites are within the AB 1550 Low-income Communities designated area, and an August 2022 California Energy Commission staff report "Localized Health Impacts Report" lists our project sites as meeting one or more Environmental Justice indicators for age, poverty, or unemployment.

FINANCIAL IMPACT

The total project budget is \$875,000 and includes \$700,000 in CEC grant funds and \$175,000 in RCEA matching funds. The estimated purchase cost based on the quotes will be under the amount in the approved grant budget. The not-to-exceed budget for the electric vehicle charging equipment, including warranty and networking plans, is \$332,800.

The new charging stations will be capital assets owned and operated by RCEA and will generate revenue from the sale of electricity to EV drivers to help offset operations and maintenance expenses.

STAFF RECOMMENDATION

Authorize Staff to sign check or authorize ACH payment for the purchase of ChargePoint electric vehicle charging equipment from Campton Electric at a price not to exceed \$235,946 in fulfillment of CEC Rural Electric Vehicle Charging Grant requirements.

ATTACHMENTS

None.



STAFF REPORT Agenda Item # 7.1

AGENDA DATE:	November 16, 2023
TO:	Board of Directors
PREPARED BY:	Jocelyn Gwynn, Senior Power Resources Manager Joseph Sloan, Power Resources Specialist
SUBJECT:	Bioenergy Market Adjusting Tariff

BACKGROUND

At the September 2023 meeting, staff reported that they expected to bring a proposal to the Board for participation in the statewide Bioenergy Market Adjusting Tariff (BioMAT) program that the California Public Utilities Commission (CPUC) is making available to community choice aggregators (CCA). Until now, BioMAT has only been available to the state's investor-owned utilities (IOU). The program allows electricity providers to purchase power at premium rates from small (5 MW or less) bioenergy plants, and then recover their above-market costs from electricity ratepayers. Such plants would be new projects powered by feedstocks such as dairy biogas, food waste digester gas, or residual material from agriculture and sustainable forestry, and would be subject to permitting and air quality regulations applicable to new generation facilities. On October 10, 2023, the CPUC issued a proposed decision¹ in the BioMAT proceeding for implementation of CCA participation, which requires interested CCAs to submit their program documentation to the CPUC within 30 days of the adoption of the proposed decision. The proposed decision could be heard as soon as November 16, 2023.

SUMMARY

Staff are seeking approval to offer a BioMAT program and submit RCEA's program documentation to the CPUC, which would be due before the December Board meeting if the CPUC adopts the proposed decision in November. The proposed decision directs CCAs to develop standard BioMAT program documents based on the structure and content of the IOU BioMAT program documents. Thus, RCEA's program documents will be substantively similar to PG&E's, including the Tariff², standard Power Purchase Agreement (PPA)³, and Program

¹ <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M520/K541/520541653.PDF>

² https://www.pge.com/content/dam/pge/docs/about/doing-business-with-pge/ELEC_SCHS E-BioMAT_June2022.pdf

³ https://www.pge.com/assets/pge/docs/about/doing-business-with-pge/79-1172_BioMATPPA_June2022.pdf

Participation Request Form⁴. The following are key features of the BioMAT program that RCEA's program documents will be consistent with.

Eligibility Criteria:

- Projects must have a nameplate capacity of 5 MW or less, and a maximum contract capacity of 3 MW.
- The commercial operation date for the facility must be on or after June 1, 2013.
- Projects must be located within the service area of the IOU in which the CCA serves its customers and must be interconnected to the transmission or distribution system.
- Projects must have received their initial interconnection study results.

Capacity: A total of 250 MW of capacity is allocated for the BioMAT program across all of California. This is currently distributed between the IOUs, with 111 MW of capacity allocated to PG&E territory. Only 38 MW of PG&E's allocated capacity has been contracted, leaving 73 MW of total uncontracted capacity available.

Technology Categories:

- Category 1: 110 MW sourced from biogas wastewater treatment, municipal organic waste diversion, food processing, and codigestion;
- Category 2: 90 MW sourced from dairy and other agricultural bioenergy; and
- Category 3: 50 MW sourced from byproducts of sustainable forest management.

For a project to qualify for any category, 100% of the fuel used must have Renewable Portfolio Standard (RPS) designation and at least 80% of the fuel must be from that applicable category, with the exception of Category 2 which must be 100% dairy waste⁵. Plant owners are required to submit fuel use attestations at the time of signing a PPA and thereafter on an annual basis.

Pricing: The BioMAT pricing mechanism is a market-adjusting feed-in tariff (FIT) mechanism, similar to that of RCEA's FIT program. There is a different price per MWh for each category, subject to increase or decrease by \$4 to \$12 per MWh in each two-month program period according to the subscription rate within each category on a statewide basis. The current prices by category are shown in the table below.

Category	Current Price
1	\$127.72
2	\$187.72 (Dairy) \$183.72 (Other Ag)
3	\$199.72

Program Administration: the proposed decision directs CCAs to develop BioMAT webpage portals on the existing Accion website platform (see [PG&E's BioMAT portal](#) for example), and to have all BioMAT applicants submit documents to CCAs via that Accion portal. The proposed

⁴https://pgebiomat.accionpower.com/pgebiomat/doccheck.asp?doc_link=pgebiomat/docs/FIT/2015/documents/b.%20Guidance%20Docs/1.%20PPR%20Worksheet/PGandE%20BioMAT%20PPR%20Form%20Worksheet.docx

⁵ See section 4.13 of PG&E BioMAT Tariff, "Fuel Resource Requirements"

decision also directs CCAs and IOUs to contract with an independent third party to manage the BioMAT contract offer process, including project queues, offers, offer acceptance, and contract awards. CCAs are to develop standard templates for reporting forecasted costs, which shall be aligned with the templates used by the incumbent IOU, and to submit these to the Commission for approval.

Cost Recovery: Most BioMAT costs are eligible to be recovered from customers through non-bypassable charges in IOU Public Purpose Program (PPP) surcharges. All customers within the IOU territory, bundled and unbundled, pay these non-bypassable PPP charges. CCAs will be required to submit cost forecasts for the upcoming year and true-up costs for the prior year annually to the CPUC for approval to recover BioMAT revenue requirements. The following are eligible for cost recovery:

- PPA costs above the CPUC's published Market Price Benchmarks for energy, renewable energy certificates, and resource adequacy,
- Accion website platform costs,
- Independent third-party program administrator costs.

ALIGNMENT WITH [RCEA'S STRATEGIC PLAN](#)

The BioMAT program and any resultant contracts would align with the following strategies:

4.1.11.1 Support Biomass Fuels Reduction and Utilization. Develop strategies and technologies for improved biomass utilization in ways that effectively support restoration objectives and fire management priorities.

4.1.11.2 Procure Local Biomass Energy. Contract with local biomass facilities as a means of providing locally generated renewable power and managing wood waste from mills and, when feasible and appropriate, from forest management and restoration activities.

4.1.11.5 Promote Small-Scale Biomass Generation Sites. Monitor feasibility of smaller and/or mobile biomass electric generators fed with wood waste and very small diameter logs (e.g., from thinning for fire safety and timber harvest slash).

4.1.11.6 Plan for a Long-Term Transition Away from Direct Combustion of Forest-Derived Biomass and Toward Lower-Impact Uses of this Material. Investigate and pursue development funding for alternative pathways that could address local forest products industry biowaste management needs, including ... Emerging biomass energy technologies, including but not limited to gasification, torrefaction, and briquetting.

4.1.11.7 Pursue Biogas Development. Support HWMA and others with the evaluation and development of organic waste digesters.

EQUITY IMPACTS

Prospective generation resources contracted under BioMAT could potentially improve local air quality conditions within some of Humboldt's most vulnerable communities by diverting organic wastes and forest fuels into energy production that is cleaner than open decomposition or

combustion. An RCEA BioMAT program also has the potential to create new skilled jobs in Humboldt County power plant facilities and generate revenue for locally-operated projects.

FINANCIAL IMPACT

Deciding to offer a BioMAT program does not obligate any contractual arrangements for purchase of bioenergy. Any eventual BioMAT PPAs would be brought back to the Board for consideration. Other than staff and legal counsel time to prepare, review, submit the documents, and then administer the program, this decision does not have any financial impacts. As previously described, above-market power costs and some program administration costs will be eligible for cost recovery via the PPP non-bypassable charges.

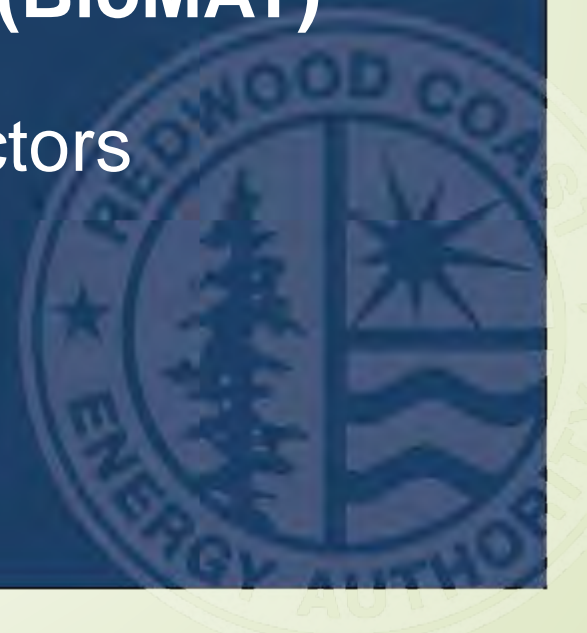
STAFF RECOMMENDATION

Authorize the Executive Director to approve final RCEA BioMAT program documents for submission to the CPUC, consistent with the substantive terms and conditions of PG&E's BioMAT program, with approval by RCEA General Counsel.



Bioenergy Market Adjusting Tariff (BioMAT)

Presentation to RCEA Board of Directors
November 16, 2023



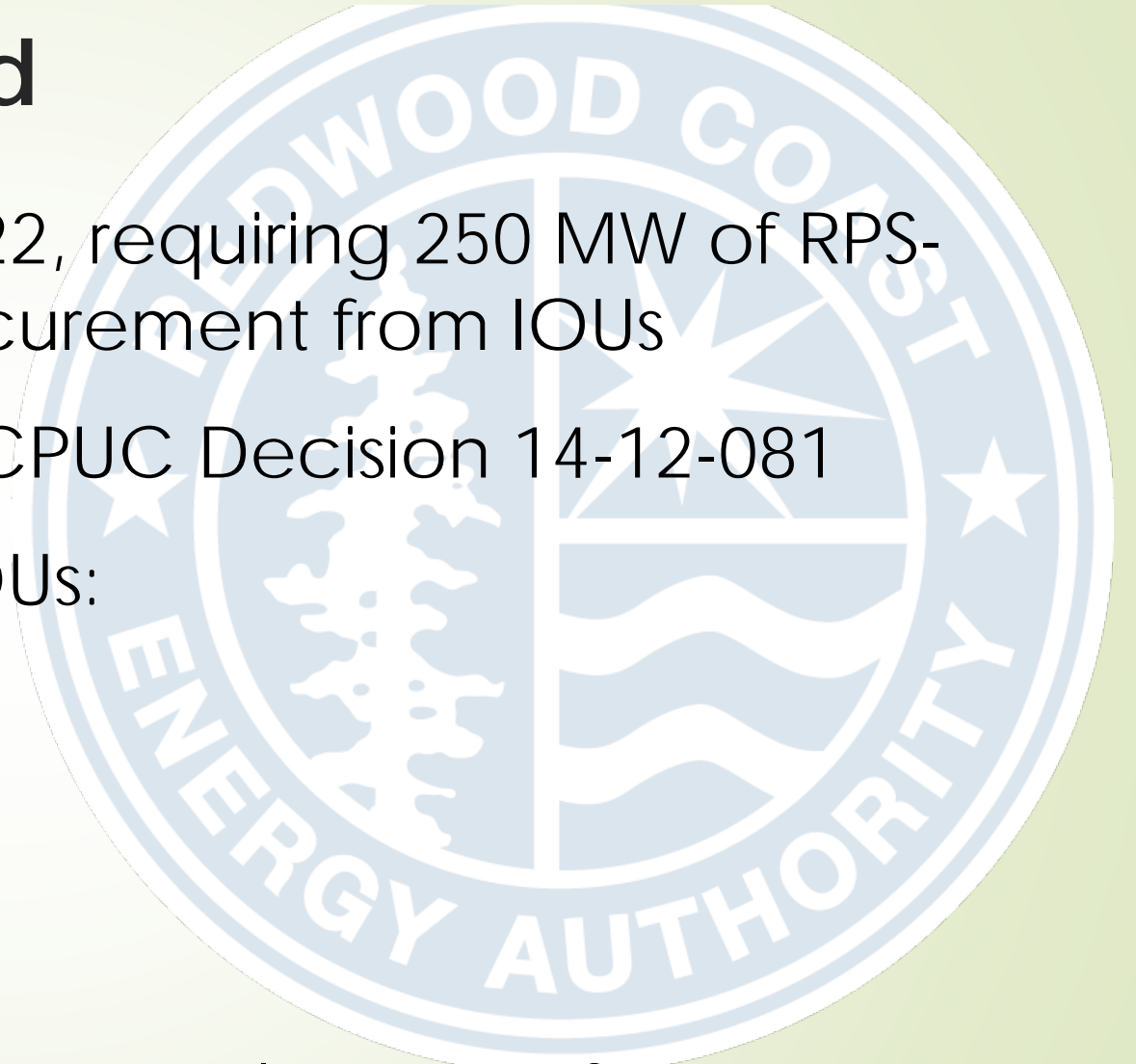
Outline

- BioMAT background
- CCA participation
- Program criteria
- Program pricing
- Financial impacts & cost recovery



BioMAT Background

- 2012 CA Senate Bill 1122, requiring 250 MW of RPS-eligible bioenergy procurement from IOUs
- Mandated in 2014 by CPUC Decision 14-12-081
- 250 MW split among IOUs:
 - 111 MW to PG&E
 - 114.5 MW to SCE
 - 24.5 MW to SDG&E
- Allows recovery of above-market costs from ratepayers



CCA Participation in BioMAT

- Assembly Bill 843 in 2021
- CPUC Proceeding opened in October 2022, Proposed Decision issued Oct 10, 2023
- Potential hearing by Commission Nov 30, 2023, CCA program docs due 30 days after
- CalCCA shepherding the CCA participation process, drafting proforma documents
- RCEA will be able to comment on drafts before they are submitted
- Any changes to the proforma documents after submission will have to be approved by the Commission



Program Criteria – project eligibility

- Commercial operation date – on or after June 1, 2013
- Project size – nameplate capacity ≤ 5 MW, contract capacity ≤ 3 MW
- Location – within IOU service territory
- Interconnection – initial study results received



Program Criteria – technology & capacity

- Category 1: biogas from wastewater treatment, organic waste diversion, food processing, and codigestion
- Category 2: dairy and other agricultural bioenergy
- Category 3: byproducts of sustainable forest management

	Cat 1	Cat 2	Cat 3
Statewide MW	110	90	50
PG&E MW	30.5	33.5	47
Remaining PG&E MW	28	11.3	33.1



Program Pricing

- Market adjusting price mechanism
- PPA prices adjusted every two months, depending on level of uptake statewide
- Prices increase or decrease in increments of \$4, \$8, and \$12 if successive change in same direction, resets to \$4 whenever direction reverses.
- Separate pricing for each category:

Category	Current Price (\$/MW)
1	\$127.72
2	\$187.72 (Dairy) \$183.72 (Other Ag)
3	\$199.72



Financial Impacts & Cost Recovery

- No financial impact beyond staff and legal time reviewing program documents
- Any resulting BioMAT contracts to be brought to the Board individually
- Certain costs eligible for recovery through IOU Public Purpose Program surcharges:
 - Above-market PPA costs
 - Third-party administrator costs
 - Website provider costs



STAFF REPORT

Agenda Item # 8.1

AGENDA DATE:	November 16, 2023
TO:	Board of Directors
PREPARED BY:	Jocelyn Gwynn, Senior Power Resources Manager
SUBJECT:	Sandrini Power Purchase Agreement Second Amendment

BACKGROUND

Over the last several months, the Board has received oral updates from staff and The Energy Authority (TEA) regarding the ongoing delay of the contracted Sandrini Sol 1 project. Sandrini is a 100 MW solar plant being built by EDP Renewables (EDPR) in Kern County that will meet roughly 35-45% of RCEA's annual energy needs once operational. The delay is mainly due to challenges the project has faced in getting its solar panels through Customs and Border Protection (CBP) while the agency worked to implement the relatively new federal trade regulations under the Uyghur Forced Labor Protection Act (UFLPA). After two full freight shipments of panels were denied entry into the country by CBP for not having sufficient documentation to deny the presumption of forced labor given the Chinese region of origin, a third, small shipment of panels that was delivered via air freight was admitted by CBP. The project is now virtually completely built aside from the solar panels and the supplier is working to manufacture the rest of the panels based on the same manufacturing process as the cleared shipment underwent.

SUMMARY

Staff are seeking approval of the second amendment to the Sandrini power purchase agreement (PPA). The most important amendment is extension of the guaranteed commercial operation date (COD) from June 2023 to June 2024. The financial update the Board received in October 2023 from The Energy Authority (TEA) assumes the project will achieve COD in January 2025, so moving it up to June 2024 will greatly improve the financial outlook for next year. If the project is delayed beyond the guaranteed COD, EDPR has agreed to supply and share cost of replacement product that will ensure RCEA's compliance with the Renewable Portfolio Standard, for which the fourth compliance period is closing at the end of 2024. In addition to the replacement product, EDPR would pay liquidated damages as in the current PPA, but their total liability prior to COD is capped at the amount of their development security, which is remaining the same.

Another significant amendment is changing the financial settlement point from the NP-15 trading hub in northern California to the SP-15 trading hub in southern California, which is necessary for EDPR to close financing of the project. While most RCEA's PPAs settle at the individual

project's pricing node, the Sandrini PPA is hub-settled. Pricing at the trading hubs is much more stable than most individual pricing nodes, which is especially important for Sandrini because the southern central valley where it is located is and will continue to be saturated with solar energy, causing volatile and frequently negative pricing at the individual nodes. The SP-15 hub price rarely goes negative and can be easily hedged against RCEA's load settlement point in northern California. While financial settlement at the SP-15 hub is not as advantageous for RCEA as the NP-15 hub, it is much better than a settlement at the project's pricing node. This solution greatly mitigates risk to RCEA while ensuring the project can proceed with financing.

The amendment also includes a "right of first refusal" provision, which will eliminate the risk of EDPR terminating the contract and offering the project to another buyer. There are additional minor changes that will be included in the amendment which can be explained at the Board meeting.

ALIGNMENT WITH [RCEA'S STRATEGIC PLAN](#)

The Sandrini Sol 1 project aligns with the following RCEA Strategic Plan goals:

- 4.1.1 Maximize the Use of Local Renewable Energy to the Extent Technically and Economically Feasible and Prudent.
- 4.1.2 Minimize Greenhouse Gas Emissions Associated with RCEA's CCE Program.
- 4.1.4 Maximize Renewable Energy Content of RCEA's CCE Program.
- 4.1.8.1 Support Utility Scale Solar Energy Development.

EQUITY IMPACTS

Not applicable, this is an amendment to an existing contract for a non-local project.

FINANCIAL IMPACT

The financial impact of Sandrini's delay from June 2023 to Jan 2025 was presented to the Board by TEA at the July 2023 meeting as part of the quarterly risk report. That analysis will be updated with a June 2024 COD in the next quarterly risk report in January 2024, and then built into the FY 2024-2025 budget. The financial impact of this amendment is mainly in the form of suspending RCEA's right to collect any delay damages from EDPR by extending the guaranteed COD. The amendment also mitigates financial harm to RCEA by requiring replacement products to be provided in lieu of the project starting on that date. It is difficult to estimate the impact of the financial settlement change, but it is generally expected that the project will earn less revenue from the SP-15 settlement than it would from NP-15. However, the financial impacts of these changes are significantly less than if RCEA lost the project altogether. The amendment will ensure the project can move forward with construction and financing, thereby benefiting RCEA financially in the long run by bringing the project online as soon as possible.

STAFF RECOMMENDATION

Staff will recommend one of the following actions pending mutual agreement by parties on a finalized proposed agreement amendment by meeting time:

Approve Resolution 2023-10 Approving the Form of and Authorizing the Execution of the Second Amendment to the Sandrini Power Purchase Agreement with EDPR CA Solar Park II LLC

or

Establish an ad hoc subcommittee to review and approve the Second Amendment to the Sandrini Power Purchase Agreement with EDPR CA Solar Park II LLC, including (1) extension of the Guaranteed Commercial Operation Date, (2) revision of the replacement product provisions, (3) revision of the financial settlement structure, and (4) any additional amendment that does not measurably increase risk exposure for RCEA.

ATTACHMENTS

Resolution 2023-10 - A Resolution of the Board of Directors of the Redwood Coast Energy Authority Approving the Form of and Authorizing the Execution of the Second Amendment to the Power Purchase Agreement with EDPR CA Solar Park II LLC.

Exhibit A: Second Amendment to the Sandrini Power Purchase Agreement

NOTE: Exhibit A for this resolution was not available at the time of agenda publication. If it is finalized prior to the meeting, it will be published on <https://redwoodenergy.org/board-of-directors>. by 3:30 p.m. Thursday, November 16, 2023.

RESOLUTION NO. 2023-10

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE REDWOOD COAST ENERGY AUTHORITY
APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION
OF THE SECOND AMENDMENT TO THE POWER PURCHASE AGREEMENT
WITH EDPR CA SOLAR PARK II LLC**

WHEREAS, Redwood Coast Energy Authority (“RCEA”) entered into a Power Purchase Agreement with EDPR CA Solar Park II LLC (“EDPR”) on May 5, 2020, and amended such agreement effective June 24, 2022 (“Agreement”), for the Sandrini Sol 1 Solar Park (“Project”) that will generate value for RCEA’s power portfolio and contribute to RCEA’s compliance with state procurement mandates; and

WHEREAS, the Project has faced delays in achieving commercial operation due to factors beyond RCEA and EDPR’s control; and

WHEREAS, RCEA and EDPR desire to amend the Agreement as set forth in Exhibit A (“Amendment”) to mitigate the impacts of these delays and to ensure the Project can proceed in development.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Redwood Coast Energy Authority as follows:

1. The Second Amendment to the Power Purchase Agreement between RCEA and EDPR is hereby approved.
2. The RCEA Executive Director is authorized to execute the Amendment substantially in the form attached hereto as Exhibit A on behalf of RCEA, and, in consultation with legal counsel, is authorized to approve any needed future amendments to the Agreement so long as the term, volume, and price are not changed and the amendment does not fundamentally change the business terms of the Agreement or measurably increase risk exposure for RCEA.

Adopted this ____ day of _____, 2023.

ATTEST:

Sheri Woo, RCEA Board Chair

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. 2023-10 passed and adopted at a regular meeting of the Redwood Coast Energy Authority, County of Humboldt, State of California, held on the ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Clerk of the Board, Redwood Coast Energy Authority

APPROVAL DRAFT

**Exhibit A: Second Amendment to Power Purchase Agreement between RCEA and
EDPR CA Solar Park II LLC**

SECOND AMENDMENT TO RENEWABLE POWER PURCHASE AGREEMENT

This **SECOND AMENDMENT TO RENEWABLE POWER PURCHASE AGREEMENT** (this "**Amendment**"), is entered into as of _____, 2023 (the "**Effective Date**") by and between Redwood Coast Energy Authority, a California joint powers authority ("**Buyer**" or "**RCEA**") and EDPR CA Solar Park II LLC, a Delaware limited liability company ("**Seller**"), each individually a "**Party**" and collectively, the "**Parties**".

RECITALS

WHEREAS, Buyer and Seller entered into that certain Power Purchase Agreement, dated May 5, 2020, and amended such agreement effective June 24, 2022 (the "**Agreement**");

WHEREAS, the Parties desire to amend the Agreement as set forth herein; and

WHEREAS, the Parties are entering into this Amendment in accordance with Section 10.10 of the Agreement to implement such amendments.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises set forth below, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Amendments to the Agreement.

- a. Section B(i)(a)(1)(C) of the Cover Sheet is hereby deleted in its entirety and replaced with the following:

“(C) The Expected Commercial Operation Date: 06/01/2024”

- b. Section B(i)(a)(1)(D) of the Cover Sheet is hereby deleted in its entirety and replaced with the following:

“(D) The Guaranteed Commercial Operation Date: 06/01/2024”

- c. Article 1 is hereby amended to add the following definitions:

“Optional Replacement Product” has the meaning set forth in Section 3.9(c)(v)(A)(III).

“Optional Replacement Product Contract Price” has the meaning set forth in Section 3.9(c)(v)(A)(III).

“Project Delay Adjustment Payment” has the meaning set forth in Section 3.9(c)(v)(A)(II).

“Replacement Product Contract Price” has the meaning set forth in Section 3.9(c)(v)(A)(I).

- d. Section 3.9(c)(v) is hereby deleted in its entirety and replaced with the following:

(A)(I) Replacement Product. Prior to December 31, 2023, Buyer shall have the right to direct Seller by written Notice to provide [REDACTED] ([REDACTED]) MWh of energy and Renewable Energy Credits ("Replacement Product") that meets the requirements set forth in California Public Utilities Code Section 399.16(b)(1)(A) and is generated no later than December 31, 2024. Seller shall deliver, or cause to be delivered, and Buyer shall receive, or cause to be received the Replacement Product. Seller shall transfer the Renewable Energy Credits corresponding to the Replacement Product to Buyer through WREGIS to Buyer's WREGIS account no later than March 1, 2025. Buyer shall pay Seller the contract price in Seller's contract for Replacement Product provided pursuant to this Section 3.9(c)(v)(A)(I) ("Replacement Product Contract Price"), net of any payments received by Seller from the CAISO for the energy associated with the Replacement Product; provided, however, that if Seller's contract for Replacement Product specifies a separate price for Renewable Energy Credits and energy, Seller shall retain for its account any payments received by Seller for energy, and Buyer shall pay to Seller the price for Renewable Energy Credits specified in Seller's contract for Replacement Product. For avoidance of doubt, if Seller retains payment for energy pursuant to a contract for Replacement Product, Buyer shall have no payment obligation regarding such energy. Prior to entering into an agreement to purchase such Replacement Product, Seller shall obtain Buyer's prior written approval of the pricing terms of such Replacement Product contract, which Buyer may reject in its sole discretion.

Promptly following receipt of Notice of Buyer's election to receive Replacement Product, Seller shall use commercially reasonable efforts to execute an agreement to procure Replacement Product as soon as is commercially reasonable but in no event later than thirty (30) days after Seller's receipt of Buyer's Notice; provided that (i) Buyer and Seller shall agree to extend the deadline for Seller to procure such Replacement Product for a mutually agreed upon number of days if Seller is unable to procure the Replacement Product within the initial thirty (30) day period despite its commercially reasonable efforts to do so, and (ii) the deadline for Seller to execute an agreement to procure Replacement Product and to deliver Replacement Product shall be automatically extended on a day-for-day basis and without limit to the extent Seller's delay in execution is a direct result of Buyer's action or inaction, including Buyer's failure to provide written approval in accordance with this Section 3.9(c)(v)(A)(I). Replacement Product pricing terms shall not exceed indicative market price terms provided by a mutually agreed upon broker or index. If Buyer rejects Seller's proposed Replacement Product contract, then Seller's failure to provide the Replacement Product shall not be an Event of Default, and Seller shall not be in breach of this Agreement or have any liability whatsoever under this Agreement as a result thereof.

(A)(II) Project Delay Adjustment Payment. If Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date, then in addition to the Commercial Operation Delay Damages owed by Seller to Buyer pursuant to Section 3.9(c)(ii)(C), Seller shall make a single Project Delay Adjustment Payment within ten (10) Business Days of the date on which Seller achieves Commercial Operation. Seller may either (i) provide the Project Delay Adjustment Payment in the form of cash or (ii) forfeit an amount equal to the Project Delay Adjustment Payment from the Project Development Security to Buyer. If the Project Delay Adjustment Payment is negative, the amount paid to Buyer by Seller shall be zero (0). Notwithstanding the foregoing, Seller's aggregate liability prior to the Commercial Operation Date, including the Project Delay Adjustment Payment and Commercial Operation Delay Damages, shall be limited to the total amount of the required Project Development Security.

The Project Delay Adjustment Payment shall be calculated pursuant to the following formula:

$$\text{Project Delay Adjustment Payment} = \sum_{\text{Guaranteed Commercial Operation Date}}^{\text{Commercial Operation Date}} X * (Y - Z)$$

Where:

X = The Daily Contract Quantity for the number of days between the Guaranteed Commercial Operation Date and the date on which Commercial Operation is achieved, multiplied by the Daily Contract Quantity for the applicable time period, as specified in the table below.

Y = Replacement Product Contract Price

Z = \$ [REDACTED] /MWh

Period	Daily Contract Quantity (MWh)
January 1 through January 31	[REDACTED]
February 1 through February 28	[REDACTED]
March 1 through March 31	[REDACTED]
April 1 through April 30	[REDACTED]
May 1 through May 31	[REDACTED]
June 1 through June 30	[REDACTED]
July 1 through July 31	[REDACTED]
August 1 through August 31	[REDACTED]
September 1 through September 30	[REDACTED]
October 1 through October 31	[REDACTED]
November 1 through November 31	[REDACTED]
December 1 through December 31	[REDACTED]

An example of this calculation is provided in Exhibit A.

(A)(III) Optional Replacement Product. If Seller (i) does not achieve Commercial Operation by the Guaranteed Commercial Operation Date, or (ii) reasonably expects that Commercial Operation will not be achieved by the Guaranteed Commercial Operation Date, then in addition to the Replacement Product provided by Seller to Buyer pursuant to Section 3.9(c)(v)(A)(I) above, Buyer shall have an optional right prior to September 30, 2024 to direct Seller to procure up to [REDACTED] ([REDACTED]) MWh of energy and Renewable Energy Credits that meet the requirements of California Public Utilities Code Section 399.16(b)(1)(A) and are generated no later than December 31, 2024 ("Optional Replacement Product"); provided that in the case of proviso (ii) of this Section 3.9(c)(v)(A)(III), if Seller reasonably expects that Commercial Operation will not be achieved by the Guaranteed Commercial Operation Date, Seller shall, no later than June 1, 2024, provide an estimated number of days after the Guaranteed Commercial Operation Date that Commercial Operation is expected to be delayed. If Buyer elects to receive Optional Replacement Product, Buyer shall provide written Notice of its election prior to September 30, 2024. Seller shall deliver, or cause to be delivered, and Buyer shall receive, or cause to be received the Optional Replacement Product. Seller shall transfer the Renewable Energy Credits corresponding to the Optional Replacement Product to Buyer through WREGIS to Buyer's WREGIS account no later than March 1, 2025. Buyer shall pay Seller the contract price in Seller's contract for Optional Replacement Product ("Optional Replacement Product Contract Price"), net of any payments

received by Seller from the CAISO for the energy associated with the Optional Replacement Product provided pursuant to this Section 3.9(c)(v)(A)(III); provided, however, that if Seller's contract for Optional Replacement Product specifies a separate price for Renewable Energy Credits and energy, Seller shall retain for its account any payments received by Seller for energy, and Buyer shall pay to Seller the price for Renewable Energy Credits specified in Seller's contract for Optional Replacement Product. For avoidance of doubt, if Seller retains payment for energy pursuant to a contract for Optional Replacement Product, Buyer shall have no payment obligation regarding such energy. Prior to executing an agreement to purchase such Optional Replacement Product, Seller shall obtain Buyer's prior written approval of the pricing terms of such Optional Replacement Product contract, which Buyer may reject in its sole discretion.

Promptly following receipt of Notice of Buyer's election to receive Optional Replacement Product, Seller shall use commercially reasonable efforts to execute an agreement to procure Optional Replacement Product as soon as is commercially reasonable but in no event later than thirty (30) days of Seller's receipt of Buyer's notice electing to receive Optional Replacement Product; provided that (i) Buyer and Seller shall agree to extend the deadline for Seller to procure such Optional Replacement Product for a mutually agreed upon number of days if Seller was unable to procure the Optional Replacement Product within the initial thirty (30) day period despite its commercially reasonable efforts to do so, and (ii) the deadline for Seller to execute an agreement to procure Optional Replacement Product and to deliver Optional Replacement Product shall be automatically extended on a day-for-day basis and without limit to the extent Seller's delay in execution is a direct result of Buyer's action or inaction, including Buyer's failure to provide written approval in accordance with this Section 3.9(c)(v)(A)(III).

For the avoidance of doubt, Seller shall actively seek to procure Optional Replacement Product by submitting firm market price bids for Optional Replacement Product with environmental commodity brokers or other potential suppliers of Optional Replacement Product. If Seller declares to Buyer that Seller cannot execute an agreement to procure Optional Replacement Product despite commercially reasonable efforts prior to the deadline, Seller shall designate Buyer or a designee of Buyer identified by a Notice to Seller to procure Optional Replacement Product on Seller's behalf.

Optional Replacement Product pricing terms shall not exceed indicative market terms provided by a mutually agreed upon broker or index. If Buyer rejects Seller's proposed Optional Replacement Product contract, or if Optional Replacement Product of the type and quantity contemplated by this Agreement cannot be procured using commercially reasonable means, then Seller's failure to provide the Optional Replacement Product shall not be an Event of Default, and Seller shall not be in breach of this Agreement or have any liability whatsoever under this Agreement as a result thereof.

(B) Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to Section 3.9(c)(iv)(D) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and no extension shall be given if (i) the delay was the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, (ii) Seller failed to provide requested documentation as provided below, or (iii) Seller failed to provide written Notice to Buyer as required in the next sentence. Seller shall provide prompt written Notice to Buyer of a delay, but in no case more than thirty (30) days after Seller became aware of such delay, except that in the case of a delay occurring within sixty (60) days of the Expected Commercial Operation Date, or after such date, Seller must provide written Notice within five (5) Business Days of Seller becoming aware of such delay. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions."

- e. Section 4.2 is hereby deleted in its entirety and replaced with the following:

“Monthly Payment. Except as otherwise provided in this Article 4, for each Delivery Month, Buyer shall pay Seller, or cause to be paid to Seller, for Total Energy (exclusive of Surplus Delivered Energy) in an amount equal to the product of the Total Energy and the Contract Price.

In addition to Buyer’s payment of the applicable Contract Price, Buyer or Seller, as applicable, shall make a Monthly Trading Hub Adjustment Payment for each Month during the period when Test Energy is delivered, and throughout the Delivery Term. If the Monthly Trading Hub Adjustment Payment is positive, then such amount shall be payable by Seller to Buyer. If the Monthly Trading Hub Adjustment Payment is negative, then the absolute value of such amount shall be payable by Buyer to Seller. The “Monthly Trading Hub Adjustment Payment” for a Month shall equal the sum of the Hourly Trading Hub Adjustment for each hour in such Month, where the “Hourly Trading Hub Adjustment” for each hour is calculated pursuant to the following formula:

Hourly Trading Hub Adjustment = (A) x (B – C)

Where:

A = Total Energy for the hour being calculated;

B = Day-Ahead SP-15 Price for such hour; and

C = Day-Ahead Pnode Price for such hour.

The Parties acknowledge that the difference between the Day-Ahead SP-15 Price and the Day-Ahead Pnode Price reflects differences in transmission congestion and electrical losses between the Pnode and the SP-15 Trading Hub, and the Parties agree that Buyer or Seller, as applicable, shall pay the Monthly Trading Hub Adjustment Payment notwithstanding any other provision of this Agreement that allocates to Buyer transmission losses or other fees, costs, or expenses arising after the Delivery Point.

For the avoidance of doubt, Excess Energy shall be compensated as set forth in Section 4.4 and shall not be included in the determination of payment set forth above; and “Total Energy” as used in the payment provisions above excludes Surplus Delivered Energy, for which Seller will receive no compensation.”

- f. Section 5.1(b)(iii) and (iv) are hereby added:

“(iii) if Buyer has provided Seller with notice of its election to receive Replacement Production and approved the pricing terms for Replacement Product, the failure by Seller to deliver Replacement Product to Buyer pursuant to Section 3.9(c)(v)(A); or

(iv) if Buyer has provided Seller with notice of its election to receive Optional Replacement Product and approved the pricing terms for Optional Replacement Product, the failure by Seller to deliver Optional Replacement Product to Buyer pursuant to Section 3.9(c)(v)(C).”

- g. Section 5.9 is hereby added:

5.9 Limitation on Seller’s Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date. If the Agreement is terminated by Buyer prior to the Commercial Operation Date due to Seller’s Event of Default, neither Seller nor Seller’s Affiliates may sell,

market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of two (2) years following the Early Termination Date due to Seller's Event of Default, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement (), and Buyer fails to accept such offer within thirty (30) days of Buyer's receipt thereof. Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site (including the interconnection queue position of the Facility) so long as the limitations contained in this Section 5.9 apply, unless the transferee agrees to be bound by the terms set forth in this Section 5.9 pursuant to a written agreement approved by Buyer. Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 5.9.

- h. Section 8.4(a)(ii) is hereby deleted in its entirety and replaced with the following:

- i. Section 10.5(e) is hereby added:

(e) Buyer Financing Assignment. Buyer may assign this Agreement to a financing entity that will pre-pay all of Buyer's payment obligations under this Agreement with Seller's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned; *provided that* Seller reasonably determines that the terms and conditions of such pre-payment arrangements are satisfactory to Seller and its lenders, financing providers, or tax equity financing providers and do not adversely affect Seller or its arrangements with lenders, financing providers, or tax equity financing providers in any material respect.

2. General.

- a. Definitions; Interpretation. All capitalized terms used in this Amendment (including the recitals hereof) and not otherwise defined herein shall have the meanings assigned to them in the Agreement.
- b. Agreement Otherwise Not Affected. Except for the amendments pursuant hereto, the Agreement remains unchanged and in full force and effect and is hereby ratified and confirmed in all respects. The execution and delivery of, or acceptance of, this Amendment and any other documents and instruments in connection herewith by either Party shall not be deemed to create a course of dealing or otherwise create any express or implied duty by it to provide any other or further amendments, consents, or waivers in the future.
- c. Entire Agreement. This Amendment constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes all oral communication or prior writings related thereto.

- d. Binding Effect. This Amendment shall be binding upon, inure to the benefit of and be enforceable by the Parties hereto and their respective successors and assigns.
- e. No Reliance. Each Party hereby acknowledges and confirms that it is executing this Amendment on the basis of its own investigation and for its own reasons without reliance upon any agreement, representation, understanding or communication by or with the other Party or its agents, representatives or attorneys not set forth within the Agreement or this Amendment.
- f. Costs and Expenses. Each Party shall be responsible for any costs and expenses incurred by such Party in connection with the negotiation, preparation, execution and delivery of this Amendment and any other documents to be delivered in connection herewith.
- g. Governing Law. THIS AMENDMENT SHALL BE GOVERNED BY, CONSTRUED, AND ENFORCED UNDER THE LAWS OF THE STATE OF CALIFORNIA WITHOUT GIVING EFFECT TO ITS CONFLICTS OF LAW PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER STATE.
- h. Amendments. This Amendment may not be modified, amended or otherwise altered except by written instrument executed by the Parties' duly authorized representatives.
- i. Interpretation. This Amendment is the result of negotiations between and has been reviewed by counsel to each of the Parties and is the product of all Parties hereto. Accordingly, this Amendment shall not be construed against either Party merely because of such Party's involvement in the preparation hereof.
- j. Counterparts. This Amendment may be executed and delivered in counterparts, all of which taken together shall constitute one and the same instrument.
- k. Electronic Delivery. This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)). Delivery of an executed counterpart in .pdf electronic version shall be binding as if delivered in the original. The words "execution," "signed," "signature," and words of like import in this Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity, or enforceability as a manually executed signature or the use of a paper-based record keeping system, as the case may be, to the extent and as provided for in any applicable law.

[Signature Page Follows]

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

EDPR CA SOLAR PARK II LLC, a Delaware
limited liability company

REDWOOD COAST ENERGY AUTHORITY,
a California joint powers authority

Sign: _____

Sign: _____

Print: _____

Print: _____

Title: _____

Title: _____

Sign: _____

Print: _____

Title: _____

EXHIBIT A

EXAMPLE PROJECT DELAY ADJUSTMENT PAYMENT CALCULATION

$$\text{Project Delay Adjustment Payment} = \sum_{\text{Guaranteed Commercial Operation Date}}^{\text{Commercial Operation Date}} X * (Y - Z)$$

Where:

X = The Daily Contract Quantity for the number of days between the Guaranteed Commercial Operation Date and the date on which Commercial Operation is achieved, multiplied by the Daily Contract Quantity for the applicable time period, as specified in the table below.

Y = Replacement Product Contract Price

Z = \$ [REDACTED] /MWh

This example is intended for illustrative purposes only. Assume the following:

Guaranteed Commercial Operation Date: June 1, 2024

Commercial Operation Date: July 4, 2024

Replacement Product Contract Price: \$25/MWh

Period	Daily Contract Quantity (MWh)
June 1 through June 30	[REDACTED]
July 1 through July 31	[REDACTED]

Sum of Daily Contract Quantity from Guaranteed Commercial Operation Date to Commercial Operation Date = 30 days in June * [REDACTED] MWh + 3 days in July * [REDACTED] MWh = 38,400 MWh

Project Delay Adjustment Payment = 38,400 MWh * (\$25/MWh - \$ [REDACTED] /MWh)

[REDACTED]



Sandrini Power Purchase Agreement Second Amendment

Presentation to RCEA Board of Directors
November 16, 2023



Background

- 100 MW solar project in Kern County
- Will meet 35-45% of RCEA's load
- PPA signed with EDP Renewables May 2020
- Original commercial operation date December 2022
- First PPA amendment extended COD to June 2023 due to permitting delay and DOC anti-circumvention investigation
- 2023 panel detention and eventual rejection by Customs & Border Protection
- CBP cleared small shipment enabling manufacture of panels

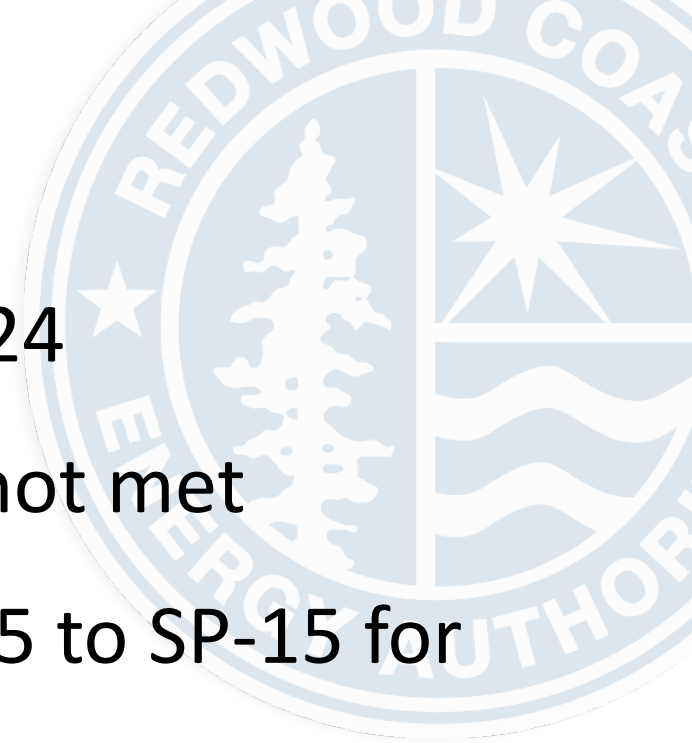


Project Photos



Amendment Summary

- Extension of the guaranteed COD to June 1, 2024
- Requirement of replacement product if GCOD not met
- Change in financial settlement point from NP-15 to SP-15 for project financing
- Right of first offer provision
- PPA prepayment language



Replacement Product Provision

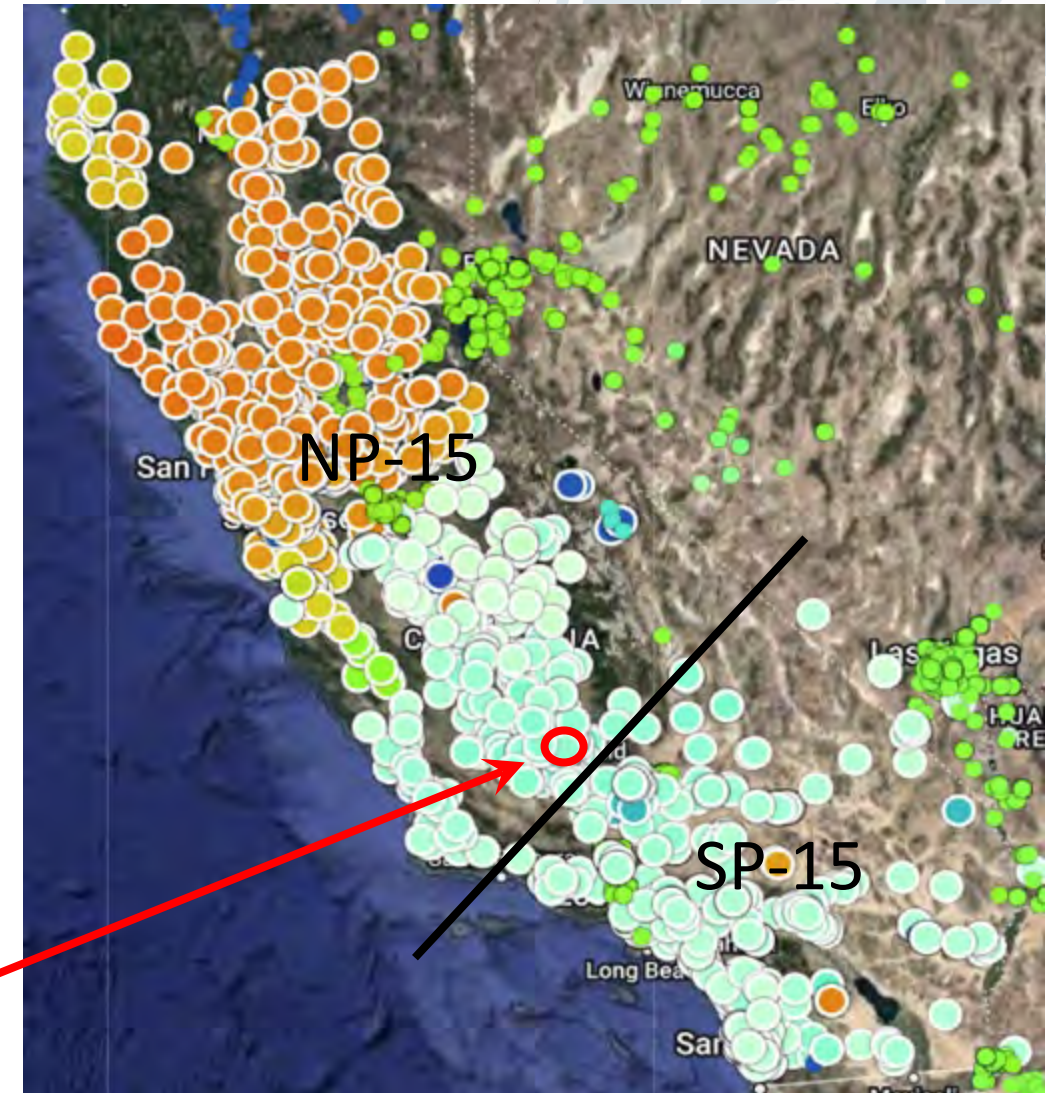
- PCC1 Renewable Energy Certificates and energy supplied by EDPR if project delayed beyond June 1, 2024
- In addition to liquidated damages
- SB 350 compliance for long-term RPS procurement
- Structured based on tight REC market:
 - Initial batch to be procured within a month
 - If needed, EDPR shares cost with RCEA
 - If not needed, RCEA sells or keeps RECs
 - Additional replacement product can be procured later at RCEA's option



Financial Settlement Point

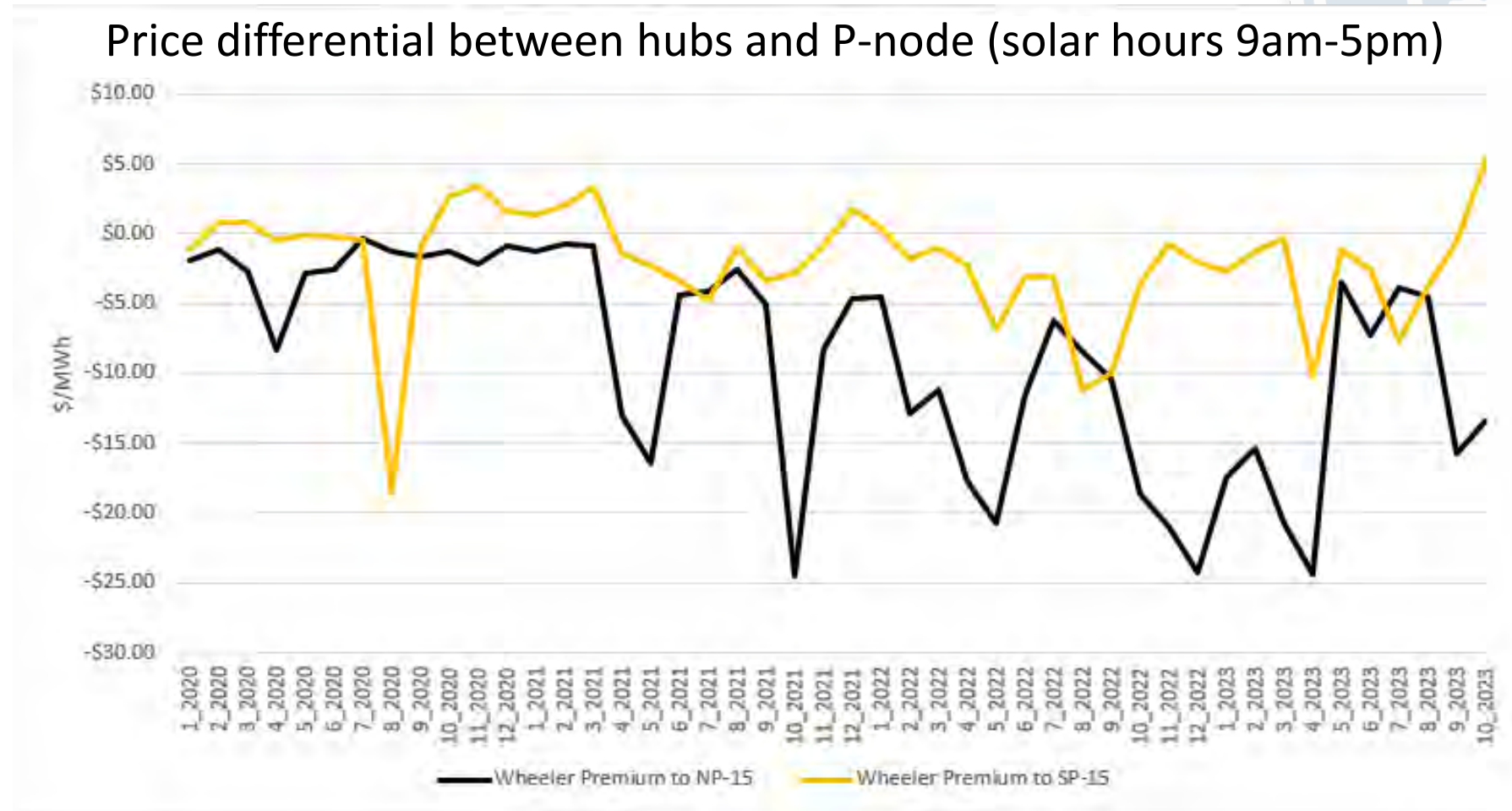
- PPA hub settlement adjustment:
 - If the project earns more revenue in the market than the hub price, RCEA pays EDPR
 - If the project earns less in the market, EDPR pays RCEA
- Price differential between NP-15 hub and project pricing node (P-node) is widening with solar saturation

P-node



Financial Settlement Point

SP-15 not as advantageous as NP-15, but much better than P-node



Other Financial Impacts

- Deferral of RCEA's right to collect damages
- Avoiding RPS compliance penalties by supplying replacement RECs
- Ensuring project can proceed in development



STAFF REPORT

Agenda Item # 8.2

AGENDA DATE:	November 16, 2023
TO:	Board of Directors
PREPARED BY:	Eileen Verbeck, Deputy Executive Director
SUBJECT:	Request for Qualifications for Architectural and Engineering Design Work for New Construction of RCEA Office Building at 805 Third Street

BACKGROUND

Since 2020, RCEA has been working toward acquisition of an office building that would provide enough office space for existing staff, provide an on-site location for public meetings, and a space open to the public for educational and outreach material. In October 2023, RCEA closed escrow on Assessor's Parcel Number 001-131-007, 805 3rd Street, which is a vacant lot situated at the northeast corner of Third and I Streets. The lot is 6,600 square feet and located in the City of Eureka's Office and Multi-Family Residential Zone (OR). The lot is in the City of Eureka's Parking Assessment District, which does not require parking for non-residential uses. Per Eureka Municipal Code Sec. 10-5.201, there are no setbacks in the OR zone district.

SUMMARY

Staff propose to issue a Request for Qualifications (RFQ) to solicit proposals from qualified firms to provide complete architectural design, engineering services, and construction support for new construction of RCEA's office building. The scope of work will include:

- Act as RCEA's professional consultant in all phases of the Project;
- Evaluate existing site conditions and constraints;
- Architectural and engineering services including civil, structural, mechanical, plumbing and electrical;
- Preparation and submittal of permits necessary for the project;
- Completion of a bid package;
- Management of the bid process; and
- Construction Management Services.

Evaluation and Selection: Staff are still drafting the request for qualifications and recommend that the Board of Directors authorize the already formed ad hoc building relocation subcommittee to review the proposed weighted scoring criteria to be used in evaluation of proposals prior to release. Additionally, staff is requesting the Board to authorize this ad hoc subcommittee to approve the selected proposal based on the selection criteria. The successful proposal will be brought back to the full Board for review and approval of the resulting contract.

ALIGNMENT WITH RCEA'S STRATEGIC PLAN

RCEA's strategic goals will be incorporated in the request for qualifications scope of work and evaluation criteria.

EQUITY IMPACTS

As with all RCEA's solicitations, the RFQ will encourage potential respondents who may qualify as a diverse business enterprise under the CPUC's Supplier Diversity Program to sign up for certification through the program clearinghouse.

FINANCIAL IMPACT

The FY 2023-2024 budget included \$500,000 for the acquisition and development of property. The property acquisition total cost was \$286,880.20. RCEA has a remaining budget in FY 2023-2024 of \$213,119 for planning and design.

Staff will come back to the Board with approval of a contract for architectural and engineering design, and at that time will discuss the financial impact of the contract. The proposed work will span multiple fiscal years, and staff will plan accordingly in the development of the FY 2024-2025 budget.

STAFF RECOMMENDATION

1. Authorize staff to issue the request for qualifications for architectural and engineering design work for new construction of RCEA office building at 805 Third Street Eureka, CA.
2. Authorize the ad hoc building relocation subcommittee to act as a review committee and authorize it to take the following actions: (i) approve evaluation criteria, (ii) approve selected proposal based on the selection criteria to bring to the full Board for review and approval of resulting contract.

RCEA Board of Directors Meeting
November 16, 2023

**8.2 Request for Qualifications for
Architectural and Engineering Design
Work for New Construction of RCEA
Office Building at 805 Third Street,
Eureka, CA.**

RCEA Board of Directors Meeting

November 16, 2023



RCEA Board of Directors Meeting

November 16, 2023

Scope of Work to Include:

- Act as RCEA's professional consultant in all phases of the Project;
- Evaluate existing site conditions and constraints;
- Architectural and engineering services including civil, structural, mechanical, plumbing and electrical;
- Preparation and submittal of permits necessary for the project;
- Completion of a bid package;
- Management of the bid process; and
- Construction Management Services.

8.2 RFQ for Architectural and Engineering Design

STAFF RECOMMENDATION

1. Authorize staff to issue the request for qualifications for architectural and engineering design work for new construction of RCEA office building at 805 Third Street Eureka, CA.
2. Authorize the ad hoc building relocation subcommittee to act as a review committee and authorize it to take the following actions: (i) approve evaluation criteria, (ii) approve selected proposal based on the selection criteria to bring to the full Board for review and approval of resulting contract.



STAFF REPORT Agenda Item # 9.1

AGENDA DATE:	November 16, 2023
TO:	Board of Directors
PREPARED BY:	Jocelyn Gwynn, Senior Power Resources Manager
SUBJECT:	RCEA-SCPA Resource Adequacy Agreement

BACKGROUND

The California Public Utilities Commission (CPUC) has issued two Decisions 21-06-035 and 23-02-040 to address the mid-term reliability needs of the state's grid in 2023-2028. These decisions require CPUC-jurisdictional load-serving entities (LSE), including RCEA, to develop and procure new zero-emissions generation and storage capacity to replace retiring nuclear and gas plants. The new resources must be contracted for ten or more years and be able to deliver resource adequacy (RA)¹, such that LSEs can claim the resources for general compliance with the RA program over the life of the contracts.

RCEA has met its full 2023 procurement obligation and part of its 2024 obligation through a contract with Valley Clean Energy that was approved by the Board in January 2023. Staff were expecting to meet the remainder of RCEA's 2024 obligation with the local Fairhaven Energy Storage project but have been notified by the developer that they expect the project's online date to be delayed past the June 2024 compliance deadline. Staff are now expecting to count Fairhaven's capacity toward its 2025-2027 Mid-Term Reliability procurement obligations.

SUMMARY

Given the challenges in procuring compliant capacity for near term years, staff have been seeking procurement bilaterally from other CCAs' projects. Earlier this summer, Sonoma Clean Power Authority (SCPA) staff offered to resell some of their contracted 2024 capacity to RCEA in an effort to ensure as many CCAs as possible are compliant with the CPUC's Mid-Term Reliability mandates.

Staff are seeking Board approval to procure 18 MW of capacity from SCPA's Sagebrush II project, which is a lithium-ion battery energy storage system that is being developed by Terra-Gen in Kern County. The project is expected to reach commercial operation in June 2024 and RCEA would

¹ Resource Adequacy is the state's reliability program that requires LSEs to procure qualifying capacity from power plants equivalent to 116% of their peak demand, thereby making those resources available to the grid operator when there isn't enough supply to meet forecasted demand.

begin taking delivery in August 2024. RCEA would purchase and receive capacity attributes for ten years under this contract and would not have rights to operate the battery system or receive any other energy services from it.

ALIGNMENT WITH [RCEA'S STRATEGIC PLAN](#)

Not applicable, this contract is for compliance purposes.

EQUITY IMPACTS

Not applicable, this contract is for compliance purposes.

FINANCIAL IMPACT

Other than staff and legal costs to negotiate and manage the agreement, RCEA's budget always includes estimated annual RA procurement costs because it is required to purchase for state regulatory compliance and ensuring reliability. The contract price of this agreement is higher than previously executed long-term RA-only contracts, but is aligned with current forecasts of RA prices, which have been increasing dramatically in recent years, in part due to the high demand the CPUC MTR mandates have created.

STAFF RECOMMENDATION

Approve Resolution 2023-11 Approving the Form of and Authorizing the Execution of the Resource Adequacy Agreement with Sonoma Clean Power Authority.

ATTACHMENTS

Resolution No. 2023-11

Exhibit A: SCPA-RCEA Mid-Term Reliability Resource Adequacy Agreement

RESOLUTION NO. 2023-11

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE REDWOOD COAST ENERGY AUTHORITY
APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION
OF THE RESOURCE ADEQUACY AGREEMENT
WITH SONOMA CLEAN POWER AUTHORITY**

WHEREAS, Redwood Coast Energy Authority (“RCEA”) is subject to procurement mandates from the California Public Utilities Commission, including through Mid-Term Reliability Decision 21-06-035 (“MTR Decision”); and

WHEREAS, RCEA has an urgent, outstanding need to procure Resource Adequacy (“RA”) from new power resources under the MTR Decision with which the Resource Adequacy Agreement (“Agreement”) with Sonoma Clean Power Authority (“SCPA”) will ensure compliance; and

WHEREAS, under the SCPA-RCEA MTR RA Agreement, SCPA will provide RCEA with MTR-compliant RA from a new battery storage project for the 10-year term.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Redwood Coast Energy Authority as follows:

1. The SCPA-RCEA MTR RA Agreement between RCEA and SCPA is hereby approved.
2. The RCEA Executive Director is authorized to execute the Agreement substantially in the form attached hereto as Exhibit A on behalf of RCEA, and, in consultation with legal counsel, is authorized to approve any needed future amendments to the Agreement so long as the term, volume, and price are not changed and the amendment does not fundamentally change the business terms of the Agreement or measurably increase risk exposure for RCEA.

Adopted this ____ day of _____, 2023.

ATTEST:

Sheri Woo, RCEA Board Chair

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. 2023-11 passed and adopted at a regular meeting of the Redwood Coast Energy Authority, County of Humboldt, State of California, held on the ____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Clerk of the Board, Redwood Coast Energy Authority

APPROVAL DRAFT

Exhibit A: SCPA-RCEA Mid-Term Reliability Resource Adequacy Agreement

RESOURCE ADEQUACY AGREEMENT

COVER SHEET

Seller: Sonoma Clean Power Authority, a California joint powers authority.

Buyer: Redwood Coast Energy Authority, a California joint powers authority.

Unit Information

Project Name:	Sagebrush BESS
Resource Type:	Lithium Ion battery
Location:	Mojave, Kern County
CAISO Resource ID:	Not available until post CAISO COD
Unit SCID:	Not available until post CAISO COD
Unit NQC:	Not available until post CAISO COD
Unit EFC:	Not available until post CAISO COD
Maximum Cumulative Capacity Category (1, 2, 3 or 4):	Not available until post CAISO COD
FCR Category (1, 2 or 3):	Not available until post CAISO COD
Path 26 (North or South):	South
Local Capacity Area (if any, as of Effective Date):	N/A
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment:	N/A

RA Product and Attributes: During the Delivery Term, Seller shall provide Buyer with the Contract Quantity of RAR Attributes and, if applicable, LAR Attributes and FCR Attributes, from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

- ☒ RAR Attributes
- ☐ LAR Attributes
- ☒ FCR Attributes

Milestones

Milestone	Expected Date for Completion
Evidence of Site Control	Completed
Phase I and Phase II Interconnection	Completed

NOTICES

Seller SONOMA CLEAN POWER AUTHORITY	Buyer REDWOOD COAST ENERGY AUTHORITY
All Notices: Street: 431 East Street City: Santa Rosa, CA 95404 Attn: Deb Emerson [REDACTED]	All Notices: Redwood Coast Energy Authority Attn: Richard Engel 633 3 rd St Eureka, CA 95501 Phone: 707-382-6440 Facsimile: 707-269-1777 [REDACTED]
Reference Numbers: [REDACTED]	Reference Numbers: [REDACTED]
Invoices: Attn: Stephanie Reynolds [REDACTED]	Invoices: Attn: Accounting Phone: 707-269-1700, ext. [REDACTED] Facsimile: 707-269-1777 [REDACTED]
Payments: Attn: Stephanie Reynolds [REDACTED]	Payments: Attn: Accounting Phone: 707-269-1700, ext. [REDACTED] Facsimile: 707-269-1777 [REDACTED]
ACH Wire Transfer: [REDACTED]	ACH Wire Transfer: [REDACTED]
Scheduling: Attn: Tony Zimmer, NCPA [REDACTED]	Scheduling: Attn: The Energy Authority designated as Buyer's SC [REDACTED]
Credit and Collections: Attn: Deb Emerson [REDACTED]	Credit and Collections: Attn: Lori Biondini Director of Business Planning and Finance [REDACTED]

Seller SONOMA CLEAN POWER AUTHORITY	Buyer REDWOOD COAST ENERGY AUTHORITY
Notice of an Event of Default to: Attn: Deb Emerson [REDACTED]	Notice of an Event of Default to: Attn: Lori Biondini Director of Business Planning and Finance [REDACTED]
With additional Notices of an Event of Default to: Attn: Deb Emerson [REDACTED]	With additional Notices of an Event of Default to: RCEA General Counsel Nancy Diamond, Law Offices of Nancy Diamond 822 G Street, Suite 3 Arcata, CA 95521 [REDACTED]

APPROVAL DRAFT

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RESOURCE ADEQUACY AGREEMENT

PREAMBLE

This Resource Adequacy Agreement (“**Agreement**”) is entered into as of _____, 2023 (the “**Effective Date**”), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a “**Party**” and jointly as the “**Parties**.” All capitalized terms used in this Agreement are used with the meanings ascribed to them in Article 1 to this Agreement.

RECITALS

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

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

ARTICLE 1: DEFINITIONS

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

“**Agreement**” has the meaning set forth in the Preamble.

“**Alternate Capacity**” means any replacement Product which Seller has elected to provide to Buyer from Replacement Units in accordance with the terms of Section 3.5.

“**Applicable Laws**” means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Agreement, including without limitation, the Tariff.

“**Availability Incentive Payments**” shall mean Availability Incentive Payments as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.

“**Availability Standards**” shall mean Availability Standards as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.

“**Bankrupt**” means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it and such petition filed or commenced against it is not stayed or dismissed within ninety (90) days thereafter, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

“Bridge Capacity” means System RAR capacity attributes.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California.

“Buyer” has the meaning specified in the introductory paragraph hereof.

“Buyer Joint Powers Agreement” means that certain Amended and Restated Joint Powers Agreement dated as of December 15, 2015, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act, Government Code §§ 6500.

[REDACTED]

[REDACTED]

“CAISO” means the California Independent System Operator or its successor.

“CAISO Control Area” has the meaning set forth in the Tariff.

“CAISO Controlled Grid” has the meaning set forth in the Tariff.

“Capacity Attributes” means any and all of the following attributes: RAR Attributes, LAR Attributes, FCR Attributes.

“Capacity Replacement Price” means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 3.6 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Contract Quantity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner.

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

“Commercial Operation” means the Project has achieved Mechanical Completion, completed commissioning, and has been released by the Developer to Seller for commercial operations, thereby enabling Seller to deliver the Product to Buyer pursuant to the terms of this Agreement.

“Commercial Operation Date” has the meaning set forth in Section 19.2(a).

“Compliance Showing” means the applicable LSE’s compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

“Construction Start Date” means the date on which the EPC Contractor commences construction.

“Contract Price” has the meaning set forth on the Cover Sheet.

“Contract Quantity” means, the quantities specified on the Cover Sheet.

“Contract Year” means a period of twelve (12) consecutive months; the first Contract Year shall commence on the Initial Delivery Date; and each subsequent Contract Year shall commence on the anniversary of the Initial Delivery Date. The final Contract Year may be a period of less than twelve (12) consecutive months.

“Contracted Amount” means the Capacity Attributes Seller procured pursuant to the Seller Supply Agreement.

“COVID-19” means the epidemic disease designated COVID-19 and the related virus designated SARS-CoV-2 and any mutations thereof, and the efforts of a Governmental Authority to combat or mitigate such disease.

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

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

“CPUC Filing Guide” means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE’s to demonstrate compliance with the CPUC’s resource adequacy program.

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

“Defaulting Party” has the meaning set forth in Section 11.1.

“Delivery Point” has the meaning specified in Section 3.3.

“Delivery Term” has the meaning set forth in Section 2.1(b).

“Developer” means the project company that owns and operates the Unit subject to the Seller Supply Agreement.

“Early Termination Date” has the meaning set forth in Section 11.2.

“Effective Date” is the date set forth in the Preamble.

“Effective Flexible Capacity” means the flexible capacity of a resource that can be counted towards an LSE’s FCR obligation, as identified from time to time by the Tariff, the CPUC Decisions, LRA, or other Governmental Body having jurisdiction.

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

“EPC Contractor” means the Developer’s engineering, procurement and construction contractor or such Person performing those functions.

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

“Expected Initial Delivery Date” is the date set forth on the Cover Sheet.

“Event of Default” has the meaning set forth in Section 11.1.

“FCR Attributes” means, with respect to a Unit, any and all flexible resource adequacy attributes that can be counted toward an LSE’s FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA, or other Governmental Body having jurisdiction, exclusive of any LAR Attributes and any RAR Attributes.

“FCR Showings” means the FCR Compliance Showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.

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

“Flexible Capacity Requirements” or **“FCR”** means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

“Force Majeure” has the meaning set forth in Section 10.1.

“GADS” means the Generating Availability Data System or its successor.

“Governmental Approvals” means all authorizations, consents, approvals, waivers, exceptions, variances, filings, permits, orders, licenses, exemptions, notices to and declarations of or with any Governmental Body and shall include those siting and operating permits and licenses, and any of the foregoing under any applicable environmental law, that are required for the use and operation of the Project.

“Governmental Authority” means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO; provided that that “Governmental Authority” shall not in any event include any Party.

“Governmental Body” means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police,

regulatory or taxing authority or power; and (iii) any court or governmental tribunal; provided that “Governmental Body” shall not in any event include any Party.

“Governmental Charges” has the meaning set forth in Section 20.2.

“Initial Delivery Date” is the first day of the first Showing Month for which Product is delivered.

“Interconnection Agreement” means the interconnection agreement entered into by Seller pursuant to which the Project and Seller’s Interconnection Facilities will be interconnected with the Transmission System during the Delivery Term.

“Interconnection Facilities” means the interconnection facilities, control and protective devices and metering facilities required to connect the Project with the Transmission System in accordance with the Interconnection Agreement.

“Interest Rate” means, for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%) and (b) the maximum rate permitted by Applicable Law.

“Joint Powers Agreement” means, as applicable, the Buyer Joint Powers Agreement or the Seller Joint Powers Agreement.

“LAR” means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA having jurisdiction over the LSE, as implemented in the Tariff. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement (“LCR”) in other regulatory proceedings or legislative actions.

“LAR Attributes” means, with respect to a Unit, any and all resource adequacy attributes (or other locational attributes related to system reliability), as they are identified from time to time by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in payments made pursuant to this Agreement.

“LAR Showings” means the LAR Compliance Showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.

“Letter of Credit” means one or more irrevocable, standby letters of credit issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least BBB+ with an outlook designation of “stable” from S&P or Baa1 with an outlook designation of “stable” from Moody’s, in a form to be agreed upon by the Parties.

“LRA” has the meaning set forth in the Tariff.

“LSE” means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).

“Mechanical Completion” means that (a) all components and systems of the Project have been properly constructed, installed and functionally tested according to EPC Contract requirements in a safe and prudent manner that does not void any equipment or system warranties or violate any permits, approvals or Applicable Laws; (b) the Project is ready for testing and commissioning, as applicable; (c) Seller has provided written acceptance to the EPC Contractor of mechanical completion as that term is specifically defined in the EPC Contract.

“Milestones” means the events specified on the Cover Sheet.

“Monthly Delivery Period” means each calendar month during the Delivery Term and shall correspond to each Showing Month.

“Monthly RA Capacity Payment” has the meaning specified in Section 3.8 hereof.

“NERC” means the North American Electric Reliability Corporation, or its successor.

“NERC Business Day” means any day except a Saturday, Sunday or a holiday as defined by the North American Electric Reliability Council or any successor organization thereto. A NERC Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party’s principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

“NERC/GADS Protocols” means the GADS protocols established by NERC, as may be updated from time to time.

“Net Qualifying Capacity” has the meaning set forth in the Tariff.

“Non-Availability Charges” has the meaning set forth in the Tariff.

“Non-Defaulting Party” has the meaning set forth in Section 11.2.

“Notification Deadline” is ten (10) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

“Outage” means any CAISO approved disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (as defined below).

“Participating Transmission Owner” means an entity that (a) owns, operates and maintains transmission lines and associated facilities and/or has entitlements to use certain transmission lines and associated facilities and (b) has transferred to the CAISO operational control of such facilities and/or entitlements to be made part of the CAISO grid. The Participating Transmission Owner for purposes of this Agreement is Pacific Gas and Electric Company (“PG&E”).

“Penalty Multiplier” means any multiplier of a penalty that is assessed by the CPUC or CAISO against Buyer due to the prior violations and/or compliance history of Buyer, and which is not solely the result of the occurrence of a failure identified in Section 3.7 (a), (b), or (c).

“Person” means an individual, partnership, joint venture, corporation, limited liability company, trust, association or unincorporated organization, or any Governmental Body or Governmental Authority.

“Planned Outage” means, subject to and as further described in the Tariff, a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

“Product” means the RAR Attributes and, if specified on the Cover Sheet, LAR Attributes and FCR Attributes, for the Delivery Term, Unit, Contract Quantity, Contract Price and other specifications contained on the Cover Sheet.

“Project” means the Unit described on the Cover Sheet and in Exhibit A.

“RA Capacity” means the qualifying and deliverable capacity of the Unit for RAR, LAR, and FCR purposes, as applicable, for the Delivery Term, as determined by the CAISO, or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the applicable RAR Attributes, LAR Attributes and FCR Attributes of the capacity provided by a Unit.

“RAR” means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.

“RAR Attributes” means, with respect to a Unit, any and all resource adequacy attributes, as they are identified from time to time by the Tariff, CPUC Decisions, LRA, or any Governmental Body having jurisdiction that can be counted toward RAR, exclusive of any LAR Attributes and FCR Attributes.

“RAR Showings” means the RAR Compliance Showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Tariff or CPUC Decisions, or to an LRA having jurisdiction.

“Replacement Capacity” has the meaning specified in Section 3.6 hereof.

“Replacement Unit” means a generating unit or energy storage unit meeting the requirements specified in Section 3.5 hereof. A Replacement Unit may not include a coal-fired or nuclear generating resource.

“Representative” has the meaning set forth in Section 18.1(b).

“Resold Product” has the meaning set forth in Section 5.1.

“Resource Category” shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

“Sales Price” means the price at which Seller, acting in a commercially reasonable manner, resells at the Delivery Point any Product not received by Buyer, deducting from such proceeds any (i) costs reasonably incurred by Seller in reselling such Product and (ii) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or at Seller’s option, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, however, (a) in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer’s liability, and (b) if Seller is unable to resell the Product not received by Buyer, then the Sales Price shall be deemed to be zero dollars (\$0). For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

“Schedule” or **“Scheduling”** means the actions of Seller, Buyer and/or their designated representatives, including each Party’s Transmission Providers, if applicable, of notifying, requesting and confirming to each other the quantity and type of Product to be delivered on any given day or days during the Delivery Term at a specified Delivery Point.

“Scheduling Coordinator” has the same meaning as in the Tariff.

[REDACTED]

“Seller” has the meaning specified in the introductory paragraph hereof.

“Seller Joint Powers Agreement” means that certain Joint Powers Agreement dated as of July 25th, 2013, as amended from time to time, under which Seller is organized as a Joint Powers Authority in accordance with the Joint Powers Act, Government Code §§ 6500 et seq.

“Seller Supply Agreement” means the agreement between Seller and the project company that owns and operates the Unit identified in Exhibit A under which Seller purchased product being sold pursuant to this Agreement.

“Showing Month” shall be the calendar month during the Delivery Term that is the subject of the RAR Showing, LAR Showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions or Tariff. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.

“Site” means the real property on which the Project is located as identified in Appendix D.

“Supply Plan” means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count, as applicable, for RAR Attributes, LAR Attributes, and/or FCR Attributes.

“Tariff” means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time.

“Tax” or **“Taxes”** means all U.S. federal, state, local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a

Governmental Authority, whether currently in effect or adopted during the Delivery Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

“Terminated Transaction” has the meaning set forth in Section 11.2.

“Transmission Provider” means the CAISO. “Transmission System” means the transmission facilities operated by the CAISO, which provide energy transmission service within the CAISO grid from the Delivery Point.

“Unit” or **“Units”** shall mean the generation and/or storage assets described in the Cover Sheet and Exhibit A hereof and any Replacement Units, from which Product is provided by Seller to Buyer. A Unit or Replacement Unit may not include a coal-fired or nuclear generating resource.

“Unit EFC” means the Effective Flexible Capacity set by the CAISO for the applicable Unit.

“Unit NOC” means the Net Qualifying Capacity set by the CAISO for the applicable Unit.

“Utility Distribution Company” has the meaning set forth in the Tariff. The Utility Distribution Company for purposes of this Agreement is PG&E.

ARTICLE 2: DELIVERY TERM AND CONDITIONS PRECEDENT

2.1. Delivery Term.

(a) The term of this Agreement shall commence upon the Effective Date and shall continue until the expiration of the Delivery Term, provided that this Agreement shall thereafter remain in effect until the Parties have fulfilled all obligations arising under this Agreement, including any compensation for the Product, indemnification payments or other damages, are paid in full (whether directly or indirectly, such as through set-off or netting). All provisions relating to invoicing, payment, delivery, settlement of other liabilities incurred pursuant to this Agreement and dispute resolution survive for the period necessary to effectuate the rights of the Party benefited by such provision except as otherwise specified herein. Notwithstanding anything to the contrary in this Agreement, (i) all rights under Sections 16.1 (Indemnities) and any other indemnity rights survive the end of the Delivery Term for an additional twelve (12) months; (ii) all rights and obligations under Article 18 (Confidentiality) survive the end of the Delivery Term for an additional two (2) years; and (iii) all provisions relating to limitations of liability survive without limit.

(b) The **“Delivery Term”** is the period commencing on the Initial Delivery Date and continuing for the period specified on the Cover Sheet unless earlier terminated in accordance with the terms and conditions of this Agreement.

2.2. Conditions Precedent to Initial Delivery Date.

Seller shall take all actions and obtain all approvals necessary to meet its obligations of this Agreement and to deliver the Product to Buyer pursuant to the terms of this Agreement. The following obligations of Seller are conditions precedent to the Initial Delivery Date (collectively the "Conditions Precedent") and must be satisfied at least forty-five (45) days before the Initial Delivery Date,

(a) Seller shall provide to Buyer a copy of the Commercial Operation certificate for the Unit.

(b) Seller shall provide written notice to Buyer that it has received confirmation from the Project Developer that all CAISO and Governmental Approvals have been secured by the Developer as are necessary for the safe and lawful operation and maintenance of the Project and to enable Seller to deliver the Product to Buyer at the Contract Quantity.

(c) Seller shall have (i) submitted, or caused the Unit's SC to submit, a Notice to Buyer including Seller's proposed Supply Plan for the first Showing Month and (ii) submitted, or caused the Unit's SC to submit, a Supply Plan to CAISO.

ARTICLE 3: TRANSACTION, DELIVERY AND PAYMENT

3.1. Resource Adequacy Capacity Product.

(a) **Sale and Delivery of Product.** For each Showing Month of the Delivery Term, Seller will sell and deliver to Buyer, and Buyer will purchase and receive from Seller, the Contract Quantity of the Product from the Unit, less any reductions to Contract Quantity pursuant to Section 3.4; *provided*, notwithstanding anything to the contrary herein:

(i) the Product does not confer to Buyer any right to the electrical output from the Unit, other than the right to include the Contract Quantity in RAR Showings, LAR Showings, and/or FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Agreement;

(ii) any change by the CAISO, CPUC or other Governmental Body that defines new or re-defines existing local capacity areas that results in a decrease or increase in the amount of LAR Attributes or RAR Attributes related to a local capacity area provided hereunder will not result in a change in payments made pursuant to this Agreement;

(iii) any change by the CAISO, CPUC or other Governmental Body that defines new or re-defines existing RAR or Flexible Capacity Requirements, LAR Attributes or RAR Attributes, or attributes of the Unit, that results in a decrease or increase in the amount of LAR Attributes or RAR Attributes provided hereunder will not result in a change in payments made pursuant to this Agreement;

(iv) the Parties agree that, under this Agreement, if the CAISO, CPUC or other Governmental Body defines new or re-defines existing local capacity areas whereby the Unit subsequently qualifies for a local capacity area, the Product, to the extent specified in the Cover Sheet, shall include all LAR Attributes related to such local capacity area;

(v) the Parties agree that, under this Agreement, no energy or ancillary services associated with the Unit is required to be made available to Buyer as part of this Agreement and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Agreement. Seller retains the right to sell, pursuant to the Tariff, any RA Capacity from the Unit that is in excess of the Unit's Contract Quantity and any RAR Attributes, LAR Attributes, or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Agreement;

(vi) Seller acknowledges that Buyer intends to use this Agreement to comply with mandatory procurement obligations for incremental, zero-emissions capacity pursuant to D.21-06-035 and D.23-02-040 as subsequently clarified by the CPUC's Energy Division. In accordance with such requirements, Seller represents and warrants that the Project will meet the following requirements throughout the Delivery Term:

(A) the Product qualifies as incremental capacity pursuant to D.21-06-035 and D.23-02-040 and any applicable public guidance documents issued by Energy Division;

(B) the Project is a new resource, which had not achieved Commercial Operation as of the Effective Date of this Agreement;

(C) no load serving entity other than Buyer is permitted to claim any portion of the Product toward D.21-06-035 and D.23-02-040 compliance obligations.

(b) **Progress Reporting.** Seller shall provide Buyer notice of material events that may cause delays in the achievement of the COD by Developer. Seller shall timely provide to Buyer project development information and documentation necessary to comply with relevant reporting requirements of any Governmental Body or Governmental Authority.

(c) **Bridge Capacity.** If Seller purchases Bridge Capacity during a delay to the Commercial Operation Date, Seller may elect to offer, in its sole discretion, to provide Bridge Capacity to Buyer in amounts up to the Contract Quantities. If Seller elects to provide Bridge Capacity, Seller shall provide notice to Buyer of the quantity, term, and source of Bridge Capacity by no later than sixty (60) days prior to the first Showing Month that Bridge Capacity is available. Buyer shall notify Seller of its acceptance or rejection of the Bridge Capacity within five (5) Business Days of receipt of Seller's offer. All applicable terms and conditions of this Agreement shall apply to Bridge Capacity, including but not limited to Section 3.4. For the avoidance of doubt, the Initial Delivery Date shall only occur after Seller provides Buyer with Product from the Project. If Seller provides Buyer with Bridge Capacity, the associated Contract Quantities do not qualify as Product for purposes of determining when the Initial Delivery Date has occurred.

3.2. Seller's and Buyer's Obligations. Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Contract Quantity of the Product at the Delivery Point, less any reductions to Contract Quantity pursuant to Section 3.4, and Buyer shall pay Seller the Contract Price. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point.

Buyer shall be responsible for any costs or charges imposed on or associated with the Product or its receipt at and from the Delivery Point.

3.3. Delivery Point. The “Delivery Point” for the Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

3.4. Reductions to Contract Quantity; Delivery of Product. Seller shall provide Buyer with the Contract Quantity of Product for each Showing Month consistent with the following:

(a) No later than the Notification Deadline applicable to each Showing Month, Seller shall submit, or cause the Unit’s Scheduling Coordinator to submit, Supply Plans to identify and confirm the Contract Quantity provided to Buyer for each Showing Month of the Delivery Term so that the total amount of Contract Quantity identified and confirmed for such Showing Month equals the Contract Quantity, less any reductions to the Contract Quantity pursuant to this Section 3.4.

(b) Seller’s obligation to deliver the Contract Quantity for each Showing Month of the Delivery Term may be reduced at Seller’s option by the amount of any Planned Outages which exist with respect to any portion of the Unit during the applicable Showing Month; *provided*, (i) Seller notifies Buyer by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Buyer may include in Buyer’s Compliance Showings for that month as a result of such Planned Outage, and (ii) such reduction is able to be reflected on the Supply Plan(s) in accordance with the Tariff. In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a Planned Outage of the Unit, Seller has the option, but not the obligation, to provide Product up to the amount of the full Contract Quantity for such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 3.5.

(c) Seller’s obligation to deliver the Contract Quantity for each Showing Month may also be reduced at Seller’s option in the event the Unit experiences a reduction in Unit NQC or Unit EFC after the Effective Date as determined by the CAISO; *provided*, (i) Seller notifies Buyer by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Buyer may include in Buyer’s Compliance Showings for that month as a result of such reduction in Unit NQC or Unit EFC, and (ii) such reduction is able to be reflected on the Supply Plan(s) in accordance with the Tariff. In the event the Unit experiences such a reduction in Unit NQC or Unit EFC, Seller has the option, but not the obligation, to provide Product up to the amount of the full Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product or (ii) from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 3.5.

(d) Seller’s obligation to deliver the Contract Quantity for each Showing Month may also be reduced at Seller’s option in the event the Unit fails to deliver the Contracted Amount for any reason, including but not limited to (i) a delay in achieving Commercial Operation by the Unit; (ii) early termination of the Seller Supply Agreement; or (iii) a reduction in the Contracted Amount in the Seller Supply Agreement; *provided*, (A) Seller notifies Buyer by the Notification Deadline applicable to that Showing Month of the amount of Product from the Unit that Buyer may

include in Buyer's Compliance Showings for that month as a result of a reduction in Seller's supply in accordance with this Section 3.4(d), and (B) such reduction is able to be reflected on the Supply Plan(s) in accordance with the Tariff. In the event Seller is unable to provide the Contract Quantity for any portion of a Showing Month because of a reduction in Seller's supply in accordance with this Section 3.4(d), Seller has the option, but not the obligation, to provide Product up to the amount of the full Contract Quantity for such Showing Month from Replacement Units, provided Seller provides and identifies such Replacement Units in accordance with Section 3.5. Notwithstanding the foregoing, if the Contract Quantity is reduced for the remainder of the Term due to operational conditions of the Project, Seller shall notify Buyer of such reduction by the Notification Deadline for only the first Showing Month affected by the permanent reduction in Contract Quantity.

3.5. Alternate Capacity and Replacement Units. If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no additional cost to Buyer, provide Buyer with equivalent capacity with RAR Attributes from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; *provided*, in each case Seller shall notify Buyer of the amount of Product that Seller will provide with Alternate Capacity from identified Replacement Unit(s) meeting the above requirements no later than the Notification Deadline. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 3.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Agreement for that Showing Month.

3.6. [RESERVED]

3.7. Indemnities for Failure to Deliver. Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs, excluding any Penalty Multiplier applied to such penalties, fines or costs, assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

(a) Seller's failure to provide any portion of the Contract Quantity for the respective Showing Month for the Delivery Term, less any reductions to Contract Quantity pursuant to Section 3.4;

(b) Seller's failure to provide notice of the non-availability of any portion of the Contract Quantity consistent with Section 3.4; or

(c) A Unit Scheduling Coordinator's failure to submit accurate Supply Plans or Revised Supply Plans that identify Buyer's right to the Contract Quantity purchased hereunder for the respective Showing Month, less any reductions to Contract Quantity pursuant to Section 3.4, or the annual RA compliance filing during the Delivery Term.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these costs,

penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Agreement.

3.8. Monthly RA Capacity Payment. Buyer shall make a payment to Seller for the Unit, in arrears, after the applicable Showing Month (the “**Monthly RA Capacity Payment**”). The Parties agree that all invoices under this Agreement shall be paid in accordance with Section 8. The Unit’s Monthly RA Capacity Payment shall be equal to the product of (i) the applicable Contract Price for that Monthly Delivery Period, (ii) the Contract Quantity actually delivered for the Monthly Delivery Period, and (iii) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).

3.9. Allocation of Other Payments and Costs.

(a) Seller may retain any revenues it may receive from, and shall pay all costs charged by, the CAISO or any other third party with respect to any Unit for sales of any products other than the Product sold to Buyer hereunder, including (i) start-up, shut-down, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, (iv) any revenues for black start or reactive power services, or (v) the sale of the unit-contingent call rights on the capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC.

(b) Buyer shall be entitled to receive and retain all revenues associated with the Contract Quantity of any Unit during the Delivery Term (including any capacity or availability revenues from RMR Contracts (as defined in the Tariff) for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in Section 3.9(a) above).

(c) In accordance with Section 3.9 of this Agreement:

(i) all such Buyer revenues described in Section 3.9(b) received by Seller, or a Unit’s Scheduling Coordinator, owner, or operator shall be remitted to Buyer, and Seller shall pay such revenues to Buyer if the Unit’s Scheduling Coordinator, owner, or operator fails to remit those revenues to Buyer (and upon any such payment by Seller, Seller shall be subrogated to all rights of Buyer against such Unit’s Scheduling Coordinator, owner, or operator for the amount of such revenues paid). If Seller fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues against any future amounts it may owe to Seller under this Agreement.

(ii) all such Seller, or a Unit’s Scheduling Coordinator, owner, or operator revenues described in Section 3.9(a)(i)-(v), but received by Buyer shall be remitted to Seller, and Buyer shall pay such revenues to Seller if the Unit’s Scheduling Coordinator, owner, or operator fails to remit those revenues to Seller (and upon any such payment by Buyer, Buyer shall be subrogated to all rights of Seller against such Unit’s Scheduling Coordinator, owner, or operator for the amount of such revenues paid). If Buyer fails to pay such revenues to Seller, Seller

may offset any amounts owing to it for such revenues against any future amounts it may owe to Buyer under this Agreement.

(d) If a centralized capacity market develops within the CAISO or WECC region, Buyer will have exclusive rights to offer, bid, or otherwise submit Contract Quantity provided to Buyer pursuant to this Agreement for re-sale in such market, and retain and receive any and all related revenues.

(e) Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller's account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller's account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards.

3.10. Change in Law. If a change in Applicable Laws occurring after the Effective Date would increase Seller's costs to comply with Seller's obligations in excess of Seller's known or reasonably expected costs (as of the Effective Date) with respect to obtaining, maintaining, conveying, or effectuating Buyer's use of (as applicable) RAR Attributes, and, if applicable, LAR Attributes and FCR Attributes, then Seller shall have no obligation to incur any additional out-of-pocket costs and expenses under this Agreement for the costs relating to such change in Applicable Laws, provided that Parties shall work in good faith to revise this Agreement so that the Parties can perform their obligations regarding the purchase and sale of product sold hereunder in order to maintain the original intent. For avoidance of doubt, Seller's internal administrative costs associated with obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable) any Product are not considered out-of-pocket expenses for purposes of this Section 3.10. For avoidance of doubt, the issuance of a guidance document or any other verbal or written clarification of the requirements of D.21-06-035 or D.23-02-040 by the CPUC's Energy Division shall not qualify as a change in Applicable Laws under this Section 3.10.

ARTICLE 4: CAISO OFFER REQUIREMENTS

4.1. CAISO Offer Requirements. During the Delivery Term, except to the extent the Unit is on an Outage, or is affected by an event of Force Majeure that results in a partial or full Outage of the Unit, Seller shall either schedule or cause the Unit's Scheduling Coordinator to schedule with, or make available to, the CAISO the Unit's Contract Quantity in compliance with the Tariff, and shall perform all, or cause the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Contract Quantity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit's Scheduling Coordinator, owner, or operator for such noncompliance.

ARTICLE 5: BUYER'S RE-SALE OF PRODUCT

5.1. Buyer may re-sell all or a portion of the Product and any associated rights, in each case, acquired under this Agreement. If Buyer re-sells all or a portion of the Product and any

associated rights acquired under this Agreement (“**Resold Product**”), Seller agrees, and agrees to cause the Unit’s Scheduling Coordinator, to follow Buyer’s reasonable instructions with respect to providing such Resold Product to subsequent purchasers of such Resold Product to the extent such instructions are consistent with Seller’s obligations under this Agreement. Seller further agrees, and agrees to cause the Unit’s Scheduling Coordinator, to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product in a manner consistent with Buyer’s rights under this Agreement. If Buyer incurs any liability to any purchaser of such Resold Product due to the failure of Seller or the Unit’s Scheduling Coordinator to comply with the terms of this Agreement, then Seller shall be liable to Buyer for any liabilities Seller would have incurred under this Agreement if Buyer had not resold the Product, including without limitation, pursuant to Sections 3.7 and 3.8.

5.2. In the event there is any Resold Product, Buyer agrees to notify Seller at least five (5) Business Days prior to the commencement of deliveries of Resold Product that such a sale has occurred and agrees to provide Seller with the information specified below promptly following such sale (and any other information reasonably requested by Seller so that Seller may perform its obligations in this Article 5) and promptly notify Seller of any subsequent changes to such information with respect to any particular sale at least five (5) Business Days prior to the Showing Month to which such changes apply:

- (a) Benefitting load serving entity SC identification number (SCID),
- (b) Volume (in MW) of Resold Product,
- (c) Subsequent sale delivery period for Resold Product.

Notwithstanding the foregoing, Seller shall not be considered to have failed to deliver Product for clerical errors or mismatched supply plans in CAISO’s CIRA system, provided Parties work in good faith to rectify such clerical errors or supply plan mismatches as soon as practicable, and in no case later than the day on which CAISO locks supply plan submissions.

ARTICLE 6: [RESERVED]

ARTICLE 7: [REDACTED]

7.1. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

ARTICLE 8: PAYMENT AND NETTING

8.1. Billing Period. The calendar month shall be the standard period for all payments under this Agreement. As soon as practicable after the end of each month, each Party will render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

8.2. Timeliness of Payment. Unless otherwise agreed by the Parties, all invoices under this Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month that occurs after the earlier of the Initial Delivery Date or the first date on which Seller delivers Bridge Capacity to Buyer, or fourteenth (14th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

8.3. Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within five (5) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 8.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

ARTICLE 9: NOTICES

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

9.2. Acceptable Means of Delivering Notice. Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, five (5) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail, facsimile, or other electronic means) and if concurrently with the transmittal of such electronic communication the sending Party provides a copy of such electronic Notice by hand delivery or express courier, at the time indicated by the

time stamp upon delivery; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10: FORCE MAJEURE

10.1. Definition.

(a) “**Force Majeure Event**” means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance, or noncompliance. Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic; landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; war; blockade; civil insurrection; riot; civil disturbance; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below. Force Majeure may include delays in performance or inability to perform or comply with the terms and conditions of this Agreement due to delays in obtaining necessary equipment, labor or materials or other issues caused by or attributable to pandemics or epidemics, COVID-19, if the elements of Force Majeure defined in this Section 10.1(a) (other than the requirement that the event or circumstance was not anticipated as of the date the Agreement was agreed to) have been satisfied; provided that the general existence of COVID-19 shall not be sufficient to prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate establish that a Force Majeure as defined in the first sentence hereof (other than the requirement that the event or circumstance was not anticipated as of the date the Agreement was agreed to) has occurred.

(b) Notwithstanding the foregoing, the term “**Force Majeure Event**” does not include (i) economic conditions that render a Party’s performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including Buyer’s ability to buy electric energy at a lower price, or Seller’s ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller’s inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Project, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a curtailment order by the CAISO or the PTO (as defined in the Tariff); (v) Seller’s inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Project except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of

Seller, Seller's contractors, or their subcontractors thereof; or (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event.

10.2. No Liability If a Force Majeure Event Occurs. Neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

10.3. Notice. In the event of any delay or nonperformance resulting from a Force Majeure Event, the Party suffering the Force Majeure Event shall (a) as soon as practicable, notify the other Party in writing of the nature, cause, estimated date of commencement thereof, and the anticipated extent of any delay or interruption in performance, and (b) notify the other Party in writing of the cessation or termination of such Force Majeure Event, all as known or estimated in good faith by the affected Party; provided that that a Party's failure to give timely Notice shall not affect such Party's ability to assert that a Force Majeure Event has occurred unless the delay in giving Notice materially prejudices the other Party.

10.4. Termination Following Force Majeure Event. If a Force Majeure Event has occurred that has caused either Party to be wholly or partially unable to perform its obligations hereunder, and the impacted Party has claimed and received relief from performance of its obligations for a [REDACTED] period, then the non-claiming Party may terminate this Agreement upon written Notice to the other Party. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(a).

ARTICLE 11: EVENTS OF DEFAULT; REMEDIES

11.1. Events of Default. An "Event of Default" shall mean, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

(a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within five (5) Business Days after written notice;

(b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated and such Party does not fully mitigate the adverse consequences as reasonably determined by the other Party of such incorrect representation or warranty to the other Party within thirty (30) days after written notice thereof;


(c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to deliver or receive the Product, the exclusive remedy for which is provided in Section 3.6 and 3.7) if such failure is not remedied within thirty (30) Business Days after written notice;

(d) such Party becomes Bankrupt; and

(e) such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other Party.

11.2. Declaration of an Early Termination Date. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("**Early Termination Date**") to accelerate all amounts owing between the Parties and to terminate this Agreement (referred to as a "**Terminated Transaction**") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance.

(a) If Seller is the Defaulting Party, Seller shall not owe any amounts to Buyer other than any amounts set forth in Section 11.2(i);

(b) If Buyer is the Defaulting Party, 

11.3. Early Termination of Seller Supply Agreement. In the event of early termination under the Seller Supply Agreement, the Parties hereby acknowledge and agree that this Agreement shall terminate in accordance with Section 11.2 herein, provided however, that Section 11.2(b) shall not apply.

11.4. [Reserved].

11.5. [Reserved].

11.6. [Reserved].

11.7. Suspension of Performance. Notwithstanding any other provision of this Agreement, if an Event of Default shall have occurred and be continuing, the Non-Defaulting

Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) NERC Business Days unless an Early Termination Date shall have been declared and notice thereof pursuant to Section 11.2 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE 12: LIMITATIONS

12.1. Limitation of Remedies, Liability and Damages. EXCEPT AS SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

ARTICLE 13: REPRESENTATIONS; WARRANTIES; COVENANTS

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

(a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

(b) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement, except all permits necessary to construct, operate and maintain the Project and sell the Product therefrom in the case of Seller;

(c) the execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

(d) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses.

(e) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;

(f) there is not pending or, to its knowledge, threatened against it or any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

(g) no Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

(h) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;

(i) it is a "forward contract merchant" within the meaning of the United States Bankruptcy Code; and

(j) it has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to make or take delivery of Product.

13.2. Buyer and Seller Covenants. Buyer and Seller shall, throughout the Delivery Term, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer or any subsequent purchaser under Article 5. Such commercially reasonable actions shall include, without limitation:

(a) Cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR, and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity. Such actions shall include, without limitation, providing

information requested by the CAISO, CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Term the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, CAISO or other Governmental Body having jurisdiction to administer RAR, LAR, or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to “deliverability” standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and

(b) Negotiating in good faith to make necessary amendments, if any, to this Agreement to conform the transaction contemplated herein to subsequent clarifications, revisions, or decisions rendered by the CAISO, CPUC, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR, or FCR so as to maintain the benefits of the bargain struck by the Parties on the Effective Date; *provided*, however, that such commercially reasonable actions shall not include any obligation that the owner or operator of the Unit undertake capital improvements, facility enhancements, or the construction of new facilities nor in any way limit the Parties with respect to advocacy for any regulatory policies or market changes before any entity.

13.3. Seller Representations, Warranties and Covenants. Seller represents, warrants and covenants to Buyer that, throughout the Delivery Term:

(a) Seller is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Seller are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Applicable Laws.

(b) Seller owns or has the exclusive right to the RA Capacity sold under this Agreement from the Unit, and shall furnish Buyer, CAISO, CPUC or other jurisdictional LRA, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;

(c) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy RAR, LAR, FCR or analogous obligations in CAISO markets, other than pursuant to an RMR Contract between the CAISO and either Seller or the Unit’s owner or operator;

(d) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR, FCR, or analogous obligations in any non-CAISO market;

(e) The Unit is within the CAISO Control Area;

(f) The owner or operator of the Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity, RAR, LAR, and FCR;

(g) If Seller is the owner of the Unit, the respective cumulative amounts of LAR Attributes, RAR Attributes, and FCR Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit's RA Capacity;

(h) With respect to the RA Capacity provided under this Agreement, Seller shall, and the Unit's Scheduling Coordinator is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, RAR, LAR, and FCR;

(i) Seller has notified the Scheduling Coordinator of the Unit that Seller has transferred the Contract Quantity to Buyer, and the Scheduling Coordinator is obligated to deliver the Supply Plans in accordance with the Tariff;

(j) Seller has notified the Scheduling Coordinator of the Unit that Seller is obligated to cause each Unit's Scheduling Coordinator to provide to the Buyer, at least five (5) Business Days before the Notification Deadline, the Contract Quantity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period;

(k) Seller has notified the Unit's Scheduling Coordinator that Buyer is entitled to the revenues set forth in Section 3.9(b) of this Agreement and that such Scheduling Coordinator is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues; and

13.4. Buyer's Representations and Warranties. Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority and a validly existing community choice aggregator, duly organized, validly existing and in good standing under the laws of the State of California and the rules, regulations and orders of the California Public Utilities Commission, and is qualified to conduct business in each jurisdiction of the Joint Powers Agreement members. All Persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with the Joint Powers Agreement and other Applicable Laws.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Applicable Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or

any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Buyer. This Agreement is a legal, valid and binding obligation of Buyer enforceable in accordance with its terms, except as limited by laws of general applicability limiting the enforcement of creditors' rights or by the exercise of judicial discretion in accordance with general principles of equity.

(e) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California.

ARTICLE 14: ASSIGNMENT

14.1. Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party.

ARTICLE 15: DISPUTE RESOLUTION

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

15.2. Dispute Resolution. In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a written Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either thirty (30) days of initiating such discussions, or within forty (40) days after Notice of the dispute, either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

15.3. Attorneys' Fees. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees in addition to court costs and any and all other costs recoverable in said action.

ARTICLE 16: INDEMNIFICATION

16.1. Indemnification.

(a) To the full extent permitted by law, each Party shall indemnify, defend and hold harmless the other Party ("**Indemnified Party**"), and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of,

or are in any way attributable to, and/or caused in whole or in part by any negligent or wrongful act, error, or omission of the other Party or by any individual or agency for which the other Party is legally liable, including officers, agents, employees or subcontractors of the other Party.

(b) Nothing in this Section 16.1 shall enlarge or relieve Seller or any Buyer of any liability to the other for any breach of this Agreement. No Party shall be indemnified for any damages resulting from its gross negligence, intentional acts, or willful misconduct or for the gross negligence, intentional acts, or willful misconduct of its directors, officers, employees and agents. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

16.2. Claims. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Party being indemnified by the other Party (such indemnified Party, the “**Indemnified Party**”) shall notify the Party indemnifying the Indemnified Party (such indemnifying Party, the “**Indemnifying Party**”) in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, provided that that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party’s expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party’s counsel that such claim is meritorious or warrants settlement. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party’s damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

ARTICLE 17: [RESERVED]

ARTICLE 18: CONFIDENTIAL INFORMATION

18.1. Confidential Information.

(a) All information stamped or otherwise identified as “confidential” or “proprietary” by either Party or by a third party shall constitute “**Confidential Information**”. The Party receiving Confidential Information from the other Party shall not disclose Confidential Information to a third party other than the Party’s members, employees, lenders or investors, counsel, accountants, directors or advisors, who have a need to know such information and have agreed to keep such terms confidential except in order to comply with any Applicable Laws and to use the Product. Notwithstanding the foregoing, information shall not be considered

Confidential Information if such information (i) is disclosed with the prior written consent of the originating Party, (ii) was in the public domain prior to disclosure or is or becomes publicly known or available other than through the action of the receiving Party in violation of this Agreement, (iii) was lawfully in a Party's possession or acquired by a Party outside of this Agreement, which acquisition was not known by the receiving Party to be in breach of any confidentiality obligation, or (iv) is developed independently by a Party based solely on information that is not considered confidential under this Agreement.

(b) Each Party agrees, and shall use reasonable efforts to cause its respective members, employees, lenders or investors, counsel, accountants, directors or advisors ("Representatives") as a condition to receiving confidential information hereunder, to keep confidential, except as required by Applicable Laws, including without limitation the California Public Records Act (Government Code §§ 7920.000 et seq, "CPRA"). Buyer shall provide notice to Seller prior to disclosure to Buyer's Representatives of any third party Confidential Information provided to Buyer by Seller. The provisions of this Section 18.1 shall survive and shall continue to be binding upon the Parties for a period of two (2) years following the date of termination or expiration of this Agreement.

(c) If a Party is required, pursuant to the California Public Records Act to disclose any of the Confidential Information, such Party shall provide prompt written notice to the other Party of such request or requirement so that at such other Party's expense, such other Party can seek a protective order or other appropriate remedy concerning such disclosure.

(d) Each Party acknowledges that the other Party is subject to the California Public Records Act. If Buyer receives a CPRA request for Confidential Information provided to Buyer by Seller, Buyer shall (i) immediately provide notice to Seller prior to any such disclosure, (ii) endeavor, in good faith, not to disclose any "trade secrets" as consistent with the CPRA, and (iii) support, to the extent in compliance with Buyer's rights and obligations under Applicable Laws, Seller in its efforts to obtain a protective order or other appropriate remedy. Buyer, as required by CPRA, shall release such documents unless Seller timely obtains a court order prohibiting such release.

(e) Each Party acknowledges that any disclosure or misappropriation of Confidential Information by such Party in violation of this Agreement could cause the other Party irreparable harm, the amount of which may be extremely difficult to estimate, thus making any remedy at law or in damages inadequate. Buyer also acknowledges that its actions in violation of this Agreement with respect to Confidential Information provided to Seller by the owner and operator of the Shown Unit may cause Seller irreparable harm under the Seller Supply Agreement and such actions are subject to the indemnification provisions of Section 16. Therefore, each Party agrees that the non-breaching Party shall have the right to apply to any court of competent jurisdiction for a restraining order or an injunction restraining or enjoining any breach or threatened breach of this Agreement and for any other equitable relief that such non-breaching Party deems appropriate. This right shall be in addition to any other remedy available to the Parties in law or equity, subject to the limitations set forth in Article 12.

ARTICLE 19: PROJECT CONSTRUCTION AND COMMERCIAL OPERATION

19.1. Commercial Operation Date.

(a) Commercial Operation Date. “Commercial Operation Date” has the meaning provided in the Seller Supply Agreement.

(b) Termination for Failure to Achieve Commercial Operation. If the Project has not achieved Commercial Operation by [REDACTED] after the Expected Initial Delivery Date, then Buyer may terminate this Agreement upon thirty (30) days’ written notice without any further obligation to Seller. Notwithstanding the foregoing, Buyer shall not be entitled to terminate this Agreement during the period in which Buyer receives Bridge Capacity in an amount equal to the full Contract Quantity. In addition, if the Seller Supply Agreement is terminated and not replaced, then Seller may terminate this Agreement on thirty (30) days’ written notice to Buyer without any further obligation. For avoidance of doubt, if either Party terminates the Agreement pursuant to this Section 19.1(b), such termination shall not constitute an Event of Default and the terminating Party shall not, on the basis of such termination, owe the other Party any damages.

ARTICLE 20: GOVERNMENTAL CHARGES

20.1. Cooperation. Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with the intent of the parties to minimize all taxes, so long as neither Party is materially adversely affected by such efforts.

20.2. Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any government authority (“Governmental Charges”) on or with respect to the Product or a transaction arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or a transaction at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer’s responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller’s responsibility hereunder, Buyer may deduct the amount of any such Governmental Charges from the sums due to Seller under Article 8 of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

ARTICLE 21: MISCELLANEOUS

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

21.2. Audit. Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party statements evidencing the Contract Quantity delivered hereunder. If any such examination reveals any inaccuracy in any statement, the necessary

adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

21.3. Entire Agreement; Integration; Exhibits. This Agreement, together with the Cover Sheet and Exhibits attached hereto constitutes the entire agreement and understanding between Seller and Buyer with respect to the subject matter hereof and supersedes all prior agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits attached hereto are integral parts hereof and are made a part of this Agreement by reference. The headings used herein are for convenience and reference purposes only. In the event of a conflict between the provisions of this Agreement and those of the Cover Sheet or any Exhibit, the provisions of first the Cover Sheet, and then this Agreement shall prevail, and such Exhibit shall be corrected accordingly. This Agreement shall be considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, substitution, submission or other event of negotiation, drafting or execution hereof.

21.4. Amendments. This Agreement may only be amended, modified or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer; provided that, for the avoidance of doubt, this Agreement may not be amended by electronic mail communications.

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

21.6. No Agency, Partnership, Joint Venture or Lease. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Project or any business related to the Project. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement) and/or, to the extent set forth herein, any lender and/or Indemnified Party.

21.7. Severability. In the event that any provision of this Agreement is unenforceable or held to be unenforceable, the Parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby. The Parties shall, however, use their best endeavors to agree on the replacement of the void, illegal or unenforceable provision(s) with legally acceptable clauses which correspond as closely as possible to the sense and purpose of the affected provision and this Agreement as a whole.

21.8. Mobile-Sierra. Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any

other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under Applicable Law.

21.9. Service Contract. The Parties intend this Agreement to be considered as a service contract for the purposes of Section 7701(e) of the United States Internal Revenue Code of 1986, as amended.

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

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

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

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

21.14. No Recourse to Members of the Parties. The Parties are each individually organized as a Joint Powers Authorities in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to its Joint Powers Agreement and are public entities separate from their respective constituent members. Each Party shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Each Party shall have no rights and shall not make any claims, take any actions or assert any remedies against the other Party’s constituent members, or the employees, directors, officers, consultants or advisors of the other Party or its constituent members, in connection with this Agreement.

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

21.16. Change in Electric Market Design. If a change in the Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, or constitute, or form the basis of, a Force Majeure Event, and (ii) all of unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

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Acknowledged and agreed to as of the Effective Date.

**Sonoma Clean Power Authority, a
California joint powers authority**

By: _____

Name:

Title:

**Redwood Coast Energy Authority, a
California joint powers authority**

By: _____

Name: Matthew Marshall

Title: Executive Director

By: _____

Name:

Title:

By: _____

Name:

Title:

By: _____

Name:

Title:

EXHIBIT A: DESCRIPTION OF PROJECT

The following describes the Project.

Project name: Sagebrush II

Resource type: Lithium Ion battery

Nameplate capacity: 18 MW

Location: Mojave, Kern County

Project latitude: 35° 2'31.78" N

Project longitude: 118° 15'48.37" W

CAISO transmission access charge area: SCE

Point of interconnection: Southern California Edison Company's Vincent Substation

Existing zone (e.g., NP-15): SP-15

PNode: The PNode designated by CAISO for the facility at the Southern California Edison Company's Vincent Substation



STAFF REPORT
Agenda Item # 9.2

AGENDA DATE:	November 16, 2023
TO:	Board of Directors
PREPARED BY:	Stephen Kullmann, Director of Demand Side Management Lexie Perez, Grants and Contracts Manager
SUBJECT:	RuralREN Funding and Implementation Agreements

Summary

In June, the Board received an information-only update about the CPUC's Proposed Decision approving the establishment of the Rural Regional Energy Network (RuralREN). The CPUC Final Decision 23.06.055 issued on July 3, 2023, approved the RuralREN motion. The Board received updates in conjunction with action items involving approving a contract with Frontier Energy, Inc. at the July meeting and issuing solicitations for Administrative, Marketing, Legal, and Database support services at the August meeting. RCEA Demand Side Management (DSM) staff are continuing work on preparations and regulatory requirements in order to launch the RuralREN in 2024.

The funding for the RuralREN is collected and distributed by the three Investor-Owned Utilities (IOUs) that overlap with the RuralREN's geographic area – Pacific Gas and Electric (PG&E), Southern California Edison (SCE), and SoCalGas. Therefore, RCEA is coordinating with each of the three IOUs to enter into funding agreements through which the designated funds are distributed to RCEA as the Program Administrator for the RuralREN. The total funding amounts per year from each IOU were established by the CPUC and are detailed in the CPUC Decision as follows:

**Table 1. Collections by IOUs to
Support R-REN Budgets (Dollars)**

Year	PG&E		SCE	SoCalGas	Total
	Electric	Gas	Electric	Gas	
2024	\$7,984,560	\$1,596,912	\$7,984,560	\$2,395,368	\$19,961,401
2025	\$8,401,193	\$1,680,239	\$8,401,193	\$2,520,358	\$21,002,983
2026	\$8,644,244	\$1,728,849	\$8,644,244	\$2,593,273	\$21,610,610
2027	\$8,653,794	\$1,730,759	\$8,653,794	\$2,596,138	\$21,634,486
2028	\$8,906,466	\$1,781,293	\$8,906,466	\$2,671,940	\$22,266,164
2029	\$9,175,928	\$1,835,186	\$9,175,928	\$2,752,778	\$22,939,821
2030	\$9,447,613	\$1,889,523	\$9,447,613	\$2,834,284	\$23,619,033
2031	\$9,731,259	\$1,946,252	\$9,731,259	\$2,919,378	\$24,328,149
Total	\$70,945,058	\$14,189,012	\$70,945,058	\$21,283,518	\$177,362,646

Please note that the decision designated eight years of ratepayer collections, but specifically states that the budgets for 2028-2031 are placeholders and are likely to be adjusted. All three of these funding agreements will include RuralREN funding for the first four implementation years of the RuralREN, 2024-2027.

Staff and PG&E have finalized the funding agreement for PG&E's required RuralREN distribution, which secures \$40,420,550 of RuralREN's funding. This is the largest RuralREN funding portion amongst the three IOUs because the PG&E territory has the largest geographical overlap with RuralREN. The PG&E funding agreement specifies that the first annual distribution will occur in total amount no later than December 1, 2023. Thereafter, funds will be distributed on a quarterly basis.

RCEA staff and the respective staff of Southern California Edison and SoCalGas have begun communications to complete the remaining funding agreements. Based on these communications, RCEA staff anticipates that both funding agreements will be similar to that of PG&E. Ideally both will be completed within the next few weeks and will provide for distribution of the first implementation year funding before the end of the year. Staff seeks the Board's advance approval of these two funding agreements to allow for their timely execution and distribution of funds before the end of the year, provided they are consistent with the CPUC Decision 23.06.055 and contain the same or similar risk exposure to RCEA as in the PG&E Funding Agreement. RCEA's General Counsel will review final funding agreement drafts prior to their execution to ensure they are consistent with the Board's approval. Once the agreements are executed, Staff will solicit and contract for implementation services in the regions covered by the funding.

ALIGNMENT WITH [RCEA'S STRATEGIC PLAN](#)

RuralREN formation and implementation furthers RCEA's strategic plan goal of "(making) energy efficiency and conservation services available to every household and business in the county by 2030," and expands work toward this goal to other rural and hard-to-reach communities across the state.

The RuralREN will also contribute to Integrated Demand Side Management, Energy Efficiency & Conservation, Demand Response and Customer Distributed Generation & Storage strategies listed in RCEA's RePower Strategic Plan.

EQUITY IMPACTS

RENs in general, and the RuralREN in particular, are designed to reach customers that otherwise are not being reached by existing ratepayer-funded programs. Over 90% of the RuralREN counties are defined as low income in the Health and Safety Code, and over half are defined as disadvantaged. The RuralREN governance structure will include an Equity Technical Advisory Committee.

FINANCIAL IMPACT

The combined total of the three funding agreements with the IOUs is \$84,209,480 for implementation years 2024-2027. An additional \$93,153,166 has been identified as a placeholder for years 2028-2031 and is not covered in these agreements. Expense of the funds is detailed in the approved by the business plan budget approved by the RuralREN motion. The majority of funds will be passed through to various implementers and consultants through individual service agreements. RCEA will retain a portion of funds to implement RuralREN programs in our region and to perform the duties as the Program Administrator of the RuralREN.

STAFF RECOMMENDATION

Authorize the Executive Director to execute the 2024-2027 PG&E Funding Agreement for \$40,420,550; and, upon full execution, authorize the Executive Director to issue solicitations and contracts for consultant and subcontractor services to implement the RuralREN in regions covered by PG&E funding.

Authorize the Executive Director to execute the 2024-2027 Southern California Edison Funding Agreement for \$33,683,792 and SoCalGas Funding Agreement for \$10,105,138 following the review and approval by RCEA staff and legal counsel; and upon full execution of each agreement, authorize the Executive Director to issue solicitations and contracts for consultant and subcontractor services to implement the RuralREN in the respective regions covered by Southern California Edison and SoCalGas funding.

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**FUNDING AGREEMENT FOR RURAL REGIONAL
ENERGY NETWORK ENERGY EFFICIENCY PROGRAMS**

This Funding Agreement For Rural Regional Energy Network (**R-REN**) Energy Efficiency Programs (**Agreement**) is between Pacific Gas and Electric Company (**PG&E**) and Redwood Coast Energy Authority (**RCEA**), also referred to each as a **Party** or collectively, the **Parties**, and shall become effective upon the date of signature by both Parties (**Effective Date**).

- A. WHEREAS, on July 3, 2023, the California Public Utilities Commission (**CPUC**) issued Decision (**D.**) 23-06-055 making R-REN an approved energy efficiency portfolio administrator; and
- B. WHEREAS, the CPUC directed PG&E to collect and deliver to RCEA public purpose program (**PPP**) funding for administration of its energy efficiency program portfolio in overlapping PG&E territory as set forth in CPUC D. 23-06-055 Tables 5 and 6 (**R-REN Budget**); and
- C. WHEREAS, RCEA shall receive the R-REN Budget funding annually for the period of 2023-2027 (**Funding Term**).

Therefore, the parties agree as follows:

1. Performance Obligations:

1.1 RCEA R-REN Budget:

- 1.1.1 Total For Funding Term: Unless otherwise directed by the CPUC, the aggregate total of PG&E PPP funds to be collected and delivered to RCEA during the Funding Term shall not exceed \$40,420,550 and will be disbursed annually as follows:

Year	Budget
2024	\$9,581,472
2025	\$10,081,432
2026	\$10,373,093
2027	\$10,384,553
	\$40,420,550

1.1.2 Unspent and Uncommitted RCEA R-REN Program budget:

- 1.1.2.1 RCEA shall deduct any 2024 RCEA R-REN unspent and uncommitted funds from its third quarter 2025 payment request submitted to PG&E on July 15, 2025, and in each of the third quarter advances thereafter during the Funding Term.

1.1.2.2 Upon the expiration of the Funding Term, any remaining unspent and/or uncommitted RCEA R-REN Budget previously paid by PG&E, shall be applied, and used to offset a subsequent approved RCEA R-REN budget, or as otherwise directed by the CPUC.

1.1.3 RCEA R-REN Budget Payments: PG&E and RCEA agree to the following payment schedule:

1.1.3.1 RCEA shall submit one invoice for the 2024 R-REN Budget amount no later than December 1, 2023. PG&E shall pay this invoice within 30 days from the Effective Date.

1.1.3.2 For the remaining Funding Term, RCEA will annually submit four (4) quarterly invoices beginning January 15, 2025, and thereafter continuing on April 15th, July 15th, and October 15th until the last invoice on October 15, 2027. PG&E shall pay these quarterly invoices within 30 days upon receipt.

1.1.4 Invoicing Submittal Requirements: RCEA shall submit all invoices electronically through PG&E's electronic invoicing system in accordance with these instructions and shall include the purchase order number. To enroll in PG&E's free electronic invoicing portal, please email PG&E-Electronic-Invoice-Info@pge.com and provide the following information:

PG&E Vendor # (if known)

Vendor Name

Valid Purchase Order #

Vendor Contact Name, Contact Telephone Number, Contact Email Address

PG&E Contact Name

INVOICES NOT SUBMITTED THROUGH PG&E'S ELECTRONIC INVOICES SYSTEM ARE NOT CONSIDERED RECEIVED FOR PAYMENT PURPOSES.

1.2 Joint Cooperation Memo (JCM) Reports:

1.2.1 Meet and Confer: The Parties agree they will schedule a meeting prior to the JCM reports required by the CPUC. RCEA will submit three separate JCMs that detail the program administrator energy efficiency program activities as follows:

- A JCM between PG&E and R-REN (for the North Coast);
- A JCM between PG&E, 3C-REN, and R-REN (for the Central Coast); and

- A JCM between PG&E, SCE, SoCalGas, SoCalREN, and R-REN (for the San Joaquin Valley and High Sierra).

1.2.2 JCM Report Submittals: RCEA will submit the three JCMs every two years within 60 days after CPUC approval of the last of the JCM portfolio administrator's true-up advice letters and mid-cycle advice letters (as applicable). After PG&E review and approval, RCEA shall submit the JCMs to the California Energy Data and Reporting System (CEDARS), with notice to the service list of Rulemaking 13-11-005 or a successor proceeding. PG&E has no responsibility, nor will it take any action to verify, R-REN's content or accuracy in their reporting of their R-REN Program activities.

1.3 Representations and Warranties:

RCEA acknowledges PG&E enters this Agreement in reliance on R-REN's representations and warranties that it will perform, or cause to be performed, all the tasks and requirements in conformity with all applicable CPUC Decisions and approvals of R-REN Program Implementation Plans, Federal, State, and local laws, regulations and other rulings or authority with appropriate jurisdiction. In compliance with the foregoing, RCEA acknowledges it will require its Implementer for the R-REN Program to comply with the Project Certification requirements under California Utilities Public Code Section 399.4 et seq. and the CPUC's Workforce Standards for any incentive payments for HVAC and Lighting Control that meet a certain threshold as follows:

Public Utility Code Section 399.4 (b) requires in relevant part: that for all incentives for an energy efficiency improvements or installations of energy efficient components, equipment, or appliances, the incentive recipient must submit a statement certifying that appropriate permits have been obtained and, if a contractor performed the installation or improvement, the contractor holds the appropriate licenses for the work performed. The CPUC has ordered that when the work involves obtaining a permit for heating, ventilation, central air-condition and heat pump projects, documentation of proof the permit has been closed must also be provided.

HVAC AND LIGHTING CONTROL WORKFORCE STANDARD QUALIFICATION REQUIREMENTS. *To be eligible for an incentive for non-residential heating, ventilation, and air conditioning (HVAC) measure exceeding \$3000 and/or for lighting control (LC) measure exceeding \$2000, **prior to** a technician installing, modifying or maintaining these measures, the technician performing this work is required to provide the following in their applicable qualification documentation:*

- (1) *For HVAC Measure Installation Qualification: the person doing the work must have at least one of the following criteria:*
- (a) *Completed an accredited HVAC apprenticeship*
 - (b) *Be enrolled in an accredited HVAC apprenticeship.*

- (c) *Completed at least five years of work experience at the journey level according to the Department of Industrial Relations definition, Title 8, Section 205, of the California Code of Regulations, passed a practical and written HVAC system installation competency test, and received credentialed training specific to the installation of the technology being installed.*
- (d) *Have a C-20 HVAC contractor license issued by the California Contractor's State Licensing Board; and*
- (2) *For LC measures: the person doing the work must produce an installer certification from the California Advanced Lighting Controls Training Program.*

1.4 Prevention of Double Dipping: RCEA agrees to utilize its protocols to not permit Customers participating in the R-REN Program from using the same energy efficiency measure for which they have already received an incentive. The purpose for prevention of double dipping is to comply with D. 12-11-015 stating "... the RENs should coordinate with the utilities in their areas to ensure customers do not receive duplicate incentive payments for the same energy efficiency measure or project."

2. Confidentiality:

The Parties agree they shall not collect, use, retain or disclose personal information, as defined in California Privacy Rights Act of 2020 (CPRA, Proposition 24, amending California Civil Code 1798.100 et seq.) and modified from time to time, received, if any, under this Agreement ("**Personal Information**") for any purpose other than for the specific purpose of performing its obligations under this Agreement. Personal Information shall not be sold or shared under any circumstances. "**Confidential Information**" means:

- (i) a customer's personal identifiable information, energy use data, billing data, account information, including demand response program information, and information relating to their facilities, equipment, processes, products, specifications, designs, records, data, software programs, finances, technologies, trade secrets, marketing plans or manufacturing processes or products; and
- (ii) information about the Disclosing Party's employees and business operations, informational or technological practices, models, trade secrets, and other related documentation or information related to the Disclosing Party, its parent company, subsidiaries, affiliates, third parties, suppliers, contractors, and subcontractors.

"**Confidential Information**" does not include information that (a) was properly in the Party's possession at the time of disclosure; (b) is or becomes publicly known through no fault of the Receiving Party; (c) was independently developed by the Receiving Party or (d) that the Disclosing Party agrees in writing is not Confidential Information.

(b) Upon request by the Disclosing Party, the Receiving Party will delete or destroy any Confidential Information obtained from the Disclosing Party or in performing its obligations under this Agreement, unless the Receiving Party documents that it is lawfully prohibited from deleting or destroying such Confidential Information.

(c) If a Party is in doubt about whether certain information is Confidential Information, such Party agrees to treat such information as Confidential Information.

(d) Any Confidential Information under this Agreement shall be strictly for the purpose of carrying out the obligations and each Party will restrict access to the Confidential Information to those personnel with a need to know basis, upon which personnel must agree in writing to safeguard, handle, use, and store, if required, the Confidential Information with no less restrictive obligations as the requirements under this Agreement.

(e) The Receiving Party agrees to implement and maintain, and to cause its relevant subcontractors or other such representatives to implement and maintain, reasonable security procedures and practices to protect the unauthorized disclosure, destruction, and/or use of the Confidential Information.

(f) If the Receiving Party is required by law, court order, or governmental authority to produce any Confidential Information, the Receiving Party must, to the extent legally permitted, provide the Disclosing Party prompt written notification of the request, and shall cooperate with the Disclosing Party's efforts in regard thereto, including electing to seek a protective order or other appropriate relief. Provided such written notification is provided, the Receiving Party's legal requirement to produce any Confidential Information, shall not result in liability under this Agreement or any attachments hereto.

3. Indemnification and Limitation of Liabilities:

3.1 Indemnification: RCEA shall indemnify, hold harmless and defend PG&E, and each of their affiliates, subsidiaries, parent company, officers, managers, directors, agents, and employees from and against all 3rd party claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) ("**Liabilities**"), which arise from or are connected in any way to the payment made by PG&E under this Agreement.

3.2 Limitation of Liability:

3.2.1 PG&E's total liability to RCEA under or in connection with this Agreement, whether in contract or in tort (including breach of warranty, negligence, and strict liability in tort), shall in no event exceed the total R-REN Budget amount.

3.2.2 In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages of any kind whatsoever.

4. Disclaimer and No Obligation: PG&E is not responsible for review, oversight, or approval of the work RCEA shall perform as a Program Administrator for its R-REN Program, nor is PG&E responsible to ensure RCEA complies with orders and directives of the CPUC. All Work

performed by RCEA will be governed by and must meet the satisfaction of the CPUC appointed staff.

5. Term and Termination:

5.1 Term: The term of this Agreement shall begin upon the Effective Date and continue until December 31, 2027, unless modified or terminated sooner.

5.2 Termination: A Party shall have the right to terminate this Agreement at any time if:

(a) The other Party becomes insolvent, generally fails to pay un-disputed debts, makes a general assignment for the benefit of creditors, or commences any action seeking reorganization or receivership under any bankruptcy, or similar law; or

(b) The other Party breaches this Agreement, and such breach is not remedied within thirty (30) calendar days of written notice thereof; or

(c) A Party becomes aware of an imminent threat to public safety that is likely to be caused by its continued performance under this Agreement.

6. Miscellaneous:

6.1 Governing Law and Jurisdiction: This Agreement and performance under it will be governed by and construed in accordance with the substantive Laws of the State of California.

6.2 Independent Status: In assuming and performing the obligations of this Agreement, nothing contained herein shall be construed as constituting any relationship between the Parties, other than the Parties' duties to perform their obligations set forth in this Agreement.

6.3 Other Contracts: Nothing in this Agreement shall create any contractual relations between one Party's contractors and the other Party.

6.4 No Publicity: Except to the extent consistent as directed by the CPUC or as otherwise already included in the public domain, neither Party shall include the name, any reference to this Agreement, or any reference to the other Party's purchase or use of any products or services provided by the Party, in such Party's publicity or advertisement, including internet, without the prior written consent of an officer of the other Party.

6.5 Assignment: Neither Party may assign any of its rights, voluntarily or involuntarily, whether by operation of law or any other manner, or delegate any performance under this Agreement, without the prior written consent of the other Party and/or by CPUC

decision, ruling or resolution. Any purported assignment or delegation of performance in violation of this provision is void. Subject to the foregoing, this Agreement is binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties.

6.6 CPUC Authority to Modify: This Agreement shall always be subject to changes or modifications by the CPUC or requested by either Party to the extent necessary to comply with any changes that the CPUC makes during the term of this Agreement, which may include and not limited to, any disallowance or modifications of approved annual R-REN Budget amounts. Either Party may provide written notice to the other Party requesting such changes and the Parties shall enter into good faith negotiations to make the minimum changes to this Agreement necessary to comply with such CPUC requirement. If the Parties are unable to agree to such changes within sixty (60) days after receipt of such notice, then either Party may terminate this Agreement upon written notice to the other Party.

6.7 Attorneys' Fees: Each Party shall be responsible for paying its own attorneys' fees and other costs associated with the negotiation, execution and delivery of this Agreement and performance of its obligations under this Agreement.

7. Notices:

7.1 PG&E Agreement Manager for this Agreement is Doreen Caruth, until or unless PG&E appoints a new one. [REDACTED], [REDACTED].

7.2 RCEA Agreement Manager is Lexie Perez, until or unless RCEA appoints a new one. [REDACTED], [REDACTED].

7.3 All formal notices, requests, demands, approvals, and communications under this Agreement (other than routine operational communications) (collectively, "**Notices**") will be in writing and may be served either (i) in person, (ii) via e-mail, or (iii) by registered or certified mail or air freight services that provide proof of delivery, with postage or shipping fees prepaid, and addressed as follows:

In the case of PG&E:

Pacific Gas and Electric Company
300 Lakeside Drive
Oakland, CA, 94612
Attn: Michelle van Tijen
Email: [REDACTED]

with copy to:

California Public Utilities Commission, Energy Division
505 Van Ness Avenue
San Francisco, CA 94102
Attn: Pamela Rittelmeyer, PhD
Email: [REDACTED]

In the case of RCEA:

Redwood Coast Energy Authority
633 3rd Street
Eureka, CA 95501
Attn: Matthew Marshall
Email: [REDACTED]

8. No Provision Interpreted Against Drafter: Ambiguities are to not to be resolved against the drafting Party and shall not be employed in the interpretation of this Agreement.

9. Severability: If any provision of this Agreement is held invalid by a court with jurisdiction over the Parties to this Agreement, such provision will be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, and the remainder of this Agreement will remain in full force and effect.

10. Survival: Any provision of this Agreement that contemplates or governs performance or observance after termination or expiration of this Agreement will survive the expiration or termination of this Agreement.

11. Entire Agreement; Amendments: This Agreement constitutes the entire agreement between the Parties with respect to its subject and merges, integrates and supersedes all prior and contemporaneous agreements and understandings between the Parties, whether written or oral, concerning its subject matter. No modification or amendment to this Agreement will be effective unless it is expressly set forth in writing and duly executed by the Parties.

12. Counterparts: This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which will together constitute one and the same agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the Effective Date.

Redwood Coast Energy Authority

By:
Name: Eileen Verbeck
Title: acting Executive Director
Date:

Pacific Gas and Electric Company

By:
Name: Jake Zigelman
Title: Senior Director, Load Mgmt. Solutions
Date:



STAFF REPORT

Agenda Item # 10.1

AGENDA DATE:	November 16, 2023
TO:	Board of Directors
FROM:	Eileen Verbeck, Deputy Executive Director
SUBJECT:	Deputy Executive Director's Report

SUMMARY

Deputy Executive Director Eileen Verbeck will provide updates on topics as needed.

RECOMMENDED ACTION

None. (Information only.)