



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

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

**March 28, 2024
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 RCEA Board of Directors holds in-person hybrid meetings. When attending, 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 prompt you to 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 AND WRITTEN 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:

4.1.1 February 12, 2024, Board Special Meeting, and

4.1.2 February 22, 2024, Board Meeting.

4.2 Approve Disbursements Report.

4.3 Accept Financial Reports.

4.4 Approve 2024 RCEA Policy Platform.

4.5 Appoint Colin Fiske and Pliny McCovey to Fill the Two At-Large Community Advisory Committee Seats for Two-Year Terms Expiring March 31, 2026, and Appoint Michael Shackelford to the Community Advisory Committee Blue Lake Rancheria Seat for a Term Ending March 31, 2026.

4.6 Approve Updated Account Services Manager Job Description

4.7 Authorize the Executive Director to Withdraw from Attorney-Client Representation Agreement Between Redwood Coast Energy Authority and Law Office of David Pepper, "PepperLegal."

5. REMOVED FROM CONSENT CALENDAR ITEMS

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

COMMUNITY CHOICE ENERGY (CCE) BUSINESS – None.

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. NEW BUSINESS

6.1. Sandrini Battery Energy Storage Service Agreement

Approve Resolution 2024-3 Approving the Form of and Authorizing the Execution of the Energy Storage Service Agreement with Sandrini BESS Storage LLC and the Third Amendment to the Power Purchase Agreement with EDPR CA Solar Park II LLC.

6.2. Grid Resilience Innovation Partnership Program Funding Opportunity

Approve Memorandum of Agreement Between Redwood Coast Energy Authority, Blue Lake Rancheria Tribe, Hoopa Valley Tribe, Karuk Tribe, Yurok Tribe and the Cal Poly Humboldt Sponsored Programs Foundation on behalf of Schatz Energy Research Center (Schatz) to Engage in Activities Regarding the Funding and Coordination of the GRIP 2 Funding Application and Authorize the Executive Director to execute said Memorandum of Agreement.

Authorize Executive Director to Submit the GRIP 2 Funding Application for Approximately \$80,000,000 in Federal Department of Energy Funding on Behalf of the Parties Listed in the MOA with RCEA Listed as the Lead Applicant.

6.3. Executive Director Recruitment

Approve Appointment of Deputy Executive Director Eileen Verbeck to Interim Executive Director, at Compensation Determined at the February 22, 2024 Board Meeting, Beginning April 1, 2024.

Authorize staff to solicit quotes from qualified executive search firms to perform the Executive Director recruitment.

Solicit Board of Director volunteers for an ad hoc Executive recruitment subcommittee.

Authorize the ad hoc Executive Director recruitment subcommittee to act as a review committee and authorize it to take the following actions: (i) approve scope of work, (ii) approve evaluation criteria, (iii) approve selected proposal based on the selection criteria to bring to the full Board for review and approval of resulting contract, (iv) review Executive Director salary schedule and make recommendations to the Board for any proposed changes.

7. OLD BUSINESS

7.1. Humboldt Sawmill Company Biomass Emissions Biomass Technical Advisory Group and Community Advisory Committee Report (Information only)

8. STAFF REPORTS

8.1 Executive Director's Report (Information only)

9. FUTURE AGENDA ITEMS

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

10. ADJOURNMENT

NEXT SPECIAL MEETING

Monday, April 22, 2024, 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.

(NOTE: The April 25, 2024, regular RCEA Board meeting has been cancelled and rescheduled to April 22, due to Director and staff schedule conflicts.)



STAFF REPORT
Agenda Item # 1.1

AGENDA DATE:	March 28, 2024
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, Director Sheri Woo has requested remote director participation for "just cause" and there are no "emergency circumstances" requests.

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 SPECIAL MEETING MINUTES

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

**February 12, 2024
Monday, 4 p.m.**

Chair Sarah Schaefer called a special meeting of the Board of Directors of the Redwood Coast Energy Authority to order on the above date at 4 p.m. Notice of this meeting was posted on February 8, 2024.

PRESENT: Natalie Arroyo, Vice Chair Scott Bauer, Skip Jorgensen, Kris Mobley, Alt. Dir. Sherri Provolt (arrived 4:02 p.m.), Jason Ramos, Elise Scafani, Chair Sarah Schaefer, Frank Wilson, Sheri Woo. ABSENT: Frankie Myers, Jack Tuttle.

STAFF AND OTHERS PRESENT: General Counsel Nancy Diamond, Board Clerk Lori Taketa, Deputy Executive Director Eileen Verbeck.

ORAL COMMUNICATIONS

There were no written communications submitted nor members of the public present to speak. Chair Schaefer closed the public comment period.

CLOSED SESSION

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

There was no public comment regarding this closed session item. The Board adjourned to closed session at 4:01 p.m. and reconvened in open session at 5:33 p.m. Chair Schaefer stated there was nothing to report from the closed session and adjourned the meeting at 5:33 p.m.

Lori Taketa
Board Clerk



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BOARD OF DIRECTORS DRAFT MEETING MINUTES

**Wharfinger Building, downstairs Bay Room
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**February 22, 2024
Thursday, 3:30 p.m.**

Deputy Executive Director Eileen Verbeck 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 February 16, 2024.

PRESENT: Natalie Arroyo, Skip Jorgensen, Kris Mobley, Elise Scafani, Chair Sarah Schaefer (just cause remote participation, left at 6:15 p.m.), Frank Wilson, Sheri Woo. ABSENT: Scott Bauer, Frankie Myers, Jason Ramos, Jack Tuttle.

STAFF AND OTHERS PRESENT: General Counsel Nancy Diamond, Power Resources Director Richard Engel, Senior Power Resources Manager Jocelyn Gwynn, The Energy Authority California Account Director Jaclyn Harr, Demand-Side Management Director Stephen Kullmann, Community Advisory Committee Chair Dennis Leonardi, Board Clerk Lori Taketa, Deputy Executive Director Eileen Verbeck.

CHAIR PRO TEM ELECTION

Due to the Chair's remote participation and the Vice Chair's absence, the directors selected a Chair Pro Tem to facilitate the Board meeting.

M/S: Mobley, Arroyo: Appoint Sheri Woo as Chair Pro Tem for this meeting.

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

REPORTS FROM MEMBER ENTITIES

Director Mobley reported that the Community Advisory Committee gave staff useful suggestions on rate increase messaging and requested appointment of a Rio Dell representative. Fortuna's new police facility will open in March or April.

Director Arroyo requested feedback on PG&E's Local Leader Energy Roundtable.

ORAL AND WRITTEN COMMUNICATIONS

Member of the public David Daz asked RCEA to partner with the Harbor District to install beach improvements such as restrooms and dog waste receptacles near the fish farm and offshore wind development areas.

Martha Walden of Humboldt Coalition for Clean Energy asked that her previous statement about how long Humboldt Sawmill Company was operating without permit be changed from two years to six months. She asked RCEA to end its contract with HSC as soon as possible.

CONSENT CALENDAR

- 4.1 Approve Minutes of January 25, 2024, Board Meeting.
- 4.2 Approve Disbursements Report.
- 4.3 Accept Financial Reports.
- 4.4 Approve Payment of California Community Power Agency Annual General and Administrative Dues up to \$85,000.
- 4.5 Approve the RCEA Net Billing Tariff Revisions Necessary to Incorporate Minor PG&E Net Billing Tariff Revisions.
- 4.6 Approve Updated Community Strategies Manager Job Description.
- 4.7 Adopt Resolution 2024-2 of the Redwood Coast Energy Authority Authorizing Certification and Submittal of Required Data to the U.S. Department of Agriculture Rural Utilities Services Loan Program; and Authorize the Board Chair to Sign a USDA Rural Utilities Services Programs Certificate of Authority to Submit or Grant Access to Data Naming RCEA's Deputy Executive Director as Certifier and Director of Business Development and Planning as Security Administrator.

Neither the Board nor public requested items be removed from the consent calendar.

M/S: Arroyo, Mobley: Approve Consent Calendar.

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

OLD CCE BUSINESS

6.1 Energy Risk Management Quarterly Report

The Energy Authority California Account Director Harr described near term increased retail electric rates and a forecasted rate drop in 2025-26. While power costs are projected to decrease, Renewable Energy Credits and other mandated product costs, including Resource Adequacy costs, are increasing significantly. TEA is procuring short-term power and mandated environmental products to adjust for the Sandrini Solar project's delayed October 1, 2024, start date. RCEA's annual net revenue forecast is slightly better than last reported in October 2023 due to increased retail rates. However, the 2025-26 forecasted revenue is less than previously projected due to anticipated power cost increases. RCEA's cash reserves continue to recover since the September 2021 depletion. There was no public comment nor director discussion for this agenda item.

NEW CCE BUSINESS

7.1 California Community Power Build-Own-Transfer Agreement Solicitation

Power Resources Director Engel described RCEA's participation in the California Community Power joint powers authority which helps Community Choice Aggregators pool their resources to meet costly CPUC mid-term reliability new project construction requirements. The Federal Inflation Reduction Act presents opportunities for public agencies like CCAs to take advantage of tax credits previously available only to private entities to develop new

projects. CC Power proposes a process where a developer builds a project then transfers long-term ownership to CC Power at or near the time the project becomes operable. Staff asked the Board to approve participation in this process' first phase. There was no public comment for this agenda item.

M/S: Mobley, Scafani: Authorize participation in the first phase of California Community Power's Build-Own-Transfer Solicitation at a not-to exceed cost of \$74,000.

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

OLD BUSINESS

8.1 Fiscal Year 2023-24 Draft Mid-Year Budget Adjustment

Business Development and Finance Director Biondini described lower than expected net income this fiscal year due to higher-than-expected energy costs to make up for Sandrini Solar project delays, and recommended removal of Rural Regional Energy Network revenue and expenses from the budget due to program uncertainties. Director Biondini also recommended postponing the consideration of any customer rate reductions until RCEA is closer to reaching its \$35 million cash reserve goal. The cash reserve goal prepares RCEA for extreme market fluctuations, unexpected events, and the ability to negotiate better contract terms resulting in lower operating costs.

The Directors discussed public misunderstanding of how RCEA charges appear on the PG&E-generated bill. Demand-Side Management Director Kullmann described how staff explain to callers every day that RCEA is not a duplicate charge and persuade a large percentage of callers not to opt-out by describing RCEA's programs. Staff asked for suggestions on community events where RCEA can participate and educate the public about RCEA's role. There was no public comment on this item.

M/S: Arroyo, Jorgensen: Approve proposed changes to the RCEA Fiscal Year 2023-24 Budget.

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

8.2 Community Advisory Committee Annual Report and Work Goals, CAC At-Large Member Recruitment

Deputy Executive Director Verbeck described the CAC's long-term work goals which are being extended through the end of 2024, and the committee's valuable insights into how RCEA is perceived in the community. CAC Chair Dennis Leonardi described the upcoming committee meeting which will focus on RCEA's biomass energy contract with Humboldt Sawmill Company.

Directors Arroyo, Jorgensen, Mobley and Schaefer volunteered to serve on an ad hoc CAC at-large nomination subcommittee. There was no public comment on this item.

M/S: Jorgensen, Arroyo: Accept Community Advisory Committee 2023 Annual Report and approve 2024-5 CAC work goals.

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

NEW BUSINESS

9.1 Annual Regulatory & Legislative Policy Platform Review

The Board postponed consideration of this item to the next meeting.

9.2 Coordinator/Associate Job Description and Pay Schedule Update

Deputy Executive Director Verbeck described suggested updates to the Associate/Intern and Coordinator job descriptions and salary schedules to address equity between classifications and increase competitiveness with California minimum wage positions. Director Arroyo noted a correction to the job descriptions. There was no public comment for this item.

M/S: Arroyo, Mobley: Approve updated job description and salary schedule to establish the Coordinator job classification, and

Approve updated Associate/Intern job description with noted correction.

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

STAFF REPORTS

10.1 Deputy Executive Director's Report

Deputy Executive Director Verbeck and Regulatory and Legislative Policy Manager Carlson attended the California Community Choice Association's Sacramento Lobby Day. RCEA is well-regarded among the CCAs as being a source of innovative solutions. All CCAs are facing similar project and grid interconnection delays and are being forced to seek short-term, high-priced procurement to meet state-mandated requirements. State representatives are hearing that this makes it difficult to keep electricity rates affordable for customers. There was no public comment on this item.

FUTURE AGENDA ITEMS

Director Wilson asked for clarification from the Air Quality Management District regarding Humboldt Sawmill Company's operating permit. Director Arroyo asked staff to identify a better estimate of the cash reserves needed, considering inflation and increased costs of doing business, before the Board can consider rate reductions when the Board discusses the 2024-25 budget.

CLOSED SESSION

12.1 Conference with Legal Counsel: Existing Litigation, CPUC 22-02-005, Petition for Modification of D. 23-06-055, pursuant to Government Code 54956.9(d)(1).

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

Closed session item 12.1 was removed from the agenda. There was no public comment regarding closed session item 12.2. The Board adjourned to closed session at 4:49 p.m. and reconvened in open session at 6:16 p.m. Chair Pro Tem Woo reported the following closed session action:

M/S: Scafani, Arroyo: Increase the Deputy Executive Director's salary to Step 10 retroactively beginning on November 1, 2023, while the Deputy Executive Director serves as Executive Director.

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

Chair Pro Tem Woo adjourned the meeting at 6:16 p.m.

Lori Taketa
Board Clerk

Redwood Coast Energy Authority Disbursements Report As of January 31, 2024

Type	Date	Num	Name	Memo	Amount
Check	01/05/2024	ACH	VISA	December 2023 Statement 11/21 - 12/20/2023	-5,412.31
Bill Pmt -Check	01/05/2024	ACH	Viridity Energy Solutions, Inc.	Tierra Buena RA-December 2023	-16,900.00
Liability Check	01/05/2024	ACH	Ascensus	Deferred compensation Paydate 01/05/24	-13,568.65
Liability Check	01/05/2024	ACH	EDD	Taxes, Paydate 01/05/24	-10,484.02
Liability Check	01/05/2024	ACH	Internal Revenue Service	Taxes, Paydate 01/05/24	-34,378.32
Liability Check	01/05/2024	ACH	Newport Group	Deferred compensation, Paydate 01/05/24	-12,008.03
Paycheck	01/05/2024	ACH	Employees	Payroll	-88,064.04
Bill Pmt -Check	01/16/2024	ACH	Campton Electric Supply	Deposit for materials release- EVSE	-74,836.25
Bill Pmt -Check	01/18/2024	ACH	Leapfrog Energy	December 2023 RA Invoice	-36,740.00
Bill Pmt -Check	01/19/2024	16836	AT&T	VOID: RCAM charges: 12/29/23-1/28/24	0.00
Bill Pmt -Check	01/19/2024	16837	AT&T Long Distance	VOID: Phone charges 12/25/2023 - 1/24/2024	0.00
Bill Pmt -Check	01/19/2024	16838	Carter Properties, LLC	917 3rd Street Office Lease -Feb 2024 rent	-2,300.00
Check	01/19/2024	16839	CCE Customer	EVSE Rebate - REVSE39	-228.97
Bill Pmt -Check	01/19/2024	16840	Donald Dame	CCE Consulting services	-248.50
Bill Pmt -Check	01/19/2024	16841	Enterprise	12/4/23-12/9/23 Caselle training	-404.98
Bill Pmt -Check	01/19/2024	16842	HireRight	New employee screening service- Court fee	-15.00
Bill Pmt -Check	01/19/2024	16843	Humboldt Bay Coffee Co.	Office Coffee	-69.20
Bill Pmt -Check	01/19/2024	16844	Winzler, John	Office Lease - 633 3rd St. Feb 2024	-7,752.50
Bill Pmt -Check	01/19/2024	16845	Diamond, Nancy	Legal Services	-19,690.00
Bill Pmt -Check	01/19/2024	16846	Liebert Cassidy Whitmore	Annual membership fee	-5,815.00
Bill Pmt -Check	01/19/2024	16847	Local Worm Guy	Compost service both locations	-60.00
Bill Pmt -Check	01/19/2024	16848	Bithell, M.	Dec 2023 Mileage Reimbursement	-20.96
Bill Pmt -Check	01/19/2024	16849	Mission Uniform & Linen	Janitorial services and supplies	-186.39
Bill Pmt -Check	01/19/2024	16850	North Coast Cleaning	Janitorial Service - both locations	-970.00
Bill Pmt -Check	01/19/2024	16851	Pacific Paper Company	Office Supplies: Binder clips	-5.99
Bill Pmt -Check	01/19/2024	16852	Scraper's Edge	Date stamp	-84.67
Bill Pmt -Check	01/19/2024	16853	Times Printing Company	Move-in mailers and postage	-517.60
Bill Pmt -Check	01/19/2024	16854	Ubeo Business Services	Printer Charges: 12/6/23-1/5/24	-150.52
Bill Pmt -Check	01/19/2024	16855	AT&T	RCAM router/internet charges: 12/29-1/28/24	-888.92
Bill Pmt -Check	01/19/2024	16856	AT&T Long Distance	Phone charges 12/25/2023 - 1/24/2024	-111.81
Paycheck	01/19/2024	ACH	Employees	Payroll	-86,156.39
Check	01/22/2024	Debit	Umpqua	Service Charge	-282.65
Liability Check	01/23/2024	ACH	Ascensus	Deferred compensation Paydate 01/19/24	-13,514.21
Liability Check	01/23/2024	ACH	EDD	Taxes Paydate 01/19/24	-9,355.81
Liability Check	01/23/2024	ACH	Internal Revenue Service	Taxes Paydate 01/19/24	-33,827.28
Liability Check	01/23/2024	ACH	Newport Group	Deferred compensation Paydate 01/19/24	-12,008.03
Liability Check	01/23/2024	ACH	CICCS Coalition for Controlling Insurance	EAP benefit, Invoice 2024-01	-64.94
Liability Check	01/26/2024	16857	Ameritas - Dental	Dental Ins Premiums, Feb 2024	-2,539.92
Liability Check	01/26/2024	16858	Ameritas - Vision	Vision Ins Premiums, Feb 2024	-442.76
Liability Check	01/26/2024	16859	Colonial Life	Supplemental Ins Premiums, Feb 2024	-3,036.76
Liability Check	01/29/2024	ACH	Keenan	Health Ins, Feb 2024 Premiums	-38,462.85
Bill Pmt -Check	01/31/2024	ACH	CA Dept. of Tax & Fee Administration	Electrical Energy Surcharge Return Q4 2023	-40,116.00
Liability Check	01/31/2024	ACH	Ascensus	Paydate 01/31/2024	-2,836.69
Liability Check	01/31/2024	ACH	EDD	Paydate 01/31/2024	-4,448.14
Liability Check	01/31/2024	ACH	Internal Revenue Service	Paydate 01/31/2024	-17,236.04
Liability Check	01/31/2024	ACH	Newport Group	Paydate 01/31/2024	-2,682.84
Paycheck	01/31/2024	ACH	Employee	Final Paycheck, 01/31/2024	-16,891.16
TOTAL					-615,815.10

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Redwood Coast Energy Authority
Profit & Loss Budget vs. Actual
 July 2023 through January 2024

	<u>Jul '23 - Jan 24</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	267,074.90	586,099.00	45.57%
Total 5100 · Revenue - program related	166,593.71	155,000.00	107.48%
Total 5400 · Revenue-nongovernment agencies	406,852.20	582,802.00	69.81%
Total 5500 · Revenue - Electricity Sales	<u>45,035,134.80</u>	<u>85,206,156.00</u>	<u>52.85%</u>
Total 5 REVENUE EARNED	<u>45,875,655.61</u>	<u>86,530,057.00</u>	<u>53.02%</u>
Total Income	<u>45,875,905.61</u>	<u>86,530,057.00</u>	<u>53.02%</u>
Gross Profit	45,875,905.61	86,530,057.00	53.02%
Expense			
Total 6 WHOLESALE POWER SUPPLY	36,786,220.81	65,436,704.00	56.22%
Total 7 PERSONNEL EXPENSES	2,639,984.44	5,148,499.00	51.28%
Total 8.1 FACILITIES AND OPERATIONS	327,744.05	1,537,574.00	21.32%
Total 8.2 COMMUNICATIONS AND OUTREACH	69,162.67	160,485.00	43.1%
8.4 PROFESSIONAL & PROGRAM SRVS			
8400 · Regulatory	81,093.76	205,000.00	39.56%
8410 · Contracts - Program Related Ser	296,047.76	640,900.00	46.19%
8420 · Accounting	59,513.08	191,000.00	31.16%
8430 · Legal	196,438.40	230,000.00	85.41%
8450 · Wholesale Services - TEA	476,655.83	766,853.00	62.16%
8460 · Procurement Credit - TEA	105,604.93	414,075.00	25.5%
8470 · Data Management - Calpine	<u>465,302.99</u>	<u>887,187.00</u>	<u>52.45%</u>
Total 8.4 PROFESSIONAL & PROGRAM SRVS	<u>1,680,656.75</u>	<u>3,335,015.00</u>	<u>50.39%</u>
Total 8.5 PROGRAM EXPENSES	168,876.74	290,014.00	58.23%
Total 8.6 INCENTIVES & REBATES	<u>219,306.74</u>	<u>402,575.00</u>	<u>54.48%</u>
Total 9 NON OPERATING COSTS	<u>70,204.30</u>	<u>129,500.00</u>	<u>54.21%</u>
Total Expense	<u>41,962,156.50</u>	<u>76,440,366.00</u>	<u>54.9%</u>
Net Ordinary Income	<u>3,913,749.11</u>	<u>10,089,691.00</u>	<u>38.79%</u>
Net Income	<u><u>3,913,749.11</u></u>	<u><u>10,089,691.00</u></u>	<u><u>38.79%</u></u>

Redwood Coast Energy Authority
Balance Sheet
As of January 31, 2024

	Jan 31, 24
ASSETS	
Current Assets	
Checking/Savings	
1010 · Petty Cash	300.00
1060 · Umpqua Checking Acct 0560	714,819.26
1071 · Umpqua Deposit Control Acct 8215	16,677,211.86
1075 · Umpqua Reserve Account 2300	1,700,000.00
1076 · First Republic Bank - 4999	399,967.48
Total Checking/Savings	19,492,298.60
Total Accounts Receivable	321,011.86
Other Current Assets	
1101 · Allowance for Doubtful Accounts	-5,889,898.05
1103 · Accounts Receivable-Other	18,368,216.06
1120 · Inventory Asset	35,452.21
1205 · Prepaid Insurance	1,465.75
1210 · Retentions Receivable	17,652.91
1499 · Undeposited Funds	26.00
Total Other Current Assets	12,532,914.88
Total Current Assets	32,346,225.34
Total Fixed Assets	9,345,339.93
Other Assets	
1700 · Security Deposits	4,198,623.26
Total Other Assets	4,198,623.26
TOTAL ASSETS	45,890,188.53
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Total Accounts Payable	6,305,187.13
Total Credit Cards	12,399.65
Other Current Liabilities	
2002 · Deposits Refundable	1,986,795.01
2011 · NEM Escrow Liability	145,802.73
Total 2100 · Payroll Liabilities	178,013.74
Total 2200 · Accrued Expenses	16,752.75
Total Other Current Liabilities	2,327,364.23
Total Current Liabilities	8,644,951.01
Total Long Term Liabilities	6,085,188.01
Total Liabilities	14,730,139.02
Equity	
2320 · Investment in Capital Assets	49,064.67
3900 · Fund Balance	27,197,235.73
Net Income	3,913,749.11
Total Equity	31,160,049.51
TOTAL LIABILITIES & EQUITY	45,890,188.53



STAFF REPORT
Agenda Item # 4.4

AGENDA DATE:	March 28, 2024
TO:	Board of Directors
PREPARED BY:	Faith Carlson, Regulatory and Legislative Policy Manager
SUBJECT:	2024 Policy Platform Update

BACKGROUND

On March 24, 2022, the RCEA Board of Directors adopted the RCEA 2022 Policy Platform (Platform), which was updated in late 2023.

The purpose of the Platform is to deliver on RCEA’s RePower Humboldt goals and maintain the operation of its various programs. RCEA regularly tracks policy developments in both the regulatory and legislative space to fulfill these goals.

Previously, RCEA needed Board authorization to adopt a position on any given piece of legislation. . Case-by-case authorization is time-consuming and the frequency of RCEA Board meetings typically does not align with the pace of the legislative process. The ultimate purpose of establishing the Platform is to implement a more efficient and structured advocacy approach akin to what other Community Choice Aggregators (CCAs) have in place. The Platform allows RCEA to be nimbler in adopting positions on legislative matters in a timely manner without full Board approval if the position is aligned with the Board-approved priorities. This Platform also helps inform RCEA’s regulatory activities to ensure staff engagement aligns with the Board’s priorities and RCEA’s goals. As noted in the Platform, staff is authorized to engage in regulatory matters without Board consultation.

The 2023 Policy Platform and Draft 2024 Policy Platform support the following overarching policy priorities:

- To maintain local control for the purpose of preserving the ability to self-procure its power resources, and to self-determine rates and the energy programs RCEA offers to its residents, businesses, and communities it serves, through the mechanisms of local governance,
- To provide lower and more stable rates for RCEA customers,
- To provide greater economic benefits to the local community,

- To have maximum flexibility to utilize and develop local resources in the most economically efficient manner possible and with a high degree of local control,
- To maintain the financial stability of CCA operations, and
- To maintain an efficient, transparent governance structure and operations.

Additionally, the Platform will be brought to the RCEA Board of Directors for periodic review. This is an opportunity for the Board to suggest revisions to RCEA’s policy priorities.

RCEA staff engaged the Community Advisory Committee on the Draft 2024 Policy Platform to receive input to be considered by the Board at this meeting.

SUMMARY

RCEA staff reviewed the 2024 Policy Platform and suggested a handful of revisions which are redlined in the attached document. The majority of changes reflect formatting updates and grammatical corrections.

Below are the substantive changes:

Section (as enumerated in redline doc)	Previous Language	Updated Language	Reason
3, 5		Resource Adequacy, PSPS, and Reliability all consolidated to same section.	Readability and conciseness.
5b	“Support policies which require IOUs to notify impacted cities, counties, tribes, and CCAs of impending PSPS events.”		Deletion: redundant to 5a “Support policies which increase the notification and transparency requirements on IOUs as they implement a PSPS.”
4	“COVID-19 Response”	“Public Health Emergency and Natural Disaster Response”	To include a greater number of emergency scenarios.
6d		“Where new transmission or distribution infrastructure is needed, support policies that design, upgrade, and scale such infrastructure to	Addition: to reflect transmission and distribution access goals, while still aligning with existing

		empower community members access to resources including but not limited to renewable energy, green transportation, and rural transmission infrastructure.”	language related to microgrids.
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ALIGNMENT WITH [RCEA’S STRATEGIC PLAN](#)

The Platform was developed to allow RCEA to efficiently engage in regulatory and legislative development that will support RCEA’s ability to implement strategies in RePower Humboldt and achieve the objectives articulated in RCEA’s Mission Statement.

EQUITY IMPACTS

The Platform contains a section on “Environmental Justice” which includes “engag[ing] in policy that directly or indirectly impact the ability of rural, low-income, and underserved communities in the RCEA service territory to have affordable, reliable and clean energy.”

This section also includes support for policies that “strengthen the resilience of vulnerable communities to adapt to the impacts of climate change” and “enable all communities [...] to participate in the decarbonization of the state’s electrical grid, building stock, and the transportation sector in a cost-effective manner.”

FINANCIAL IMPACT

None.

STAFF RECOMMENDATIONS

Approve 2024 RCEA Policy Platform.

ATTACHMENTS

Redwood Coast Energy Authority Draft 2024 Policy Platform, clean and redlined.

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REDWOOD COAST ENERGY AUTHORITY 2024~~3~~ POLICY PLATFORM

INTRODUCTION

Redwood Coast Energy Authority (“RCEA”) is a joint-powers authority of the cities of Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, Trinidad, [the Yurok Tribe](#), [Blue Lake Rancheria](#), County of Humboldt, and the Humboldt Bay Municipal Water District. The mission of RCEA is to develop and implement sustainable energy initiatives which reduce energy demand, increase energy efficiency, and advance the use of clean, efficient, and renewable resources available in the region for the benefit of the Member agencies and their constituents.

This Policy Platform serves as a guide for regulatory and legislative engagement which is based on principles set forth in RCEA’s RePower Humboldt strategic plan. To review RCEA’s strategic plan, please see <https://redwoodenergy.org/wp-content/uploads/2020/06/RePower-2019-Update-FINAL-.pdf>

This platform will be brought to the RCEA Board on an annual basis for review and input.

AVENUES AND EXAMPLES OF ADVOCACY

Legislation and regulation are two distinct, but related, policy tools. Legislation sets principles of public policy, while regulation implements these principles and brings legislation into effect.

Examples of RCEA legislative advocacy include submitting letters in support or opposition of specific bills, as well as meeting with legislators in the California State Senate, the California State Assembly, U.S. House of Representatives, and U.S. Senate.

Most of RCEA’s regulatory engagement takes place through the California Public Utilities Commission (“CPUC”), the primary State agency responsible for executing legislation and issuing regulations pertinent to Community Choice Aggregation (“CCA”) operations. However, RCEA’s operations are also impacted by other state and federal agencies including but not limited to the California Energy Commission, the California Air Resources Board, the Federal Energy Regulatory Commission, and the federal Bureau of Ocean Energy Management. Each of these agencies develop and implement regulations that are of interest to RCEA. Examples of advocacy in this sphere include meeting with agency staff, agency decision-makers, and submitting comments in response to regulations.

PROCEDURES

Regulatory Engagement: RCEA regulatory engagement at the CPUC and other agencies is conducted at the staff level under the authority of the Executive Director in a manner consistent with RCEA’s mission, this policy platform, RCEA’s strategic plan, and any applicable RCEA policies.

Legislative Advocacy: The RCEA Executive Director, or their designee, is authorized to adopt positions on legislative matters in a timely manner without Board approval if the position is aligned with the issue areas described below.

Prior to adopting a legislative position, the Executive Director shall confer with the Board Chair and Vice-Chair on the matter. If both the Chair and Vice-Chair concur that the position is consistent with the Legislative Platform and/or the mission of RCEA then the Executive Director may take the position.

To keep the Board apprised of advocacy activities, staff will notify the full Board of any legislative positions taken by RCEA and deliver a quarterly report to the Board summarizing legislative engagement. Furthermore, this platform will be brought to the Board for review and input on an annual basis.

While the platform attempts to address a full range of issues of interest to RCEA, it is not intended to limit RCEA’s engagement in other issues that may impact RCEA in a positive or negative way. Issues not addressed in the platform will continue to be brought to the Board on a case-by-case basis.

ISSUE AREAS

1. Governance and Statutory Authority

RCEA will:

- a. Oppose policies ~~which that~~ limit the local decision-making authority of local governments or CCAs, including rate-setting authority and procurement of energy and capacity to serve their customers.
- b. Oppose policies ~~which that~~ limit RCEA’s ability to effectively serve its customers.
- c. Support efforts of CCAs to engage with their customers and promote transparency in their operations; ~~Similarly, RCEA will~~ oppose policies ~~which that~~ restrict or limit these abilities.
- d. Support policies ~~which that~~ make it easier for other cities and counties to form a CCA, become members of RCEA or other CCAs, ~~or expand the service area of an existing CCA~~, and oppose regulations and legislation ~~which that~~ restricts ~~which that ability~~ these abilities.

2. Restructuring the Electricity Utility Sector

RCEA will:

- ~~a.~~ Support policies and advocate for reforms to the utility regulatory and business model to transform IOUs into entities that solely provide transmission and distribution services.

- ~~b.a.~~ Support policies and advocate for reforms to the utility regulatory and business model to ensure Investor-Owned Utilities (IOUs) deliver greater benefits to ratepayers, increase safety and reliability, and reduce costs.
- ~~e.b.~~ Support local governments' ability to form municipal electric utilities, including supporting legislation ~~which that~~ expands opportunities for CCAs to become municipal electric utilities.
- ~~d.c.~~ Advocate for greater collaboration to occur between CCAs, tribes, local governments, and incumbent IOUs, particularly in local planning efforts related to energy, EV charging, community resource centers, and customer programs.
- ~~e.d.~~ Support efforts ~~which that~~ result in IOUs providing meter data in real time to enable CCAs to better forecast and schedule load.

~~3. Resource Adequacy~~

~~RCEA will:~~

- ~~a.~~ Support the efforts of CalCCA to reform the Resource Adequacy program.
- ~~b.~~ Advocate for and support efforts to remove barriers to demand response, microgrids and behind the meter resources to provide Resource Adequacy or other demand reduction value.

~~4.3. Power Cost Indifference Adjustment (PCIA)~~

~~RCEA will:~~

- ~~a.~~ Support ~~CalCCA~~ efforts by the California Community Choice Association (CalCCA) to increase the transparency of IOU electricity contracts ~~which that~~ provide the basis for Power Cost Indifference Adjustment (PCIA) charges which RCEA (and its customers) and other CCAs must pay.
- ~~b.~~ Support efforts ~~which that~~ create a pathway to ~~wind down~~ reduce and eventually phase out the PCIA.
- ~~c.~~ Support policies ~~which that~~ would bring stability to the PCIA and/or provide new mechanisms for CCAs to securitize PCIA charges.
- ~~d.~~ Oppose policies ~~which that~~ would increase or expand exit fees, including PCIA, on CCA customers.

~~5. Public Safety Power Shut-Offs (PSPS)~~

~~RCEA will:~~

- ~~a.~~ Support policies which increase the notification and transparency requirements on IOUs as they implement a PSPS.
- ~~b.~~ Support policies which create standards for PSPS implementation and penalties on IOUs which execute PSPS below those standards.
- ~~c.~~ Support policies which create rules and procedures to ensure PSPS are implemented narrowly and only as absolutely necessary.
- ~~d.~~ Support policies which require IOUs to notify impacted cities, counties, tribes, and CCAs of impending PSPS events.

6.4. COVID-19 Response Public Health Emergency and Natural Disaster Response

- a. To the extent that it does not ~~harm~~endanger RCEA's financial health and standing, support regulatory policies, legislation, or budget appropriations to alleviate residential and commercial financial hardship caused ~~by the COVID-19 pandemic~~ public health emergencies or natural disasters that could disrupt electricity service to RCEA customers or restrict RCEA customers accessing clean energy opportunities. This could include, for example, assistance to avoid electric service disconnection or economic recovery funding for transportation electrification.

5. Reliability

RCEA will:

- a. ~~Support policies that reduce outage duration and frequency of power outages and increase compliance with electric system-improve grid reliability targets.~~
- b. **Public Safety Power Shut-Offs (PSPS)**
 - i. ~~Support policies which that~~ increase the notification and transparency requirements on IOUs as they implement a PSPS.
 - ii. ~~Support policies which that~~ create standards for PSPS implementation and penalties on IOUs which that execute PSPS below those standards.
 - iii. ~~Support policies which that~~ create rules and procedures to ensure PSPS are implemented narrowly and only as absolutely necessary.
- c. ~~that~~ **Resource Adequacy**
 - i. Support the efforts of CalCCA to reform the Resource Adequacy program to improve electric system reliability at reasonable cost to ratepayers.
 - ii. Advocate for and support efforts to remove barriers to demand response, microgrids and behind the meter resources to provide Resource Adequacy or other demand-reduction value.

7.6. Community Resilience

RCEA will:

- a. Advocate for and support funding for programs implemented by local governments and CCAs to increase community resilience to wildfires, PSPS events and other potential service disruptions.
- b. Support policies ~~which that~~ reduce barriers to microgrid development by CCAs and other local entities including tribes and local governments.
- c. Support policies that expand the ability of non-IOU entities to develop microgrids (e.g., ensuring CCA access to ratepayer funds to develop microgrids).
- d. ~~Support policies which that~~ increase the development of community level resources and distributed energy resources ~~which that~~ reduce the need for new transmission and distribution infrastructure.
- e. d. Where new transmission or distribution infrastructure is needed, support policies that design, upgrade, and scale such infrastructure to empower community members access to resources including but not limited to renewable energy, green transportation, and rural transmission infrastructure.

8.7. Climate Action

RCEA will:

- a. Support policies that increase resources for climate change mitigation and adaptation and support initiatives that will strengthen climate change mitigation and adaptation efforts.
- b. ~~Support policies that increase resources for climate change mitigation and support initiatives that will strengthen climate change mitigation efforts.~~

9.8. Renewable Energy Generation Sources

RCEA will:

- a. Support policies ~~which that~~ expand opportunities for or reduce barriers to the development of renewable energy sources, including, but not limited to, wind, solar, bioenergy, ~~battery storage,~~ small hydro, and geothermal, as well as battery storage to enable use of these renewable resources, as long as local development and siting criteria are consistent with city and county land use authority, other local and state regulatory requirements, and informed by input from tribal governments.
- b. Support policies ~~which that~~ expand opportunities for offshore wind, including investment in requisite infrastructure (e.g., harbor facilities and transmission) and workforce training necessary to support such development.
- c. Oppose policies ~~which that~~ require CCAs to purchase specific renewable energy products, thus limiting the ability of CCAs to meet local energy needs in a cost-effective manner, and in conflict with their local procurement and rate setting authority.

10.9. Environmental Justice

RCEA will:

- a. Engage in regulatory and legislative developments ~~which that~~ directly or indirectly impact the

ability of rural, low-income, and underserved communities in the RCEA service territory to have affordable, reliable, and clean energy.

- b. Support policies ~~which that~~ strengthen the resilience of vulnerable communities to adapt to the impacts of climate change.
- c. Support policies that enable all communities, including emerging and historically marginalized communities, and individuals, regardless of race, color, national origin, religion, sexual orientation, sex, gender identity, age, disability, or socioeconomic status, in California to participate in the decarbonization of the state's electrical grid, building stock, and the transportation sector in a cost-effective manner.

11.10. RCEA Programs

- a. Protect RCEA autonomy to administer programs, and support policies that expand opportunities for or reduce barriers to the development of RCEA programs including but not limited to:
 - i. Integrated demand side management (microgrids, distributed energy resources, demand response, energy efficiency, electrification, distributed generation and storage, vehicle-to-grid storage)
 - ii. Low-carbon transportation (advanced fuel deployment, fuel efficiency, fueling infrastructure)
 - iii. Energy generation and utility services (rates and tariffs, transmission and distribution infrastructure)

12.11. Local Economic Development and Environmental Objectives

RCEA will:

- a. Support policies ~~which that~~ enhance opportunities for local governments and CCAs to promote local economic and workforce development through locally designed programs ~~which that~~ meet the unique needs of its member agencies and customers.
- b. Support efforts to enhance development of local and regional sources of renewable energy.
- c. Support policies ~~which that~~ enable CCAs to collaborate with their member jurisdictions on local energy resources and projects to advance environmental objectives.

13.12. Direct Access/Electric Service Providers

RCEA will:

- a. Oppose policies ~~which that~~ expand direct access or the ability or economic incentives for electric service providers to selectively recruit CCA or IOU customers.



REDWOOD COAST ENERGY AUTHORITY 2024 POLICY PLATFORM

INTRODUCTION

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ISSUE AREAS

1. Governance and Statutory Authority

RCEA will:

- a. Oppose policies that limit the local decision-making authority of local governments or CCAs, including rate-setting authority and procurement of energy and capacity to serve their customers.
- b. Oppose policies that limit RCEA’s ability to effectively serve its customers.
- c. Support efforts of CCAs to engage with their customers and promote transparency in their operations; oppose policies that restrict or limit these abilities.
- d. Support policies that make it easier for other cities and counties to form a CCA, become members of RCEA or other CCAs, or expand the service area of an existing CCA, and oppose regulations and legislation that restrict these abilities.

2. Restructuring the Electric Utility Sector

RCEA will:

- a. Support policies and advocate for reforms to the utility regulatory and business model to transform IOUs into entities that solely provide transmission and distribution services.
- b. Support policies and advocate for reforms to the utility regulatory and business model to ensure Investor-Owned Utilities (IOUs) deliver greater benefits to ratepayers, increase safety and reliability, and reduce costs.
- c. Support local governments’ ability to form municipal electric utilities, including supporting legislation that expands opportunities for CCAs to become municipal electric utilities.
- d. Advocate for greater collaboration to occur between CCAs, tribes, local governments, and incumbent IOUs, particularly in local planning efforts related to energy, EV charging, community resource centers, and customer programs.

- e. Support efforts that result in IOUs providing meter data in real time to enable CCAs to better forecast and schedule load.

3. Power Cost Indifference Adjustment (PCIA)

RCEA will:

- a. Support efforts by the California Community Choice Association (CalCCA) to increase the transparency of IOU electricity contracts that provide the basis for Power Cost Indifference Adjustment (PCIA) charges which RCEA (and its customers) and other CCAs must pay.
- b. Support efforts that create a pathway to reduce and eventually phase out the PCIA.
- c. Support policies that would bring stability to the PCIA and/or provide new mechanisms for CCAs to securitize PCIA charges.
- d. Oppose policies that would increase or expand exit fees, including PCIA, on CCA customers.

4. Public Health Emergency and Natural Disaster Response

- a. To the extent that it does not endanger RCEA's financial health and standing, support regulatory policies, legislation, or budget appropriations to alleviate residential and commercial financial hardship caused by public health emergencies or natural disasters that could disrupt electricity service to RCEA customers or restrict RCEA customers accessing clean energy opportunities. This could include, for example, assistance to avoid electric service disconnection or economic recovery funding for transportation electrification.

5. Reliability

RCEA will:

- a. Support policies that reduce duration and frequency of power outages and improve grid reliability.
- b. **Public Safety Power Shut-Offs (PSPS)**
 - i. Support policies that increase the notification and transparency requirements on IOUs as they implement a PSPS.
 - ii. Support policies that create standards for PSPS implementation and penalties on IOUs that execute PSPS below those standards.
 - iii. Support policies that create rules and procedures to ensure PSPS are implemented narrowly and only as absolutely necessary.
- c. **Resource Adequacy**
 - i. Support the efforts of CalCCA to reform the Resource Adequacy program to improve electric system reliability at reasonable cost to ratepayers.
 - ii. Advocate for and support efforts to remove barriers to demand response, microgrids and behind the meter resources to provide Resource Adequacy or other demand-reduction value.

6. Community Resilience

RCEA will:

- a. Advocate for and support funding for programs implemented by local governments and CCAs to increase community resilience to wildfires, PSPS events and other potential service disruptions.
- b. Support policies that reduce barriers to microgrid development by CCAs and other local entities including tribes and local governments.
- c. Support policies that expand the ability of non-IOU entities to develop microgrids (e.g., ensuring CCA access to ratepayer funds to develop microgrids).
- d. Support policies that increase the development of community level resources and distributed

energy resources that reduce the need for new transmission and distribution infrastructure. Where new transmission or distribution infrastructure is needed, support policies that design, upgrade, and scale such infrastructure to empower community members access to resources including but not limited to renewable energy, green transportation, and rural transmission infrastructure.

7. Climate Action

RCEA will:

- a. Support policies that increase resources for climate change mitigation and adaptation and support initiatives that will strengthen climate change mitigation and adaptation efforts.

8. Renewable Energy Generation Sources

RCEA will:

- a. Support policies that expand opportunities for or reduce barriers to the development of renewable energy sources, including, but not limited to, wind, solar, bioenergy, small hydro, and geothermal, as well as battery storage to enable use of these renewable resources, as long as local development and siting criteria are consistent with city and county land use authority, other local and state regulatory requirements, and informed by input from tribal governments.
- b. Support policies that expand opportunities for offshore wind, including investment in requisite infrastructure (e.g., harbor facilities and transmission) and workforce training necessary to support such development.
- c. Oppose policies that require CCAs to purchase specific renewable energy products, thus limiting the ability of CCAs to meet local energy needs in a cost-effective manner, and in conflict with their local procurement and rate setting authority.

9. Environmental Justice

RCEA will:

Engage in regulatory and legislative developments that directly or indirectly impact the ability of rural, low-income, and underserved communities in the RCEA service territory to have affordable, reliable, and clean energy.

- a. Support policies that strengthen the resilience of vulnerable communities to adapt to the impacts of climate change.
- b. Support policies that enable all communities, including emerging and historically marginalized communities, and individuals, regardless of race, color, national origin, religion, sexual orientation, sex, gender identity, age, disability, or socioeconomic status, in California to participate in the decarbonization of the state's electrical grid, building stock, and the transportation sector in a cost-effective manner.

10. RCEA Programs

- a. Protect RCEA autonomy to administer programs, and support policies that expand opportunities for or reduce barriers to the development of RCEA programs including but not limited to:
 - i. Integrated demand side management (microgrids, distributed energy resources, demand response, energy efficiency, electrification, distributed generation and storage, vehicle-to-grid storage)
 - ii. Low-carbon transportation (advanced fuel deployment, fuel efficiency, fueling infrastructure)

- iii. Energy generation and utility services (rates and tariffs, transmission and distribution infrastructure)

11. Local Economic Development and Environmental Objectives

RCEA will:

- a. Support policies that enhance opportunities for local governments and CCAs to promote local economic and workforce development through locally designed programs that meet the unique needs of its member agencies and customers.
- b. Support efforts to enhance development of local and regional sources of renewable energy.
- c. Support policies that enable CCAs to collaborate with their member jurisdictions on local energy resources and projects to advance environmental objectives.

12. Direct Access/Electric Service Providers

RCEA will:

- a. Oppose policies that expand direct access or the ability or economic incentives for electric service providers to selectively recruit CCA or IOU customers.



STAFF REPORT
Agenda Item # 4.5

AGENDA DATE:	March 28, 2024
TO:	Board of Directors
PREPARED BY:	Lori Taketa, Clerk of the Board Eileen Verbeck, Deputy Executive Director
SUBJECT:	Community Advisory Committee At-Large Appointments

BACKGROUND

RCEA’s Board established the Community Advisory Committee (CAC) to support RCEA public engagement efforts and provide decision-making support and input. In their advisory and outreach capacities, CAC members helped educate Humboldt County residents about community choice aggregation, gathered community energy priority input during the CCE program’s launch period and contributed time and effort towards other projects which are highlighted in the committee’s annual report.

Six of the CAC’s 15 seats will either expire on March 31, 2024, or are vacant. Four of these seats are filled through nominations for appointment by directors from member jurisdictions. The two at-large seats are filled through an open application process. Chair Schaefer and Directors Mobley, Arroyo and Jorgenson volunteered to serve on an ad hoc subcommittee at the February board meeting to review applications and nominate community members to fill the at-large seats.

SUMMARY

Expiring terms and vacancies are listed **in red**.

Representing Jurisdiction	Member Name	Term Expiration
At-Large	Colin Fiske	3/31/2024
At-Large	Larry Goldberg	3/31/2024
At-Large (New member agency seat)	Emily Morris (resigning)	3/31/2024
At-Large (New member agency seat)	Jeff Trirogoff	3/31/2024
Appointed Members		
Arcata	Norman Bell	3/31/2025
Blue Lake	Kit Mann	3/31/2025
Blue Lake Rancheria	New Seat	3/31/2026
County 1	Luna Latimer	3/31/2025
County 2	Christopher Honar	3/31/2025
County 3	Jerome Qiriazzi (resigning)	3/31/2024
Eureka	Deborah Dukes	3/31/2025
Ferndale	Dennis Leonardi, Chair	3/31/2026
Fortuna	Elizabeth Burks	3/31/2026
HBMWD	Ethan Lawton	3/31/2026

Rio Dell	Vacancy	3/31/2024
Trinidad	Richard Johnson	3/31/2025
Yurok Tribe	New Seat	3/31/2026

RCEA received six applications for the two available at-large appointments. The Board ad hoc subcommittee reviewed applications and have nominated candidates Colin Fiske and Pliny McCovey to fill the positions.

Director Ramos (Blue Lake Rancheria) nominated Michael Shackelford to the Community Advisory Committee for a term ending March 31, 2026.

Nominee Profiles

Colin Fiske (Arcata – At-Large Candidate) has served on the CAC for the past 6 years. He is an Arcata resident and has lived in Humboldt County for over 12 years. Mr. Fiske is the Executive Director and President of the Coalition for Responsible Transportation Priorities since 2015, serves on the City of Arcata Transactions and Use Tax Oversight Committee and has previously been affiliated with the North Coast Co-op, Humboldt Permaculture Guild and 350 Humboldt.

Pliny McCovey (Eureka– At-Large Candidate) is a first time CAC applicant and a Eureka resident. Mr. McCovey is the Special Projects Manger for the Westside Community Improvement Association, has over 20 years of experience working with Tribal governments and has worked at a non-profit community benefit organization for the last 3 years.

Michael Shackelford (Blue Lake) is a first time CAC nominee. Mr. Shackelford is a Blue Lake resident and works for Blue Lake Rancheria as a land conservation specialist. Mr. Shackelford serves on the Blue Lake Rancheria Tribal Council and is the President of the Blue Lake Rancheria Board of Education.

The nominees have been invited to attend this meeting and may be available to introduce themselves or answer questions from the Board.

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

The CAC’s work focus is to support RCEA public engagement efforts and provide decision-making support and input to the Board for the successful implementation of the agency’s work goals outlined in the RePower Humboldt strategic plan.

EQUITY IMPACTS

The CAC furthers implementation of RePower Humboldt strategic plan goals. Membership may help benefit underserved population segments, promote racially-diverse inclusion in energy infrastructure or policy decision making, access to energy, energy efficiency services and freedom from pollution. Staff recommends considering these goals as well as Committee member diversity and inclusion when appointing members to fill these vacancies.

FINANCIAL IMPACT

N/A.

STAFF RECOMMENDATION

Appoint Colin Fiske and Pliny McCovey to fill the two at-large Community Advisory Committee seats for two-year terms ending on March 31, 2026.

Appoint Michael Shackelford to the Community Advisory Committee Blue Lake Rancheria seat for a term ending March 31, 2026.

ATTACHMENTS

- CAC At-Large Candidate List

2024 Community Advisory Committee At-Large Candidates

#	Name	Residency	Years in Humboldt	CAC Service	Employer	Community Involvement
1	Kevin Benjamin	Eureka	22	N/A	Westside Community Improvement Association	Jefferson School
2	Colin Fiske	Arcata	12.5	6	Coalition for Responsible Transportation Priorities	City of Arcata Transactions and Use Tax Oversight Committee, North Coast Co-op, Humboldt Permaculture Guild, 350 Humboldt
3	Larry Goldberg	Trinidad	40	6	Six Rivers Solar	Transition Humboldt. 350 Humoldt, Rural Trinidad, CERT
4	Pliny McCovey	Eureka	4	N/A	Westside Community Improvement Association	Hoopla Tribe, Yurok Tribe, WCIA, Job Market, VA Waterfront Recovery
5	Wendy Ring	Bayside	35	N/A	Retired	Arcata Transportation Safety Committee, Climate 911, Climate Health Now, 350 Humboldt, Health Professionals for Clean Air and Climate Action
6	Jeff Trirogoff	Mckinleyville	4	2	The Pacific Companies	North American Board Certified Energy Professionals



STAFF REPORT
Agenda Item # 4.6

AGENDA DATE:	March 28, 2024
TO:	Board of Directors
PREPARED BY:	Kristy Siino, HR Manager
SUBJECT:	Account Services Manager Job Description Update

SUMMARY

The Account Services Manager position is expected to be vacant beginning July 1, 2024. The current job description has not been updated since 2017.

In anticipation of re-opening the position for recruitment, Human Resources has updated and clarified the duties of the Account Services Manager.

ALIGNMENT WITH RCEA'S STRATEGIC PLAN AND POLICIES

The Account Services Manager assists in RCEA's strategic goals of Regional Planning and Coordination, Power Resources, Utility Energy Services, and Rates and Tariffs, through education, excellent customer service, and data support.

EQUITY IMPACTS

Supports RCEA's Racial Justice Plan actions directed at Energy justice; affordability; community engagement; and integrating equity actions in job descriptions and staff work plans.

FINANCIAL IMPACT

None.

RECOMMENDATION

Approve updated Account Services Manager job description.

ATTACHMENT

Proposed Account Services Manager Job Description (redline version)



Manager/Senior Manager – Account Services

General Class Description: Under general direction of a Director, a program or project Manager assists in planning, organizing, coordinating, and managing programs or activities of their associated department; provides professional assistance to staff; performs related work as assigned. This class has lead responsibility for planning and implementation for one or more programs or functional areas. A Manager is responsible for accomplishing program goals and objectives, and directs the day-to-day operations and activities of their designated program or functional area within a department. A Manager works with their Director to ensure consistent and efficient implementation of agency operational policies and long-term operational excellence. This position class is distinguished by complex and widely-scoped duties related to program and project management, subject-matter expertise, and may include supervisory responsibility. This position exercises considerable discretion and independent judgment in the coordination and prioritization of duties and responsibilities assigned, and in acting on behalf of the department Director.

Summary

Under general supervision, the Account Services Manager is-acts as the lead customer care representative for RCEA's Community Choice Energy (CCE) program, providing oversight for customer account management and, administering customer programs and billing and rate-setting operations under the general supervision of the Director of Power Resources. This position serves as the lead point of interaction/contact between RCEA, PG&E, and the data management and/or call center service provider(s) to identify and resolve issues related to RCEA and/or PG&E tariffs, program designs, customer debt collections, and business operations. In addition to administration of existing customer programs, this role may require modification and development of new programs to better serve customers. This Account Services Manager will also works directly with RCEA Community Choice Energy customers as an account manager for residential and non-residential accounts and provides data analysis support to RCEA's Key Account Managers. The Account Services Manager collaborates with counterparts at other Community Choice Energy (CCE) programs across the state to identify and implement best practices. The Account Services Manager coordinates with RCEA's regulatory and legislative staff on policy matters related to rates, tariffs, and customer billing. The Account Services Manager may also participate in community events, supervise assigned staff, and/or perform related tasks as needed.

Essential Functions and Responsibilities

Duties are illustrative and may vary. Other duties may be assigned.

- Interface-Serve as the main contact and maintain business relationships with RCEA's billing support service provider call-center and PG&E representative(s) to ensure consistent and effective interaction with customers.
- Supervise development and integration between RCEA and PG&E of programs and services including, but not limited to:
 - Net Energy Metering and Net Billing Tariff
 - Bill Design/design
 - Programs for customers with bill arrearages
 - Budget Billing Plan
 - Account-level opt-out
- Attend/Conduct and maintain an 'Issues List' for regular meetings with PG&E which that address any deficiencies in the service PG&E provides to RCEA customers customer service needs of mutual interest to the two organizations and collaborate to implement solutions to needs of shared interest.
- Process RCEA electric rate changes and oversee resulting rate change work products.

- ~~Work with PG&E to implement solutions to any deficiencies in the service PG&E provides to RCEA customers; customer service needs of shared interest to the two organizations.~~
- Track outstanding customer debt and report quarterly on customer debt; w~~Work with collections service provider(s) to collect on outstanding debt.~~
- Collaborate with statewide GCAs~~Community Choice Energy program staff to address shared issues and prepare for implementation of IOU account related activities.~~
- Provide training and materials on RCEA operations to RCEA and PG&E staff as-needed.
- Provide support to key account managers, including providing cost comparisons and program guidance.

- ~~Identify and implement solutions to increase customer retention and customer satisfaction with RCEA services~~

Track opt-outs and respond to any customer issues that may be causing opt-outs; identify and implement solutions to increase customer retention and customer satisfaction with RCEA services
~~Facilitate monthly debt risk management meetings and report quarter~~Track outstanding customer debt and report quarterly on customer debt to the RCEA Risk management Team.

- ~~Facilitate submittal of Triannual Audit submittal to California Public Utilities Commission~~Prepare and submit required regulatory regulatory filings.

•

- Identify and resolve high-level customer billing issues.
- Maintain rate models for cost comparison and other analytical purposes; provide data analysis support as needed.
- ~~Provide data analysis support as needed.~~
- Track customer inquiries and ensure they are resolved in a timely manner by RCEA staff or partner organizations.
- Support the ongoing implementation of RCEA's Racial Justice Plan and actively engage in justice, equity, diversity, and inclusion efforts within the organization.

Minimum Qualifications

Experience/Education:

Any combination of training and experience that would provide the required knowledge, skills, and abilities is qualifying. A typical way to obtain the required qualifications would be:

- Education or experience equivalent to a bachelor's degree or greater in energy management, engineering, public administration, business administration, finance, environmental sciences, or related field.
- A minimum 5 years (7 years for Senior Manager designation) of increasingly responsible project management experience at an electric utility, municipal utility, a community choice aggregator, or in a closely related field (public sector experience is strongly desired).

Knowledge ~~preference for~~ of:

- ~~Electric utility rules, tariffs, bill design and terminology~~
- Electric utility rules, tariffs, bill design and terminology.
- ~~Data management; Data management; management.~~
- Research, communication, and reporting tools; tools.
- Principles and practices of customer energy management including solar and other renewable technologies, demand management, and energy conservation.
- Current business software programs, including customer relationship management (CRM) systems, MS Office, and other analysis, program, and budget tracking tools.

Ability to:

- Take responsibility and work independently, as well as coordinate collaborative efforts and achieve work goals with other staff.
- Convey complex information in a simple and understandable manner.
- Provide accurate, timely, and meaningful progress updates.
- Prepare high quality research, reports, and requests for proposals.
- Perform quantitative data and statistical analysis (including Levelized Cost of Energy and Net Present Value) and effectively communicate results to others.
- Effectively interpret and apply [utility tariffs and rate schedules](#), contract language, and commercial agreements.
- ~~Evaluate contractor performance and potential project opportunities, and project siting, permitting and interconnection issues.~~
- Exercise sound judgment, creative problem solving, effective dispute resolution, and commercial awareness.
- Establish and maintain effective working relationships with persons encountered during the performance of duties, including customers, ~~contractors, developers, power brokers~~[consultants](#), commercial partners, RCEA staff, and the RCEA Board of Directors.
- Understand, anticipate, and appreciate customer needs and concerns.
- Provide excellent customer service and communicate clearly and effectively with customers.
- Identify and solve problems effectively and expeditiously.
- Direct, supervise and coordinate the work of assigned staff.
- Manage multiple priorities, meet deadlines, and quickly adapt to changing priorities in a ~~fast~~[fast-paced](#) dynamic environment.
- Work well under pressure.
- Be thorough and detail-oriented.
- Demonstrate patience, tact, teamwork, and commitment to superior service and performance.
- Communicate effectively verbally, in writing, and through presentations.

Working Conditions and Essential Requirements

The physical demands described here are representative of those required for the position. Position requires sitting, walking, standing, bending, and twisting in the performance of daily activities. The position requires hand manipulation and repetitive hand movement and fine coordination in using a computer keyboard and other office equipment. The position requires near and far vision in reading reports and use of a computer. Acute hearing is required in supporting meetings and providing phone and in-person customer service. The position occasionally requires lifting and/or moving objects. RCEA will make reasonable accommodation of the known physical or mental limitations of a qualified applicant with a disability upon request. Possession and continued maintenance of a valid class C California driver's license or the ability to provide alternate transportation and a safe driving record are required.

Preferred Qualifications

- Master's degree in a related field.
- Knowledge of RCEA programs.
- Prior experience working with public agencies and/or public utilities.
- Knowledge of public agency contracting and grant management and public agency governance procedures.
- Experience working with organizations involved with projects and programs in the areas of environmental and economic development.
- Experience working in an entrepreneurial context.

THE REDWOOD COAST ENERGY AUTHORITY IS COMMITTED TO A DIVERSE WORKFORCE AND IS AN EQUAL OPPORTUNITY EMPLOYER. RCEA MAINTAINS AND PROMOTES A POLICY OF NONDISCRIMINATION AND NONHARASSMENT ON THE BASIS OF RACE, RELIGION, COLOR, SEX, AGE, HANDICAP, MARITAL STATUS, SEXUAL ORIENTATION, AND NATIONAL ORIGIN OR GENETIC CHARACTERISTIC.



**STAFF REPORT
Agenda Item # 4.7**

AGENDA DATE:	March 28, 2024
TO:	Board of Directors
PREPARED BY:	Eileen Verbeck, Deputy Executive Director
SUBJECT:	Regulatory and Legal Services Agreement with PepperLegal

BACKGROUND

In March 2022, RCEA filed a motion to form a new Regional Energy Network (REN) on behalf of itself and six partner organizations. RCEA issued a competitive solicitation for legal and regulatory services to support RCEA through the stakeholder process up until the CPUC's issuance of a decision in 2023.

RCEA received proposals from two firms and both proposals were deemed responsive to the request in its entirety. Staff further evaluated the proposals on the following criteria:

- Prior experience in providing regulatory and legal services to Regional Energy Networks and government agencies comparable to RCEA,
- Qualifications of the firm and assigned staff, as well as the quality of management support,
- Cost and fees.

RCEA executed an attorney-client representation agreement with PepperLegal on November 2, 2022, which is set to expire on January 1, 2024.

SUMMARY

RCEA renewed the agreement with PepperLegal through Amendment No. 1 effective January 1, 2024 through December 31, 2026, or CPUC approval of the RuralREN portfolio application for years 2028-2031, whichever is later.

RCEA, with PepperLegal's support filed a Petition for Modification (PFM) of CPUC's Rural REN Decision D.23-06-055 on December 15, 2023. The PFM filings and responses are now complete and RCEA is in a waiting period until the CPUC makes a proposed decision.

Recently David Pepper reached out to RCEA staff questioning his ability to effectively represent RCEA in front of the CPUC based on differences between his strategies and the direction and feedback he was receiving from staff. Section 11 of the attorney-client

representation agreement between the Law Office of David Peffer (“PefferLegal”) and Redwood Coast Energy Authority states that, “Client may discharge PefferLegal at any time.” Staff recommends utilizing the waiting period to withdraw from this agreement with PefferLegal based on the concerns raised by David Peffer. Staff will use this time to re-evaluate RCEA’s legal needs in relation to RuralREN and will come back to the Board if additional legal services are required.

ALIGNMENT WITH RCEA’S STRATEGIC PLAN

Not applicable.

EQUITY IMPACTS

Not applicable.

FINANCIAL IMPACT

There is no cost or penalty for RCEA to withdraw from the attorney-client representation agreement.

STAFF RECOMMENDATION

Authorize the Executive Director to Withdraw from Attorney-Client Representation Agreement Between Redwood Coast Energy Authority and Law Office of David Peffer, “PefferLegal.”

ATTACHMENTS

N/A



STAFF REPORT
Agenda Item # 6.1

AGENDA DATE:	March 28, 2024
TO:	Board of Directors
PREPARED BY:	Jocelyn Gwynn, Senior Power Resources Manager Richard Engel, Director of Power Resources
SUBJECT:	Sandrini Battery Energy Storage Service Agreement

BACKGROUND

In November 2023, the Board approved the second amendment to RCEA's power purchase agreement (PPA) with EDP Renewables (EDPR) for Sandrini Sol 1, which amended the schedule, replacement product requirement and financial settlement point under the PPA. Sandrini is a 100 MW solar plant that is currently under construction in Kern County and will meet roughly 35-45% of RCEA's annual energy needs once operational. While the project has faced several delays, it is virtually fully constructed aside from its solar panels, which are expected to begin arriving at the site in the next few months. Sandrini solar is currently expected to commence commercial operations by October this year.

Several years ago, EDPR submitted an offer to staff for a battery energy storage system (BESS) to be co-located with Sandrini solar. The offer did not score well according to our solicitation evaluation criteria and thus did not advance to shortlisting. More recently, EDPR resubmitted their BESS offer under RCEA's Mid-Term Reliability (MTR) Request for Offers (RFO) with more attractive terms, given the project's advanced development stage as well as more favorable economics for energy storage with the passing of the Inflation Reduction Act and declining lithium costs. Staff brought the offer to the MTR RFO subcommittee who approved shortlisting the Sandrini storage project.

SUMMARY

Staff are seeking approval of the Energy Storage Service Agreement (ESSA) that has been negotiated with EDPR for the Sandrini storage project as well as a third amendment to the Sandrini Sol 1 PPA. Amending the PPA is necessary to incorporate certain terms regarding the energy storage project. The BESS would be co-located with the solar but would be electrically distinct and operated independently. However, the solar and storage facilities would interconnect to the grid at the same point, and thus would share certain infrastructure. EDPR has secured site control, interconnection approval and the discretionary use permit from Kern County for the Sandrini storage project.

The storage project would be a 92 MW / 368 MWh lithium-ion battery system with the capability of discharging for a four-hour duration. The expected commercial operation date for the storage would be January 2026, about fifteen months after Sandrini solar is expected to begin commercial operation. In exchange for a price that is fixed over time in cost per MW of storage capacity, RCEA would have full access to all battery services and benefits for the 15-year delivery term. The capacity would be eligible for the CPUC's MTR procurement mandate, under which it could potentially contribute toward RCEA's obligation to procure replacement capacity for the retiring Diablo Canyon Nuclear Power Plant.

It is anticipated that the BESS would typically be operated to charge during the day when solar energy is abundant, and discharge in the evening as the solar goes offline and the grid's energy needs and prices rise. However, as more four-hour storage projects come into operation on the California grid over time, this operational strategy could change to include more frequent morning discharging and capture rate arbitrage value associated with providing energy when it is most valuable. Additionally, the storage facility will be able to provide ancillary grid services, so the operational strategy will seek to optimize these different revenue streams to the extent they cannot be captured simultaneously.

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

By supporting grid decarbonization and efficient use of solar energy, the Sandrini BESS project indirectly supports the following RCEA Strategic Plan goals:

- 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

The Sandrini storage project is located in a Disadvantaged Community (DAC) according to the State's SB 535 DAC Map, with a CalEnviroScreen 4.0 percentile score of 81. The project will be built under a Project Labor Agreement, which will bring new jobs and contribute to workforce development in Kern County. Additionally, EDPR has committed to providing a \$250,000 community investment fund to be spent at RCEA's discretion on activities related to workforce development, education or other community benefits for Humboldt and/or Kern Counties. The funds will be made available within a few months after the Sandrini storage project reaches commercial operation.

FINANCIAL IMPACT

Analysis by The Energy Authority shows the Sandrini BESS is expected to generate more revenue over the delivery term than RCEA's costs under the contract, through provision of resource adequacy (RA), energy arbitrage revenue, and ancillary services value. The contract will also hedge against price risk associated with the volatile RA market by securing a large portion of RCEA's RA procurement need at fixed price, or by allowing RCEA to resell any RA we do not need. These costs and revenues will be built into RCEA's financial model and budget starting in fiscal year 2025-2026.

STAFF RECOMMENDATION

Approve Resolution 2024-3 Approving the Form of and Authorizing the Execution of the Energy Storage Service Agreement with Sandrini BESS Storage LLC and the Third Amendment to the Power Purchase Agreement with EDPR CA Solar Park II LLC.

ATTACHMENTS

Resolution 2024-3

Appendix A: Energy Storage Service Agreement with Sandrini BESS Storage LLC

Appendix B: Third Amendment to the Power Purchase Agreement with EDPR CA Solar Park II LLC

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RESOLUTION NO. 2024-3

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE REDWOOD COAST ENERGY AUTHORITY
APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION OF
THE ENERGY STORAGE SERVICE AGREEMENT WITH SANDRINI BESS STORAGE LLC
AND THE THIRD 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 and November 20, 2023 (“PPA”), for the Sandrini Sol 1 Solar Park (“Solar Project”) that will generate value for RCEA’s power portfolio and contribute to RCEA’s compliance with state procurement mandates; and

WHEREAS, RCEA and EDPR desire to enter into an additional agreement for the provision of energy storage services from a battery energy storage system co-located at the Solar Project site (“Storage Project”), as set forth in Appendix A (“ESSA”), which will add additional portfolio and compliance value to RCEA; and

WHEREAS, RCEA and EDPR desire to amend the PPA as set forth in Appendix B (“Amendment”) to incorporate necessary provisions related to the Storage Project, which will share certain grid interconnection infrastructure with the Solar Project despite being operated independently.

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

1. The Sandrini Energy Storage Service Agreement between RCEA and EDPR is hereby approved.
2. The Third Amendment to the Sandrini Power Purchase Agreement between RCEA and EDPR is hereby approved.
3. The Executive Director is authorized to execute both the ESSA substantially in the form attached hereto as Appendix A and the Amendment substantially in the form attached hereto as Appendix B on behalf of RCEA, and, in consultation with legal counsel, is authorized to approve any needed future amendments to the ESSA 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 _____, 2024.

ATTEST:

Sarah Schaefer, 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. 2024-3 passed and adopted at a regular meeting of the Redwood Coast Energy Authority, County of Humboldt, State of California, held on the ____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

Clerk of the Board, Redwood Coast Energy Authority

Appendix A: Energy Storage Service Agreement between RCEA and Sandrini
BESS Storage LLC

Appendix B: Third Amendment to Power Purchase Agreement between RCEA and
EDPR CA Solar Park II LLC

ENERGY STORAGE SERVICE AGREEMENT

COVER SHEET

Seller: Sandrini BESS Storage LLC

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

Description of Facility: A 92 MW / 368 MWh lithium-ion energy storage facility

Milestones:

Milestone	Expected Date for Completion
Evidence of Site Control	Complete
Conditional Use Permit obtained	Complete
Phase I and Phase II Interconnection study results obtained	Complete
Interconnection Agreement executed	Complete
Major equipment procured	██████████
Federal and state discretionary permits issued	Complete
Expected Construction Start Date	5/1/2025
Guaranteed Construction Start Date	██████████
Initial Synchronization	██████████
Network Upgrades completed	Complete
Full Capacity Deliverability Status obtained	Complete
Expected Commercial Operation Date	12/31/2025
Guaranteed Commercial Operation Date	██████████
Commercial Operation Date Deadline	██████████

Delivery Term: 15 Contract Years

Guaranteed Capacity: 92 MW of Installed Capacity at four (4) hours of continuous discharge

Guaranteed Efficiency Rate:

Contract Year	Guaranteed Efficiency Rate
1 -15	██████████ %

Contract Price: \$██████████ /kW-mo. (flat) with no escalation and subject to adjustments in Exhibit C

Product:

- Facility Energy
- Installed Capacity and Effective Capacity
- Ancillary Services
- Capacity Attributes
- Full Capacity Deliverability Status

Anticipated Flexible Capacity: Amount: 92 MW; Flex Category: 2, Peak Ramping

Scheduling Coordinator: Buyer or Buyer's agent

Security Amount:

Development Security: \$ [REDACTED]

Performance Security: \$ [REDACTED]

RA Shortfall Multiplier:

Month	Multiplier (\$/kW-month)
January	\$3.00
February	\$3.00
March	\$4.00
April	\$4.50
May	\$7.00
June	\$16.00
July	\$30.00
August	\$40.00
September	\$50.00
October	\$25.00
November	\$5.50
December	\$4.50

Compliance Expenditure Cap: \$ [REDACTED]

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APPROVAL DRAFT

ENERGY STORAGE SERVICE AGREEMENT

This Energy Storage Service Agreement (“**Agreement**”) is entered into as of _____ (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 intends to develop, design, construct, own, and operate the Facility;
and

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:

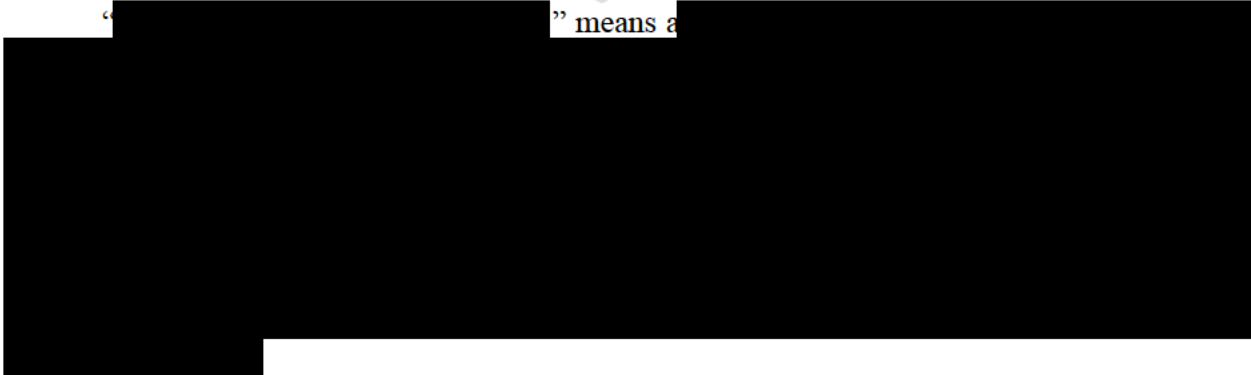
ARTICLE 1 DEFINITIONS

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

“**AC**” means alternating current.

“**Additional Products**” has the meaning set forth in Section 3.8.

“_____” means a _____



“**Affiliate**” means, with respect to any Person, each Person that directly or indirectly controls, is controlled by, or is under common control with such designated Person. For purposes of this definition and the definition of “Permitted Transferee”, “control” (including, with correlative meanings, the terms “controlled by” and “under common control with”), as used with respect to any Person, shall mean (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such Person or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in such Person, or (b) the right to direct the policies or operations of such Person.

“**Agreement**” has the meaning set forth in the Preamble and includes the Cover Sheet and any Exhibits, schedules and any written supplements hereto.

“**Ancillary Services**” means frequency regulation, spinning reserve, non-spinning reserve, regulation up, regulation down, voltage support, and any other ancillary services that the Facility is capable of providing consistent with the Operating Restrictions set forth in Exhibit Q, as each is defined in the CAISO Tariff.

“**Annual Capacity Availability**” has the meaning set forth in Exhibit P.

“**Anticipated Flexible Capacity**” means the amount and category of Flexible Capacity identified on the Cover Sheet which Seller anticipates as of the Effective Date that the Facility will be qualified by the CAISO to provide to Buyer.

“**Approved Maintenance Hours**” means up to fifty (50) hours per Contract Year for Facility maintenance scheduled in accordance with Section 4.11.

“**Automated Dispatch System**” or “**ADS**” has the meaning set forth in the CAISO Tariff.

“**Automatic Generation Control**” or “**AGC**” has the meaning set forth in the CAISO Tariff.

“**Availability Adjustment**” has the meaning set forth in Exhibit C.

“**Availability Notice**” has the meaning set forth in Section 4.10.

“**Availability Standards**” has the meaning set forth in the CAISO Tariff or such other similar term as modified and approved by FERC hereafter to be incorporated in the CAISO Tariff.

“**Available Capacity**” means the capacity of the Facility, expressed in whole MWs, that is mechanically available to charge and discharge Energy and provide Ancillary Services.

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

“**Battery Charging Factor**” means the percentage SOC of the Facility after the first five (5) hours of the charging phase of the applicable Capacity Test.

“**Battery Discharging Factor**” means one (1) minus the percentage SOC of the Facility after the first four (4) hours of the discharging phase of the applicable Capacity Test.

“Bridge Replacement RA” means Resource Adequacy Benefits equivalent to those that would have been provided by the Facility, that comply with the requirements of D.21-06-035 and D.23-02-040, and in addition, meet the same sub-category attributes if contracted for one of the sub-categories of D.21-06-035, as confirmed through a decision, resolution, publicly issued guidance document, letter from the CPUC Executive Director, or other communication of approval or confirmation mutually agreed to by the Parties, with respect to the applicable month in which Seller would otherwise owe Commercial Operation Delay Damages to Buyer.

“Bridge Replacement RA Amount” has the meaning set forth in Section 2(b) of Exhibit B.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California. A Business Day begins at 8:00 a.m. and ends at 5:00 p.m. local time for the Party sending a Notice, or payment, or performing a specified action.

“Buyer” has the meaning set forth on the Cover Sheet.

“Buyer Default” means an Event of Default of Buyer.

“Buyer Dispatched Test” has the meaning in Section 4.4(f).

“Buyer’s Indemnified Parties” has the meaning set forth in Section 16.1(a).

“Buyer’s Written Request” has the meaning set forth in Section 3.8.

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

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

“CAISO Certification” means the certification and testing requirements for a storage unit set forth in the CAISO Tariff that are applicable to the Facility, including certification and testing for all Ancillary Services, PMAX, and PMIN associated with such storage units, that are applicable to the Facility.

“CAISO Charges Invoice” has the meaning set forth in Exhibit D.

“CAISO Dispatch” means any Charging Notice or Discharging Notice given by the CAISO to the Facility, whether through ADS, AGC or any successor communication protocol, communicating an Ancillary Service Award (as defined in the CAISO Tariff) or directing the Facility to charge or discharge at a specific MW rate for a specified period of time or amount of MWh.

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

“CAISO RA Enhancement” means a change to the CAISO Tariff that (a) changes the basis for submission and assessment of supply plans from a value reflecting installed capacity

(currently, Net Qualifying Capacity) to a value that takes into account historical performance of a facility (such as “Unforced Capacity” or “UCAP,” as referenced in CAISO’s Resource Adequacy Enhancements Draft Final Proposal – Phase 1 and Sixth Revised Straw Proposal dated December 17, 2020), and (b) eliminates or otherwise substantially modifies the application of Resource Adequacy Availability Incentive Mechanism (RAAIM) charges to forced outage periods.

“**CAISO Tariff**” means the California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.

“**California Renewables Portfolio Standard**” or “**RPS**” means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.33 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

“**Capacity Attribute**” means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the amount of power that the Facility can charge, discharge and deliver to the Delivery Point at a particular moment and that can be purchased, sold or conveyed under CAISO or CPUC market rules, including Resource Adequacy Benefits.

“**Capacity Availability Factor**” has the meaning set forth in Exhibit C.

“**Capacity Availability Payment True-Up**” has the meaning set forth in Exhibit C.

“**Capacity Availability Payment True-Up Amount**” has the meaning set forth in Exhibit C.

“**Capacity Damages**” has the meaning set forth in Section 5 of Exhibit B.

“**Capacity Test**” or “**CT**” means any test or retest of the Facility to establish the Installed Capacity, Effective Capacity, Efficiency Rate or any other test conducted pursuant to Exhibit O.

“**CEC**” means the California Energy Commission, or any successor agency performing similar statutory functions.

“**CEQA**” means the California Environmental Quality Act, as amended or supplemented from time to time.

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

(a) any ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests in each such intermediate entity; and

(b) ownership interests in Seller owned directly or indirectly by any Lender (including any tax equity provider) shall be excluded from the total outstanding equity interests in Seller.

“Charging Energy” means the Energy delivered to the Facility pursuant to a Charging Notice as measured at the Facility Metering Point by the Facility Meter, as such meter readings are adjusted by the CAISO for any applicable Electrical Losses or Station Use. All Charging Energy shall be used solely to charge the Facility.

“Charging Notice” means the operating instruction, and any subsequent updates, given by Buyer's SC or the CAISO to Seller, directing the Facility to charge at a specific MW rate for a specified period of time or amount of MWh; *provided*, any such operating instruction shall be in accordance with the Operating Restrictions. Any instruction to charge the Storage Facility pursuant to a Buyer Dispatched Test shall be considered a Charging Notice.

“CI Fund” has the meaning set forth in Exhibit S.

“COD Certificate” has the meaning set forth in Exhibit B.

“Collateral Assignment Agreement” has the meaning set forth in Section 14.2.

“Commercial Operation” means the condition existing when Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement and provided Notice of the same to Buyer substantially in the form of Exhibit H.

“Commercial Operation Capacity Test” means the Capacity Test conducted in connection with Commercial Operation of the Facility, including any additional Capacity Test for additional capacity installed after the Commercial Operation Date pursuant to Section 5 of Exhibit B.

“Commercial Operation Date” or **“COD”** means the date on which the Facility has achieved Commercial Operation as is identified in the COD Certificate as the Commercial Operation Date.

“Commercial Operation Date Deadline” has the meaning set forth on the Cover Sheet.

“Commercial Operation Delay Damages” means an amount equal to (a) the amount of Development Security that is remaining as of the Expected Commercial Operation Date, as such date has been extended pursuant to Section 3 of Exhibit B, divided by (b) the total number of days between the Expected Commercial Operation Date, as such date has been extended pursuant to Section 3 of Exhibit B, and the Commercial Operation Date Deadline.

“**Communications Protocols**” means certain Operating Restrictions developed by the Parties pursuant to Exhibit Q that involve procedures and protocols regarding communication with respect to the operation of the Facility pursuant to this Agreement.

“**Confidential Information**” has the meaning set forth in Section 18.1.

“**Construction Start**” has the meaning set forth in Exhibit B.

“**Construction Start Date**” has the meaning set forth in Exhibit B.

“**Construction Start Delay Damages**” means an amount equal to (a) the Development Security amount required hereunder, divided by (b) [number of days based on Seller’s reasonable expectation for the duration of the project construction period] (#). Seller shall not be obligated to pay aggregate Construction Start Delay Damages in excess of twenty percent (20%) of the Development Security amount.

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

“**Contract Term**” has the meaning set forth in Section 2.1.

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

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

“**Cover Sheet**” means the cover sheet to this Agreement, which is incorporated into this Agreement.

“**CPM Price**” has the meaning set forth in Section 3.5(b).

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

“**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.

“**Cure Plan**” has the meaning set forth in Section 11.1(b)(iii).

“**Curtailment Order**” means any of the following:

(a) CAISO orders, directs, alerts, or provides notice to a Party, including a CAISO Operating Order, to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, or (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO's electric system integrity or the integrity of other systems to which CAISO is connected;

(b) a curtailment ordered by the Transmission Provider for reasons including, but not limited to, (i) any situation that affects normal function of the electric system including, but not limited to, any abnormal condition that requires action to prevent circumstances such as equipment damage, loss of load, or abnormal voltage conditions, or (ii) any warning, forecast or anticipation of conditions or situations that jeopardize the Transmission Provider's electric system integrity or the integrity of other systems to which the Transmission Provider is connected;

(c) a curtailment ordered by CAISO or the Transmission Provider due to a Transmission System Outage; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the Transmission Provider or distribution operator.

"Cycles" means the number of equivalent charge/discharge cycles of the Facility during a specified time period, which shall be deemed to be equal to the quotient of the numerator (a) the total cumulative amount of Facility Energy discharged from the Facility (expressed in MWh) divided by the denominator (b) four (4) multiplied by the weighted average Effective Capacity for such time period.

"Daily Delay Damages" means Construction Start Delay Damages and Commercial Operation Delay Damages.

"Damage Payment" means the amount to be paid by the Defaulting Party to the Non-Defaulting Party after a Terminated Transaction occurring prior to the Commercial Operation Date, in a dollar amount set forth in Section 11.3(a).

"Day-Ahead Market" has the meaning set forth in the CAISO Tariff.

"Day-Ahead Schedule" has the meaning set forth in the CAISO Tariff.

"Defaulting Party" has the meaning set forth in Section 11.1(a).

"Delivery Point" means the Facility Pnode on the CAISO grid.

"Delivery Term" shall mean the period of Contract Years as set forth on the Cover Sheet beginning on the Commercial Operation Date, unless adjusted pursuant to Section 2.1 or terminated earlier in accordance with the other terms and conditions of this Agreement.

"Development Cure Period" has the meaning set forth in Exhibit B.

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

“Discharging Energy” means the Energy delivered from the Facility to the Delivery Point as measured by the Facility Meter at the Facility Metering Point.

“Discharging Notice” means the operating instruction, and any subsequent updates, given by Buyer’s SC or the CAISO to the Facility, directing the Facility to discharge Facility Energy at a specific MW rate for a specified period of time or to an amount of MWh. Any instruction to discharge the Storage Facility pursuant to a Buyer Dispatched Test shall be considered a Discharging Notice.

“Disclosing Party” has the meaning set forth in Section 18.2.

“Dispatch Notice” means any Charging Notice, Discharging Notice and any subsequent updates thereto, given by the CAISO, Buyer or Buyer’s SC, to Seller, directing the Facility to charge or discharge Energy at a specific MW rate to a specified Storage Level; *provided*, any such operating instruction or updates shall be in accordance with the Operating Restrictions.

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

“Effective Capacity” means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Facility to discharge Energy for four (4) hours of continuous discharge, as measured in MW AC at the Delivery Point (i.e., measured at the Facility Meter and adjusted for Electrical Losses to the Delivery Point) as determined pursuant to the most recent Capacity Test (including the Commercial Operation Capacity Test), and as evidenced by a certificate substantially in the form attached as Exhibit I hereto, in either case (a) or (b) up to but not in excess of (i) the Guaranteed Capacity (with respect to a Commercial Operation Capacity Test) or (ii) the Installed Capacity (with respect to any other Capacity Test).

“Effective Date” has the meaning set forth on the Preamble.

“Effective Flexible Capacity” or **“EFC”** means the effective flexible capacity (in MWs) of the Facility pursuant to the counting conventions set forth in the Resource Adequacy Rulings and the CAISO Tariff, which such flexible capacity may be used to satisfy Flexible RAR.

“Efficiency Rate” means the rate calculated pursuant to Sections II.I(2) and III(A) of Exhibit O by dividing Facility Energy by Charging Energy and which for a given calendar month shall be prorated as necessary if more than one Efficiency Rate applies during such calendar month.

“Efficiency Rate Adjustment” has the meaning set forth in Exhibit C.

“Electrical Losses” means all transmission or transformation losses (a) between the Delivery Point and the Facility Metering Point associated with delivery of Charging Energy, and (b) between the Facility Metering Point and the Delivery Point associated with delivery of Facility Energy.

“Emission Reduction Credits” or **“ERCs”** means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby a district has established a system by which all reductions in the emission of air contaminants that are to be used to offset

certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

“**Energy**” means electrical energy, measured in kilowatt-hours or megawatt-hours or multiple units thereof.

“**Energy Management System**” or “**EMS**” means the Facility’s energy management system.

“**Environmental Attributes**” shall mean any and all attributes under the RPS regulations or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now, or in the future to the Facility and its displacement of conventional energy generation.

“**Environmental Cost**” means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Facility, and the Facility’s compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Facility, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the Site, and the decontamination or remediation, on or off the Site, necessitated by the introduction of such hazardous substances on the Site.

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

“**Excused Event**” has the meaning set forth in Exhibit P.

“**Exigent Circumstance**” means actual or imminent harm to life or safety, public health, third-party owned property, including the Site, or the environment due to or arising from the Facility or portion thereof.

“**Expected Construction Start Date**” means the date set forth on the Cover Sheet.

“**Expected Commercial Operation Date**” means the date set forth on the Cover Sheet.

“**Facility**” means the energy storage facility described on the Cover Sheet and in Exhibit A, located at the Site and including mechanical equipment and associated facilities and equipment required to deliver Product (but excluding any Shared Facilities), as such storage facility may be expanded or otherwise modified from time to time in accordance with the terms hereof.

“**Facility Energy**” means the Energy delivered from the Facility to the Delivery Point during any Settlement Interval or Settlement Period, as measured at the Facility Metering Point by

the Facility Meter, as such meter readings are adjusted by the CAISO for any applicable Electrical Losses or Station Use.

“**Facility Meter**” means a CAISO-approved bi-directional revenue quality meter or meters (with a 0.3 accuracy class), CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, the amount of Charging Energy delivered to the Facility Metering Point and the amount of Facility Energy delivered to the Delivery Point for the purpose of invoicing in accordance with Section 8.1. The Facility may contain multiple measurement devices that will make up the Facility Meter, and, unless otherwise indicated, references to the Facility Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together.

“**Facility Metering Point**” means the location(s) of the Facility Meter shown in Exhibit R.

“**Facility Safety Plan**” means Seller’s written plan that includes the safeguards and plans to comply with the Safety Requirements, as such safeguards and Safety Requirements are generally outlined in Exhibit L.

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

“**Flexible Capacity**” means, with respect to any particular Showing Month, the number of MWs of Product which are eligible to satisfy Flexible RAR.

“**Flexible RAR**” means the flexible capacity requirements established for load-serving entities by the CAISO pursuant to the CAISO Tariff, the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

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

“**Force Majeure Unavailability**” has the meaning set forth in Exhibit C.

“**Forced Facility Outage**” means an unexpected failure of one or more components of the Facility that prevents Seller from receiving Charging Energy or making Facility Energy available at the Delivery Point and that is not the result of a Force Majeure Event.

“**Forced Labor**” has the meaning set forth in Section 13.4(c).

“**Full Capacity Deliverability Status**” or “**FCDS**” has the meaning set forth in the CAISO Tariff.

“**Gains**” means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant

rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Contract Term, and include the value of Environmental Attributes and Capacity Attributes.

“GHG Regulations” means Title 17, Division 3 (Air Resources), Chapter 1 (Air Resources Board), Subchapter 10 (Climate Change), Article 5 (Emissions Cap), Sections 95800 to 96023 of the California Code of Regulations, as amended or supplemented from time to time.

“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*, “Governmental Authority” shall not in any event include any Party.

“Greenhouse Gas” or **“GHG”** has the meaning set forth in the GHG Regulations or in any other applicable Laws.

“Guaranteed Availability” has the meaning set forth in Section 4.3(a).

“Guaranteed Capacity” means the maximum dependable operating capability of the Facility to discharge electric energy, as measured in MW AC at the Delivery Point for four (4) hours of continuous discharge, that Seller commits to install pursuant to this Agreement, as set forth on the Cover Sheet, as may be adjusted pursuant to Section 5 of Exhibit B.

“Guaranteed Commercial Operation Date” means the date set forth on the Cover Sheet.

“Guaranteed Construction Start Date” means the date set forth on the Cover Sheet.

“Guaranteed Efficiency Rate” means the minimum guaranteed Efficiency Rate of the Facility in each Contract Year of the Delivery Term, as set forth on the Cover Sheet. Prior to the Commercial Operation Date, the Parties may, but are not required to, mutually agree upon a new set of Guaranteed Efficiency Rates that differentiate between each Contract Year of the Agreement.

“Hazardous Substance” means, collectively, (a) any chemical, material or substance that is listed or regulated under applicable Laws as a “hazardous” or “toxic” substance or waste, or as a “contaminant” or “pollutant” or words of similar import, (b) any petroleum or petroleum products, flammable materials, explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, and transformers or other equipment that contain polychlorinated biphenyls, and (c) any other chemical or other material or substance, exposure to which is prohibited, limited or regulated by any Laws.

“Imbalance Energy” means the amount of Energy in MWh, in any given Settlement Period or Settlement Interval, by which the amount of Facility Energy deviates from the amount of Scheduled Energy.

“Indemnified Party” shall mean (i) Buyer, with respect to all third-party claims, demands, losses, liabilities, penalties, and expenses arising out of, resulting from, or caused by the circumstances described in Section 16.1(a), and (ii) Seller, with respect to all third-party claims, demands, losses, liabilities, penalties, and expenses arising out of, resulting from, or caused by the circumstances described in Section 16.1(b).

“Indemnifying Party” shall mean (i) Seller, with respect to all third-party claims, demands, losses, liabilities, penalties, and expenses arising out of, resulting from, or caused by the circumstances described in Section 16.1(a), and (ii) Buyer, with respect to all third-party claims, demands, losses, liabilities, penalties, and expenses arising out of, resulting from, or caused by the circumstances described in Section 16.1(b).

“Initial Synchronization” means the commencement of Trial Operations (as defined in the CAISO Tariff).

“Installed Capacity” means the lesser of (a) PMAX, and (b) maximum dependable operating capacity of the Facility to discharge Energy for four (4) hours of continuous discharge, as measured in MW AC at the Facility Meter Point by the Facility Meter and adjusted for Electrical Losses to the Delivery Point, that achieves Commercial Operation, as evidenced by a certificate substantially in the form attached as Exhibit I hereto, as such capacity may be adjusted pursuant to Section 5 of Exhibit B.

“Inter-SC Trade” has the meaning set forth in the CAISO Tariff.

“Interconnection Agreement” means the interconnection agreement entered into by Seller pursuant to which the Facility will be interconnected with the Transmission System, and pursuant to which Seller’s Interconnection Facilities and any other Interconnection Facilities will be constructed, operated and maintained during the Contract Term.

“Interconnection Capacity Limit” means the maximum instantaneous amount of Facility Energy that is permitted to be delivered to the Delivery Point under Seller’s Interconnection Agreement, in the amount of __ MW.

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

“Interconnection Point” has the meaning set forth in Exhibit A.

“Interest Rate” has the meaning set forth in Section 8.2.

“Interim Deliverability Status” has the meaning set forth in the CAISO Tariff.

“ITC” means the investment tax credit established pursuant to Section 48 of the United States Internal Revenue Code of 1986.

“Joint Powers Act” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.).

“Joint Powers Agreement” means that certain Joint Powers Agreement dated October 25, 2016, 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 et seq.

“kWh” means a kilowatt-hour measured in alternating current, unless expressly stated in terms of direct current.

“Law” means any applicable law, statute, rule, regulation, decision, writ, order, decree or judgment, permit or any interpretation thereof, promulgated or issued by a Governmental Authority.

“Lender” means, collectively, any Person (a) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Facility, whether that financing or refinancing takes the form of private debt (including back-leverage debt), equity (including tax equity), public debt or any other form (including financing or refinancing provided to a member or other direct or indirect owner of Seller), including any equity or tax equity investor directly or indirectly providing financing or refinancing for the Facility or purchasing equity ownership interests of Seller and/or its Affiliates, and any trustee or agent or similar representative acting on their behalf, (b) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (c) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Facility.

“Letter(s) 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. commercial bank or trust company or the U.S. branch of a foreign bank (in either case, which is not an Affiliate of either Party) with such bank (a) having assets of at least \$10 billion and a Credit Rating of at least (i) A3 from Moody’s and (ii) A- from S&P, or (b) being reasonably acceptable to Buyer, in a form substantially similar to the letter of credit set forth in Exhibit K.

“Licensed Professional Engineer” means an independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the State of California.

“Local Capacity Area Resource” has the meaning set forth in the CAISO Tariff.

“Local RAR” means the local Resource Adequacy Requirements established for load-serving entities by the CAISO pursuant to the CAISO Tariff, the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority. “Local RAR” may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

“Losses” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields,

yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Contract Term and must include the value of Environmental Attributes and Capacity Attributes.

“Major Equipment Failure” means a failure of the Facility’s main power transformers, high-voltage breakers, or medium-voltage transformers that results in the Facility being unable to deliver Facility Energy during such failure, and such failure was not caused by Seller and could not have been avoided through the exercise of Prudent Operating Practice.

“Marketable Emission Trading Credits” means emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market-based incentive programs such as the South Coast Air Quality Management District’s Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (42 U.S.C. § 7651b (a) to (f)).

“Master File” has the meaning set forth in the CAISO Tariff.

“Maximum Charging Capacity” means the highest level at which the Facility may be charged, expressed in MW and as set forth in Exhibit Q.

“Maximum Discharging Capacity” means the highest level at which the Facility may be discharged, expressed in MW and as set forth in Exhibit Q.

“Milestones” means the development activities for significant permitting, interconnection, and construction milestones set forth on the Cover Sheet.

“Monthly Capacity Payment” means the payment required to be made by Buyer to Seller each month of the Delivery Term as compensation for the Product, as calculated in accordance with Exhibit C.

“Moody’s” means Moody’s Investors Service, Inc., or its successor.

“MW” means megawatts in alternating current, unless expressly stated in terms of direct current.

“MWh” means megawatt-hour measured in alternating current, unless expressly stated in terms of direct current.

“NERC” means the North American Electric Reliability Corporation.

“Net Qualifying Capacity” or **“NQC”** has the meaning set forth in the CAISO Tariff.

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

“Non-Buyer Dispatch” means a dispatch by Seller pursuant to a Seller Initiated Test.

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

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

“Notification Deadline” in respect of a Showing Month shall be fifteen (15) Business Days before the relevant deadlines for the corresponding RA Compliance Showings for such Showing Month.

“NP-15” means the Existing Zone Generation Trading Hub for Existing Zone region NP15 as set forth in the CAISO Tariff.

“Operating Restrictions” means those restrictions, rules, requirements, and procedures set forth in Exhibit Q.

“Outage Schedule” has the meaning set forth in Section 4.11(a)(i).

“Party” has the meaning set forth in the Preamble.

“Performance Guarantees” has the meaning set forth in Section 4.3(b).

“Performance Security” means (i) cash or (ii) a Letter of Credit in the amount set forth on the Cover Sheet.

“Permitted Transferee” means (i) any Affiliate of Seller or (ii) any entity that satisfies, or is controlled by another Person that satisfies, the following requirements:

(a) A tangible net worth of not less than [REDACTED] dollars (\$ [REDACTED]) or a Credit Rating of at least BBB- from S&P or Baa3 from Moody’s; and

(b) At least two (2) years of experience in the ownership and operations of energy storage facilities similar to the Facility, or has retained a third-party with such experience to operate the Facility.

“Person” means any individual, sole proprietorship, corporation, limited liability company, limited or general partnership, joint venture, association, joint-stock company, trust, incorporated organization, institution, public benefit corporation, unincorporated organization, government entity or other entity.

“Planned Outage” means a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance that has been scheduled in advance in accordance with Section 4.11(a).

“PMAX” means the applicable CAISO-certified maximum operating level of the Facility.

“PMIN” means the applicable CAISO-certified minimum operating level of the Facility.

“PNode” has the meaning set forth in the CAISO Tariff.

“Portfolio” means the single portfolio of electrical energy generating, electrical energy storage, or other assets and entities, including the Facility (or the interests of Seller or Seller’s Affiliates or the interests of their respective direct or indirect parent companies), that is pledged as collateral security in connection with a Portfolio Financing.

“Portfolio Financing” means any debt incurred by an Affiliate of Seller that is secured only by a Portfolio.

“Portfolio Financing Entity” means any Affiliate of Seller that incurs debt in connection with any Portfolio Financing.

“Prevailing Wage Requirement” has the meaning set forth in Section 13.4(b).

“Product” has the meaning set forth on the Cover Sheet.

“[REDACTED]” shall have the meaning set forth in Exhibit C.

“Progress Report” means a progress report including the items set forth in Exhibit E.

“Project Labor Agreement” has the meaning set forth in Section 13.4(b).

“Prudent Operating Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States, and (b) any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to acceptable practices, methods or acts generally accepted in the industry with respect to grid-interconnected, utility-scale energy storage facilities in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable safety and reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

“PTO” has the meaning set forth in the CAISO Tariff.

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

“RA Compliance Showing” means the (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor showings), and (c) Flexible RAR compliance or advisory showings (or similar successor showings), in each case, an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

“RA Guarantee Date” means the Commercial Operation Date, by which the Facility is expected to have achieved Full Capacity Deliverability Status.

“RA Shortfall Amount” has the meaning set forth in Section 3.5(b).

“RA Shortfall Month” means any month, commencing with the month that contains the RA Guarantee Date, during which either (a) the Facility has not achieved FCDS by the corresponding RA Compliance Showing deadline, or (b) the Net Qualifying Capacity, [REDACTED], of the Facility for such month was either (i) not published by the Notification Deadline for such Showing Month, or (ii) was less than the Qualifying Capacity of the Facility for such month.

“RA Shortfall Multiplier” means applicable monthly value specified on the Cover Sheet.

“RA Shortfall Payment” means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Month, as calculated in accordance with Section 3.5(b).

“Real-Time Market” has the meaning set forth in the CAISO Tariff.

“Receiving Party” has the meaning set forth in Section 18.2.

“Reliability Network Upgrades” has the meaning set forth in the CAISO Tariff.

“Remedial Action Plan” has the meaning in Section 2.4.

“Remediation Event” means the occurrence of any of the following with respect to the Facility or the Site: (a) an Exigent Circumstance (b) a Serious Incident; (c) a change in the nature, scope, or requirements of applicable Laws, Permits, codes, standards, or regulations issued by Governmental Authorities which requires modifications to the safeguards; (d) a material change to the manufacturer’s guidelines that requires modification to equipment or the Facility’s operating procedures; (e) a failure or compromise of an existing Safeguard; (f) Notice by Buyer pursuant to Section 6.5, in its sole discretion, that the Seller, the Facility Safety Plan, and/or Seller Attestation, as applicable, is not consistent with the Safety Requirements; or (g) any actual condition related to the Facility or the Site with the potential to adversely impact the safe construction, operation, maintenance, or decommissioning of the Facility or the Site.

“Remediation Period” means the time period between the first occurrence of the Remediation Event and the resolution of such Remediation Event which period may not exceed a total of ninety (90) days unless extended pursuant to Section 6.5.

“Replacement RA” means Resource Adequacy Benefits, if any, equivalent to those that would have been provided by the Facility with respect to the applicable month in which a RA Shortfall Payment is due to Buyer, and to the extent that the Facility would have qualified as a Local Capacity Area Resource for such month, described as a Local Capacity Area Resource.

“Requested Confidential Information” has the meaning set forth in Section 18.2.

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

“Resource Adequacy Requirements” or **“RAR”** means the resource adequacy requirements applicable to an entity as established by the CAISO pursuant to the CAISO Tariff, by the CPUC pursuant to the Resource Adequacy Rulings, or by any other Governmental Authority.

“Resource Adequacy Resource” shall have the meaning used in Resource Adequacy Rulings.

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 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, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

“S&P” means the Standard & Poor’s Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

“Safeguard” means any procedures, practices, or actions with respect to the Facility, the Site or Work for the purpose of preventing, mitigating, or containing foreseeable accidents, injuries, damage, release of hazardous material or environmental harm.

“Safety Remediation Plan” means a written Notice from Seller to Buyer containing information about a Remediation Event, including (a) the date, time and location of first occurrence, (b) the circumstances surrounding cause, (c) impacts, and (d) detailed information about Seller’s plans to resolve the Remediation Event.

“Safety Requirements” means Prudent Electrical Practices, CPUC General Order No. 167, Contractor Safety Program Requirements, and all applicable requirements of Law, the Utility Distribution Company, the Transmission Provider, Governmental Approvals, the CAISO, CARB, NERC and WECC, including, but not limited to, any applicable regulations adopted by the California Department of Toxic Substances Control relating to the disposal of materials used in the Facility.

“Sandrini Solar PPA” means that certain Power Purchase Agreement between EDPR CA Solar Park II LLC and Redwood Coast Energy Authority, dated as of May 5, 2020, as amended.

“SCADA Systems” means the standard supervisory control and data acquisition systems to be installed by Seller as part of the Facility, including those system components that enable

Seller to receive ADS and AGC instructions from the CAISO or similar instructions from Buyer's SC.

"Schedule" has the meaning set forth in the CAISO Tariff, and **"Scheduled"** has a corollary meaning.

"Scheduled Energy" means the Facility Energy that clears under the applicable CAISO market based on the final Day-Ahead Schedule(s), FMM Schedule(s) (as defined in the CAISO Tariff), and/or any other financially binding Schedule(s), market instruction or dispatch for the Facility for a given period of time implemented in accordance with the CAISO Tariff.

"Scheduling Coordinator" or **"SC"** means an entity certified by the CAISO as qualifying as a Scheduling Coordinator pursuant to the CAISO Tariff for the purposes of undertaking the functions specified in "Responsibilities of a Scheduling Coordinator," of the CAISO Tariff, as amended from time to time.

"Security Interest" has the meaning set forth in Section 8.9.

"Seller" has the meaning set forth on the Cover Sheet.

"Seller Initiated Test" has the meaning set forth in Section 4.4(f).

"Seller's Indemnified Parties" has the meaning set forth in Section 16.1(b).

"Serious Incident" means a harmful event that occurs on the Site during the term arising out of, related to, or connected with the Facility or the Site that results in any of the following outcomes: (a) any injury to or death of a member of the general public; (b) the death or permanent, disabling injury to operating personnel, subcontractors, Seller's employees, agents, or consultants, or authorized visitors to the Site; (c) any property damage greater than one hundred thousand dollars (\$100,000.00); (d) release of hazardous material above the limits, or violating the requirements, established by permits, codes, standards, regulations, Laws, or Governmental Authorities; or (e) environmental impacts exceeding those authorized by permits or Law.

"Settlement Amount" means the Non-Defaulting Party's Costs and Losses, on the one hand, netted against its Gains, on the other. If the Non-Defaulting Party's Costs and Losses exceed its Gains, then the Settlement Amount shall be an amount owing to the Non-Defaulting Party. If the Non-Defaulting Party's Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars (\$0). The Settlement Amount does not include consequential, incidental, punitive, exemplary or indirect or business interruption damages.

"Settlement Interval" has the meaning set forth in the CAISO Tariff.

"Settlement Period" has the meaning set forth in the CAISO Tariff.

"Shared Facilities" means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Facility Energy to the Delivery Point, including the Interconnection Facilities and the Interconnection Agreement itself, if applicable, that are used in common with third parties.

“Showing Month” shall be the calendar month of the Delivery Term that is the subject of the RA Compliance Showing, as set forth in the Resource Adequacy Rulings and outlined in the CAISO Tariff. For illustrative purposes only, pursuant to the CAISO Tariff and Resource Adequacy Rulings in effect as of the Effective Date, the monthly RA Compliance Showing made in June is for the Showing Month of August.

“Site” means the real property on which the Facility is or will be located, as further described in Exhibit A, and as shall be updated by Seller at the time Seller provides an executed Construction Start Date certificate in the form of Exhibit J to Buyer; *provided*, that any such update to the Site that includes real property that was not originally contained within the Site boundaries described in Exhibit A shall be subject to Buyer’s approval of such updates in its sole discretion.

“Site Control” means that, for the Contract Term, Seller (or, prior to the Delivery Term, its Affiliate): (a) owns or has the option to purchase the Site; (b) is the lessee or has the option to lease the Site; or (c) is the holder of an easement or an option for an easement, right-of-way grant, or similar instrument with respect to the Site.

“State of Charge” or **“SOC”** means the ratio of (a) the level of charge of the Facility to (b) the Effective Capacity multiplied by four (4) hours, expressed as a percentage.

“Station Use” means the Energy that is used within the Facility to power the lights, motors, temperature control systems, control systems and other electrical loads that are necessary for operation of the Facility.

“Storage Expansion Project” has the meaning set forth in Section 2.6.

“Storage Level” means, at a particular time, the amount of electric Energy in the Facility available to be discharged as Facility Energy, expressed in MWh.

“Subsequent Purchaser” means the purchaser or recipient of Product from Buyer in any conveyance, re-sale or remarketing of Product by Buyer.

“Supplementary Capacity Test Protocol” has the meaning set forth in Exhibit O.

“System Emergency” means any condition that requires, as determined and declared by CAISO or the Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability.

“Tax” or **“Taxes”** means all U.S. federal, state and 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 Contract 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.

“**Tax Credits**” means any state, local and/or federal production tax credit, depreciation benefit, tax deduction and/or investment tax credit, including the ITC, specific to investments in renewable energy facilities and/or energy storage facilities.

“**Terminated Transaction**” has the meaning set forth in Section 11.2(a).

“**Termination Payment**” has the meaning set forth in Section 11.3.

“**Test Energy**” means any Facility Energy delivered (a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Facility Energy to the CAISO and (ii) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to parallel and (b) ending upon the occurrence of the Commercial Operation Date.

“**Transmission Provider**” means any entity that owns, operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities for the purpose of transmitting or transporting the Facility Energy from the Delivery Point.

“**Transmission System**” means the transmission facilities operated by the CAISO, now or hereafter in existence, which provide energy transmission service downstream from the Delivery Point.

“**Transmission System Outage**” means an outage on the Transmission System, other than a System Emergency, that is not caused by Seller’s actions or inactions and that prevents Buyer or the CAISO (as applicable) from receiving System Energy onto the Transmission System, including but not limited to a public safety power shutoff initiated by a Transmission Provider.

“**Ultimate Parent**” means EDP Renewables North America LLC, a Delaware limited liability company.

“**Unplanned Outage**” means a period during which the Facility is not capable of providing service due to the need to maintain or repair a component thereof, which period is not a Planned Outage.

“**Work**” means (a) work or operations performed by a Party or on a Party’s behalf; and (b) materials, parts or equipment furnished in connection with such work or operations; including (i) warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of “a Party’s work”; and (ii) the providing of or failure to provide warnings or instructions.

1.2 **Rules of Interpretation**. In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

(a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;

(b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;

(c) the words “hereof”, “herein”, and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;

(d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Article, Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;

(e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

(f) a reference to a Person includes that Person’s successors and permitted assigns;

(g) the terms “include” and “including” mean “include or including (as applicable) without limitation” and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;

(h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

(i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;

(j) references to any amount of money shall mean a reference to the amount in United States Dollars;

(k) the expression “and/or” when used as a conjunction shall connote “any or all of”;

(l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Operating Practice shall have such meaning in this Agreement or (ii) do not have well known and generally accepted meaning in Prudent Operating Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of

construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

ARTICLE 2 TERM; CONDITIONS PRECEDENT

2.1 Contract Term.

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions set forth herein ("**Contract Term**"); *provided*, Buyer's obligations to pay for or accept any Product are subject to Seller's completion of the conditions precedent pursuant to Section 2.2.

(i) The Parties acknowledge and agree that the mutual intent of the Parties is for the Delivery Term of this Agreement to end on the same date as the delivery term of the Sandrini Solar PPA. The Parties will amend this Agreement and/or the Sandrini Solar PPA, as necessary, to ensure that the end dates of the delivery terms are aligned.

(b) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. The confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for one (1) year following the termination of this Agreement, and all indemnity and audit rights shall remain in full force and effect for one (1) year following the termination of this Agreement.

2.2 Conditions Precedent. Seller shall provide Notice to Buyer of the Commercial Operation Date at least forty-five (45) days in advance of such date, with the required documentation demonstrating it has met all the conditions precedent set forth below for achieving Commercial Operation. Following Buyer's receipt of such Notice, Buyer shall have five (5) Business Days to approve or reject Seller's request for Commercial Operation. Upon Buyer's approval of Seller's achievement of Commercial Operation, Buyer shall provide Seller with written acknowledgement of the Commercial Operation Date.

(a) Seller shall have provided to Buyer, by no earlier than ninety (90) days prior to the Commercial Operation Date, updated, correct, and complete copies of (A) Seller's most recent annual report, audited consolidated financial statements, and unaudited consolidated financial statements; and (B) Seller's organizational documents to confirm Seller's and Seller's Affiliate's legal and financial relationship to and authority over the Facility (such as certifications of formation, certifications and articles of incorporation, charters, operating agreements, partnership agreements, bylaws, or similar documents) and any amendments thereto.

(b) Seller shall have delivered to Buyer (i) a certificate from a Licensed Professional Engineer substantially in the form of Exhibit H and (ii) a certificate from a Licensed Professional Engineer substantially in the form of Exhibit I setting forth the Installed Capacity and Efficiency Rate on the Commercial Operation Date;

(c) Seller has executed an Interconnection Agreement with the Transmission Provider, which shall be in full force and effect, and has delivered to Buyer a copy of the Interconnection Agreement;

(d) Seller has provided Buyer with a copy of written notice from CAISO that the Facility has achieved Full Capacity Deliverability Status;

(e) A Participating Generator Agreement and a Meter Service Agreement between Seller and CAISO has been executed and delivered and is in full force and effect, and a copy of each such agreement has been delivered to Buyer;

(f) Seller has obtained CAISO Certification for the Facility and provided proof to Buyer;

(g) All applicable regulatory authorizations, approvals and permits for the operation of the Facility that are required for Commercial Operation have been obtained and all required conditions thereof have been satisfied and shall be in full force and effect, including a decommissioning plan as part of any permitting process for the Facility, if applicable;

(h) Seller has Site Control and has provided proof to Buyer;

(i) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8;

(j) Insurance requirements for the Facility have been met, with evidence provided in writing to Buyer, in accordance with Section 17.1;

(k) Seller has paid Buyer for all amounts that have been invoiced as owing under this Agreement, if any, including Construction Start Delay Damages and Commercial Operation Delay Damages;

(l) Seller shall have submitted to Buyer a Facility Safety Plan in the form of Exhibit L.

2.3 **Development; Construction; Progress Reports.** Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Effective Date until the Expected Construction Start Date, and (ii) each calendar month from the first calendar month following the Expected Construction Start Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agrees to regularly scheduled meetings between representatives of Buyer and Seller to review such reports and discuss Seller's construction progress. The form of the Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonably requested documentation directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection and procurement of the equipment comprising the Facility.

2.4 **Remedial Action Plan.** If Seller misses a Milestone by more than thirty (30) days, except as the result of Force Majeure Event or Buyer Default, Seller shall submit to Buyer, within

ten (10) Business Days of the end of such thirty (30)-day period following the Milestone completion date, a remedial action plan (“**Remedial Action Plan**”), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller’s detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Expected Commercial Operation Date, as such date may be extended by Section 4 of Exhibit B; *provided*, delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Expected Commercial Operation Date, as such date may be extended by Section 4 of Exhibit B in accordance with the terms of this Agreement. Subject to the provisions of Exhibit B, so long as Seller complies with its obligations under this Section 2.4, Seller shall not be considered in default of its obligations under this Agreement solely as a result of missing any Milestone.

2.5 **Pre-Commercial Operation Actions.** The Parties agree that, in order for Buyer to dispatch the Facility for its Commercial Operation Date, the Parties will have to perform certain of their Delivery Term obligations in advance of the Commercial Operation Date, including, without limitation, Seller’s delivery of an Availability Notice for the Commercial Operation Date, and delivery of a Dispatch Notice and nominating and scheduling the Facility for the Commercial Operation Date, in advance of the Commercial Operation Date. The Parties shall cooperate with each other in order for Buyer to be able to dispatch the Facility for the Commercial Operation Date.

2.6 **First Refusal on Storage Expansion Project.**



**ARTICLE 3
PURCHASE AND SALE**

3.1 **Product.** Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer shall have the exclusive right to the Installed Capacity and Effective Capacity, as applicable, and all Product associated therewith. Seller shall operate the Facility and make available, charge and discharge, deliver, and sell the Product therefrom to Buyer, when and as the Facility is available, subject to the terms and conditions of this Agreement, including the Operating Restrictions. Seller represents and warrants that it will deliver the Product to Buyer free and clear of all liens, security interests, claims and encumbrances. Seller shall not substitute or purchase any energy storage capacity, Energy, Ancillary Services or Capacity Attributes from any

other energy storage resource or the market for delivery hereunder except as otherwise provided herein, nor shall Seller sell, assign or otherwise transfer any Product, or any portion thereof, to any third party other than to Buyer or CAISO pursuant to this Agreement.

3.2 **Facility Energy.** Except for Facility Energy resulting from a Non-Buyer Dispatch, Seller commits to make available the Facility Energy to Buyer, and Buyer shall have the exclusive rights to all Facility Energy, subject to the Operating Restrictions. Title to and risk of loss related to the Facility Energy shall pass and transfer from Seller to Buyer at the Delivery Point.

3.3 **Capacity Attributes.** Seller shall request Full Capacity Deliverability Status for the Guaranteed Capacity in the CAISO generator interconnection process. As between Buyer and Seller, Seller shall be responsible for the cost and installation of any Network Upgrades associated with obtaining such Full Capacity Deliverability Status.

(a) Throughout the Delivery Term and subject to Section 3.7, Seller grants, pledges, assigns and otherwise commits to Buyer all the Capacity Attributes from the Facility.

(b) Throughout the Delivery Term and subject to Section 3.7, Seller shall maintain Full Capacity Deliverability Status for the Facility from the CAISO and shall perform all actions necessary to ensure that the Facility qualifies to provide Resource Adequacy Benefits, including Flexible Capacity, to Buyer. Throughout the Delivery Term and subject to Section 3.7, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) For the duration of the Delivery Term, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute all documents or instruments necessary to enable Buyer to use all of the Capacity Attributes committed by Seller to Buyer pursuant to this Agreement.

(d) 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 Facility will meet the following requirements throughout the Delivery Term, subject to Section 3.7:

(i) 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;

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

(iii) the Facility is not a fossil-fueled generation facility and qualifies as a zero-emission resource under D.21-06-035 and D.23-02-040; and

(iv) 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.

(e) In furtherance of Buyer's compliance and reporting obligations under D.21-06-035 and D.23-02-040 and without limiting Seller's obligations under any other provision of

this Agreement, Seller agrees to provide documentation reasonably requested by Buyer in connection with such compliance obligations, including but not limited to the following:

(i) evidence of interconnection, site control, notice to proceed with construction and other evidence of construction status and progress towards Commercial Operation;

(ii) engineering assessments demonstrating that the Facility satisfies the foregoing requirements; and

(iii) any other engineering assessments or contractual support required or requested by the CPUC pursuant to D.21-06-035 and D.23-02-040.

3.4 **Ancillary Services; Environmental Attributes.**

(a) **Ancillary Services.** Buyer shall have the exclusive rights to all Ancillary Services with characteristics and quantities determined in accordance with the CAISO Tariff. Seller shall operate and maintain the Facility throughout the Contract Term so as to be able to provide the Ancillary Services in accordance with the specifications set forth in the Facility's initial CAISO Certification associated with the Installed Capacity. Upon Buyer's reasonable request, Seller shall submit the Facility for additional CAISO Certification so that the Facility may provide additional Ancillary Services that the Facility is, at the relevant time, actually physically capable of providing consistent with the definition of Ancillary Services herein, provided that Buyer has agreed to reimburse Seller for any material costs Seller incurs in connection with conducting such additional CAISO Certification.

(b) **Environmental Attributes.** Buyer shall have the exclusive rights to any Environmental Attributes existing on the Effective Date or that may come into existence during the Contract Term. Buyer shall bear all costs and risks associated with the transfer, qualification, verification, registration and ongoing compliance for such Environmental Attributes. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Environmental Attributes. Seller shall have no obligation to bear any costs, losses or liability, or alter the Facility, unless the Parties have agreed on all necessary terms and conditions relating to such alteration and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration.

3.5 **Resource Adequacy Failure.**

(a) **RA Shortfall Determination.** For each RA Shortfall Month, Seller shall pay to Buyer as liquidated damages the RA Shortfall Payment, as set forth in Section 3.5(b), and/or provide Replacement RA, as set forth in Section 3.5(c), as the sole remedy for any RA Shortfall Amount in such RA Shortfall Month.

(b) **RA Shortfall Payment Calculation.** For each RA Shortfall Month, Seller shall pay to Buyer an amount (the "**RA Shortfall Payment**") equal to the difference, expressed in kW, of (i) the Qualifying Capacity of the Facility, minus (ii) the Net Qualifying Capacity of the Facility that may be included in Supply Plans by Buyer (the "**RA Shortfall Amount**"), multiplied

by the applicable RA Shortfall Multiplier, as designated on the Cover Sheet; provided that Seller may, as an alternative to paying RA Shortfall Payments, provide Replacement RA in the amount of the RA Shortfall Amount for such Showing Month, provided that:

(i) any Replacement RA capacity is communicated by Seller to Buyer with Replacement RA product information in a written Notice substantially in the form of Exhibit M by the Notification Deadline for the applicable RA Shortfall Month; and

(ii) For avoidance of doubt, if the Net Qualifying Capacity has not been published by or otherwise established with the CAISO by the Notification Deadline for such RA Shortfall Month, then the Net Qualifying Capacity shall be deemed to be zero (0) MW.

3.6 Buyer's Re-Sale of Product. Buyer shall have the exclusive right in its sole discretion to convey, use, market, or sell the Product, or any part of the Product, to any Subsequent Purchaser, provided that it does not materially increase Seller's cost or burdens as set forth in this Agreement; and Buyer shall have the right to all revenues generated from the conveyance, use, re-sale or remarketing of the Product, or any part of the Product. If the CAISO or CPUC develops a centralized capacity market, Buyer shall have the exclusive right to offer, bid, or otherwise submit the Capacity Attributes for re-sale into such market, and Buyer shall retain and receive all revenues from such re-sale. Seller shall take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow Subsequent Purchasers to use such resold Product. If Buyer incurs any liability to a Subsequent Purchaser due to the failure of Seller to comply with this Section 3.6, Seller shall be liable to Buyer for the amounts Seller would have owed Buyer under this Agreement if Buyer had not resold the Product.

3.7 Change in Law.

(a) The Parties acknowledge that an essential purpose of this Agreement is to provide Resource Adequacy Benefits that satisfy the requirements of the Resource Adequacy Rulings, including the requirements of D.21-06-035 and D.23-02-040. Governmental Authorities, including the CEC, CPUC, CAISO, and WREGIS, may undertake actions to implement changes in Law. Seller agrees to use commercially reasonable efforts to cooperate with Buyer with respect to any subsequently requested changes, modifications, or amendments to this Agreement needed to satisfy requirements of Governmental Authorities associated with changes in Law, including changes, modifications, or amendments to this Agreement to: (i) amend the definition of Environmental Attributes and Capacity Attributes, including amendments to this Agreement to reflect any mandatory contractual language required by Governmental Authorities; (ii) require submission of any reports, data, or other information required by Governmental Authorities; or (iii) take any other actions that may be requested by Buyer to assure that the Facility meets the requirements of D.21-06-035 and D.23-02-040; provided that Seller shall have no obligation to modify this Agreement, make material physical alterations to the Facility, modify the Operating Restrictions, or take other actions not required under this Agreement, if such modifications or actions would materially adversely affect, or could reasonably be expected to have or result in a material adverse effect on, any of Seller's rights, benefits, risks and/or obligations under this Agreement.

(b) If a change in Law occurring after the Effective Date has increased 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), the items listed below (the "**Compliance Actions**") the maximum amount of out-of-pocket costs and expenses ("**Compliance Costs**") to be incurred by Seller under this Agreement shall be capped at the Compliance Expenditure Cap amount shown on the Cover Sheet over the Delivery Term in the aggregate ("**Compliance Expenditure Cap**"):

(i) Environmental Attributes;

(ii) Capacity Attributes;

(c) Seller's internal administrative costs associated with obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable) any Product are excluded from the Compliance Expenditure Cap. If Seller reasonably anticipates the need to incur Compliance Costs in excess of the Compliance Expenditure Cap in order to take any Compliance Action, Seller shall provide Notice to Buyer of such anticipated Compliance Costs.

(d) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "Accepted Compliance Costs"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller.

(e) If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by the Parties and Buyer shall reimburse Seller for Seller's actual costs to effect the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller.

(f) Subject to the following sentence, to the extent that a change in Laws (including a CAISO RA Enhancement) occurring after the Effective Date results in a reduction of the Facility's Net Qualifying Capacity and either (i) Seller has completed the actions required to comply with its obligations under this Agreement, up to the Compliance Expenditure Cap or any Accepted Compliance Costs or (ii) Buyer has waived Seller's obligations to take any actions required to comply with such change in Laws in accordance with this Section 3.7 or (iii) it is not reasonably possible for Seller to achieve compliance with a change in Law through the payment or incurrence of costs, then the Net Qualifying Capacity of the Facility shall be automatically deemed to refer to the Net Qualifying Capacity of the Facility that the Facility could reasonably achieve if all such actions were completed. The Parties agree that if (A) the CAISO implements the CAISO RA Enhancement and (B) the otherwise available Capacity Attributes are reduced solely due to Seller's failure to operate the Facility in accordance with the requirements of this Agreement, then, notwithstanding this Section 3.7, Seller's obligation to deliver the applicable Qualifying Capacity will not be reduced on the basis of such reduction and the automatic adjustments described in the foregoing sentence shall not be implemented.

3.8 **Additional Products.**

(a) Over the Term, new or incremental opportunities may arise for the sale or transfer of additional products from the Facility that are not currently known to or contemplated by the Buyer or Seller, including capacity, reactive power, and ancillary services (collectively, “**Additional Products**”). To the extent that the sale or transfer of these Additional Products accruing during the Settlement Term becomes an option, either Party may notify the other regarding their availability. Buyer may request in writing for Seller to use commercially reasonable efforts, at Buyer’s cost, to monetize such Additional Products on behalf of Buyer (“**Buyer’s Written Request**”); provided that (i) the creation, registration, sale or transfer of such Additional Products shall not (A) require Seller to make material modifications to the Facility (or the design thereof) or material upgrades or other material modifications to any interconnection or transmission facilities (other than those for which Buyer has agreed to fund) or (B) require Seller to reduce the charging and discharging of energy from the Facility and delivery thereof to the interconnection point (or restrict Seller’s flexibility in offering, bidding, planning and scheduling such energy) or (C) interfere with qualification, offering, bidding, planning, scheduling or other disposition of Environmental Attributes or (D) require that the Facility be operated in a manner that is inconsistent with the Operating Restrictions; and (ii) the sale or transfer of such Additional Products is permitted by (and capable of being implemented pursuant to) law.

ARTICLE 4 OBLIGATIONS AND DELIVERIES

4.1 **Delivery.** Subject to the provisions of this Agreement, commencing on the Commercial Operation Date through the end of the Contract Term, Seller shall supply and deliver the Product to Buyer at the Delivery Point, and Buyer shall take delivery of the Product at the Delivery Point in accordance with the terms of this Agreement. Seller shall be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Facility Energy to the Delivery Point, including without limitation, Station Use, Electrical Losses, any costs associated with delivering the Charging Energy to the Storage Facility, and any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility’s operations. Buyer shall be responsible for all costs, charges and penalties, if any, imposed in connection with the delivery of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses and imbalance charges. The Facility Energy will be scheduled to the CAISO by Buyer in accordance with Exhibit D.

4.2 **Interconnection.** Seller shall be responsible for all costs of interconnecting the Facility to the Interconnection Point.

4.3 **Performance Guarantees.**

(a) During the Delivery Term, the Facility shall maintain an Annual Capacity Availability during each year of no less than ninety-six percent (96%) (the “**Guaranteed Availability**”), which Annual Capacity Availability shall be calculated in accordance with Exhibit P.

(b) During the Delivery Term, the Facility shall maintain an Efficiency Rate of no less than Guaranteed Efficiency Rate, which Efficiency Rate shall be calculated in accordance with Exhibit O. The Guaranteed Availability and Guaranteed Efficiency Rate are collectively the “**Performance Guarantees**.”

(c) Buyer’s remedies for Seller’s failure to achieve the Performance Guarantees are: (i) for the Guaranteed Availability, (1) the Availability Adjustment to the Monthly Capacity Payment, as set forth in Exhibit C, and (2) the Seller Event of Default as set forth in Section 11.1(b)(iii) and the applicable remedies set forth in Article 11; and (ii) for the Guaranteed Efficiency Rate, the Efficiency Rate Adjustment to the Monthly Capacity Payment, as set forth in Exhibit C.

4.4 **Facility Testing**.

(a) **Capacity Tests**. Prior to the Commercial Operation Date, Seller shall schedule and complete a Commercial Operation Capacity Test in accordance with Exhibit O. Thereafter, Seller and Buyer shall have the right to run additional Capacity Tests in accordance with Exhibit O.

(b) Buyer shall have the right to send one or more representative(s) to witness all Capacity Tests.

(c) Following each Capacity Test, Seller shall submit a testing report in accordance with Exhibit O. If the actual capacity or efficiency rate determined pursuant to a Capacity Test varies from the then-current Effective Capacity or Efficiency Rate, as applicable, then the actual capacity or efficiency rate determined pursuant to such Capacity Test shall become the new Effective Capacity and/or Efficiency Rate, at the beginning of the day following the completion of the test for all purposes under this Agreement.

(d) **Additional Testing**. Seller shall, at times and for durations reasonably agreed to by Buyer, to the extent that Seller has a reasonable concern with respect to the then-current tested values of the Facility, conduct necessary testing to ensure the Facility is functioning properly and the Facility is able to respond to Dispatch Notices pursuant to Section 4.6(b).

(e) Any testing of the Facility requested by Buyer after the Commercial Operation Capacity Tests and all required annual tests pursuant to Section B of Exhibit O shall be deemed Buyer-instructed dispatches of the Facility (“**Buyer Dispatched Test**”). Any test of the Facility that is not a Buyer Dispatched Test (including all tests conducted prior to Commercial Operation, any Commercial Operation Capacity Tests, any Capacity Test conducted if the Effective Capacity immediately prior to such Capacity Test is below seventy percent (70%) of the Installed Capacity, any test required by CAISO (including any test required to obtain or maintain CAISO Certification), and other Seller-requested discretionary tests or dispatches, at times and for durations reasonably agreed to by Buyer, that Seller deems necessary for purposes of reliably operating or maintaining the Facility or for re-performing a required test within a reasonable number of days of the initial required test (considering the circumstances that led to the need for a retest) shall be deemed a “**Seller Initiated Test**”.

(f) For any Seller Initiated Test other than a Capacity Test required by Exhibit O for which there is a stated notice requirement, Seller shall notify Buyer no later than twenty-four (24) hours prior thereto (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practices).

(g) No Dispatch Notices shall be issued during any Seller Initiated Test or Buyer Dispatched Test except as reasonably requested by Seller or Buyer to implement the applicable test. The Facility will be deemed unavailable during any Seller Initiated Test, and Buyer shall not dispatch or otherwise schedule the Facility during such Seller Initiated Test.

4.5 **Testing Costs and Revenues**

(a) Buyer shall be responsible for all Charging Energy and shall be entitled to all CAISO revenues associated with a Buyer Dispatched Test. Seller shall be responsible for all Charging Energy and other costs and shall be entitled to all CAISO revenues associated with a Seller Initiated Test. Buyer shall pay to Seller, in the month following Buyer's receipt of such CAISO revenues and otherwise in accordance with Exhibit C, all applicable CAISO revenues received by Buyer and associated with the discharge Energy associated with such Seller Initiated Test.

(b) Buyer shall be responsible for all costs, expenses and fees payable or reimbursable to its representative(s) witnessing any Facility test.

(c) Except as set forth in Sections 4.5(a) and (b), all other costs of any testing of the Facility shall be borne by Seller.

4.6 **Facility Operations**

(a) Seller shall operate the Facility in accordance with Prudent Operating Practices.

(b) During the Delivery Term, Seller shall maintain SCADA Systems, communications links and other equipment necessary to receive automated Dispatch Notices consistent with CAISO protocols and practice ("**Automated Dispatches**"). In the event of the failure or inability of the Facility to receive Automated Dispatches, Seller shall use all commercially reasonable efforts to repair or replace the applicable components as soon as reasonably possible, and if there is any material delay in such repair or replacement, Seller shall provide Buyer with a written plan of all actions Seller plans to take to repair or replace such components for Buyer's review and comment. During any period during which the Facility is not capable of receiving or implementing Automated Dispatches, Seller shall implement back-up procedures consistent with the CAISO Tariff and CAISO protocols to enable Seller to receive and implement non-automated Dispatch Notices ("**Alternative Dispatches**").

(c) Seller shall maintain a daily operations log for the Facility which shall include but not be limited to information on Energy charging and discharging, electricity consumption and efficiency (if applicable), availability, outages, changes in operating status, inspections and any other significant events related to the operation of the Facility. Information

maintained pursuant to this Section 4.6(c) shall be provided to Buyer within fifteen (15) days of Buyer's request.

(d) Seller shall maintain accurate records with respect to all Capacity Tests.

(e) Seller shall maintain and make available to Buyer records, including logbooks, demonstrating that the Facility is operated in accordance with Prudent Operating Practices. Seller shall comply with all reporting requirements and permit on-site audits, investigations, tests and inspections permitted or required under any Prudent Operating Practices.

4.7 **Dispatch Notices.** Buyer shall have the right to dispatch the Facility seven days per week and 24 hours per day (including holidays), by providing Dispatch Notices, subject to the requirements and limitations set forth in this Agreement. Subject to the Operating Restrictions, each Dispatch Notice shall be effective unless and until such Dispatch Notice is modified by the CAISO, Buyer or Buyer's SC. If Automated Dispatches are not possible for reasons beyond Buyer's control, Alternative Dispatches may be provided pursuant to Section 4.6(b).

4.8 **Facility Unavailability to Receive Dispatch Notices.** To the extent the Facility is unable to receive or respond to Dispatch Notices either through Automated Dispatches or Alternative Dispatches during any Settlement Interval or Settlement Period, then as an exclusive remedy, the time period corresponding to such Settlement Interval or Settlement Period shall be deemed unavailable for purposes of calculating the Annual Capacity Availability.

4.9 **Energy Management.**

(a) **Charging Generally.** Upon receipt of a valid Charging Notice, Seller shall take any and all action necessary to deliver the Charging Energy to the Facility in order to deliver the Product in accordance with the terms of this Agreement, including maintenance, repair or replacement of equipment in Seller's possession or control used to deliver the Charging Energy from the Delivery Point to the Facility. Except as otherwise expressly set forth in this Agreement, Buyer shall be responsible for paying all CAISO costs and charges associated with Charging Energy.

(b) **Charging Notices.** Buyer shall have the right to charge the Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by causing Charging Notices to be issued, subject to the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Each Charging Notice issued in accordance with this Agreement shall be effective unless and until Buyer's SC or CAISO modifies such Charging Notice by providing Seller with an updated Charging Notice.

(c) **No Unauthorized Charging.** Seller shall not charge the Facility during the Delivery Term other than pursuant to a valid Charging Notice (it being understood that Seller may adjust a Charging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority. If, during the Delivery Term, Seller charges the Facility (i) to a Storage Level greater than the Storage Level provided for in a Charging Notice, or (ii) in violation of the first sentence of this Section 4.9(c), then (i) Seller shall pay to Buyer all Energy costs associated with such charging of

the Facility, and (ii) Buyer shall be entitled to discharge such Energy and shall be entitled to all of the benefits (including Product) associated with such discharge.

(d) Discharging Notices. Buyer shall have the right to discharge the Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by causing Discharging Notices to be issued, subject to the requirements and limitations set forth in this Agreement, including the Operating Restrictions. Each Discharging Notice issued in accordance with this Agreement shall be effective unless and until Buyer's SC or the CAISO modifies such Discharging Notice by providing the Facility with an updated Discharging Notice.

(e) No Unauthorized Discharging. Seller shall not discharge the Facility during the Delivery Term other than pursuant to a valid Discharging Notice (it being understood that Seller may adjust a Discharging Notice to the extent necessary to maintain compliance with the Operating Restrictions), or in connection with a Seller Initiated Test (including Facility maintenance or a Storage Capacity Test), or pursuant to a notice from the Transmission Provider or Governmental Authority.

(f) Unauthorized Charges and Discharges. If Seller or any third party charges, discharges or otherwise uses the Facility other than as permitted hereunder or as expressly addressed in this Section 4.9, it shall be a breach by Seller and Seller shall hold Buyer harmless from, and indemnify Buyer against, all actual costs or losses associated therewith, and be responsible to Buyer for any damages arising therefrom, and, if Seller fails to implement procedures reasonably acceptable to Buyer to prevent any further occurrences of the same, then the failure to implement such procedures shall be an Event of Default under Article 11.

(g) CAISO Dispatches. During the Delivery Term, CAISO Dispatches shall have priority over any Charging Notice or Discharging Notice issued by Buyer's SC, and Seller shall have no liability for violation of this Section 4.9 or any Charging Notices or Discharging Notice if and to the extent such violation is caused by Seller's compliance with any CAISO Dispatch. During any time interval during the Delivery Term in which the Facility is capable of responding to a CAISO Dispatch, but the Facility deviates from a CAISO Dispatch, Seller shall be responsible for all CAISO charges and penalties resulting from such deviation (in addition to any Buyer remedy related to overcharging of the Facility as set forth in Section 4.9(c)).

(h) Pre-Commercial Operation Date Period, etc. Prior to the Commercial Operation Date, Buyer shall have no rights to issue or cause to be issued Charging Notices or Discharging Notices, and Seller shall have exclusive rights to charge and discharge the Facility; *provided*, prior to the Commercial Operation Date, Seller shall only charge and discharge the Facility in connection with installation, commissioning and testing of the Facility.

(i) Curtailments. Notwithstanding anything in this Agreement to the contrary, during any Settlement Interval, Curtailment Orders applicable to such Settlement Interval shall have priority over any Dispatch Notices applicable to such Settlement Interval, and Seller shall have no liability for violation of this Section 4.9 or any Dispatch Notice if and to the extent such violation is caused by Seller's compliance with any Curtailment Order or other instruction or direction from a Governmental Authority or the Transmission Provider. Buyer shall have the right,

but not the obligation, to provide Seller with updated Dispatch Notices during any Curtailment Order consistent with the operational procedures.

(j) Station Use. Notwithstanding anything to the contrary in this Agreement, the Parties acknowledge (i) Seller is responsible for providing all Energy to serve Station Use (including paying the cost of any Energy from the grid to serve Station Use), (ii) Station Use may not be supplied from Charging Energy or Facility Energy, and (iii) Seller shall indemnify and hold harmless Buyer from any and all costs, penalties, charges or other adverse consequences that result from Energy supplied for Station Use by any means other than retail service from the applicable utility, and shall take any additional measures to ensure Station Use is supplied by the applicable utility's retail service if necessary to avoid any such costs, penalties, charges or other adverse consequences.

4.10 Capacity Availability Notice.

(a) No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the beginning of each month during the Delivery Term, Seller shall provide to Buyer and the SC (if applicable) a non-binding forecast of the hourly expected Available Capacity for each day of the following month in a form substantially similar to Exhibit F ("Monthly Forecast").

(b) During the Delivery Term, no later than two (2) Business Days before each schedule day for the Day-Ahead Market in accordance with WECC scheduling practices, Seller shall provide Buyer and the SC (if applicable) with an hourly schedule of the Available Capacity that the Facility is expected to have for each hour of such schedule day (the "Availability Notice"). Seller shall provide Availability Notices (including updated Availability Notices) using the form attached in Exhibit G, or other form as reasonably requested by Buyer, by (in order of preference) electronic mail or telephonically to Buyer personnel or its Scheduling Coordinator designated to receive such communications.

(c) Seller shall notify Buyer and the SC (if applicable) immediately with an updated Monthly Forecast and Availability Notice, as applicable, if the Available Capacity of the Facility changes or is expected to change after Buyer's receipt of a Monthly Forecast or Availability Notice. Seller shall accommodate Buyer's reasonable requests for changes in the time of delivery of Availability Notices.

4.11 Outages.

(a) Planned Outages.

(i) No later than January 15, April 15, July 15 and October 15 of each Contract Year, and at least sixty (60) days prior to the Commercial Operation Date, Seller shall submit to Buyer Seller's schedule of proposed Planned Outages ("Outage Schedule") for the following twelve (12)-month period in a form reasonably agreed to by Buyer. Within twenty (20) Business Days after its receipt of an Outage Schedule, Buyer shall give Notice to Seller of any reasonable request for changes to the Outage Schedule, and Seller shall, consistent with Prudent Operating Practices, accommodate Buyer's requests regarding the timing of any Planned Outage. Seller shall deliver to Buyer the final Outage Schedule no later than ten (10) days after

receiving Buyer's comments. Seller shall be permitted to reduce deliveries of Product during any period of such Planned Outages.

(ii) If reasonably required in accordance with Prudent Operating Practices, Seller shall have the right, on no less than sixty (60) days advance Notice to Buyer, to propose changes to the Outage Schedule developed pursuant to Section 4.11(a)(i). Buyer may provide comments no later than ten (10) days after receiving Seller's Notice of proposed changes to the Outage Schedule and shall permit any changes if doing so would not have a material adverse impact on Buyer and Seller agrees to reimburse Buyer for any costs or charges associated with such changes.

(b) No Planned Outages During Summer Months. Except as scheduled by the Parties under Section 4.11(a), during the months of June through September, Seller shall not schedule any non-emergency maintenance that reduces the energy storage capability of the Facility by more than ten percent (10%), unless (i) such outage is required to avoid damage to the Facility, (ii) such maintenance is necessary to maintain equipment warranties and cannot be scheduled outside of the months of June through September, (iii) such outage is required in accordance with Prudent Operating Practices, or (iv) the Parties agree otherwise in writing. In the event that Seller has a previously Planned Outage that becomes coincident with a System Emergency, Seller shall make all reasonable efforts to reschedule such Planned Outage.

(c) Notice of Unplanned Outages. Seller shall notify Buyer by telephoning Buyer's Scheduling Coordinator no later than ten (10) minutes following the occurrence of an Unplanned Outage, or if Seller has knowledge that an Unplanned Outage will occur, within twenty (20) minutes of determining that such Unplanned Outage will occur. Seller shall relay outage information to Buyer as required by the CAISO Tariff within twenty (20) minutes of the Unplanned Outage. Seller shall communicate to Buyer the estimated time of return of the Facility as soon as practical after Seller has knowledge thereof.

(d) Inspection. In the event of an Unplanned Outage, Buyer shall have the option to inspect the Facility and all records relating thereto on any Business Day and at a reasonable time and Seller shall reasonably cooperate with Buyer during any such inspection. Buyer shall comply with Seller's safety and security rules and instructions during any inspection and shall not interfere with work on or operation of the Facility.

(e) Reports of Outages. Seller shall promptly prepare and provide to Buyer, all reports of Unplanned Outages or Planned Outages that Buyer may reasonably require for the purpose of enabling Buyer to comply with CAISO requirements or any applicable Laws.

ARTICLE 5 TAXES, GOVERNMENTAL AND ENVIRONMENTAL COSTS

5.1 Allocation of Taxes and Charges. Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and making available of Product to Buyer, that are imposed on Product prior to its delivery to Buyer at the time and place contemplated under this Agreement. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of Product that are imposed on Product at and

after its delivery to Buyer at the time and place contemplated under this Agreement (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, Buyer shall provide Seller with all necessary documentation to evidence such exemption or exclusion within thirty (30) days after the date Buyer makes such claim. Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes for which Buyer is responsible hereunder and from which Buyer claims it is exempt.

5.2 **Cooperation.** Each Party shall use reasonable efforts to implement the provisions of and administer this Agreement in accordance with the intent of the Parties to minimize all Taxes, so long as no Party is materially adversely affected by such efforts. The Parties shall cooperate to minimize Tax exposure; *provided*, neither Party shall be obligated to incur any financial or operational burden to reduce Taxes for which the other Party is responsible hereunder without receiving due compensation therefor from the other Party. All Product delivered by Seller to Buyer hereunder shall be a sale made at wholesale, with Buyer reselling such Product.

5.3 **Environmental Costs.** Seller shall be solely responsible for:

- (a) All Environmental Costs;
- (b) All taxes, charges or fees imposed on the Facility or Seller by a Governmental Authority for Greenhouse Gas emitted by or attributable to the Facility during the Delivery Term;
- (c) Seller's obligations listed under "Compliance Obligation" in the GHG Regulations, and
- (d) All other costs associated with the implementation and regulation of Greenhouse Gas emissions (whether in accordance with the California Global Warming Solutions Act of 2006, Assembly Bill 32 (2006) and the regulations promulgated thereunder, including the GHG Regulations, or any other federal, state or local legislation to offset or reduce any Greenhouse Gas emissions implemented and regulated by a Governmental Authority) with respect to the Facility and/or Seller.

ARTICLE 6 MAINTENANCE AND REPAIR OF THE FACILITY

6.1 **Maintenance of the Facility.**

(a) Seller shall, as between Seller and Buyer, be solely responsible for the operation, inspection, maintenance and repair the Facility, and any portion thereof, in accordance with applicable Law and Prudent Operating Practices. Seller shall maintain and deliver maintenance and repair records of the Facility to Buyer's scheduling representative upon request.

(b) Seller shall promptly make all necessary repairs to the Facility, and any portion thereof, and take all actions necessary in order to provide the Product to Buyer in accordance with the terms of this Agreement (and, at a minimum, the Performance Guarantees).

6.2 **Maintenance of Health and Safety.** Seller shall take reasonable safety precautions with respect to the operation, maintenance, repair and replacement of the Facility. If Seller becomes aware of any circumstances relating to the Facility that create an imminent risk of damage or injury to any Person or any Person's property, Seller shall take prompt, reasonable action to prevent such damage or injury and shall give Buyer's emergency contact identified in Exhibit N Notice of such condition. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of Facility Energy to the Delivery Point.

6.3 **Shared Facilities.** The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements to be entered into among Seller, the Transmission Provider, Seller's Affiliates, and/or third parties. Seller agrees that any agreements regarding Shared Facilities (i) shall permit Seller to perform or satisfy, and shall not purport to limit, Seller's obligations hereunder, (ii) shall provide for separate metering of the Facility; (iii) shall not limit Buyer's ability to charge or discharge the Facility up to the Interconnection Capacity Limit; (iv) shall provide that any other generating or energy storage facilities not included in the Facility but using Shared Facilities shall not be included within the Facility's CAISO Resource ID; and (v) shall provide that in the event of any discretionary allocation or curtailment of output from generating or energy storage facilities using the Shared Facilities shall not be allocated to the Facility.

6.4 **Decommissioning Facility and Other Costs.** Buyer shall not be responsible for any cost of decommissioning or demolition of the Facility or any environmental or other liability associated with the decommissioning or demolition of the Facility without regard to the timing or cause of the decommissioning or demolition. Seller agrees to indemnify, defend, and hold harmless, Buyer for any costs incurred by Buyer if and to the extent that Seller's actions or inactions causes Buyer to become required, whether statutorily or otherwise, to bear the cost of any decommissioning or demolition of the Facility or any environmental or other liability associated therewith, including, but not limited to, any investigations, actions, suits, claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) associated with clean-up costs and defense costs. The indemnity requirements set forth in this Section shall survive the termination of this Agreement.

6.5 **Facility Safety Plan.**

(a) **Prior to Delivery Term.** At least ninety (90) days prior to the Commercial Operation Date, Seller shall submit for Buyer's review a **Facility Safety Plan**, in a format reasonably acceptable to Buyer, which must demonstrate (A) Seller's plans to comply with the Safety Requirements as of and following the Commercial Operation Date and (B) Seller's consideration of the Facility Safety Plan items in Exhibit L. Seller shall submit an attestation with the Facility Safety Plan. In the event Buyer provides Notice to Seller that the Facility Safety Plan or attestation is not acceptable to Buyer, then Buyer will identify the inconsistencies with the

Safety Requirements in such Notice and such Notice shall constitute the occurrence of a Remediation Event for purposes of Section 6.5(d).

(b) Delivery Term. Throughout the Delivery Term, Seller shall update the safeguards and the Facility Safety Plan as required by Safety Requirements or as necessitated by a Safety Remediation Plan. Seller shall provide such updated Facility Safety Plan to Buyer within thirty (30) days of any such updates. Throughout the Delivery Term, Buyer shall have the right to request Seller to provide its Facility Safety Plan, or portions thereof, and demonstrate its compliance with the Safety Requirements within thirty (30) days of Buyer's Notice.

(c) Reporting Serious Incidents. Seller shall provide Notice of a Serious Incident to Buyer within five (5) Business Days of occurrence. The Notice of Serious Incident must include the time, date, and location of the incident, the circumstances surrounding the incident, the immediate response and recovery actions taken, and a description of any impacts of the Serious Incident. Seller shall cooperate and provide reasonable assistance to Buyer with any investigations and inquiries by Governmental Authorities that arise as a result of the Serious Incident.

(d) Remediation.

(i) Seller shall resolve any Remediation Event within the Remediation Period. Within ten (10) days of the date of the first occurrence of any Remediation Event, Seller shall provide a Safety Remediation Plan to Buyer for Buyer's review.

(ii) If the Remediation Event is an occurrence of an Exigent Circumstance with respect to the Facility or the Site, then Seller shall not deliver and Buyer will not accept, Product from the Facility until such Remediation Event is resolved in accordance with this Section 6.5.

(iii) Following the occurrence of any Remediation Event, Seller shall also provide an attestation to Buyer for Buyer's review and acceptance. Seller shall cooperate with Buyer in order for Seller to provide an attestation, in a form and level of detail that is reasonably acceptable to Buyer which incorporates information, analysis, investigations or documentation, as applicable or as reasonably requested by Buyer.

Seller's failure to resolve a Remediation Event, other than due to the occurrence of a Force Majeure Event as described in this Section 6.5(d)(iv), by obtaining Buyer's written acceptance of the Attestation within the Remediation Period is a material breach of this Agreement; provided that that Seller may request to extend the Remediation Period by up to ninety (90) days. Buyer shall not unreasonably withhold approval of such extension. Seller may request an additional extension of the Remediation Period of up to ninety (90) days, which Buyer may approve in its sole discretion. Except as the result of a Force Majeure Event, the Remediation Period will not continue for more than two-hundred and seventy (270) days from the first occurrence of the Remediation Event. The number of days of the Buyer Remediation Review Period shall not be included in calculating the number of days of the Remediation Period. The Commercial Operation Date shall not occur during a Remediation Period. If Seller provides Notice to Buyer, in compliance with Section 10.3, demonstrating that a Remediation Event is a Force Majeure Event, and that Seller's

ability to resolve the Remediation Event is prevented by the Force Majeure Event, then the Remediation Period shall be extended on a day-for-day basis until Seller is no longer prevented from resolving the Remediation Event by the Force Majeure Event. This Section does not limit, reduce, or otherwise modify any rights of remedies of Buyer under any other provisions of this Agreement.

ARTICLE 7 METERING

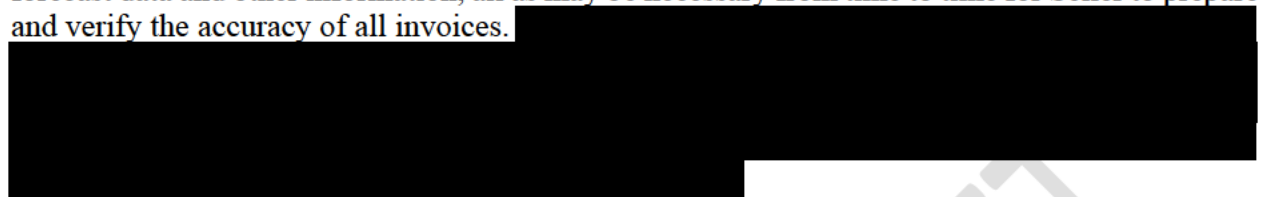
7.1 **Metering**. Seller shall measure the amount of Charging Energy and Facility Energy using the Facility Meter, which will be subject to adjustment in accordance with applicable CAISO meter requirements and Prudent Operating Practices, including to account for Electrical Losses. Seller shall separately meter all Station Use. Metering shall be consistent with the Metering Diagram in Exhibit R. The Facility Meter will be operated pursuant to applicable CAISO-approved calculation methodologies and maintained as Seller's cost. Each meter shall be kept under seal, such seals to be broken only when the Facility Meters are to be tested, adjusted, modified or relocated. In the event Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Facility Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the CAISO meter data directly relating to the Facility and all inspection, testing and calibration data and reports. Seller and Buyer shall cooperate to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface - Settlements (MRI-S) web and/or directly from the CAISO meter(s) at the Facility.

7.2 **Meter Verification**. If Seller has reason to believe there may be a Facility Meter malfunction, or upon Buyer's reasonable request, Seller shall test the Facility Meter. The tests shall be conducted by independent third parties qualified to conduct such tests. Buyer shall be notified seven (7) days in advance of such tests and have a right to be present during such tests. If a Facility Meter is inaccurate, it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the Facility Meter inaccuracy commenced (if such evidence exists, such date will be used to adjust prior invoices), then the invoices covering the period of time since the last Facility Meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one-half of such period if such adjustments are accepted by CAISO; *provided*, such period may not exceed twelve (12) months.

ARTICLE 8 INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall use commercially reasonable efforts to deliver an invoice to Buyer for Product or Bridge Replacement RA no later than the fifteenth (15th) day of each month for the previous calendar month. Each invoice shall reflect (a) records of metered data, including (i) CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Facility for any Settlement Period during the preceding month, including the amount of Charging Energy and the amount of Facility Energy, in each case as read by the Facility Meter, and the amount of Replacement RA delivered to Buyer (if any) and (ii) data showing a calculation of the Monthly Capacity Payment and other relevant data for the prior month; and (b) be in a format agreed by the Parties within sixty (60) days before the Commercial Operation

Date, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Buyer shall, and shall cause its Scheduling Coordinator to, provide Seller with all reasonable access (including, in real time, to the maximum extent reasonably possible) to any records, including invoices or settlement data from the CAISO, forecast data and other information, all as may be necessary from time to time for Seller to prepare and verify the accuracy of all invoices.



8.2 **Payment.** Buyer shall make payment to Seller of Monthly Capacity Payments for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts within (30) days of Buyer's receipt of Seller's invoices; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual Interest Rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), plus two percent (2%) (the "**Interest Rate**"). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records.** To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days' Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement. Seller acknowledges that in accordance with California Government Code Section 8546.7, Seller may be subject to audit by the California State Auditor with regard to Seller's performance of this Agreement because the compensation under this Agreement exceeds \$10,000.

8.4 **Payment Adjustments; Billing Errors.** Payment adjustments shall be made if Buyer or Seller discovers (a) there have been good faith inaccuracies in invoicing or payment that are not otherwise disputed under Section 8.5, (b) an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO, or (c) there is determined to have been a Facility Meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer's next monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer's next monthly invoice. Adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the adjusted amount should have been due. Unless otherwise agreed by the Parties,

no adjustment of invoices shall be permitted after twenty-four (24) months from the date of the invoice.

8.5 **Billing Disputes.** 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. 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 original due date to but excluding the date paid. Inadvertent overpayments shall be returned via adjustments in accordance with Section 8.4. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. 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.

8.6 **Netting of Payments.** The Parties hereby agree that they shall discharge undisputed mutual debts and payment obligations due and owing to each other under this Agreement on the same date through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and P, interest, and payments or credits, shall be netted so that only the excess amount remaining due after netting any such undisputed amount shall be paid by the Party who owes it.

8.7 **Seller's Development Security.** To secure its obligations under this Agreement, Seller shall deliver the Development Security to Buyer within ten (10) Business Days after the Effective Date. Seller shall maintain the Development Security in full force and effect. Upon the earlier of (a) Seller's delivery of the Performance Security, or (b) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement.

8.8 **Seller's Performance Security.** To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect, and Seller shall within five (5) Business Days after any draw thereon replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (a) the Delivery term has expired or terminated early; and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as

through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security.

8.9 **First Priority Security Interest in Cash or Cash Equivalent Collateral.** To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing first-priority security interest (“**Security Interest**”) in, and lien on (and right to net against), and assignment of the Development Security, Performance Security, any other cash collateral and cash equivalent collateral posted pursuant to Sections 8.7 and 8.8 and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take all action as Buyer reasonably requires in order to perfect Buyer’s Security Interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof.

Upon or any time after the occurrence of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.9):

(a) Exercise any of its rights and remedies with respect to the Development Security and Performance Security, including any such rights and remedies under Law then in effect;

(b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security, provided that Buyer shall first invoice Seller for its outstanding obligations and provide Seller ten (10) Business Days to pay directly prior to drawing on such Letter of Credit; and

(c) Liquidate all Development Security or Performance Security (as applicable) then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

Buyer shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce Seller’s obligations under this Agreement (Seller remains liable for any amounts owing to Buyer after such application), subject to Buyer’s obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

8.10 **Buyer’s Financial Statements.** From the Effective Date, Buyer shall provide to Seller unaudited quarterly financial statements within ninety (90) days after the end of each quarter and audited annual financial statements within one hundred eighty (180) days after the end of each fiscal year; provided, however, that this requirement shall be satisfied if such financial statements are publicly available on Buyer’s website. Buyer’s annual financial statements shall have been prepared in accordance with generally accepted accounting principles in the United States, consistently applied.

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 in Exhibit N 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, three (3) 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 or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm, on the next Business Day; 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 commercially 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.

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of commercially 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; wildfire; 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; provided that 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 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) has occurred.

(c) Notwithstanding the foregoing, the term “**Force Majeure Event**” does not include (i) economic conditions or changes in Law that render a Party’s performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer’s ability to buy Product 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 Facility, 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 that disables physical or electronic facilities necessary to transfer funds to the payee Party; (iv) a Curtailment Order, except to the extent such Curtailment Order is caused by a Force Majeure Event; (v) Seller’s inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of wind, sun or other fuel source of an inherently intermittent nature, 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 Affiliates, Seller’s contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; (viii) events otherwise constituting a Force Majeure Event that prevents Seller from achieving Construction Start or Commercial Operation of the Facility, except to the extent expressly permitted as an extension under this Agreement; or (ix) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

10.2 **No Liability If a Force Majeure Event Occurs.** Except as provided in Section 4 of Exhibit B, 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. Notwithstanding the foregoing, the occurrence and continuation of a Force Majeure Event shall not (a) suspend or excuse the obligation of a Party to make any payments due hereunder, (b) suspend or excuse the obligation of Seller to achieve the Expected Construction Start Date or the Expected Commercial Operation Date beyond the extensions provided in Section 4 of Exhibit B, or (c) limit Buyer’s right to declare an Event of Default pursuant to Section 11.1(b)(ii) and receive a Damage Payment upon exercise of Buyer’s remedies pursuant to Section 11.2.

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) promptly 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) promptly 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*, 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 after the Commercial Operation Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon 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(b), and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

ARTICLE 11 DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default.** An "**Event of Default**" shall mean,

(a) with respect to a Party (the "**Defaulting Party**") that is subject to the Event of Default the occurrence of any of the following:

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within ten (10) Business Days after Notice thereof;

(ii) 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 default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite diligently seeking a cure);

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default set forth in this Section 11.1; and except for (A) failure to provide Capacity Attributes, the exclusive remedies for which are set forth in Section 3.5, and (B) failures related to the Annual Capacity Availability that do not trigger the provisions of Section 11.1(b)(iii), the exclusive remedies for which are set forth in Exhibit C and Exhibit P, and such failure is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional ninety (90) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite diligently seeking a cure);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Article 14, if applicable; or

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

(b) with respect to Seller as the Defaulting Party, the occurrence of any of the following:

(i) if at any time, Seller delivers or attempts to deliver Energy to the Delivery Point for sale under this Agreement that was not discharged by the Facility;

(ii) the failure by Seller to achieve Commercial Operation on or before the Commercial Operation Date Deadline;

(iii) if, in any Contract Year, the Annual Capacity Availability calculation for such Contract Year is not equal to at least [REDACTED] percent ([REDACTED]%) of the Guaranteed Availability, [REDACTED]

and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the [REDACTED] percent ([REDACTED]%) multiplied by the Installed Capacity threshold, and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days ("Cure Plan") and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein, and provided that for purposes of this Section 11.1(b)(iii), [REDACTED]

[REDACTED];

(iv) failure by Seller to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 within ten (10) Business Days after Notice from Buyer, including the failure to replenish the Performance Security amount in accordance with this Agreement in the event Buyer draws against it for any reason other than to satisfy a Termination Payment;

(v) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

(A) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or A3 by Moody's;

- (B) the issuer of such Letter of Credit becomes Bankrupt;
- (C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;
- (D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;
- (E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;
- (F) such Letter of Credit fails or ceases to be in full force and effect at any time; or
- (G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

11.2 **Remedies; Declaration of Early Termination Date.** If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party ("**Non-Defaulting Party**") shall have the following rights:

- (a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement ("**Early Termination Date**") that terminates this Agreement (the "**Terminated Transaction**") and ends the Delivery Term effective as of the Early Termination Date;
- (b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment, or (ii) the Termination Payment, as applicable, in each case calculated in accordance with Section 11.3 below;
- (c) to withhold any payments due to the Defaulting Party under this Agreement;
- (d) to suspend performance; and
- (e) to exercise any other right or remedy available at law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement; *provided*, payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for any Terminated Transaction and the Event of Default related thereto.

11.3 **Damage Payment; Termination Payment.** If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Damage Payment or Termination Payment, as applicable, in accordance with this Section 11.3.

(a) Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, then the Damage Payment shall be calculated in accordance with this Section 11.3(a).

(i) If Seller is the Defaulting Party, then the Damage Payment shall be owed to Buyer and shall be equal to the entire Development Security amount and any interest accrued thereon. Buyer shall be entitled to immediately retain for its own benefit those funds held as Development Security and any interest accrued thereon, and any amount of Development Security that Seller has not yet posted with Buyer shall be immediately due and payable by Seller to Buyer. There will be no amounts owed to Seller. The Parties agree that Buyer's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Seller's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(i) are a reasonable approximation of Buyer's harm or loss.

(ii) If Buyer is the Defaulting Party, then a Damage Payment shall be owed to Seller and shall equal (A) the sum of (i) Seller's Losses, which shall not include consequential, incidental, punitive, exemplary, indirect, or business interruption damages, plus (ii) without duplication of any costs or expenses covered by preceding clause, all actual, documented and verifiable Costs that have been actually incurred, or become payable, by Seller between the Early Termination Date and the date that Notice of the Damage Payment is provided by Seller to Buyer pursuant to Section 11.4 arising out of the termination of this Agreement, less (B) the fair market value (determined in a commercially reasonable manner) of (i) all Seller's assets individually, or (ii) the entire Facility, whichever is greater on the Early Termination Date, regardless of whether or not any Seller asset or the entire Facility is actually sold or disposed of. There will be no amount owed to Buyer. The Parties agree that Seller's damages in the event of an Early Termination Date prior to the Commercial Operation Date caused by Buyer's default would be difficult or impossible to determine and that the damages set forth in this Section 11.3(a)(ii) are a reasonable approximation of Seller's harm or loss.

(b) Termination Payment On or After the Commercial Operation Date. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Commercial Operation Date ("Termination Payment") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment described in this Section 11.3(b) is a reasonable and appropriate approximation of such damages, and (iii) the Termination Payment described in this Section 11.3(b) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not

otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

11.4 **Notice of Payment of Termination Payment or Damage Payment.** As soon as practicable after a Terminated Transaction, but in no event later than sixty (60) days after the Early Termination Date (or such longer additional period, not to exceed an additional sixty (60) days, if the Non-Defaulting Party is unable, despite using commercially reasonable efforts, to calculate the Termination Payment or Damage Payment, as applicable, within such initial sixty (60)-day period despite exercising commercially reasonable efforts), Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment, as applicable, and whether the Termination Payment or Damage Payment, as applicable, is due to or from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment or Damage Payment, as applicable, shall be made to or from the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

11.5 **Disputes With Respect to Termination Payment or Damage Payment.** If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment or Damage Payment, as applicable, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment or Damage Payment, as applicable, shall be determined in accordance with Article 15.

11.6 **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 (including price), and Buyer fails to accept such offer within forty-five (45) 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 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 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 11.6.

11.7 **Rights And Remedies Are Cumulative.** Except where liquidated damages or other remedy are explicitly provided as the exclusive remedy, the rights and remedies of a Party

pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

11.8 **Mitigation.** Any Non-Defaulting Party shall be obligated to use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the other Party under this Agreement.

ARTICLE 12 LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

12.1 **No Consequential Damages.** EXCEPT TO THE EXTENT PART OF (A) AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, (B) AN ARTICLE 16 INDEMNITY CLAIM, (C) INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, OR (D) RESULTING FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT.

12.2 **Waiver and Exclusion of Other Damages.** EXCEPT AS EXPRESSLY 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. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO "FAIL OF THEIR ESSENTIAL PURPOSE" OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE 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 DAMAGES ONLY. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.5, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT C, AND EXHIBIT P, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR

LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

ARTICLE 13 REPRESENTATIONS AND WARRANTIES; COVENANTS

13.1 **Seller's Representations and Warranties.** As of the Effective Date, Seller represents and warrants as follows:

(a) Seller is a Delaware limited liability company, duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller.

(b) Seller 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 Seller's performance under this Agreement. The execution, delivery and performance of this Agreement by Seller has been duly authorized by all necessary limited liability company action on the part of Seller and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Seller or any other party to any other agreement with Seller.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Seller with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Seller, subject to any permits that have not yet been obtained by Seller, the documents of formation of Seller or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Seller is a party or by which any of its property is bound.

(d) This Agreement has been duly executed and delivered by Seller. This Agreement is a legal, valid and binding obligation of Seller 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) Seller shall obtain and maintain any and all permits and approvals necessary for the construction and operation of the Facility, including without limitation, environmental

clearance under CEQA or other environmental law, as applicable, from the local jurisdiction where the Facility is or will be constructed.

(f) Seller shall maintain Site Control throughout the Delivery Term.

(g) Neither Seller nor its Affiliates have received notice from or been advised by any existing or potential supplier or service provider that the disease designated COVID-19 or the related virus designated SARS-CoV-2 have caused, or are reasonably likely to cause, a delay in the construction of the Project or the delivery of materials necessary to complete the Project, in each case that would cause the Commercial Operation Date to be later than the Expected Commercial Operation Date.

13.2 **Buyer's Representations and Warranties.** As of the Effective Date, Buyer represents and warrants as follows:

(a) Buyer is a joint powers authority, 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.

(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 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) The law of the State of California authorizes suits based on contract against Buyer, and Buyer agrees that it will not assert any immunity on the grounds of sovereignty or similar grounds (including sovereign immunity from suit or liability) that Buyer may have as a governmental entity against such lawsuits relating to Buyer's contractual obligations under this Agreement. Notwithstanding the foregoing, any claims against Buyer shall be filed in accordance

with the California Government Claims Act (Cal. Gov't Code § 810 et. seq.) as applicable. Buyer does not waive any immunities or defenses it may have to lawsuits relating to allegations of injuries arising out of Buyer's acts or omissions under this Agreement.

(f) Buyer is a "local public entity" as defined in Section 900.4 of the Government Code of the State of California, and as such any claims against Buyer shall be filed in accordance with the California Government Claims Act (Cal. Gov't Code § 810 et. Seq.).

13.3 **General Covenants.** Each Party covenants that commencing on the Effective Date and continuing throughout the Contract Term:

(a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and to be qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on its business or financial condition;

(b) It shall maintain (or obtain from time to time as required) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and in material compliance with any Law.

13.4 Community Investment. Seller shall perform the obligations related to community investment set forth in Exhibit S.

ARTICLE 14 ASSIGNMENT

14.1 **General Prohibition on Assignments.** Except as provided below in this Article 14, neither Party may assign this Agreement or its rights or obligations under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any Change of Control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent if the assignee or transferee is a Permitted Transferee. Any assignment made without the required written consent, or in violation of the conditions to assignment set out below, shall be null and void. The assigning Party shall pay the other Party's reasonable expenses associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement by the assigning Party, including without limitation reasonable attorneys' fees.

14.2 **Collateral Assignment.** Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility.

In connection with any financing or refinancing of the Facility by Seller, Buyer shall in good faith work with Seller and Lender agree upon the form of consent to collateral assignment of this Agreement ("**Collateral Assignment Agreement**"). The Collateral Assignment Agreement is in

a form and substance agreed to by Buyer, Seller and Lender, with such agreement not to be unreasonably withheld, and must include, among others, the following provisions:

(a) Buyer shall give Notice of an Event of Default by Seller to the Person(s) to be specified by Lender in the Collateral Assignment Agreement, before exercising its right to terminate this Agreement as a result of such Event of Default; provided that such notice shall be provided to Lender at the time such notice is provided to Seller and any additional cure period of Lender agreed to in the Collateral Assignment Agreement shall not commence until Lender has received notice of such Event of Default;

(b) Lender will have the right to cure an Event of Default on behalf of Seller, only if Lender sends a written notice to Buyer before the later of (i) the expiration of any cure period, and (ii) five (5) Business Days after Lender's receipt of notice of such Event of Default from Buyer, indicating Lender's intention to cure. Lender must remedy or cure the Event of Default within the cure period under this Agreement and any additional cure periods agreed in the Collateral Assignment Agreement up to a maximum of ninety (90) days (or one hundred eighty (180) days in the event of a bankruptcy of Seller or any foreclosure or similar proceeding if required by Lender to cure any Event of Default);

(c) Lender will have the right to consent before any termination of this Agreement which does not arise out of an Event of Default;

(d) Lender will receive prior Notice of and the right to approve material amendments to this Agreement, which approval will not be unreasonably withheld, delayed or conditioned;

(e) If Lender, directly or indirectly, takes possession of, or title to the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), Lender must assume all of Seller's obligations arising under this Agreement and all related agreements (subject to such limits on liability as are mutually agreed to by Seller, Buyer and Lender as set forth in the Collateral Assignment Agreement); provided that, before such assumption, if Buyer advises Lender that Buyer will require that Lender cure (or cause to be cured) any Event of Default existing as of the possession date in order to avoid the exercise by Buyer (in its sole discretion) of Buyer's right to terminate this Agreement with respect to such Event of Default, then Lender at its option, and in its sole discretion, may elect to either:

- (i) Cause such Event of Default to be cured, or
- (ii) Not assume this Agreement;

(f) If Lender elects to sell or transfer the Facility (after Lender directly or indirectly, takes possession of, or title to the Facility), or sale of the Facility occurs through the actions of Lender (for example, a foreclosure sale where a third party is the buyer, or otherwise), then Lender must cause the transferee or buyer to assume all of Seller's obligations arising under this Agreement and all related agreements as a condition of the sale or transfer. Such sale or transfer may be made only to an entity that meets the definition of Permitted Transferee; and

Subject to Lender's cure of any Events of Defaults under the Agreement in accordance with Section 14.2(e), if (i) this Agreement is rejected in Seller's Bankruptcy or otherwise terminated in connection therewith Lender shall have the right to elect within forty-five (45) days after such rejection or termination, to enter into a replacement agreement with Buyer having substantially the same terms as this Agreement for the remaining term thereof, or (ii) if Lender or its designee, directly or indirectly, takes possession of, or title to, the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) after any such rejection or termination of this Agreement, promptly after Buyer's written request, Lender must itself or must cause its designee to promptly enter into a new agreement with Buyer having substantially the same terms as this Agreement for the remaining term thereof, provided that in the event a designee of Lender, directly or indirectly, takes possession of, or title to, the Facility (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure), such designee shall be approved by Buyer, not to be unreasonably withheld.

14.3 **Permitted Assignment by Seller.** Seller may, without the prior written consent of Buyer, transfer or assign this Agreement to: (a) an Affiliate of Seller or (b) any Person succeeding to all or substantially all of the assets of Seller (whether voluntary or by operation of law); if, and only if:

- (i) the assignee is a Permitted Transferee;
- (ii) Seller has given Buyer Notice at least thirty (30) Business Days before the date of such proposed assignment; and
- (iii) Seller has provided Buyer a written agreement signed by the Person to which Seller wishes to assign its interests that (x) provides that such Person will assume all of Seller's obligations and liabilities under this Agreement upon such transfer or assignment and (y) certifies that such Person meets the definition of a Permitted Transferee.

Except as provided in the preceding sentence, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Seller.

14.4 **Portfolio Financing.** Buyer agrees and acknowledges that Seller may elect to finance all or any portion of the Facility or the Interconnection Facilities or the Shared Facilities (1) utilizing tax equity investment, and/or (2) through a Portfolio Financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, the Interconnection Facilities or the Shared Facilities by Seller or any Portfolio Financing, Buyer, Seller, Portfolio Financing Entity (if any), and Lender shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; *provided*, Buyer shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Buyer and all reasonable attorney's fees incurred by Buyer in connection therewith shall be borne by Seller.

14.5 **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 and do not adversely affect Seller or its arrangements with Lenders in any material respect.

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. The Parties agree that any suit, action or other legal proceeding by or against any Party with respect to or arising out of this Agreement shall be brought in the federal or state courts located in the State of California in a location to be mutually chosen by Buyer and Seller, or in the absence of mutual agreement, the County of San Francisco.

15.2 **Dispute Resolution.** In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a Notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly and informally without significant legal costs. If the Parties are unable to resolve a dispute arising hereunder within thirty (30) days after Notice of the dispute, the Parties may pursue all remedies available to them at Law in or equity.

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 (including reasonably allocated fees of in-house counsel) in addition to court costs and any and all other costs recoverable in said action.

ARTICLE 16 INDEMNIFICATION

16.1 Indemnification

(a) Seller agrees to indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, attorneys, employees, representatives and agents (collectively, the "**Buyer's Indemnified Parties**") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees and expert witness fees), howsoever described, to the extent arising out of, resulting from, or caused by (i) Seller's breach of this Agreement (including inaccuracy of any Seller representation of warranty made hereunder), (ii) a violation of applicable Laws by Seller or its Affiliates, including but not limited to violations of any laws in constructing or operating the Facility, (iii) intentional, willful, or grossly negligent or tortious acts, errors, or omissions by Seller or its Affiliates, or (iv) intentional acts or willful misconduct by Seller or its Affiliates, directors, officers, employees, or agents.

(b) Buyer agrees to indemnify, defend and hold harmless Seller and its Affiliates, directors, officers, attorneys, employees, representatives and agents (collectively, the "**Seller's Indemnified Parties**") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees and expert witness fees),

howsoever described, to the extent arising out of, resulting from, or caused by (i) Buyer's breach of this Agreement (including inaccuracy of any representation of warranty made hereunder), or (ii) intentional or gross negligence or willful misconduct of Buyer or its Affiliates, its directors, officers, employees, or agents in the performance of this Agreement that causes personal injury or death to Persons or damage to the property of any third party that is not an Affiliate of Seller.

(c) Seller shall indemnify, defend, and hold harmless Buyer's Indemnified Parties, from any claim, liability, loss, injury or damage arising out of, or in connection with Environmental Costs and any environmental matters associated with the Facility, including the storage, disposal and transportation of Hazardous Substances, or the contamination of land, including but not limited to the Site, with any Hazardous Substances by or on behalf of the Seller or at the Seller's direction or agreement.

(d) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting solely from its own gross negligence, intentional acts or willful misconduct. 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 an indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party, *provided*, 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*, 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 INSURANCE

17.1 **Insurance.**

(a) **General Liability.** Seller shall maintain, or cause to be maintained at its sole expense, commercial general liability insurance, including products and completed operations and

personal injury insurance, in a minimum amount of One Million Dollars (\$1,000,000) per occurrence, and an annual aggregate of not less than Two Million Dollars (\$2,000,000), endorsed to provide contractual liability in said amount, specifically covering Seller's obligations under this Agreement and including Buyer as an additional insured, but only to the extent of the liabilities assumed under this Agreement by Seller. Such insurance shall name Buyer, but only to the extent of the liabilities assumed under this Agreement by Seller, and contain standard cross-liability and severability of interest provisions.

(b) Employer's Liability Insurance. Seller, if it has employees, shall maintain Employers' Liability insurance with limits of not less than One Million Dollars (\$1,000,000.00) for injury or death occurring as a result of each accident. With regard to bodily injury by disease, the One Million Dollar (\$1,000,000) policy limit will apply to each employee.

(c) Workers Compensation Insurance. Seller, if it has employees, shall also maintain at all times during the Contract Term workers' compensation and employers' liability insurance coverage in accordance with statutory amounts, with employer's liability limits of not less than One Million Dollars (\$1,000,000.00) for each accident, injury, or illness; and include a blanket waiver of subrogation.

(d) Business Auto Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired vehicles, including trailers or semi-trailers in the performance of the Agreement and shall name Buyer as an additional insured, but only to the extent of the liabilities assumed under this Agreement by Seller, and contain standard cross-liability and severability of interest provisions.

(e) Pollution Liability. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, Pollution Insurance in the amount of Two Million Dollars (\$2,000,000) per occurrence and in the aggregate, including Seller (and Lender, if any) as additional named insureds, but only to the extent of the liabilities assumed under this Agreement by Seller.

(f) Umbrella Liability Insurance. Seller shall maintain or cause to be maintained an umbrella liability policy with a limit of liability of Ten Million Dollars (\$10,000,000) per occurrence and in the aggregate. Such insurance shall be in excess of the General Liability, Employer's Liability, and Business Auto Insurance coverages. Seller may choose any combination of primary, excess or umbrella liability policies to meet the insurance limits required under Sections 17.1(a), 17.1(b) and 17.1(d) above.

(g) Construction All-Risk Insurance. Seller shall maintain or cause to be maintained during the construction of the Facility prior to the Commercial Operation Date, construction all-risk form property insurance covering the Facility during such construction periods.

(h) Property Insurance. On and after the Commercial Operation Date, Seller shall maintain or cause to be maintained insurance against loss or damage from all causes under

standard “all risk” property insurance coverage in amounts that are not less than the actual replacement value of the Facility; *provided*, however, with respect to property insurance for natural catastrophes, Seller shall maintain limits equivalent to a probable maximum loss amount determined by a firm with experience providing such determinations. Such insurance shall include business interruption coverage in an amount equal to twelve (12) months of expected revenue from this Agreement.

(i) Seller’s Pollution Liability.

(i) If the scope of Work involves areas of known pollutants or contaminants, pollution liability coverage will be required to cover bodily injury, property damage, including clean-up costs and defense costs resulting from sudden, and accidental conditions, including the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, hydrocarbons, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any water course or body of water.

(ii) The limit will not be less than two million dollars (\$2,000,000.00) each occurrence for bodily injury and property damage.

(iii) The policy will endorse Redwood Coast Energy Authority as an additional insured.

(j) Subcontractor Insurance. Seller shall require all of its subcontractors to carry: (i) comprehensive general liability insurance with a combined single limit of coverage not less than One Million Dollars (\$1,000,000); (ii) workers’ compensation insurance and employers’ liability coverage in accordance with applicable requirements of Law; and (iii) business auto insurance for bodily injury and property damage with limits of one million dollars (\$1,000,000) per occurrence. All subcontractors shall name Seller as an additional insured to insurance carried pursuant to clauses (f)(i) and (f)(iii), but only to the extent of the liabilities assumed under this Agreement by Seller. All subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section 17.1(h).

(k) Evidence of Insurance. On or before the Construction Start Date, and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage with insurers with ratings comparable to A-, VII or higher, that are authorized to do business in the State of California, and that are satisfactory to Buyer, in form evidencing all coverages set forth above. Such certificates shall specify that Buyer shall be given at least thirty (30) days prior Notice by Seller in the event of any material modification, cancellation or termination of coverage. Such insurance shall be primary coverage without right of contribution from any insurance of Buyer, but only to the extent of the liabilities assumed under this Agreement by Seller. Any other insurance maintained by Seller is for the exclusive benefit of Seller and shall not in any manner inure to the benefit of Buyer. The general liability, auto liability and worker’s compensation policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and sub-contractors, but only to the extent of the liabilities assumed under this Agreement by Seller.

(l) **Failure to Comply with Insurance Requirements.** If Seller fails to comply with any of the provisions of this Article 17, Seller, among other things and without restricting Buyer's remedies under the Law or otherwise, shall, at its own cost and expense, be responsible for any damages that would have been paid by the insurers in accordance with the terms and conditions above. With respect to the required general liability, umbrella liability and commercial automobile liability insurance, Seller shall provide a current, full and complete defense to Buyer, its subsidiaries and Affiliates, and their respective officers, directors, shareholders, agents, employees, assigns, and successors in interest, in response to a third-party claim in the same manner that an insurer would have, had the insurance been maintained in accordance with the terms and conditions set forth above. In addition, alleged violations of the provisions of this Article 17 means that Seller has the initial burden of proof regarding any legal justification for refusing or withholding coverage and Seller shall face the same liability and damages as an insurer for wrongfully refusing or withholding coverage in accordance with the laws of California.

ARTICLE 18 CONFIDENTIAL INFORMATION

18.1 Confidential Information.

(a) Each Party agrees, and shall use reasonable efforts to cause its parent, subsidiary and Affiliates, and its and their respective directors, officers, employees and representatives, as a condition to receiving confidential information hereunder, to keep confidential, except as required by Law, including without limitation the California Public Records Act (Government Code §§ 7920.000 et seq, "**CPRA**"), all documents, data (including operating data provided in connection with the scheduling of energy or otherwise pursuant to this Agreement), drawings, studies, projections, plans and other written information that relate to economic benefits to, or amounts payable by, any Party under this Agreement, and with respect to documents that are clearly marked "Confidential" at the time a Party shares such information with the other Party ("**Confidential Information**"). The provisions of this Section 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. Notwithstanding the foregoing, information shall not be considered Confidential Information if such information (i) is disclosed with the prior written consent of the originating Party, (ii) was in the public domain prior to disclosure or is or becomes publicly known or available other than through the action of the receiving Party in violation of this Agreement, (iii) was lawfully in a Party's possession or acquired by a Party outside of this Agreement, which acquisition was not known by the receiving Party to be in breach of any confidentiality obligation, or (iv) is developed independently by a Party based solely on information that is not considered confidential under this Agreement.

(b) Subject to the CPRA, either Party may, without violating this Section 18.1, disclose matters that are made confidential by this Agreement:

(i) to its counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, actual or prospective, co-owners, investors, purchasers, lenders, underwriters, contractors, suppliers, and others involved in construction, operation, and financing transactions and arrangements for a Party or its subsidiaries or Affiliates;

(ii) to governmental officials and parties involved in any proceeding in which a Party is seeking a Permit, certificate, or other regulatory approval or order necessary or appropriate to carry out this Agreement; and

(iii) to governmental officials or the public as required by any law, regulation, order, rule, order, ruling or other requirement of Law, including oral questions, discovery requests, subpoenas, civil investigations or similar processes and laws or regulations requiring disclosure of financial information, information material to financial matters, and filing of financial reports.

(c) If a Party is requested or required, pursuant to any applicable Law, regulation, order, rule, or ruling, discovery request, subpoena, civil investigation or similar process to disclose any of the Confidential Information, such Party shall provide prompt written notice (to the extent practical and permissible) to the other Party of such request or requirement so that at such other Party's expense, such other Party can seek a protective order or other appropriate remedy concerning such disclosure.

(d) Notwithstanding the foregoing or any other provision of this Agreement, Seller acknowledges that Buyer is subject to disclosure as required by CPRA. Confidential Information of Seller provided to Buyer pursuant to this Agreement shall become the property of Buyer, and Seller acknowledges that Buyer shall not be in breach of this Agreement or have any liability whatsoever under this Agreement or otherwise for any claims or causes of action whatsoever resulting from or arising out of Buyer copying or releasing to a third party any of the Confidential Information of Seller pursuant to CPRA; provided that Buyer shall (i) provide notice to Seller prior to any such disclosure in accordance with Section 18.1.(c), (ii) endeavor, in good faith, not to disclose any of Seller's "trade secrets" as consistent with the CPRA, and (iii) support, to the extent in compliance with Buyer's rights and obligations under applicable laws, Seller in its efforts to obtain a protective order or other appropriate remedy with respect to the disclosure of operating data from the Facility or any engineering drawings, project plans, technical specifications or other similar information regarding the Facility.

(e) Notwithstanding the foregoing or any other provision of this Agreement, Buyer may record, register, deliver and file all such notices, statements, instruments, and other documents as may be necessary or advisable to render fully valid, perfected and enforceable under all applicable law the credit support contemplated by this Agreement, and the rights, liens and priorities of Buyer with respect to such credit support.

(f) If Buyer receives a CPRA request for Confidential Information of Seller, and Buyer determines that such Confidential Information is subject to disclosure under CPRA, then Buyer shall notify Seller of the request and its intent to disclose the documents. Buyer, as required by CPRA, shall release such documents unless Seller timely obtains a court order prohibiting such release. If Seller, at its sole expense, chooses to seek a court order prohibiting the release of Confidential Information pursuant to a CPRA request, then Seller undertakes and agrees to defend, indemnify and hold harmless Buyer and the indemnitees from and against all suits, claims, and causes of action brought against Buyer or any indemnitees for Buyer's refusal to disclose Confidential Information of Seller to any person making a request pursuant to CPRA. Seller's indemnity obligations shall include, but are not limited to, all actual costs incurred by

Buyer and any indemnitees, and specifically including costs of experts and consultants, as well as all damages or liability of any nature whatsoever arising out of any suits, claims, and causes of action brought against Buyer or any indemnitees, through and including any appellate proceedings. Seller's obligations to Buyer and all indemnitees under this indemnification provision shall be due and payable on a Monthly, on-going basis within thirty (30) days after each submission to Seller of Buyer' invoices for all fees and costs incurred by Buyer and all indemnitees, as well as all damages or liability of any nature.

(g) Each Party acknowledges that any disclosure or misappropriation of Confidential Information by such Party in violation of this Agreement could cause the other Party or their Affiliates irreparable harm, the amount of which may be extremely difficult to estimate, thus making any remedy at law or in damages inadequate. Therefore, each Party agrees that the non-breaching Party shall have the right to apply to any court of competent jurisdiction for a restraining order or an injunction restraining or enjoining any breach or threatened breach of this Agreement and for any other equitable relief that such non-breaching Party deems appropriate. This right shall be in addition to any other remedy available to the Parties in law or equity, subject to the limitations set forth in Article 12.

18.2 **Press Releases.** Neither Party shall issue (or cause its Affiliates to issue) a press release regarding the transactions contemplated by this Agreement unless both Parties have agreed upon the contents of any such public statement.

ARTICLE 19 MISCELLANEOUS

19.1 **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.

19.2 **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*, this Agreement may not be amended by electronic mail communications.

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

19.4 **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 Facility or any business related to the Facility. 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.

19.5 **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.

19.6 **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.

19.7 **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.

19.8 **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.

19.9 **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.

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

19.11 **No Recourse to Members of Buyer**. Buyer is organized as a Joint Powers Authority 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 is a public entity separate from its constituent members. Buyer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Seller shall have no rights and shall not make any claims, take any actions or assert any remedies against any of Buyer's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Buyer or its constituent members, in connection with this Agreement.

19.12 **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.

19.13 **Change in Electric Market Design.** If a change in the CAISO 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, and (ii) all of the unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

19.14 **Further Assurances.** Each of the Parties hereto agrees 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.

[Signatures on following page]

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

Sandrini BESS Storage LLC

By: _____

Name: _____

Title: _____

Redwood Coast Energy Authority, a California
joint powers authority

By: _____

Name: _____

Title: _____

Sandrini BESS Storage LLC

By: _____

Name: _____

Title: _____

APPROVAL DRAFT

EXHIBIT A: FACILITY DESCRIPTION

Project Name: Sandrini BESS

Facility Description: 92 MW / 368 MWh lithium-ion energy storage facility

Site includes all or some of the following APNs: 295-132-04

Project Physical Address: 12901 Copus Road, Mettler, California 93313

Latitude and Longitude: 35.11048° N, 119.09341° W

Facility Meter: See Exhibit R

Facility Metering Points: See Exhibit R

Point of Interconnection: PG&E's 230 kV Wheeler Ridge Substation

Zone: SP-15

Transmission Access Charge Area: PG&E

P-node: To be assigned by CAISO

CAISO Resource ID: To be assigned by CAISO

Anticipated Maximum Cumulative Capacity Category (as of the Effective Date): 4

Anticipated Flexible Capacity Resource Category (as of the Effective Date): 2

Local Capacity Area (if any, as of the Effective Date): N/A

Additional Information:

EXHIBIT B: FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. Construction of the Facility.

- a. The Parties agree that time is of the essence with respect to a Party's performance of its material obligations under this Agreement, unless such delayed performance has been expressly permitted or excused under this Agreement. For the avoidance of doubt, payment of Construction Start Delay Damages or Commercial Operation Delay Damages shall constitute an express excuse from the foregoing time is of the essence obligation.
- b. "Construction Start" will occur following Seller's execution of an EPC Contract related to the Facility and issuance of a limited notice to proceed with the construction of the Facility that authorizes the contractor to mobilize to the Site and begin physical construction at the Site. The date of Construction Start will be evidenced by and subject to Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and the date certified therein shall be the "Construction Start Date."
- c. If Construction Start is not achieved by the Expected Construction Start Date, as such date may be extended pursuant to Section 4 of this Exhibit B, Seller shall pay Construction Start Delay Damages to Buyer on account of such delay. Construction Start Delay Damages shall be payable for each day for which Construction Start has not begun by the Expected Construction Start Date, as such date may be extended pursuant to Section 4 of this Exhibit B. Construction Start Delay Damages shall be payable to Buyer by Seller until Seller reaches Construction Start of the Facility. On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Construction Start Delay Damages, if any, accrued during the prior month and, within ten (10) Business Days following Seller's receipt of such invoice, Seller shall pay Buyer the amount of the Construction Start Delay Damages set forth in such invoice. Seller shall not be obligated to pay aggregate Construction Start Delay Damages in excess of twenty percent (20%) the Development Security amount. The Parties agree that Buyer's receipt of Construction Start Delay Damages shall (x) not be construed as Buyer's declaration that an Event of Default has occurred under any provision of Section 11.1 and (y) not limit Buyer's right to receive a Termination Payment or Damage Payment, as applicable, upon exercise of Buyer's default right pursuant to Section 11.2.

2. **Commercial Operation of the Facility.** “**Commercial Operation**” means the condition existing when Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement and provided Notice to Buyer substantially in the form of Exhibit H (the “**COD Certificate**”). The “**Commercial Operation Date**” shall be the date identified in the COD Certificate as the Commercial Operation Date.

- a. Seller shall cause Commercial Operation for the Facility to occur by the Expected Commercial Operation Date, as such date may be extended pursuant to Section 4 of this Exhibit B. Seller shall notify Buyer at least forty-five (45) days before the anticipated Commercial Operation Date.
- b. If Seller does not achieve Commercial Operation by the Expected Commercial Operation Date, as such date may be extended pursuant to Section 4 of this Exhibit B, Seller shall either: (i) pay Commercial Operation Delay Damages for each day following the Expected Commercial Operation Date, as such date may be extended pursuant to Section 4 of this Exhibit B, until the Commercial Operation Date; provided that in no event shall Seller be obligated to pay aggregate Commercial Operation Delay Damages in excess of the Development Security amount required hereunder; or (ii) provide Buyer with a quantity of Bridge Replacement RA in any amount up to the expected Qualifying Capacity the Facility would have been able to provide with respect to such Showing Month (“**Bridge Replacement RA Amount**”), for each month following the Expected Commercial Operation Date, as such date may be extended pursuant to Section 4 of this Exhibit B, until the Commercial Operation Date. Seller shall not owe Buyer any Commercial Operation Delay Damages for any day during a month where Seller has provided Bridge Replacement RA to Buyer in an amount equal to the expected Qualifying Capacity of the Facility. For any Showing Month in which Seller delivers a Bridge Replacement RA Amount that is less than the full expected Qualifying Capacity of the Facility, Seller’s obligation to pay Commercial Operation Delay Damages for such month will be pro-rated by the percentage of Bridge Replacement RA delivered to Buyer for such month to the Qualifying Capacity of the Facility for such month. However, the Bridge Replacement RA provided by Seller to Buyer pursuant to this Section 2(b) of Exhibit B, shall not reduce or otherwise alter the Damage Payment that is owed to Buyer by Seller if Buyer declares an Event of Default under Section 11.1(b)(ii), and further, the value of any such Bridge Replacement RA does not reduce or otherwise count towards the cap on Seller’s liability that is described in Section 7 of Exhibit B. For the avoidance of doubt, the Delivery Term shall not commence with Seller’s provision of Bridge Replacement RA, and shall only commence once Seller provides Buyer with Product from the Facility.
- c. On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Commercial Operation Delay Damages, if any, accrued during the prior month. If Seller provides Buyer with Bridge Replacement RA pursuant to

Section 2(b) of Exhibit B, Seller shall issue an invoice and Buyer shall pay for such Bridge Replacement RA at 50% of the Contract Price in accordance with Section 8.1. The Parties agree that Buyer's receipt of Commercial Operation Delay Damages or Bridge Replacement RA shall be Buyer's sole and exclusive remedy for Seller's unexcused delay in achieving the Commercial Operation Date on or before the Expected Commercial Operation Date, but shall (x) not be construed as Buyer's declaration that an Event of Default has occurred under any provision of Section 11.1 and (y) not limit Buyer's right to declare an Event of Default under Section 11.1(b)(ii) and receive a Damage Payment upon exercise of Buyer's default right pursuant to Section 11.2 in the event that such unexcused delay exceeds one hundred twenty (120) calendar days.

3. **Termination for Failure to Achieve Commercial Operation.** If the Facility has not achieved Commercial Operation on or before the Commercial Operation Date Deadline, Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2.

4. **Extension of the Expected Milestone Dates.** The Expected Construction Start Date and the Expected Commercial Operation Date shall, subject to notice and documentation requirements set forth below, both be automatically extended on a day-for-day basis (the "**Development Cure Period**") for the duration of delays arising out of the following circumstances to the extent the following circumstances are not the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines:

- a. a Force Majeure Event occurs; or
- b. Seller has not acquired all material permits, consents, licenses, approvals or authorizations from any Governmental Authority required for Seller to own, construct, interconnect, operate or maintain the Facility and to permit Seller and the Facility to make available and sell Product, despite the exercise of diligent and commercially reasonable efforts by Seller;
- c. the Interconnection Facilities or Reliability Network Upgrades are not complete and ready for the Facility to receive approval for Initial Synchronization and to connect and sell Product at the Delivery Point by the date that is thirty (30) days prior to the Expected Commercial Operation Date, despite the exercise of diligent and commercially reasonable efforts by Seller; or
- d. Buyer has not made all necessary arrangements to receive the Facility Energy at the Delivery Point by the Expected Commercial Operation Date.

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions of the Expected Commercial Operation Date granted under this Section 4 of this Exhibit B shall not exceed the Guaranteed Commercial Operation Date, for any reason, including a Force Majeure Event. Notwithstanding the foregoing, no extension shall be given if the delay was the result of Seller's failure to take all commercially reasonable actions to meet its

requirements and deadlines. Seller shall provide prompt written Notice to Buyer of a delay, and in no case more than thirty (30) days after Seller became aware of such delay. 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. Buyer shall provide written Notice to Seller of their approval or rejection of Seller's extension request within ten (10) Business Days after Buyer's receipt of Seller's Notice.

5. **Failure to Reach Guaranteed Capacity.** If, at Commercial Operation, the Installed Capacity is less than one hundred percent (100%) of the Guaranteed Capacity, Seller shall have ninety (90) days after the Commercial Operation Date to install additional capacity and/or Network Upgrades such that the Installed Capacity is equal to (but not greater than) the Guaranteed Capacity, and Seller shall provide to Buyer a new certificate substantially in the form attached as Exhibit I hereto specifying the new Installed Capacity. If Seller fails to construct the Guaranteed Capacity by such date, Seller shall pay "**Capacity Damages**" to Buyer, in an amount equal to [REDACTED] Dollars (\$ [REDACTED]) for each MW that the Guaranteed Capacity exceeds the Installed Capacity, and the Guaranteed Capacity and other applicable portions of the Agreement shall be adjusted accordingly. Capacity Damages shall not be offset or reduced by the payment of Development Security, Performance Security, Daily Delay Damages, Commercial Operation Delay Damages, or any other form of liquidated damages under this Agreement.

6. **Buyer's Right to Draw on Development Security.** If Seller fails to timely pay any Construction Start Delay Damages or Commercial Operation Delay Damages, Buyer may draw upon the Development Security to satisfy Seller's payment obligation thereof.

7. **Cap on Seller Liability Prior to Commercial Operation Date.** Seller's aggregate liability prior to the Commercial Operation Date for any Damage Payment, Construction Start Delay Damages, and/or Commercial Operation Delay Damages shall be capped at an amount equal to one hundred percent (100%) of the Development Security amount.

EXHIBIT C: COMPENSATION

(a) Monthly Compensation. Each month of the Delivery Term (and pro-rated for the first and last month of the Delivery Term if the Delivery Term does not start on the first day of a calendar month), Buyer shall pay Seller a Monthly Capacity Payment equal to the Contract Price x Effective Capacity x Efficiency Rate Adjustment x 1000. Such payment constitutes the entirety of the amount due to Seller from Buyer for the Product. If the Effective Capacity and/or Efficiency Rate are adjusted pursuant to a Capacity Test effective as of a day other than the first day of a calendar month, payment shall be calculated separately for each portion of the month in which the different Effective Capacity and/or Efficiency Rate are applicable.

(b) Efficiency Rate Adjustment. The “**Efficiency Rate Adjustment**” is calculated as follows:

- (i) If the Efficiency Rate is greater than or equal to the Guaranteed Efficiency Rate, then:

$$\text{Efficiency Rate Adjustment} = 100\%$$

- (ii) If the Efficiency Rate is less than the Guaranteed Efficiency Rate, but greater than or equal to 75%, then:

$$\text{Efficiency Rate Adjustment} = 100\% - [(Guaranteed Efficiency Rate - Efficiency Rate) \times .5]$$

- (iii) If the Efficiency Rate is less than 75%, then:

$$\text{Efficiency Rate Adjustment} = 0$$

(c) Capacity Availability Payment True-Up. Each month during the Delivery Term, Buyer shall calculate the year-to-date (“**YTD**”) Annual Capacity Availability for the applicable Contract Year in accordance with Exhibit P. If (i) such YTD Annual Capacity Availability is less than ninety percent (90%), or (ii) the final Annual Capacity Availability is less than the Guaranteed Capacity Availability, Buyer shall (1) withhold the Capacity Availability Payment True-Up Amount from the next Monthly Capacity Payment(s) (the “**Capacity Availability Payment True-Up**”), and (2) provide Seller with a written statement of the calculation of the YTD Annual Capacity Availability and the Capacity Availability Payment True-Up Amount; provided, if the Capacity Availability Payment True-Up Amount is a negative number for any month prior to the final year-end Capacity Availability Payment True-Up calculation, Buyer shall not be obligated to reimburse Seller any previously withheld Capacity Availability Payment True-Up Amount, except as set forth in the following sentence. If Buyer withholds any Capacity Availability Payment True-Up Amount pursuant to this subsection, and if the final year-end Capacity Availability Payment True-Up Amount is a negative number, Buyer shall pay to Seller the absolute value of such amount together with the next Monthly Capacity Payment due to Seller.

“Capacity Availability Payment True-Up Amount” means an amount equal to $A \times B - C$, where:

A = The sum of the YTD Monthly Capacity Payments

B = The Capacity Availability Factor

C = The sum of any Capacity Availability Payment True-Up Amounts previously withheld by Buyer in the applicable Contract Year.

“Capacity Availability Factor” means:

- (i) If the YTD Annual Capacity Availability times the Effective Capacity is equal to or greater than the Guaranteed Capacity Availability times the Effective Capacity, then:

Capacity Availability Factor = 0

- (ii) If the YTD Annual Capacity Availability times the Effective Capacity is less than the Guaranteed Capacity Availability times the Effective Capacity, but greater than or equal to seventy percent (70%) of the Installed Capacity, then:

Capacity Availability Factor = $\frac{\text{Guaranteed Capacity Availability} - \text{YTD Annual Capacity Availability}}{\text{Installed Capacity}}$

- (iii) If the product of [(i) YTD Annual Capacity Availability plus (ii) Force Majeure Unavailability], times (iii) the Effective Capacity is less than seventy percent (70%) of the Installed Capacity, then:

Capacity Availability Factor = $(\text{Guaranteed Capacity Availability} - \text{YTD Annual Capacity Availability}) * 1.5 - (\text{Force Majeure Unavailability} * 0.5)$

provided, if the result of any of the calculations in clauses (i) through (iii) above is greater than 1.0, then the Capacity Availability Factor shall be deemed to be equal to 1.0.

“Force Majeure Unavailability” means total YTD hours, or partial hours during which the Facility was unavailable to charge and/or discharge Energy and/or provide Ancillary Services, in whole or in part, that resulted from a Force Majeure Event for which Seller is the claiming party divided by the total YTD hours, or partial hours during which the Facility was unavailable to charge and/or discharge Energy and/or provide Ancillary Services.

(d) **Tax Credits**. The Parties agree that the Contract Price is not subject to adjustment or amendment if Seller fails to receive any Tax Credits, or if any Tax Credits expire, are repealed or otherwise cease to apply to Seller or the Facility in whole or in part, or Seller or its investors are unable to benefit from any Tax Credits. Seller shall bear all risks, financial and otherwise, throughout the Contract Term, associated with Seller’s or the Facility’s eligibility to receive Tax Credits or to qualify for accelerated depreciation for Seller’s accounting, reporting or Tax purposes. The obligations of the Parties hereunder, including those obligations regarding the

purchase and price for and Seller's obligation to deliver Product, shall be effective regardless of whether the sale of Product is eligible for, or receives Tax Credits during the Contract Term.

(e) [REDACTED]. Pursuant to Section 4.9 of this Agreement, Buyer has the right to direct the charging of the Facility with grid energy that is not produced by the co-located Sandrini solar facility. [REDACTED]

APPROVAL DR

EXHIBIT D: SCHEDULING COORDINATOR RESPONSIBILITIES

(a) Buyer as Scheduling Coordinator for the Facility. Upon Initial Synchronization of the Facility to the CAISO Grid, Buyer shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for both the delivery and the receipt (as applicable) of Charging Energy, Facility Energy and the Product at the Delivery Point. At least thirty (30) days prior to the Initial Synchronization of the Facility to the CAISO Grid, (i) Seller shall take all actions and execute and deliver to Buyer and the CAISO all documents necessary to authorize or designate Buyer (or Buyer's designee) as the Scheduling Coordinator for the Facility effective as of the Initial Synchronization of the Facility to the CAISO Grid, and (ii) Buyer shall, and shall cause its designee to, take all actions and execute and deliver to Seller and the CAISO all documents necessary to authorize or designate Buyer or its designee as the Scheduling Coordinator for the Facility effective as of the Initial Synchronization of the Facility to the CAISO Grid. On and after Initial Synchronization of the Facility to the CAISO Grid, Seller shall not authorize or designate any other party to act as the Facility's Scheduling Coordinator, nor shall Seller perform for its own benefit the duties of Scheduling Coordinator, and Seller shall not revoke Buyer's authorization to act as the Facility's Scheduling Coordinator unless agreed to by Buyer. Buyer (as the Facility's SC) shall submit Schedules to the CAISO in accordance with this Agreement and the applicable CAISO Tariff, protocols and Scheduling practices for Product on a day-ahead, hour-ahead, fifteen-minute market, real time or other market basis that may develop after the Effective Date, as determined by Buyer.

(b) Notices. Buyer (as the Facility's SC) shall provide Seller with access to a web-based system through which Seller shall submit to Buyer and the CAISO all notices and updates required under the CAISO Tariff regarding the Facility's status, including, but not limited to, all outage requests, forced outages, forced outage reports, clearance requests, or must offer waiver forms. Seller shall cooperate with Buyer to provide such notices and updates. If the web-based system is not available, Seller shall promptly submit such information to Buyer and the CAISO (in order of preference) telephonically, by electronic mail, or transmission to the personnel designated to receive such information.

(c) CAISO Costs and Revenues. Except as otherwise set forth herein, Buyer (as Scheduling Coordinator for the Facility) shall be responsible for CAISO costs (including Charging Energy, penalties, Imbalance Energy costs or revenues, and other charges) and shall be entitled to all CAISO revenues (including Facility Energy, credits, Imbalance Energy revenues or costs, and other payments), including revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product Scheduled or delivered from the Delivery Point; *provided, however*, Seller shall assume all liability and reimburse Buyer for any and all costs or charges (i) incurred by Buyer because of Seller's default, breach or other failure to perform as required by this Agreement, (ii) incurred by Buyer resulting from any failure by Seller to abide by the CAISO Tariff requirements imposed on it as Facility owner (but not in connection with obligations of Buyer hereunder) or the outage notification requirements set forth in this Agreement (except to the extent such non-compliance is caused by Buyer's failure to perform its duties as Scheduling Coordinator for the Facility), or (iii) to the extent arising as a result of Seller's failure to comply with a timely Curtailment Order if such failure results in incremental costs to Buyer. The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of Seller and for Seller's account and that any Non-Availability Charges

(as defined in the CAISO Tariff) are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, and any such sanctions or penalties are imposed upon the Facility or to Buyer as Scheduling Coordinator due to failure by Seller to abide by the CAISO Tariff or the outage notification requirements set forth in this Agreement, the cost of the sanctions or penalties shall be Seller's responsibility.

(d) CAISO Settlements. Buyer (as the Facility's SC) shall be responsible for all settlement functions with the CAISO related to the Facility. Buyer shall render a separate invoice to Seller for any CAISO payments, charges or penalties ("**CAISO Charges Invoice**") for which Seller is responsible under this Agreement. CAISO Charges Invoices shall be rendered after settlement information becomes available from the CAISO that identifies any CAISO charges. Notwithstanding the foregoing, Seller acknowledges that the CAISO will issue additional invoices reflecting CAISO adjustments to such CAISO charges. Buyer shall review, validate, and if requested by Seller under paragraph (e) below, dispute any charges that are the responsibility of Seller in a timely manner and consistent with Buyer's existing settlement processes for charges that are Buyer's responsibilities. Subject to Seller's right to dispute and to have Buyer pursue the dispute of any such invoices, Seller shall pay the amount of CAISO Charges Invoices within ten (10) Business Days of Seller's receipt of the CAISO Charges Invoice. If Seller fails to pay such CAISO Charges Invoice within that period, Buyer may net or offset any amounts owing to it for such CAISO Charges Invoices against any future amounts it may owe to Seller under this Agreement. The obligations under this Section with respect to payment of CAISO Charges Invoices in respect of performance prior to the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

(e) Dispute Costs. Buyer (as the Facility's SC) may be required by Seller to dispute CAISO settlements in respect of the Facility. Seller agrees to pay Buyer's costs and expenses (including reasonable attorneys' fees) associated with its involvement with such CAISO disputes to the extent they relate to CAISO charges payable by Seller with respect to the Facility that Seller has directed Buyer to dispute.

(f) Terminating Buyer's Designation as Scheduling Coordinator. At least thirty (30) days prior to expiration of this Agreement or as soon as reasonably practicable upon an earlier termination of this Agreement, the Parties will take all actions necessary to terminate the designation of Buyer as Scheduling Coordinator for the Facility as of 11:59 p.m. on such expiration date.

(g) Master Data File and Resource Data Template. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master Data File and Resource Data Template (or successor data systems) for the Facility consistent with this Agreement. Neither Party shall change such data without the other Party's prior written consent.

(h) NERC Reliability Standards. Buyer (as Scheduling Coordinator) shall cooperate reasonably with Seller to the extent necessary to enable Seller to comply, and for Seller to demonstrate Seller's compliance with, NERC reliability standards. This cooperation shall include the provision of information in Buyer's possession that Buyer (as Scheduling Coordinator) has

provided to the CAISO related to the Facility or actions taken by Buyer (as Scheduling Coordinator) related to Seller's compliance with NERC reliability standards.

APPROVAL DRAFT

EXHIBIT E: PROGRESS REPORTING FORM

Each Progress Report must include the following items, describing incremental progress or changes from the previous Progress Report:

1. Executive summary of progress made during the Progress Report period.
2. Gantt chart schedule showing progress on major steps to achieving each of the Milestones.
3. Status and summary of activities during the Progress Report period and forecast of expected activities scheduled for the next Progress Report period, including the following:
 - a. Project financing;
 - b. Property acquisition;
 - c. Government Approvals, including environmental review process, use permit, building permit, and any other necessary permits; include public hearing dates and attendance information;
 - d. Interconnection work, including next interconnection milestone and date;
 - e. Equipment procurement and supply agreements;
 - f. Construction, including the EPC contract and any OSHA labor hour reports; and
 - g. Startup and commissioning.
4. Remedial Action Plan (if required per Section 2.4).
5. Description of any planned material changes to the Facility or the site that Buyer has not otherwise been made aware of by Seller.
6. Project Viability Scores for CPUC Filings (select one from each of the following):
 - a. Viability Reasonableness
 - 4 – Interconnection studies complete and agreement signed consistent with reported COD; permitting application complete;
 - 3 – Interconnection Phase II study complete; permitting application approved; these support reported COD;
 - 2 – Interconnection Phase II study in progress; permitting application in progress; LSE has plan that supports reported COD; or
 - 1 – Interconnection Phase II study not begun.

- b. Technical Feasibility
 - 3 – Project-specific independent engineering assessment is complete and supports the delivery profile (capacity and/or production) and Project uses commercialized technology;
 - 2 – Project will use a commercialized technology solution that is currently in use at a minimum of two operating facilities of similar or larger size; or
 - 1 – Project uses neither commercialized technology nor has project specific engineering assessment.

 - c. Financing and Site Control
 - 5 – All financing secured;
 - 4 – Partial financing secured;
 - 3 – Seeking financing;
 - 2 – Project has site control but not yet seeking financing;
 - 1 – Project does not yet have site control; or
 - N/A – No financing required.
7. Photos, in sufficient quantity and of appropriate detail, in order to document interconnection, construction and startup progress.
 8. Upon commencement of Test Energy deliveries, a report on Facility performance including performance projections for the next twelve (12) months.
 9. A summary of Seller's efforts to comply with workforce and prevailing wage requirements.
 10. Any other documentation reasonably requested by Buyer.

EXHIBIT F: FORM OF MONTHLY EXPECTED AVAILABLE CAPACITY REPORT

[Available Capacity, MW Per Hour] – [Insert Month]

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00	
Day 1																									
Day 2																									
Day 3																									
Day 4																									
Day 5																									
[insert additional rows for each day in the month]																									
Day 29																									
Day 30																									
Day 31																									

The foregoing table is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement.

EXHIBIT G: FORM OF DAILY AVAILABILITY NOTICE

Trading Day: _____

Station: _____

Issued By: _____

Unit: _____

Issued At: _____

Unit 100% Available No Restrictions: _____

Hour Ending	Available Capacity			Comments
	(MW)			
1:00				
2:00				
3:00				
4:00				
5:00				
6:00				
7:00				
8:00				
9:00				
10:00				
11:00				
12:00				
13:00				
14:00				
15:00				
16:00				
17:00				
18:00				
19:00				
20:00				
21:00				
22:00				
23:00				
0:00				

Comments: _____

EXHIBIT H: FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification (“**Certification**”) of Commercial Operation is delivered by _____ [*licensed professional engineer*] (“**Engineer**”) to Redwood Coast Energy Authority, a California joint powers authority (“**Buyer**”) in accordance with the terms of that certain Energy Storage Service Agreement dated _____ (“**Agreement**”) by and between [*Seller*] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of _____ [DATE]_____, Engineer hereby certifies and represents to Buyer the following:

1. The Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.
2. The Facility has met all Interconnection Agreement requirements and is capable of receiving Charging Energy from, and delivering Facility Energy to, the CAISO Balancing Authority.
3. Seller has provided Buyer Maximum Import Capability (MIC) rights for full RA Product, if applicable.
4. The commissioning of the equipment has been completed in accordance with the manufacturers’ specifications.
5. The Facility’s Installed Capacity is no less than ninety-five percent (95%) of the Guaranteed Capacity and the Facility is capable of charging, storing and discharging Energy, all within the operational constraints and subject to the applicable Operating Restrictions.
6. Authorization to parallel the Facility was obtained by the Transmission Provider, [Name of Transmission Provider as appropriate] on _____ [DATE]_____.
7. The Transmission Provider has provided documentation supporting full unrestricted release for Commercial Operation by [Name of Transmission Provider as appropriate] on _____ [DATE]_____.
8. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on _____ [DATE]_____.
9. Seller has segregated and separately metered Station Use to the extent reasonably possible in accordance with Prudent Operating Practice, and any such meter(s) have the same or greater level of accuracy as is required for CAISO certified meters used for settlement purposes.

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Its: _____

Date: _____

APPROVAL DRAFT

EXHIBIT I: FORM OF CAPACITY AND EFFICIENCY RATE TEST CERTIFICATE

This certification (“**Certification**”) of Capacity and Efficiency Rate Test results is delivered by [licensed professional engineer] (“**Engineer**”) to Redwood Coast Energy Authority, a California joint powers authority (“**Buyer**”) in accordance with the terms of that certain Energy Storage Service Agreement dated _____ (“**Agreement**”) by and between [SELLER ENTITY] and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify that a Capacity and Efficiency Rate Test conducted on [Date] demonstrated (i) an [Installed or Effective] Capacity of __ MW AC to the Delivery Point at four (4) hours of continuous discharge, (ii) a Battery Charging Factor of __%, (iii) a Battery Discharging Factor of __%, and (iv) an Efficiency Rate of __%, all in accordance with the testing procedures, requirements and protocols set forth in Section 4.4 and Exhibit O.

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Its: _____

Date: _____

EXHIBIT J: FORM OF CONSTRUCTION START DATE CERTIFICATE

This certification of Construction Start Date (“**Certification**”) is delivered by [SELLER ENTITY] (“**Seller**”) to Redwood Coast Energy Authority, a California joint powers authority (“**Buyer**”) in accordance with the terms of that certain Energy Storage Service Agreement dated _____ (“**Agreement**”) by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

- (1) Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.
- (2) the Construction Start Date occurred on _____ (the “**Construction Start Date**”); and
- (3) the precise Site on which the Facility is located is, which must be within the boundaries of the previously identified Site:

(such description shall amend the description of the Site in Exhibit A of the Agreement.)

IN WITNESS WHEREOF, the undersigned has executed this Certification on behalf of Seller as of the ___ day of _____.

[SELLER ENTITY]

By: _____

Its: _____

Date: _____

EXHIBIT K: FORM OF LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXXX]

Date:
Bank Ref.:
Amount: US\$[XXXXXXXXXX]
Expiry Date:

Beneficiary:

[]

[]

Ladies and Gentlemen:

By the order of _____ (“Applicant”), we, [insert bank name and address] (“Issuer”) hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXXX] (the “Letter of Credit”) in favor of [] (“Beneficiary”), for an amount not to exceed the aggregate sum of U.S. \$[XXXXXXX] (United States Dollars [XXXXXX] and 00/100), pursuant to that certain Renewable Power Purchase Agreement dated as of _____ and as amended (the “Agreement”) between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall expire on _____, 202_.

Funds under this Letter of Credit are available to you against your draft(s) drawn on us at sight, marked thereon Letter of Credit No. [XXXXXXXX] accompanied by the following documents:

1. the original of this Letter of Credit and its amendments, if any;
2. Your dated statement purportedly signed by your duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein.

We will return the original of this Letter of Credit back to the Beneficiary after our endorsement on this Letter of Credit of our payment of each draft, provided there is balance undrawn under the Letter of Credit.

We hereby agree with the Beneficiary that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation to the drawee at [insert bank address]. Payment shall be made by Issuer in U.S. dollars with Issuer’s own immediately available funds.

Partial draws are permitted under this Letter of Credit.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period beginning on the present expiry date hereof and upon each anniversary for such date, unless at least ninety (90) days prior to any such expiry date we have sent to you written notice by overnight courier service to the above address that we elect not to extend this Letter of Credit, in which case it will expire on its the date specified in such notice; provided that in no event shall the Letter of Credit be extended beyond the final expiration date referenced in the paragraph below. No presentation made under this Letter of Credit after such expiry date will be honored.

The final expiration date of this Letter of Credit is [XXXXXXXXXX]. Upon this final expiration date, this Letter of Credit shall automatically become null and void whether or not the original of this Letter of Credit has been returned to us for cancellation and presentation made under this Letter of Credit after such date will not be honored.

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (2007 Revision) International Chamber of Commerce Publication No. 600 (the "UCP"), except to the extent that the terms hereof are inconsistent with the provisions of the UCP, including but not limited to Articles 14(b) and 36 of the UCP, in which case the terms of this Letter of Credit shall govern. If, for any of the reasons specified in Article 36 of the UCP, the Issuer's place for presentation of the Letter of Credit is closed for business on the last day for presentation, the expiry date of the Letter of Credit will be automatically extended without amendment to a date thirty (30) calendar days after the place for presentation reopens for business.

Please address all correspondence regarding this Letter of Credit to the attention of the Trade Services Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXXX]. For telephone assistance, please contact Issuer's Trade Services Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

[Bank Name]

[Insert officer name]

[Insert officer title]

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

Ladies and Gentlemen:

The undersigned, a duly authorized representative of [____], as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that certain Renewable Power Purchase Agreement dated as of _____, 20__ (the "Agreement").
2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. \$_____ because a Seller Event of Default (as such term is defined in the Agreement) has occurred.
3. The undersigned is a duly authorized representative of [____] and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to [____] by wire transfer in immediately available funds to the following account:

[Specify account information]

[____]

Name and Title of Authorized Representative

Date _____

EXHIBIT L: FACILITY SAFETY PLAN AND DOCUMENTATION

Facility Safety Plan Elements:

Part One: Safety Requirements and Safety Programs

Identify the applicable safety-related Codes, Standards, and regulations (CSR) which govern the design, construction, operation, maintenance, and decommissioning of the Facility using the proposed technology.

Describe the Seller's and the Seller's Contractor(s)' safety programs and policies. Describe Seller's compliance with any safety-related industry standards or any industry certifications (American National Standards Institute (ANSI), International Organization for Standardization (ISO), etc.), if applicable.

Part Two: Facility Design and Description

Describe Seller's safety engineering approach to select equipment and design systems and the Facility to reduce risks and mitigate the impacts of safety-related incidents, including cascading failures, excessive temperatures, thermal runaways, fires, explosions, disk fractures, hazardous chemical releases.

Describe the results of any failure mode effects analyses (FMEA) or similar safety engineering evaluations. In the case of lithium ion batteries, describe the safety-related reasons, including design features and historical safety records, for selecting particular anode and cathode materials and a particular manufacturer.

Provide a Safety Review Report for each product class and a list of major facility components, systems, materials, and associated equipment, which includes but is not limited to, the following information:

- a) Equipment manufacturer's datasheet, model numbers, etc.,
- b) Technical specifications,
- c) Equipment safety-related certifications (e.g. UL),
- d) Safety-related systems, and
- e) Approximate volumes and types of hazardous materials expected to be on Site.

Part Three: Facility Safety Management

Identify and describe any hazards and risks to life, safety, public health, property, or the environment due to or arising from the Facility. Describe the Seller's applicable site-specific safety plans, risk mitigation, safeguards and layers of protection, including but not necessarily limited to:

- a) Engineering controls,
- b) Work practices,
- c) Administrative controls,
- d) Personal protective equipment and procedures,

- e) Incident response and recovery plans,
- f) Contractor pre-qualification and management,
- g) Operating procedures,
- h) Emergency plans,
- i) Training and qualification programs,
- j) Disposal, recycle, transportation and reuse procedures, and
- k) Physical security measures.

APPROVAL DRAFT

EXHIBIT M: FORM OF REPLACEMENT RA NOTICE

This Replacement RA Notice (this “**Notice**”) is delivered by [SELLER ENTITY] (“**Seller**”) to Redwood Coast Energy Authority (“**Buyer**”) in accordance with the terms of that certain Energy Storage Service Agreement dated _____ (“**Agreement**”) by and between Seller and Buyer. All capitalized terms used in this Notice but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Pursuant to Section 3.5 of the Agreement, Seller hereby provides the below Replacement RA product information, and hereby certifies the unit is compliant with the requirements of D.21-06-035 and D.23-02-040, and in addition, meets the same sub-category attributes if contracted for one of the sub-categories of D.21-06-035:

Unit Information

Name	
Location	
CAISO Resource ID	
Unit SCID	
Prorated Percentage of Unit Factor	
Resource Type	
Point of Interconnection with the CAISO Controlled Grid (substation or transmission line)	
Path 26 (North or South)	
Local Capacity Area (if any)	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment	
Run Hour Restrictions	
Delivery Period	

Month	CAISO Unit NQC (MW)	Unit Contract Quantity (MW)
January		
February		
March		
April		
May		
June		
July		
August		
September		
October		
November		
December		

[SELLER ENTITY]

By: _____

Its: _____

Date: _____

APPROVAL DRAFT

EXHIBIT N: NOTICES

<p>Seller: Sandrini BESS Storage LLC</p>	<p>Buyer: Redwood Coast Energy Authority</p>
<p>All Notices: Attn: Executive Vice President – Asset Operations, EDP Renewables North America LLC Street: 1501 McKinney Street, Suite 1300 City: Houston, Texas 77010 Phone: [REDACTED] Facsimile: [REDACTED] Email: [REDACTED]</p>	<p>All Notices: Attn: Richard Engel, Director of Power Resources Street: 633 3rd Street City: Eureka, CA 95501 Phone: [REDACTED] Facsimile: 707-269-1777 Email: [REDACTED] With cc to [REDACTED] and [REDACTED]</p>
<p>Reference Numbers: Duns: N/A Federal Tax ID Number: [REDACTED]</p>	<p>Reference Numbers: Duns: [REDACTED] Federal Tax ID Number: [REDACTED]</p>
<p>Invoices & Payments: Attn: Settlements Phone: [REDACTED] Email: [REDACTED]</p>	<p>Invoices & Payments: Attn: Accounting Phone: 707-269-1700, ext. [REDACTED] Email: [REDACTED]</p>
<p>Scheduling: Attn: ROCC Operator Phone: [REDACTED] or [REDACTED] Email: [REDACTED]</p>	<p>Scheduling: Attn: The Energy Authority as RCEA’s SC Day Ahead Desk Day Ahead Desk Phone: [REDACTED] Real Time Desk Phone: [REDACTED] Email: [REDACTED]</p>
<p>Wire Transfer: BNK: [REDACTED] ABA: [REDACTED] ACCT: [REDACTED]</p>	<p>Wire Transfer: BNK: [REDACTED] ABA: [REDACTED] ACCT: [REDACTED]</p>
<p>Credit and Collections: Attn: Treasury Phone: [REDACTED] Email: [REDACTED]</p>	<p>Credit and Collections: Attn: Lori Biondini Phone: [REDACTED] Email: [REDACTED]</p>
<p>With additional Notices of an Event of Default to: Attn: General Counsel Street: 1501 Mckinney Street, Suite 1300 City: Houston, Texas 77010 Phone: [REDACTED] Facsimile: [REDACTED] Email: [REDACTED]</p>	<p>Notice of an Event of Default to: Attn: Lori Biondini Phone: [REDACTED] Email: [REDACTED]</p> <p>With additional Notices of an Event of Default to: Attn: Nancy Diamond Phone: [REDACTED] Email: [REDACTED]</p>

EXHIBIT O: CAPACITY AND EFFICIENCY RATE TESTS

Capacity Test Notice and Frequency

- A. Commercial Operation Capacity Test(s). Upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Commercial Operation Capacity Test prior to the Commercial Operation Date. Such initial Commercial Operation Capacity Test (and any subsequent Commercial Operation Capacity Test permitted in accordance with Section 5 of Exhibit B) shall be performed in accordance with this Exhibit O and shall establish the Installed Capacity and initial Efficiency Rate hereunder based on the actual capacity and capabilities of the Facility determined by such Commercial Operation Capacity Test(s).
- B. Subsequent Capacity Tests. Following the Commercial Operation Date, at least fifteen (15) days in advance of the start of each Contract Year, upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Capacity Test. In addition, Buyer shall have the right to require a retest of the Capacity Test upon no less than five (5) Business Days prior Notice to Seller if Buyer provides data with such Notice reasonably indicating that the then-current Effective Capacity or Efficiency Rate have varied materially from the results of the most recent prior Capacity Test. Seller shall have the right to run a retest of any Capacity Test at any time upon five (5) Business Days' prior Notice to Buyer (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practice).
- C. Test Results and Re-Setting of Effective Capacity and Efficiency Rate. No later than five (5) days following any Capacity Test, Seller shall submit a testing report detailing results and findings of the test. The report shall include Facility Meter readings and plant log sheets verifying the operating conditions and output of the Facility. In accordance with Section 4.4(a)(ii) of the Agreement and Part II(I) below, after the Commercial Operation Capacity Test(s), the Effective Capacity (up to, but not in excess of, the Installed Capacity) and Efficiency Rate determined pursuant to such Capacity Test shall become the new Effective Capacity and Efficiency Rate at the beginning of the day following the completion of the test for calculating the Monthly Capacity Payment and all other purposes under this Agreement.

Capacity Test Procedures

PART I. GENERAL.

- A. Each Capacity Test shall be conducted in accordance with Prudent Operating Practices, the Operating Restrictions, and the provisions of this Exhibit O. For ease of reference, a Capacity Test is sometimes referred to in this Exhibit O as a "CT." Buyer or its representative may be present for the CT and may, for informational purposes only, use its own metering equipment (at Buyer's sole cost).
- B. Conditions Prior to Testing.

- (a) EMS Functionality. The EMS shall be successfully configured to receive data from the Battery Management System (BMS), exchange DNP3 data with the Buyer SCADA device, and transfer data to the database server for the calculation, recording and archiving of data points.
- (b) Communications. The Remote Terminal Unit (RTU) testing should be successfully completed prior to any testing. The interface between Seller's RTU and the Facility SCADA System should be fully tested and functional prior to starting any testing, including verification of the data transmission pathway between the Seller's RTU and Seller's EMS interface and the ability to record SCADA System data.
- (c) Commissioning Checklist. Commissioning shall be successfully completed per manufacturer guidance on all applicable installed Facility equipment, including verification that all controls, set points, and instruments of the EMS are configured.

PART II. REQUIREMENTS APPLICABLE TO ALL CAPACITY TESTS.

- A. Test Elements. Each CT shall include at least the following individual test elements, which must be conducted in the order prescribed in Part III of this Exhibit O, unless the Parties mutually agree to deviations therefrom. The Parties acknowledge and agree that should Seller fall short of demonstrating one or more of the Test Elements as specified below, the Test will still be deemed "complete," and any adjustments necessary to the Effective Capacity or to the Efficiency Rate resulting from such Test, if applicable, will be made in accordance with this Exhibit O.
 - 1. Electrical output at maximum discharging level (MW) for four (4) continuous hours; and
 - 2. Electrical input at maximum charging level at the Facility Meter (MW), as sustained until the SOC reaches at least 90%, continued by the electrical input at a rate up to the maximum charging level at the Facility Meter (MW), as sustained until the SOC reaches 100%, not to exceed five (5) hours of total charging time.
- B. Parameters. During each CT, the following parameters shall be measured and recorded simultaneously for the Facility, at two (2) second intervals:
 - 1. Time;
 - 2. The amount of Facility Energy to the Facility Meters (kWh) (i.e., to each measurement device making up the Facility Meter);
 - 3. Net electrical energy input from the Facility Meters (kWh) (i.e., from each measurement device making up the Facility Meter); and

4. Storage Level (MWh).
- C. Site Conditions. During each CT, the following conditions at the Site shall be measured and recorded simultaneously at thirty (30) minute intervals:
1. Relative humidity (%);
 2. Barometric pressure (inches Hg) near the horizontal centerline of the Facility; and
 3. Ambient air temperature (°F).
- D. Test Showing. Each CT shall record and report the following datapoints:
1. That the CT successfully started;
 2. The maximum sustained discharging level for four (4) consecutive hours pursuant to A(1) above;
 3. The maximum sustained charging level for five (5) consecutive hours pursuant to A(2) above;
 4. Amount of time between the Facility's electrical output going from 0 to the maximum sustained discharging level registered during the Test (for purposes of calculating the Ramp Rate);
 5. Amount of time between the Facility's electrical input going from 0 to the maximum sustained charging level registered during the Test (for purposes of calculating the Ramp Rate);
 6. Amount of Charging Energy, registered at the Facility Meter, to go from 0% SOC to 100% SOC;
 7. Amount of Facility Energy, registered at the Facility Meter, to go from 100% SOC to 0% SOC.
- E. Test Conditions.
1. General. At all times during a CT, the Facility shall be operated in compliance with Prudent Operating Practices, the Operating Restrictions, and all operating protocols recommended, required or established by the manufacturer for the Facility.
 2. Abnormal Conditions. If abnormal operating conditions that prevent the testing or recordation of any required parameter occur during a CT, Seller may postpone or reschedule all or part of such CT in accordance with Part II.F below.

3. Instrumentation and Metering. Seller shall provide all instrumentation, metering and data collection equipment required to perform the CT. The instrumentation, metering and data collection equipment electrical meters shall be calibrated in accordance with Prudent Operating Practice and, as applicable, the CAISO Tariff.
- F. Incomplete Test. If any CT is not completed in accordance herewith, Buyer may in its sole discretion: (i) accept the results up to the time the CT stopped without any modification to the Effective Capacity or Efficiency Rate pursuant to Section I below; (ii) require that the portion of the CT not completed, be completed within a reasonable specified time period; or (iii) require that the CT be entirely repeated. Notwithstanding the above, if Seller is unable to complete a CT due to a Force Majeure Event or the actions or inactions of Buyer or the CAISO or the Transmission Provider, Seller shall be permitted to reconduct such CT on dates and at times reasonably acceptable to the Parties.
- G. Test Report. Within five (5) Business Days after the completion of any CT, Seller shall prepare and submit to Buyer a written report of the results of the CT, which report shall include:
1. A record of the personnel present during the CT that served in an operating, testing, monitoring or other such participatory role;
 2. The measured and calculated data for each parameter set forth in Part II.A through D, including copies of the raw data taken during the test; and
 3. Seller's statement of either Seller's acceptance of the CT or Seller's rejection of the CT results and reason(s) therefor.

Within ten (10) Business Days after receipt of such report, Buyer shall notify Seller in writing of either Buyer's acceptance of the CT results or Buyer's rejection of the CT and reason(s) therefor.

If either Party rejects the results of any CT, such CT shall be repeated in accordance with Part II.F.

- H. Supplementary Capacity Test Protocol. No later than sixty (60) days prior to commencing Facility construction, Seller shall deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) a supplement to this Exhibit O with additional and supplementary details, procedures and requirements applicable to Capacity Tests based on the then current design of the Facility ("**Supplementary Capacity Test Protocol**"). Thereafter, from time to time, Seller may deliver to Buyer for its review and approval (such approval not to be unreasonably delayed or withheld) any Seller recommended updates to the then-current Supplementary Capacity Test Protocol. The initial Supplementary Capacity Test Protocol (and each update thereto), once approved by Buyer, shall be deemed an amendment to this Exhibit O.

- I. Adjustment to Effective Capacity and Efficiency Rate. The Effective Capacity and Efficiency Rate shall be updated as follows:
1. The total amount of Facility Energy delivered to the Delivery Point (expressed in MWh AC) during the first four (4) hours of discharge (up to, but not in excess of, the product of (i) (a) the Guaranteed Capacity (in the case of a Commercial Operation Capacity Test, including under Section 5 of Exhibit B) or (b) the Installed Capacity (in the case of any other Capacity Test), multiplied by (ii) four (4) hours shall be divided by four (4) hours to determine the Effective Capacity, which shall be expressed in MW AC, and shall be the new Effective Capacity in accordance with Section 4.4(a)(ii) of the Agreement.
 2. The total amount of Facility Energy (as reported under Section II.D(7) above) divided by the total amount of Charging Energy (as reported under Section II.D(6) above), and expressed as a percentage, shall be recorded as the new Efficiency Rate, and shall be used for the calculation of the Efficiency Rate Adjustment in Exhibit C until updated pursuant to a subsequent Capacity Test.

PART III. INITIAL SUPPLEMENTARY CAPACITY TEST PROTOCOL.

A. **Effective Capacity and Efficiency Rate Test**

• Procedure:

1. System Starting State: The Facility will be in the on-line state at 0% SOC.
2. Record the initial value of the SOC.
3. Command a real power charge that results in an AC power of Facility's maximum charging level and continue charging until the earlier of (a) the Facility has reached 100% SOC or (b) five (5) hours have elapsed since the Facility commenced charging.
4. Record and store the SOC after the earlier of (a) the Facility has reached 100% SOC or (b) five (5) hours of continuous charging. Such data point shall be used for purposes of calculation of the Battery Charging Factor.
5. Record and store the amount of Charging Energy, registered at the Facility Meter, to go from 0% SOC to 100% SOC.
6. Following an agreed-upon rest period, command a real power discharge that results in an AC power output of the Facility's maximum discharging level and maintain the discharging state until the earlier of (a) the Facility has discharged at the maximum discharging level for four (4) consecutive hours, (b) the Facility has reached 0% SOC, or (c) the sustained discharging level is at least 2% less than the maximum discharging level.

7. Record and store the SOC after four (4) hours of continuous discharging. Such data point shall be used for purposes of calculation of the Battery Discharging Factor. If the Facility SOC remains above zero percent (0%) after discharging at a rate at or above the Guaranteed Capacity (or at or above the Installed Capacity after a Commercial Operation Capacity Test) for four (4) consecutive hours pursuant to Part III.A.6(a), the SOC will be deemed 0 for purposes of calculating the Battery Discharging Factor.
 8. Record and store the Facility Energy as measured at the Facility Meter. Such data point shall be used for purposes of calculation of the Effective Capacity.
 9. If the Facility has not reached 0% SOC pursuant to Section III.A.6, continue discharging the Facility until it reaches a 0% SOC.
 10. Record and store the Facility Energy as measured at the Facility Meter from the commencement of discharging pursuant to Part III.A.6 until the Facility has reached a 0% SOC pursuant to either Part III.A.7 or Part III.A.9, as applicable.
- Test Results:
 1. The resulting Effective Capacity measurement is the sum of the total Facility Energy at the Facility Meter divided by four (4) hours.
 2. The total amount of Facility Energy (as reported under Section III.A(10) above) divided by the total amount of Charging Energy (as reported under Section III.A(5) above), and expressed as a percentage, shall be recorded as the new Efficiency Rate, and shall be used for the calculation of the Efficiency Rate Adjustment in Exhibit C until updated pursuant to a subsequent Capacity Test.

B. AGC Discharge Test

- Purpose: This test will demonstrate the AGC discharge capability to achieve the Facility's maximum discharging level within 1 second.
- System starting state: The Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow a predefined agreed-upon active power profile.
- Procedure:
 1. Record the Facility active power level at the Facility Meter.
 2. Command the Facility to follow a simulated CAISO RIG signal of Pmax at .95 power factor for ten (10) minutes.

3. Record and store the Facility active power response (in seconds).

- System end state: The Facility will be in the on-line state and at a commanded active power level of 0 MW.

C. AGC Charge Test

- Purpose: This test will demonstrate the AGC charge capability to achieve the facility's full charging level within 1 second.
- System starting state: The Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Facility control system will be configured to follow a predefined agreed-upon active power profile.

- Procedure:

1. Record the Facility active power level at the Facility Meter.
2. Command the Facility to follow a simulated CAISO RIG signal of Pmax at .95 power factor for ten (10) minutes.
3. Record and store the Facility active power response (in seconds).

- System end state: The Facility will be in the on-line state and at a commanded active power level of 0 MW.

D. Reactive Power Production Test

- Purpose: This test will demonstrate the reactive power production capability of the Facility.
- System starting state: The Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The EMS will be configured to follow an agreed-upon predefined reactive power profile.

- Procedure:

1. Record the Facility reactive power level at the Facility Meter.
2. Command the Facility to follow 46 MW for ten (10) minutes.
3. Record and store the Facility reactive power response.

- System end state: The Facility will be in the on-line state and at a commanded reactive power level of 0 MVAR.

E. Reactive Power Consumption Test

- Purpose: This test will demonstrate the reactive power consumption capability of the facility.
- System starting state: The Facility will be in the on-line state at 50% SOC and at an initial active power level of 0 MW and reactive power level of 0 MVAR. The Facility control system will be configured to follow an agreed-upon predefined reactive power profile.
- Procedure:
 1. Record the Facility reactive power level at the Facility Meter.
 2. Command the Facility to follow 46 MW for ten (10) minutes.
 3. Record and store the Facility reactive power response.
- System end state: The Facility will be in the on-line state and at a commanded reactive power level of 0 MVAR.

EXHIBIT P: FACILITY AVAILABILITY CALCULATION

Annual Capacity Availability Calculation. Seller shall calculate the “**Annual Capacity Availability**” in a given month using the formula set forth below:

$$\text{Annual Capacity Availability (\%)} = \frac{[\text{CYHRS}_{\text{CY}} - \text{UNAVAILHRS}_{\text{CY}}]}{[\text{CYHRS}_{\text{CY}}]}$$

Where:

CY = relevant Contract Year “CY” in which availability is calculated;

CYHRS_{CY} is the total number of hours for the month;

UNAVAILHRS_{CY} is the total number of hours, or partial hours, in the Contract Year during which the Facility was unavailable to charge and/or discharge Energy and/or provide Ancillary Services, in whole or in part, for any reason other than the occurrence of any of the following (each, an “**Excused Event**”): Approved Maintenance Hours, Buyer Dispatched Tests, Operating Restrictions in Exhibit Q, [REDACTED], [REDACTED], and Buyer breach or default. Hours of unavailability caused by any Excused Event will not be included in UNAVAILHRS_{CY} for such Contract Year. Any other event that results in unavailability of the Facility for less than a full hour or that results in unavailability of less than all of Effective Capacity will count as an equivalent percentage of the applicable hour(s) for this calculation. Additionally, if during any applicable hour the Facility is unavailable, but for less than the full amount of the Effective Capacity, the UNAVAILHRS_{CY} for such hour shall be calculated as an equivalent percentage of such hour in proportion to the amount of available Effective Capacity.

If the Facility or any component thereof was previously deemed unavailable for an hour or part of an hour, and Seller provides a revised Notice indicating the Facility is available for that hour or part of an hour by 5:00 a.m. of the morning Buyer schedules or bids the Facility in the Day-Ahead Market, the Facility will be deemed to be available to the extent set forth in the revised Notice.

If the Facility or any component thereof was previously deemed unavailable for an hour or part of an hour and Seller provides a revised Notice indicating the Facility is available for that hour or part of an hour at least sixty (60) minutes prior to the time Buyer is required to schedule or bid the Facility in the Real-Time Market, and the Facility is dispatched in the Real-Time Market, the Facility will be deemed to be available to the extent set forth in the revised Notice.

EXHIBIT Q: OPERATING RESTRICTIONS

It is the intent of the Parties to operate the Facility with as much flexibility as possible while preventing degradation and efficiency losses that exceed Seller’s reasonable expectations as of the Effective Date and the related guarantees set forth in this Agreement. The Parties will develop and finalize the Operating Restrictions prior to the Commercial Operation Date; *provided*, the Operating Restrictions (i) may not be materially more restrictive of the operation of the Facility than as set forth below, unless agreed to by Buyer in writing; provided further that Seller may propose for approval by Buyer (such approval not to be unreasonably withheld) mandatory rest periods between cycles, a reduction in the maximum monthly cycles to a number between thirty (30) and sixty (60), and/or revisions to the included Ancillary Services if Seller reasonably demonstrates that the then current Operating Restrictions would result in a material decrease in the expected Efficiency Rate or would result in increased degradation of the Facility; (ii) will, at a minimum, include the rules, requirements and procedures set forth in this Exhibit Q; (iii) will include protocols and parameters for Seller’s operation of the Facility in the absence of Discharging Notices or other similar instructions from Buyer relating to the use of the Facility; and (iv) may include facility scheduling, Operating Restrictions and Communications Protocols.

File Update Date:	03/15/2024	
Technology:	Lithium-Ion	
Storage Unit Name:	Sandrini BESS	
A. Contract Capacity		
Guaranteed Capacity (MW):	[REDACTED]	
Effective Capacity (MW):	[REDACTED]	
B. Total Unit Dispatchable Range Information		
Interconnect Voltage (kV)	[REDACTED]	
Maximum State of Charge (SOC) during Charging	[REDACTED] %	
Minimum State of Charge (SOC) during Discharging	[REDACTED] %	
Maximum Storage Level (MWh):	[REDACTED]	
Minimum Storage Level (MWh):	[REDACTED]	
Maximum Charging Capacity (MW):	[REDACTED]	
Maximum Discharging Capacity (MW):	[REDACTED]	
Maximum energy throughput (BET) (Discharged MWh/year):	[REDACTED]	
C. Daily/Monthly/Annual Cycles		
Maximum daily Cycles:	[REDACTED]	
Maximum monthly Cycles:	[REDACTED]	
Maximum annual Cycles:	[REDACTED]	
D. Charge and Discharge Rates		
Mode	Maximum (MW)	Ramp Rate (MW/s) Description
Energy (Charge)	[REDACTED]	Configurable, at least 10 MW/s
Energy (Discharge)	[REDACTED]	Configurable, at least 10 MW/s
E. Ancillary Services		
Frequency regulation is included:	X	
Spinning reserve is included:	X	

Non-spinning reserve is included:	X
Regulation up is included:	X
Regulation down is included:	X
Black start is included:	No
Voltage support is included:	X

APPROVAL DRAFT

EXHIBIT R: METERING DIAGRAM

Seller may, by written notice to Buyer prior to the Guaranteed Construction Start Date, update this Agreement at any time following the Effective Date with an updated draft of Exhibit R, which, with Buyers consent, not to be unreasonably withheld, shall constitute Exhibit R for all purposes hereof.

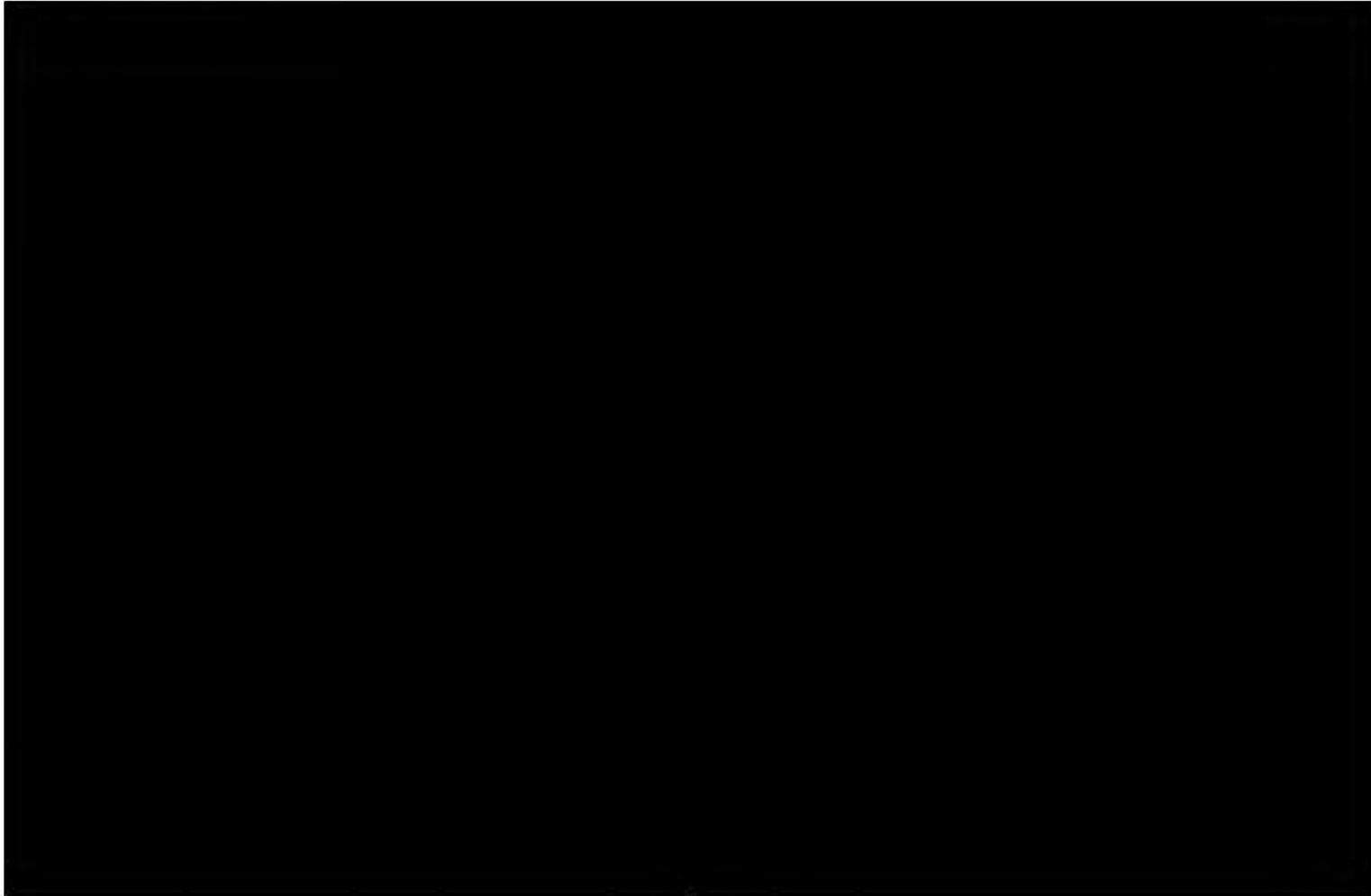


EXHIBIT S: COMMUNITY INVESTMENT

Seller agrees to fund a “Community Investment Fund” (“CI Fund”) through a onetime payment by Seller of two hundred and fifty thousand dollars (\$250,000). Within sixty (60) days after the Commercial Operation Date, Seller will deposit the funds in a distinct and separate account established and maintained at a bank or financial institution selected by Buyer that is reasonably acceptable to Seller.

The CI Fund will be administered by Buyer for the direct benefit of residents of Humboldt County where Buyer serves its customers and/or Kern County where the Project is to be located, and subject to mutual agreement by the Parties, including agreement on how the funds will be allocated between the two counties. The CI Fund will be allocated towards activities related to workforce development, education, or other community investments. Notwithstanding any provision to the contrary, the CI Fund shall not be allocated in a manner that is inconsistent with the applicable provisions of law pertaining to conflicts of interest, including the California Political Reform Act (Gov. Code §§ 87100 et seq.) and California Government Code Section 1090.

APPROVAL DRAFT

THIRD AMENDMENT TO POWER PURCHASE AGREEMENT

This Third Amendment to Power Purchase Agreement (this “Third Amendment”), dated as of [____], 2024 (the “Amendment Effective Date”), is entered into by and between EDPR CA Solar Park II LLC, a Delaware limited liability company (“Seller”), and Redwood Coast Energy Authority, a California joint powers authority (“Buyer”). Seller and Buyer are hereinafter referred to individually as a “Party” and collectively as the “Parties”.

WHEREAS, Buyer and Seller entered into that certain Power Purchase Agreement, dated as of May 5, 2020, and have twice amended such agreement, effective June 24, 2022 and November 20, 2023, respectively (the “Agreement”);

WHEREAS, the Parties desire to further amend the Agreement to facilitate the Buyer and an Affiliate of Seller to enter concurrently into a separate agreement to supply Buyer with the storage discharge capacity from an energy storage facility co-located with the Project; and

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

NOW THEREFORE, after due deliberation and as a result of the mutual exchange of consideration herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Defined Terms.** Capitalized terms used but not defined in this Third Amendment have the meanings specified in the Agreement.

2. **Amendments.**

a. Section A (Transaction Type) of the Cover Sheet is hereby deleted in its entirety and replaced with the following:

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

Product: As-Available

Portfolio Content Category:

Portfolio Content Category 1

Deliverability:

(i) Pre-Storage Project Deliverability

For the period from when the Project receives an FCDS Finding until the commercial operation date of the Storage Project, the deliverability shall be designated as the following type:

Full Capacity Deliverability Status (“FCDS”)

(ii) Post-Storage Project Deliverability

Upon the date on which the Storage Project achieves commercial operation and the CAISO determines that the deliverability status transfers from the Project to the Storage Project, the deliverability shall be designated as the following type:

Energy Only Status

Seller shall elect one of the following Delivery Terms:

- ten (10) Contract Years
- fifteen (15) Contract Years
- twenty (20) Contract Years

- b. Section F (Buyer Bid Curtailment and Buyer Curtailment Orders) of the Cover Sheet shall be amended to include the following additional language at the end of the section:
- Project cannot be operated at the same time as the Storage Project in a manner that exceeds their shared interconnection capacity or otherwise violates the Interconnection Agreement.
- c. A new Section J shall be added to the end of the Cover Sheet as follows:

“J. Description of Co-Located Storage Project

Sandrini BESS Storage LLC, a Delaware limited liability company (the “*Storage Project Seller*”), is an Affiliate of Seller and intends to develop, design, construct, own and operate a 92 MW / 368 MWh lithium-ion energy storage facility co-located with the Project (the “*Storage Project*”). The Storage Project shall be a separate facility, and not a component of, the Project. The Storage Project Seller and Buyer intend to enter into a separate agreement (the “*Storage Agreement*”) to supply Buyer with the Product (as defined in the Storage Agreement) from the Storage Project.”

- d. Article 1 is amended as follows:
- i. The definition of “Buyer Bid Curtailment” is deleted in its entirety and replaced with the following:
- ““*Buyer Bid Curtailment*” means Buyer as SC or through its Third-Party SC communicates a curtailment instruction to the Seller, requiring Seller to produce less Energy from the Project than the CAISO final market forecast amount to be produced from the Project for a period of time, and Buyer as the SC or through its Third-Party SC: (a) submitted a CAISO final market Energy Supply Bid and such curtailment is solely a result of the CAISO implementing the Energy Supply Bid; (b) submitted a CAISO final market Self-Schedule for less than the amount of the final-market Energy

forecasted to be produced from the Project; or (c) a curtailment of any portion of the Facility or its output as a result of Buyer's issuance of any instruction, order or other communication requesting or requiring the Storage Project to be charged or discharged which prevents Seller from delivering any energy to the Delivery Point. However, if the Project is subject to a Planned Outage, Forced Outage, Force Majeure and/or a Curtailment Period during the same period of time, then Buyer Bid Curtailment shall not include any Energy that is subject to such Planned Outage, Forced Outage, Force Majeure or Curtailment Period.”

- ii. The definition of “Delivered Energy” is deleted in its entirety and replaced with the following:

““*Delivered Energy*” means the lesser of either (i) the Contract Capacity, expressed in MW, multiplied by the duration of the Settlement Interval, expressed in hours, or (ii) the Energy produced from the Project during the Settlement Interval as measured in MWh at the Delivery Point; provided that for avoidance of doubt, the quantity of Delivered Energy shall be reduced to account for any losses occurring between the Delivery Point and the PNode designated by CAISO for the Project, other than losses associated with the charging and discharging of the Storage Project.”

- iii. The following definitions are added in the appropriate alphabetical order:

“*Shared Facilities*” means the gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Project to the Delivery Point, including the Interconnection Facilities and the Interconnection Agreement itself, if applicable, that are used in common with third parties.

“*Storage Agreement*” has the meaning set forth in the Cover Sheet.

“*Storage Project*” has the meaning set forth in the Cover Sheet.

“*Storage Project Seller*” has the meaning set forth in the Cover Sheet.

- e. Section 3.1(d) is deleted in its entirety and replaced with the following:

(d) Delivery Point. The Delivery Point shall be the CAISO revenue meter for the Project located prior to its delivery to the Storage Project, as specified in Appendix XII.

- f. Section 3.2(c) is added as follows:

“To the extent that a change in the CEC’s regulations or change in the guidance from the CEC could increase the quantity of Green Attributes available from the

Project during the Delivery Term, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute any and all documents or instruments necessary to enable Buyer to receive such increased quantity of Green Attributes during the Delivery Term. If, in order to increase the quantity of Green Attributes available from the Project, Seller must make a change to the metering of the Project that would result in costs to Seller to implement, Seller shall make such metering change (i) if Buyer agrees to reimburse Seller for such costs, and (ii) the change in the metering does not otherwise result in a material economic harm to Seller.”

- g. Section 3.3 (Resource Adequacy) is deleted in its entirety and replaced with the following:

“The Parties acknowledge and agree that the Project is expected to be an Energy Only facility as such term is defined in the Tariff once the Storage Project has achieved commercial operation, as specified on the Cover Sheet. To the extent that any Capacity Attributes become available from the Project during the Delivery Term, Seller shall take all commercially reasonable actions, including complying with all applicable registration and reporting requirements, and execute any and all documents or instruments necessary to enable Buyer to use all of the capacity of the Project, including any available Capacity Attributes, to meet Buyer’s Resource Adequacy Requirements during the Delivery Term.”

- h. The first sentence of Section 3.6 shall be amended as follows:

“All output from the Project must be delivered through a single CAISO revenue meter that exclusively measures output for the Project described herein. ~~located on the high voltage side of the Project’s final step up transformer nearest to the Interconnection Point.~~ All Delivered Energy purchased under this Agreement must be measured by the Project’s CAISO revenue meter prior to the delivery of the Project Energy to the Storage Project to be eligible for payment under this Agreement. The Parties acknowledge and agree that the metering arrangement for purposes of compensation under this Agreement may be different from the metering arrangement used to certify Green Attributes pursuant to the CEC’s applicable rules and regulations.”

- i. Section 3.7(a) is amended to add the following new sentence to the end of the paragraph:

“Buyer, acting through its Third-Party SC, shall use commercially reasonable efforts to obtain CAISO approval of any outage necessary for the Storage Project Seller to perform construction, testing, commissioning and interconnection activities related to the Storage Project.”

- j. A new Section 3.10 is added as follows:

“3.10 Shared Facilities. The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller’s rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements to be entered into among Seller, the Transmission Provider, Seller’s Affiliates, and/or third parties. Seller agrees that any agreements regarding Shared Facilities (i) shall permit Seller to perform or satisfy, and shall not purport to limit, Seller’s obligations hereunder, (ii) shall provide for separate metering of the Facility; (iii) shall provide that any other generating or energy storage facilities not included in the Facility but using Shared Facilities shall not be included within the Facility’s CAISO Resource ID; and (iv) shall provide that in the event of any discretionary allocation of curtailment of output from generating or energy storage facilities using the Shared Facilities shall not be allocated to the Facility.”

k. Section 10.6(b) is amended by adding a new clause (iv) as follows:

“(iv) actual or prospective financing parties and their representatives for purposes of financing the Storage Project, provided such Persons are informed of the requirements of this Section 10.6 and are bound to protect the Confidential Information from unauthorized use and disclosure.”

1. The one-line diagram in Section 13, Description of Interconnection Facilities and metering, of Appendix XII is hereby deleted and replaced with the diagram included as Attachment A to this Amendment.
3. **Continuing Agreement.** The Agreement, as amended by this Amendment, remains in full force and effect in accordance with its terms and is ratified in all respects. Except as expressly provided in this Amendment, this Amendment does not modify or constitute a waiver of any provision of the Agreement. Each reference in the Agreement to “this Agreement” and the use therein of the words “hereunder”, “hereof”, “herein”, and other words of similar import mean, and are a reference to, the Agreement as amended by this Amendment.
4. **Counterparts.** This Amendment may be executed in one or more counterparts and by different Parties in separate counterparts, each of which will be deemed an original and all of which when taken together constitute but a single agreement. The delivery of an executed counterpart to this Amendment by electronic means is effective for all purposes as the delivery of a manually executed counterpart.
5. **Entire Agreement.** This Amendment contains the complete agreement between the Parties with respect to the subject matter hereof and supersedes all other agreements, whether written or oral, with respect to the matters contained herein. No modification, amendment, or other change to this Amendment will be binding on a Party unless consented to in writing executed by both Parties.

6. **Further Assurances.** Each Party agrees to do and/or execute all further and other acts, deeds, things, documents and assurances as may be required in order to carry out the intent and meaning of this Amendment.
7. **Captions.** The captions contained in this Amendment are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Amendment or the intent of any provision contained herein and are to be ignored for the purposes of construction.
8. **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.

[signature page follows]

APPROVAL DRAFT

IN WITNESS WHEREOF, the Parties have executed this Amendment on the Amendment Effective Date.

Seller:
EDPR CA Solar Park II LLC

Buyer:
REDWOOD COAST ENERGY AUTHORITY

By: _____
Name:
Title:

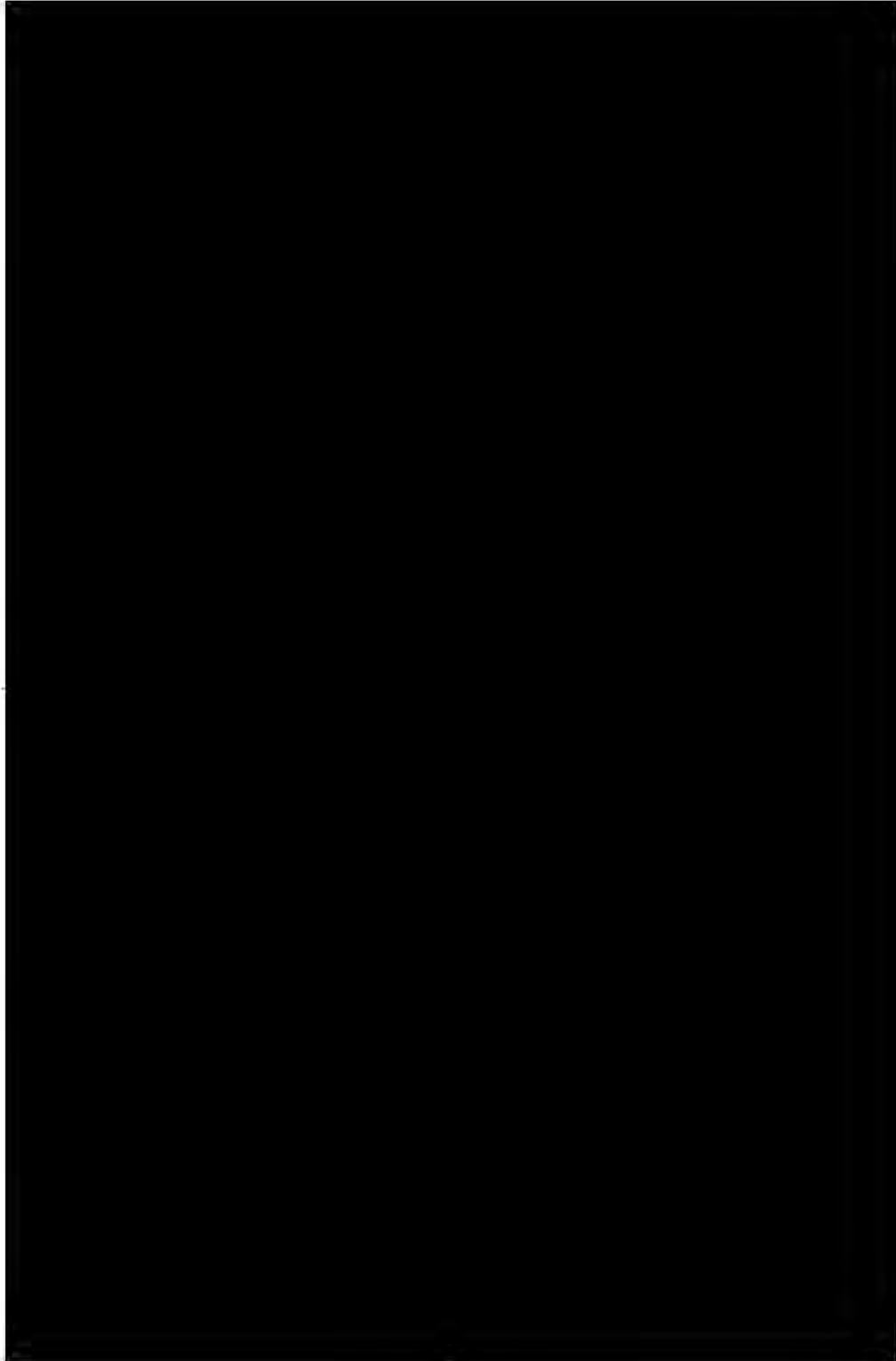
By: _____
Name:
Title:

By: _____
Name:
Title:

APPROVAL DRAFT

Attachment A

One-line diagram





Sandrini Energy Storage Service Agreement

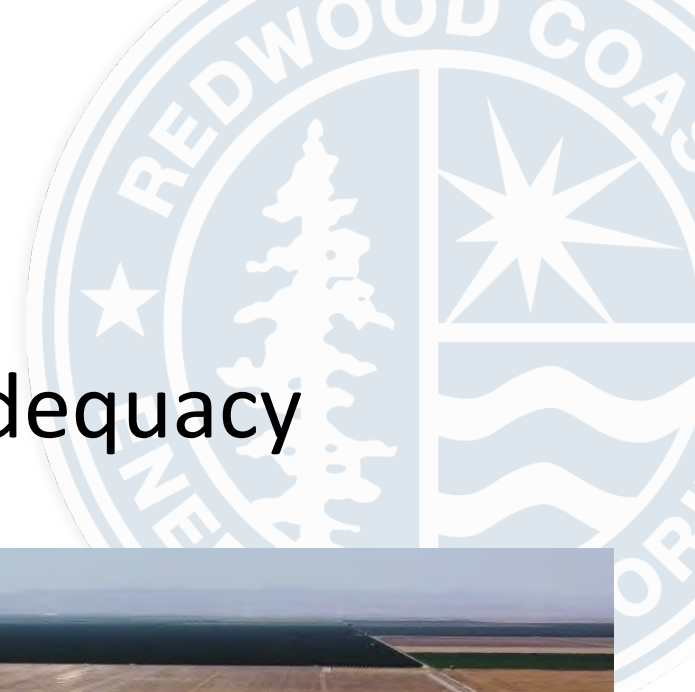
RCEA Board of Directors Meeting

March 28, 2024



Procurement Objectives

- CPUC Mid-Term Reliability and Resource Adequacy compliance
- Energy storage to integrate with Sandrini Solar
- Building a diversified portfolio of clean capacity to support grid reliability





EDP Renewables North America

Redwood Coast Energy Authority Board Meeting
3/28/24



About EDP Renewables



EDPR NA is a wholly owned subsidiary of EDP Renewables (Euronext: EDPR), a global leader in the renewable energy sector.

EDPR is a global leader in renewable energy development with a presence in 28 regions in Europe, North America, South America and Asia-Pacific. With headquarters in Madrid and leading regional offices in Houston, São Paulo and Singapore, EDPR has a sound development portfolio of top-level assets and market-leading operating capacity in renewable energies. Particularly worthy of note are onshore wind, distributed and large-scale solar, offshore wind (OW - through a 50/50 joint venture), and technologies to complement renewables such as storage and green hydrogen.

EDPR is a division of EDP (Euronext: EDP), a leader in the energy transition with a focus on decarbonization. EDP – EDPR’s main shareholder – has been listed on the Dow Jones Index for 16 consecutive years, recently being named the most sustainable electricity company on the Index.



About EDP Renewables North America

EDP Renewables North America (EDPR NA) and its subsidiaries develop, construct, own, and operate wind farms and solar parks in North America.

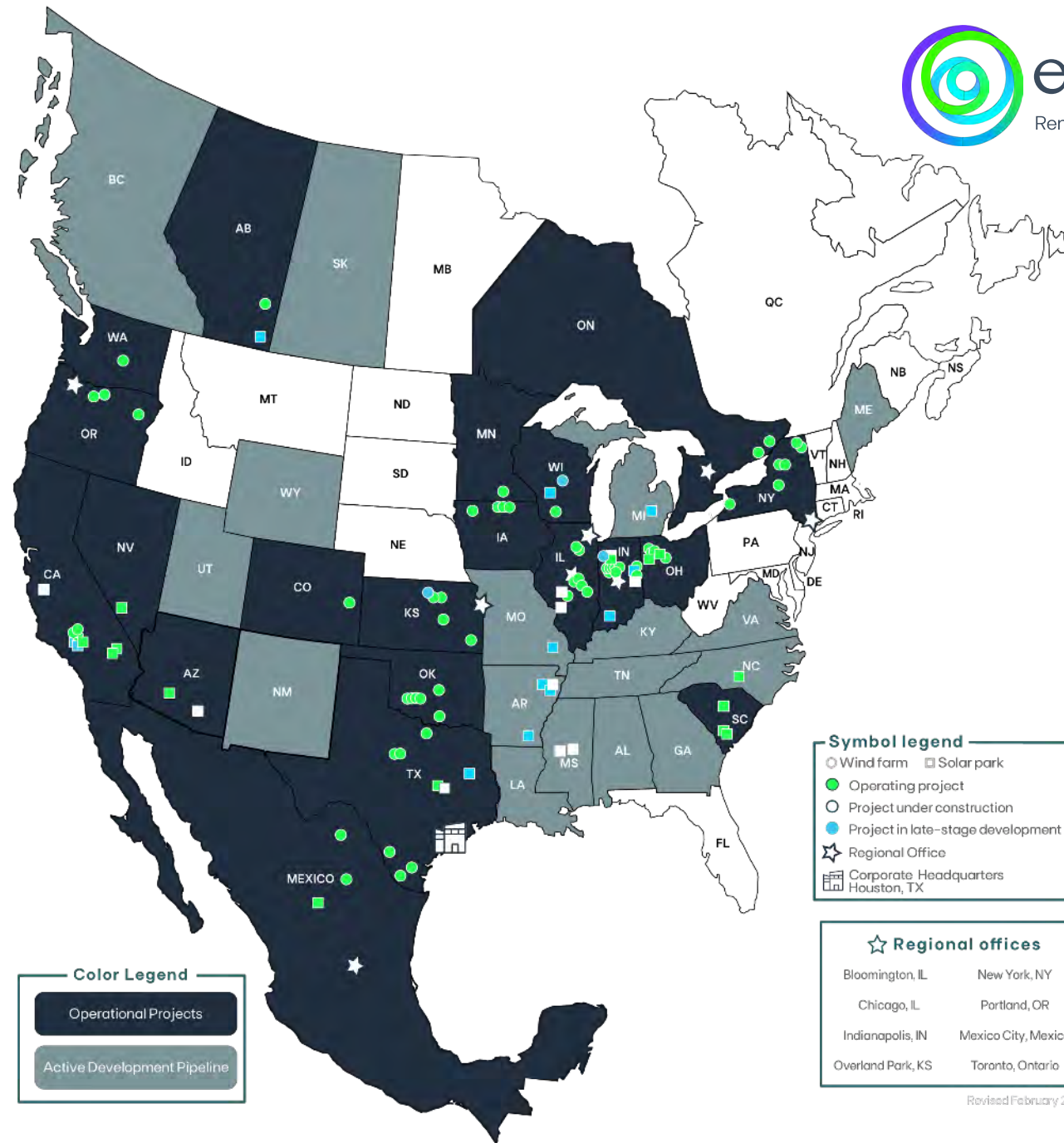
- Ranked **fifth** in the U.S. in **installed renewable energy capacity**.
- **60** wind farms and **13** solar parks, totaling more than **9,100 MW** of operating renewable energy projects.
- EDPR NA projects' generation is equivalent to the average consumption of **2+ million U.S. homes**.
- Headquartered in **Houston, Texas**, with **eight regional offices** across North America.

EDPR NA Footprint

20+ Years of experience

3,300+ Turbines in operation

>247M Hours of operational history



Color Legend

- Operational Projects
- Active Development Pipeline

Symbol legend

- Wind farm
- Solar park
- Operating project
- Project under construction
- Project in late-stage development
- Regional Office
- Corporate Headquarters Houston, TX

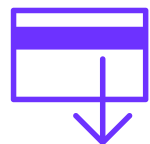
★ Regional offices

- Bloomington, IL
- Chicago, IL
- Indianapolis, IN
- Overland Park, KS
- New York, NY
- Portland, OR
- Mexico City, Mexico
- Toronto, Ontario

Revised February 2024



EDPR NA projects represent an estimated **\$15 billion in capital investment.**



EDPR NA projects have paid more than **\$239 million to local governments** from 2020 through 2023.

Our technology

EDPR NA intends to grow by approximately 2 GW every year through 2025.

WIND

60 wind farms
totaling
8,051 MW
in operation

Current goal

2.8+ GW
by 2026

SOLAR

13 solar parks
totaling
1,178 MW
in operation

Current goal

5.5+ GW
by 2026

STORAGE

Current goal

1 GW capacity
by 2026

Project highlights:

- Scarlet Solar Energy Park | CA
 - 200 MWac solar + lithium-ion AC-coupled storage
 - Estimated COD: Dec. 2024

Sandrini Battery Energy Storage System (BESS)



FACILITY INFORMATION:

- **Location:** 20 miles south of Bakersfield, CA on irrigated agricultural land. This site has been under development since 2017 and is share with Sandrini Solar Park.
- **Nameplate Capacity:** 92 MW/384 MWh (4-hour duration)
- **Term Length:** 15 years
- **Commercial Operation Date:** December 31, 2025
- **Land Control:** 100% Site Control secured
- **Interconnection:** Project has an up-to-date Large Generator Interconnection Agreement (LGIA), though it is expected that another Material Modification Request may be needed to update BESS inverters, dependent on final design.
- **Permitting:** A Conditional Use Permit was obtained for the Sandrini Solar + BESS Projects. The Engineering, Procurement, and Construction (EPC) contractor will be responsible for obtaining building and grading permits.

SANDRINI SOLAR AND BESS:

- **Sandrini Solar:** Sandrini BESS is a 92 MW/384 MWh Battery Energy Storage System addition to the 100 MW Sandrini Solar Project
- **BESS interactions with Sandrini Solar:** This project will function as a collocated storage addition meaning that the BESS will be able to charge from both Sandrini Solar and the grid, and will have a separate CAISO Resource ID.
- **Point of Interconnection:** Sandrini BESS takes advantage of the same Point of Interconnect and LGIA as Sandrini Solar.
- **Resource Adequacy:** Sandrini BESS will enable RCEA's portion of the Sandrini Project to take full advantage of its Full Capacity Deliverability Status and secure another 92 MW of RA capacity before the 2026 MTR deadline.



Our Team

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STAFF REPORT
Agenda Item # 6.2

AGENDA DATE:	March 28, 2024
TO:	Board of Directors
PREPARED BY:	Eileen Verbeck, Deputy Executive Director Juliette Bohn, Infrastructure Programs Manager
SUBJECT:	Grid Resilience Innovation Partnership (GRIP) Program

BACKGROUND

The U.S. Department of Energy (DOE) Grid Resilience Innovation Partnership (GRIP) program will provide funding to modernize the American electric grid and to maximize the benefits of the clean energy transition. The GRIP program is funded through the Infrastructure Investment and Jobs Act, more commonly known as the Bipartisan Infrastructure Law. DOE sees GRIP funding as a “down payment” on grid modernization projects and expects a business model that shows how other public and private funds will be leveraged to complete the projects. DOE expects strong collaboration between different types of entities such as utilities, regulatory agencies, Tribes, community groups, and local government entities. Community benefits planning is a mandatory part of all applications.

Projects will be funded to address the urgent demands of aging infrastructure, increasing climate change-induced natural disasters, and a transition to clean energy generation sources. DOE seeks projects that will also meet the following four priority objectives:

- (1) support meaningful community and labor engagement,
- (2) invest in the American workforce,
- (3) advance diversity, equity, inclusion, and accessibility; and
- (4) 40% of the benefits flow to disadvantaged communities (the Justice40 Initiative).

The Yurok, Hoopa Valley, Karuk and Blue Lake Rancheria Tribes are seeking GRIP funds to develop a Tribally-led community microgrid to increase energy reliability and resilience in their service areas, called the Resilient Energy Networks Empowering World Renewal (RENEW) Project. The Schatz Energy Research Center will be providing technical assistance to support the RENEW Project. RCEA was asked to step in as the lead applicant for this RENEW Project to assist with the administration of the grant funds. RCEA will also contribute to the required 50% GRIP Project cost share requirement with eligible Regional Resilience Grant Program (RRGP) funds for the renewable energy systems to be installed at the fire stations within the Yurok, Hoopa, and Karuk Tribal lands.

RCEA submitted the required GRIP program “Concept Paper” on January 12, 2024, which received DOE’s encouragement to develop a full application. The full GRIP funding proposal is due April 17, 2024. The Project is estimated to cost \$160,000,000 and is anticipated to be completed in 6 years.

SUMMARY

Four Tribes in Northern California -- the Hoopa Valley Tribe, Yurok Tribe, Karuk Tribe, and Blue Lake Rancheria Tribe are working towards a vision of energy sovereignty based on Tribally developed clean energy microgrids. As a step on the path towards a transformed regional energy system, the Parties are embarking on a project to support resilience within the Hoopa Valley Reservation, the Upriver portion of the Yurok Reservation, and the Karuk communities of Orleans and Somes Bar. These areas face significant barriers to decarbonization and clean energy deployment and suffer from very low electricity reliability. These areas are all served by the Pacific Gas and Electric (“PG&E”) Hoopa 1101 distribution circuit (“Circuit”). The Blue Lake Rancheria Tribe is not served by the Circuit, but rather has an existing microgrid and seeks additions to its microgrid capabilities and better support regional resilience through emergency response functions. The Blue Lake Rancheria Tribe is also willing to share their expertise with the other Tribal Parties in support of the 1101 Circuit upgrades.

The nested microgrids will also allow for energy market participation during “blue sky” conditions, and stand-alone Tribal resilience during disasters or planned power shut-off events. These systems, built and operated by Tribes in collaboration with local partners, would deliver technology innovations, direct and sustained community benefits, and valuable business model advances. Supporting these Tribal nations are the Schatz Energy Research Center, Redwood Coast Energy Authority, Pacific Gas and Electric Company, and other local partners.

The proposed Tribal community microgrid consists of a large microgrid located in Hoopa, CA connected to two smaller microgrids in the Yurok and Karuk Tribal lands. Additionally, the proposal includes 2 small low-impact hydroelectric sources. The Hoopa microgrid will be sized to power all three areas during “black sky” (grid outage) conditions, and the two smaller microgrids will provide power for their respective service areas should they be cut off from the larger microgrid due to wildfires. Under blue sky conditions, the Tribes will be selling the energy services (power + Resource Adequacy) into the market to create a revenue stream that can be used to support local microgrid operations and maintenance as well as other Tribal initiatives.

Additional expected benefits and goals of the proposed Project are to:

- Provide workforce development to ensure skilled community members are prepared to build and operate the Project,
- Increase energy access for each Tribal Party,
- Provide economic benefits and reduce energy burdens for Tribal communities,
- Improve electricity reliability for each Tribal Party,
- Advance self-sufficiency of electric services for each Tribal Party, and

- Support the sovereignty of the Tribal Parties.

The RENEW Project team has developed a Memorandum of Agreement (MOA) to define each party's roles and responsibilities. This initial MOA pertains to the Application phase only and has been reviewed by RCEA General Counsel. If selected for GRIP funding, the RENEW Project team will develop and enter separate agreements to address specific roles and responsibilities as they apply to the different Project development phases.

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

The proposed RENEW Project supports the following RePower Goals:

- Goal # 1.1.3 Support Energy-sector Workforce Development.
- Goal # 2.1.7 Support and Deploy Microgrids.
- Goal # 4.1.4 Maximize Renewable Energy Content of RCEA's CCE Program.
- Goal # 4.1.7.3 Provide Feed-In-Tariff Power Procurement Program for Small Generators.
- Goal # 4.1.8.2 Procure Local Solar Energy.
- Goal # 4.3.4 Provide Match Funding for State, Federal, and Foundation Energy Grants.

EQUITY IMPACTS

RCEA's engagement in the RENEW Project furthers the following RCEA Racial Justice Plan initiatives:

External Partnerships and Programs

1. Tribal Engagement:

b) RCEA staff will continue and expand efforts to identify opportunities to collaborate with local Tribes as partners on sustainable energy initiatives.

3. Energy justice in power procurement and energy resource development:

a) RCEA staff will incorporate energy justice best practices and affordability into renewable development and power purchase solicitations and resource planning.

b) RCEA will continue to include project location and community benefit in its evaluation criteria for power solicitations, in an effort to contract for projects that benefit racially diverse communities and to avoid projects that are detrimental to those communities.

FINANCIAL IMPACT

RCEA's participation in RENEW Project will bring in funding for project administration and compliance oversight. RCEA's contribution of cost-share (match) funding comes directly from California Office of Planning and Research Regional Resilience Grant Program grant dollars

allocated to the installation of renewable energy and battery storage projects at fire stations in the Yurok, Hoopa, Karuk, and Orleans areas. These funds will be spent as planned and will also help the GRIP project team to qualify for federal funds under the GRIP program. If awarded, the GRIP funding would be incorporated into the RCEA budget. There is no RCEA cost of participation apart from RCEA staff contributions to the GRIP application development.

STAFF RECOMMENDATION

1. Approve Memorandum of Agreement Between Redwood Coast Energy Authority, Blue Lake Rancheria Tribe, Hoopa Valley Tribe, Karuk Tribe, Yurok Tribe and the Cal Poly Humboldt Sponsored Programs Foundation on behalf of Schatz Energy Research Center (Schatz) to Engage in Activities Regarding the Funding and Coordination of the GRIP 2 Funding Application and Authorize the Executive Director to execute said Memorandum of Agreement.
2. Authorize Executive Director to Submit the GRIP 2 Funding Application for Approximately \$80,000,000 in Federal Department of Energy Funding on Behalf of the Parties Listed in the MOA with RCEA Listed as the Lead Applicant.

ATTACHMENTS

1. Memorandum of Agreement for the Resilient Energy Networks Empowering World Renewal (RENEW) Project GRIP Application
2. Draft GRIP Application titled: Resilient Energy Networks Empowering World Renewal (RENEW)

MEMORANDUM OF AGREEMENT

Between

**BLUE LAKE RANCHERIA TRIBE
HOOPA VALLEY TRIBE
KARUK TRIBE
YUROK TRIBE
REDWOOD COAST ENERGY AUTHORITY
SCHATZ ENERGY RESEARCH CENTER at CAL POLY HUMBOLDT**

To Engage in Activities Regarding the Funding and Coordination of Partners for

**COMMUNITY MICROGRIDS PROJECT:
GRIP 2 APPLICATION**

This Memorandum of Agreement to Engage in Activities Regarding the Funding and Coordination of Partners for COMMUNITY MICROGRIDS PROJECT: GRIP 2 APPLICATION (“Agreement”) in entered into by and among the Blue Lake Rancheria Tribe, Hoopa Valley Tribe, acting through the Hoopa Valley Public Utilities District, Karuk Tribe, Yurok Tribe (collectively, “Tribal Parties”), Redwood Coast Energy Authority (“RCEA”), and the Cal Poly Humboldt Sponsored Programs Foundation on behalf of the Schatz Energy Research Center (“Schatz”) (each a “Party,” collectively “Parties”), with effective date (“Effective Date”) as set forth below in Article X .

BACKGROUND RECITALS AND SHARED GOALS

- A. The Parties share a goal of supporting resilient and reliable access to electricity service for all people and building the necessary infrastructure and capacity for Tribal Parties to pursue their energy and community development goals. The status quo in many communities in our region is an unreliable electricity grid that is increasingly threatened by climate risks and mismanagement of land and legacy infrastructure. These shortcomings result in frequent, long, and disruptive power outages, community mistrust in the electricity system, justifiable reluctance to invest in electric vehicles and other clean energy technology that relies on the grid, frustrating miscommunication between communities and statewide grid operators, and an overall impingement on the energy sovereignty of the Tribal Parties. The Parties agree there is a need to address these shortcomings through the design, construction, and operation of resilient and reliable energy systems aligned with Tribal community goals. Transformation of the energy system will be strongest if the Parties pursue their own self-determined goals where appropriate and also collaborate in strategic areas with mutual benefit. This strategic collaboration is underway, with the Parties seeking opportunities to share resources and knowledge, build organizational capacity, strengthen regional coordination, and develop projects.

- B. As a step on the path towards a transformed regional energy system, the Parties are embarking on a project to support resilience within the Hoopa Valley Reservation, the Upriver portion of the Yurok Reservation, and the Karuk communities of Orleans and Somes Bar. These areas face significant barriers to decarbonization and clean energy deployment and suffer from very low electricity reliability. These areas are all served by the Pacific Gas and Electric (“PG&E”) Hoopa 1101 distribution circuit (the “Circuit” or “1101 Circuit”). The Blue Lake Rancheria Tribe is not served by the Circuit, but rather has an existing microgrid and seeks additions to its microgrid capabilities and better support of regional resilience through emergency response functions. The Blue Lake Rancheria Tribe is also willing to share their expertise with the other Tribal Parties in support of the 1101 Circuit upgrades.
- C. It is the desire of all the Tribal Parties to cooperate in the acquisition of grant or other funding for the development and deployment of microgrids and/or other clean energy systems that significantly improve the 1101 Circuit performance, for development and deployment of Blue Lake Rancheria Tribe microgrid enhancements that will test and prove the necessary technology in advance of deployment on the Circuit, and for development and launch of a workforce development program and associated other community benefits and capacity building activities, described in Attachment A (the “Project”). Additional expected benefits and goals of Project implementation are:
- Provide workforce development to ensure skilled community members are prepared to build and operate the Project,
 - Increase energy access for each Tribal Party,
 - Provide economic benefits and reduce energy burdens for Tribal communities,
 - Improve electricity reliability for each Tribal Party,
 - Advance self-sufficiency of electric services for each Tribal Party, and
 - Support the sovereignty of the Tribal Parties.
- D. Multiple sources of private and public funds will be required to achieve full Project completion. In response to Funding Availability Notice (“FOA”) DE-FOA-0003195 under the Grid Resilience and Innovation Partnerships Program (“GRIP”) issued by the United States Department of Energy GRIP Deployment Office (“GDO”) and Office of Clean Energy Demonstrations (“OCED”) (“GRIP 2 Program Funding”), RCEA submitted a Concept Paper on behalf of the Parties for GRIP Topic Area 3, Grid Innovation Program, seeking at least \$70 million in federal grant funds in support of the Project. A complete application for GRIP 2 Program Funding, Topic Area 3, Grid Innovation Program must be submitted by April 17, 2024 (“GRIP 2 Application”). The GRIP 2 Program Funding will require a 50% cost share as described in the FOA (hereinafter “Match” which the parties understand to be a 1:1 match of GRIP 2 Program Funding to non-GRIP 2 Program Funding dollars).
- E. The Parties intend this Agreement to set forth each of their respective roles and responsibilities concerning the preparation of the GRIP 2 Application, and to end upon either the successful receipt of GRIP 2 Program Funding, or rejection of the GRIP 2 Application. The Parties anticipate ongoing collaboration to expend the GRIP 2 Program Funding, if awarded, and to

acquire additional funds in order to achieve successful Project completion. Additional collaborative efforts will be memorialized in future agreements.

NOW THEREFORE, in consideration of the promises, representations, and agreements set forth above and made a material part herein, the Parties agree to the following:

I. THE PARTIES

The following describes the Parties to this Agreement:

Blue Lake Rancheria Tribe (“BLR Tribe”), [for example: a federally recognized Tribal Nation, member of the RCEA, electricity service provided to customers on Reservation by RCEA through PG&E transmission lines, existing microgrid.]

Hoopa Valley Tribe (“Hoopa Tribe”), a federally recognized Indian Tribe, who is partially served by RCEA through PG&E transmission lines, acting through the Hoopa Valley Public Utility District, a tribally owned and operated utility providing some electric and other utility services on the Reservation.

Karuk Tribe, a federally recognized Indian Tribe, who is partially served through RCEA through PG&E transmission lines, whose ancestral territory includes Orleans and Somes Bar in Humboldt County.

Yurok Tribe, a federally recognized Indian Tribe, who is partially served by RCEA through PG&E transmission and distribution lines. The Yurok Reservation extends from the mouth of the Klamath River to the village of Weitchpec, spanning one mile on either side of the River. The Yurok Tribe’s Ancestral Lands include parts of Humboldt County.

RCEA, a joint powers authority organized and existing under the laws of California, and formed in 2003 to promote energy efficiency, conservation and increased local self-reliance. RCEA additionally acts as the regional electricity generation service provider through a community choice aggregation (“CCA”) program, procuring energy to serve customer electric loads and providing power services using PG&E distribution facilities to over 64,000 customers throughout the jurisdiction of its member agencies, which consists of the entirety of Humboldt County and all or portions of the Reservations and ancestral lands of the Tribal Parties. RCEA is the owner and operator of the Redwood Coast Airport Microgrid, a utility-scale microgrid in the region.

Schatz is a research center located on the California Polytechnic University Humboldt campus, operating under the fiscal sponsorship of the Cal Poly Humboldt Sponsored Programs Foundation, a California non-profit corporation. Schatz is focused on addressing climate change and improving human and ecosystem health through work that supports clean energy, climate-resilience, equity, and justice. Schatz was the technical lead on design and installation the existing microgrid projects deployed by Blue Lake Rancheria and RCEA, described above.

II. AGREEMENT STRUCTURE

A. Overview. This Agreement outlines the Parties’ responsibilities and memorializes their agreement on the activities that are to be executed as part of the acquisition for GRIP 2 Program Funding. This Agreement contemplates the future execution of additional agreements as follows:

- Subrecipient agreements between RCEA and each of the Tribal Parties and Schatz allowing RCEA to convey GRIP 2 Program Funding to each such Party;
- One or more Participation Agreements, as defined herein, between RCEA and one or more of the Tribal Parties regarding GRIP 2 Program Funding Match requirements and GRIP 2 Program Funding budgetary allocations for shared Project components;
- One or more separate agreements between individual Parties and third parties as necessary for Project design, construction, ownership, operation, maintenance, upgrade, and other activities;
- One or more agreements between the Parties regarding collaboration on other funding opportunities for Project completion.

III. COMMITMENTS OF THE PARTIES

Each Party commits to undertake in good faith each of the following activities related to the Project:

- A. To Collectively Develop GRIP 2 Program Grant Application for the Project.** To express unified support for and to collectively develop the “GRIP 2 Application” for the Project. The Project shall include various clean energy systems to be proposed in the GRIP 2 Application or other grant proposals. The elements of the Project may contain solar systems, battery systems, hydroelectric systems, other clean energy generation systems, microgrid controllers, software, meters, interconnection equipment, engineering design work, technology research and development, workforce development efforts, community capacity building, testing and training centers, and other elements which support each of the Tribal Parties’ goals.
- B. To Commit to Subsequent Agreements.** In the event the GRIP 2 Application is granted, to commit resources to attempt to develop mutually agreeable documents and agreements regarding the implementation of the GRIP 2 Grant Agreement and the development, ownership, operation and maintenance of the funded Project for long term success.
- C. To Commit to Pursuing Match Funds.** To commit resources to identify and solicit other funding sources to fulfill the Match requirements of the GRIP 2 Program.
- D. To Clarify the Role of RCEA.** RCEA shall act as the administrative lead for the GRIP 2 Funding. The Tribal Parties and Schatz agree to work cooperatively with RCEA in the

preparation and submission of the GRIP 2 Application, and in the event the GRIP 2 Application is awarded, to proceed as set forth herein. Nothing in this Agreement shall be construed to require RCEA to act in violation of law applicable to RCEA.

- E. To Clarify the Role of Schatz.** Schatz Energy Research Center at Cal Poly Humboldt has agreed to support the GRIP 2 Application development within the limits of the Schatz capacity constraints, including identification of funding opportunities, playing a project management role for GRIP 2 Application development, and providing technical leadership and other strategic assistance to support the proposal. Cal Poly Humboldt Sponsored Programs Foundation on behalf of the Schatz Energy Research Center will be a subrecipient for GRIP 2 Program Funding in the event the GRIP 2 Application is successful.
- F. To Clarify the Role of the Blue Lake Rancheria Tribe.** The Blue Lake Rancheria Tribe is not on the 1101 Circuit, and therefore not a beneficiary of the networked community microgrids portion of the Project. However, through upgrades to BLR Tribe’s existing microgrid, BLR Tribe will use its experience and technical expertise to investigate the feasibility of implementing technical innovations in the 1101 Circuit upgrades and microgrid deployment; and to train the Tribal Parties in the operation of microgrids.
- G. To Clarify the Role of the Remaining Tribal Parties.** The remaining Tribal Parties will each be a subrecipient of GRIP 2 Program Funding in the event the GRIP 2 Application is successful. The Tribal Parties will, through additional agreements committed to herein, work with the other Parties to implement the GRIP 2 Program Funding.

IV. GRIP 2 APPLICATION PREPARATION.

The following provisions shall apply beginning on the Effective Date of this Agreement and shall end upon the sooner of receipt of notification from the GDO rejecting the GRIP 2 Application, or, if the GRIP 2 Application is awarded, upon the complete execution of all GRIP 2 Program Funding subrecipient agreements and Participation Agreements:

- A.** The Parties will be in regular communication and cooperate to develop plans, partnerships, and proposals consistent with the shared vision and goals. These activities will include the following areas among others as needed:
1. Technology and infrastructure designs and preliminary plans consistent with Project goals
 2. Interconnection planning with appropriate utility partners
 3. Workforce development activities
 4. Development of project labor plans and agreements with appropriate labor organizations
 5. Development or engagement with Inter-Tribal and other regional organizations and networks necessary to support the goals of the Project

B. RCEA shall be the lead applicant and primary recipient for the GRIP 2 Program Funding and shall be responsible for complying with all requirements of the lead applicant and primary GRIP 2 Program Funding recipient as provided in the terms and conditions of the grant award and agreement, the GRIP 2 Funding Opportunity Announcement (“FOA”), the OMB Uniform Guidance, other applicable laws, and this Agreement, where terms do not conflict with requirements of GRIP 2 Funding requirements. RCEA shall assume the following responsibilities:

1. Upon receiving express written consent from the Tribal Parties, submit the GRIP 2 Application, which has been reviewed and approved by the Tribal Parties promptly and in accordance with applicable laws and regulations;
2. Promptly include or relay all communications with the GDO to the other Parties;
1. Work diligently with all the Parties to amend, augment, or clarify the GRIP 2 Application as may be requested by GDO;
2. Draft the GRIP 2 Application such that RCEA shall be a pass-through entity as defined in 2 C.F.R. § 200.1 for those portions of the GRIP 2 Application for which the Tribal Parties and Schatz shall be subrecipients.
3. Draft the GRIP 2 Application such that it shall name each of the other Parties as a subrecipient, and shall propose to allocate subaward funds to each in proportion to the cost of design, engineering, construction, and other portions of the Project which are associated with each subaward.

C. All Parties.

1. The Parties shall develop a time schedule for completion of the GRIP 2 Application. The time schedule may include regular meetings and/or dates for completion of specific tasks. Each Party agrees to cooperatively work with the others in a prompt and timely fashion to prepare and submit the GRIP 2 Application on the agreed upon time schedule. Cooperation shall include identifying representatives, assuring attendance at Proposal meetings, reviewing and commenting on documents, and considering final documents for submission. Parties shall assign sufficient staff to move draft documents through necessary internal approval processes.
2. The Parties shall cooperatively work together to identify sources of funds to fulfill the Match requirement of the FOA. Each Tribal Party’s source(s) of funds commitment shall be equal to one-half (1/2) of the amount of their respective proposed subaward and associated shared Project level costs adequate to fulfill the Match requirements as provided in the FOA and other applicable law. The source(s) of Match funding for each Party shall be included in one or more subsequent agreements with RCEA, to be executed prior to RCEA’s execution of the GRIP 2 Grant Agreement. Incorporating each Party’s source of GRIP 2 Program Funding Match into an executed Participation Agreement, or other agreement, is an express condition precedent to RCEA’s obligation to execute the GRIP 2 Grant Agreement.

3. Each of the Parties shall communicate with appropriate external partners related to their areas of expertise. These partnership discussions could include technical planning, fundraising, capacity development, and other shared project priorities and activities. In these communications the Parties shall make good faith efforts to describe the goals and objectives of the project team, to include other Parties from the project team when appropriate, and not claim to represent another Party with respect to any legal, political, or other decision-making authority.
4. The Parties shall cooperatively work together to prepare plans and take actions consistent with successfully launching the Project, within the capacity of each Party. These plans and actions could include workforce development activities, outreach to policymakers, development of regional coalition(s), and other activities as determined by the Parties.

V. GRIP 2 FUNDING AWARD

The following commitments shall apply upon notification of selection to award GRIP 2 Funding by GDO.

- A. RCEA, as prospective awardee, shall assume the following responsibilities:
 1. Promptly and diligently coordinate with the Parties to prepare for and attempt to successfully complete award negotiations with the U.S. Department of Energy with a goal of best meeting the Shared Vision of the Parties.
 2. Promptly and diligently make all necessary arrangements to disburse subawards to the subrecipients in accordance with the terms and conditions of the award, FOA, the Participation Agreements (as outlined in Section C below), and other applicable laws and regulations.
 3. In the event that the subaward of GRIP 2 Program Funds requires a determination of relative Project benefits, uses and/or entitlement to funds in a manner not specified in the GRIP 2 Application, RCEA shall make a reasonable decision regarding each subaward based on the Project costs in proportion to the cost of design, engineering, and construction of those portions of the Project which shall benefit each Tribal Party under the award, GDO award obligations and Tribal Parties' input. To the extent feasible and allowable under law, RCEA shall seek the consent of any Tribal Party whose subaward is affected by a discretionary decision by RCEA. RCEA's reasonable decision as to subawards shall be final. RCEA, as a pass-through entity, shall not seek to impose any additional subaward conditions or requirements, including but not limited to those found at 2 C.F.R. § 200.208, upon the Tribal Parties as subrecipients beyond those required by the terms and conditions of the grant award, the FOA, the OMB Uniform Guidance, and other applicable law. Unless required by GDO, RCEA shall not use monitoring tools to monitor the subrecipient activities of a Tribal Party subrecipient, including but not limited to those found at 2 C.F.R. § 200.332(e), except by express written consent of such Tribal Party subrecipient.

4. Carry out all other responsibilities of the primary awardee provided in the grant award terms and conditions, FOA, this Agreement, or other applicable laws or regulations not here listed.
- B. The Parties shall meet at the earliest possible time but no more than thirty (30) days following the award decision, and thereafter on a biweekly basis through the end of this Memorandum of Agreement, or on such other schedule as mutually agreed upon by the Parties, to discuss the following:
1. RCEA’s extended role in grant administration, including the Tribal Parties’ intention that RCEA be reasonably compensated for administrative time expended in fulfillment of its responsibilities with respect to the GRIP 2 Proposal in accordance with and subject to the conditions of the final approved grant budget.
 2. Ownership, control, design, engineering, construction, operations, and maintenance of those portions of the Project which are not within the exterior boundaries of a reservation of any of the Tribal Parties or portions of the Project which are mutually agreed to be shared by the Tribal Parties;
 3. Coordination with entities not party to this Agreement necessary to the achievement of the goals of the Project, which may include but are not limited to, Pacific Gas & Electric, the California Public Utilities Commission, the California Energy Commission, the United States Forest Service, United States Army Corps of Engineers, the United States Department of Interior Bureau of Indian Affairs, the Bureau of Land Management, the National Parks Service, California Department of Fish and Wildlife, Humboldt County, Del Norte County and any other necessary third parties;
 4. Strategies for additional funding necessary or desirable to facilitate the realization of the Project.
 5. Acquisition and administration of Match funds.
- C. The Tribal Parties, either separately or collectively, shall negotiate in good faith with RCEA and each other to enter into one or more participation agreements (“Participation Agreements”). The scope of Participation Agreements is intended to address those portions of the Project not covered in a subaward agreement. Any such Participation Agreements shall be executed prior to execution of any subaward agreements. At the invitation of the Tribal Parties or RCEA, Schatz may participate in these negotiations. Each subawardee shall be responsible for procuring and administering, in accordance with the requirements of the grant award, the FOA, the OMB Uniform Guidance, and other applicable law, funds sufficient to meet Match requirements of their respective subawards. In some cases, this may result in a greater than one-to-one match for the purposes of fulfilling the Match requirement provided in the grant award and FOA.
- D. The Parties shall collectively be responsible for procuring and administering, in accordance with the requirements of the grant award, the FOA, the OMB Uniform Guidance, and other applicable law, funds in an amount that are greater than or equal to a one to one Match of the Project expenditures such as RCEA’s administrative costs and other shared costs that

fall outside the subawards provided in the grant award and FOA. The Parties agree to negotiate and collaborate in good faith to identify an equitable allocation of these Match responsibilities.

- E. The Parties agree to develop a strategy to take advantage of any Elective Pay benefits under the Inflation Reduction Act of 2023 or similar laws, other funding opportunities, and other avenues to support the goals of the Project.
- F. The Parties agree to negotiate in good faith a revision, update, or replacement to this MOA which will guide the Project collaboration after the GRIP 2 award and subawards are executed.

VI. COMMUNICATION

A. Regular Meetings. The Parties agree to meet regularly, no less than once per month, following the execution of this Agreement until the termination of the Agreement, or at an earlier time at the mutual agreement of the Parties.

B. Non-Party Communication Regarding the Project. Each Party shall make a reasonable effort to notify all other Parties when communicating with a non-party regarding the Project. Each Party shall inform the other Parties regarding substantive communications with non-parties within a reasonable amount of time after any such communication, but in no case later than the next regular meeting of the Parties. Each Party agrees to represent the other Parties in communications with non-parties regarding the Project only to the extent authorized by this Agreement.

C. Points of Contact. The following persons shall serve as the Points of Contact (POC) for each Party:

- 1. Blue Lake Rancheria Tribe:

Heidi Moore-Guynup
Director, Tribal and Government Affairs

[REDACTED]
[REDACTED]

- 2. Hoopa Valley Tribe:

Linnea Jackson
General Manager, Hoopa Valley Public Utilities District

[REDACTED]
[REDACTED]

- 3. Karuk Tribe:

Jack Lantz
Director of Public Works

[REDACTED]
[REDACTED]

4. Yurok Tribe:

Michael Gerace
Director, Planning and Community Development

[REDACTED]
[REDACTED]

5. Redwood Coast Energy Authority:

Eileen Verbeck
Deputy Executive Director

[REDACTED]
[REDACTED]

6. Schatz Energy Research Center at Cal Poly Humboldt

Peter Alstone
Faculty Scientist

[REDACTED]
[REDACTED]

VII. CONFIDENTIALITY

A. Confidential Information. From time to time, the Parties may have need to exchange confidential and/or proprietary information in furtherance of the purposes of this Agreement (“Confidential Information”). Such information may include, but is not limited to, matters regarding certain business initiatives, government initiations, operations, financial projections, marketing analyses, financial strategies and resources, reports and data, government/business plans, workforce development plans, draft grant proposals, draft project budgets, conceptual designs, engineering plans, and construction plans. The Parties agree to the following with respect to such confidential information.

B. Use of Confidential Information. The Parties shall keep all Confidential Information confidential and shall not disclose any Confidential Information to any other person without the prior written consent of the disclosing Party. If Confidential Information is required to be disclosed by act of law or judicial or other governmental action, the duty to maintain confidentiality of such information shall remain to the extent the disclosure is not subject to the law or specific disclosure demand.

C. Requests for Disclosure Pursuant to the California Public Records Act

1. Each Party acknowledges that RCEA is a public agency subject to the requirements of the California Constitution, Article 1, Section 3 and the California Public Records Act (Government Code §§ 7920.00)
2. Each Party acknowledges that it may submit to or otherwise provide RCEA with access to materials that a Party considers Confidential Information, which may or may not be exempt from public disclosure under applicable California law.
3. Where any third party (the “Requestor”) not otherwise authorized to access Confidential Information under this Agreement makes a demand or request to RCEA for access to Confidential Information (the “Request”), RCEA will promptly notify the Parties of the Request before responding to the Requestor and indicate its preliminary analysis of whether the records requested are subject to or exempt from disclosure under the PRA. If the information demanded or requested affects more than one Party, then the affected Parties shall cooperate in their response, including engaging joint counsel if deemed advisable, and share such costs. In the event any Party disagrees with RCEA’s preliminary analysis, such Party shall be solely responsible for taking whatever legal steps such Party deems necessary to prevent release of information to the Requestor (including the release of such information by RCEA). Such Party is responsible for all costs associated with pursuit of any legal steps, including the pursuit of any legal remedies, subject to any sharing of costs in the case more than one Party is affected (e.g. retaining joint counsel).
4. Each Party understands and acknowledges that the California Public Records Act compels RCEA to respond to Requests within ten (10) calendar days of receipt of a Request (the “RCEA Deadline”). Where RCEA has met its obligation to timely notify the Parties as set forth in section 7.1.2 and a Party fails to notify RCEA that it will seek a protective order or other legal remedy to bar the disclosure of information that the Party considers Confidential Information prior to RCEA Deadline, RCEA may, without liability hereunder, disclose the Confidential Information that is necessary to be disclosed in response to the Request.

D. Exceptions. Notwithstanding the foregoing, “Confidential Information” shall exclude (and a receiving Party shall not be under any obligation to maintain in confidence) any information (or any portion thereof) disclosed by any Party to the extent that such information:

1. Is in the public domain at the time of disclosure by the disclosing Party; or
2. At the time of or following disclosure, becomes generally known or available through no act or omission on the part of any receiving Party; or
3. Is known, or becomes known, to the receiving Party from a third-party source that is not under an obligation to the disclosing Party to maintain confidentiality; or
4. Is independently developed by a Party without violating any of its obligations under this Agreement or any other agreement between the Parties; or

5. Is permitted to be disclosed by a formal written agreement executed by and between the receiving Party(ies) and the disclosing Party; or
6. Was in the possession of the receiving Party prior to disclosure by the disclosing Party; or
7. Is required to be disclosed by law or regulation; provided that, to the extent practicable and legally permissible; the disclosing Party is given prompt notice of such required disclosure so that the disclosing may seek an injunction or other protective order.

E. Labeling Confidential Information. The Parties shall identify any Confidential Information provided in tangible or electronic form pursuant to this Agreement as “confidential”. If the disclosure is oral, the Confidential Information shall be identified as confidential at the time of disclosure. Notwithstanding the foregoing, the Parties shall treat all disclosures so identified as Confidential Information, whether the confidential status is indicated orally or in writing or by a context in which the disclosing Party reasonably communicated, or which the Parties should reasonably have understood that the disclosure should be treated as confidential, and whether or not the specific word “confidential” is used.

F. Disclosures. In the event of an unauthorized disclosure or loss of Confidential Information, the disclosing Party shall notify the other Party immediately when such disclosure or loss comes to its attention. Breach of this Agreement by a Party shall immediately entitle the other Party to commence an action to enjoin any threatened or impending disclosure or use of Confidential Information by the breaching Party or anyone acting through the breaching Party.

G. Returning and Deleting Confidential Information. In the event that a Party leaves this Agreement or the Agreement is terminated pursuant to the terms of this Agreement, all Parties shall promptly return all Confidential Information received and return or destroy any copies or summaries thereof or reports based thereon to the Parties which delivered the Confidential Information. The Parties’ obligations arising under this Agreement shall continue for a period of thirty-six (36) months following the termination of this Agreement.

H. Intellectual Property Rights. Nothing contained in this Agreement will be construed to grant or imply any right to any Party with respect to any intellectual property of any Party (whether or not copyrighted or patented), including any uses related thereto, and all Confidential Information is the sole property of the disclosing party. The analysis and work product hereunder is to be prepared for the exclusive use of the Parties and their designated agents. The Parties agree that all work prepared by them or their employees and agents in connection with the transactions that is subject to protection under copyright laws constitute “work for hire”, all copyrights to which belong to the Parties. Furthermore, such work products may not be reproduced or used for any other purpose without the express written consent of the Parties.

VIII. DISPUTE RESOLUTION

In the event of a dispute, the disputing Parties shall not take legal action without first carrying out the following escalation procedure:

Step 1. The Points of Contact for the disputing Parties shall meet informally and attempt to resolve the dispute.

Step 2. If the dispute is not resolved, the Points of Contact for the disputing Parties shall inform their respective authorizing bodies of the dispute, and the authorizing bodies shall arrange a meeting to attempt to resolve the dispute.

Step 3. If the dispute is not resolved, the disputing Parties shall enter non-binding mediation with a third party to resolve the dispute. Each Party shall cover their respective costs of mediation. The disputing Parties shall agree upon a third-party mediator.

IX. AMENDMENT

This Agreement may not be modified or amended except by express written agreement of all of the Parties. Requests to modify this Agreement shall be sent in writing by the requesting Party to the other Parties at least thirty (30) days prior to the proposed date of modification.

X. EFFECTIVE DATE, TERMINATION

A. Effective Date. This Memorandum of Agreement shall be effective upon the last date of execution by duly authorized representatives of all of the Parties. This Agreement shall be effective to any additional Tribal Party upon its execution by a duly authorized representative.

B. Termination by a Party. Prior to RCEA executing the GRIP 2 Program Funding agreement with the DOE, any Party may terminate its participation in this Agreement upon express written notice to the other Parties. Termination by one Party shall not cause the Termination of the Agreement or affect the rights or responsibilities of the other Parties with respect to each other.

C. Termination by All the Parties. The Parties may terminate this Agreement by express written agreement of all the Parties.

D. Termination based on Funding Decision. This Memorandum of Agreement shall terminate upon the earlier of:

1. Notification by the GDO of rejection or non-selection of the GRIP 2 Application;
2. In the event of the notification by the GDO of selection of GRIP 2 Funding, completion of the execution of 1) all subawards, 2) all participation agreements, and 3) the GRIP 2 Grant Agreement.

E. Continuing Obligations. The obligations of Confidentiality shall survive for a period of 1 year after Termination by any Party. RCEA's obligations under III.(D) shall survive until any award has been subawarded to the Tribal Parties of this Agreement have been executed.

XI. SOVEREIGN IMMUNITY

Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of the Blue Lake Rancheria Tribe, the Hoopa Valley Tribe, the Karuk Tribe, or the Yurok Tribe, or of the officers, employees, or agents thereof.

XII. TRANSFER, ASSIGNMENT, DELEGATION

No Party shall have the right to transfer, assign, or delegate any rights or responsibilities under this Agreement to another entity without the express written consent of all the Parties.

XIII. NO THIRD-PARTY RIGHTS

This Agreement creates enforceable obligations only between the Parties. Except as expressly provided herein, it is not intended nor shall it be construed to create any right of enforcement by or any duties or obligation in favor of persons or entities not a party to this Agreement.

XIV. NON-EXCLUSIVITY

Nothing in this Agreement shall be construed to constrain the Parties from or incur liability upon the Parties as a result of entering similar agreements or participating in similar activities or arrangements with each other, or with other public or private agencies, organizations, or entities.

XV. ORDER OF PRECEDENCE

To the extent any term of this Agreement is found to be in conflict with any provision of the grant award conditions, the FOA, the OMB Uniform Guidance, or other applicable law, such term of this Agreement shall be superseded by such provision and thereby have no legal effect upon the Parties.

XVI. SEVERABILITY

In case any one of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect in any jurisdiction, the validity, legality and enforceability of such provision or provisions shall not in any way be affected or impaired thereby in any other jurisdiction and the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be otherwise affected or impaired thereby.

XVII. COUNTERPARTS

This Agreement may be executed in one or more counterparts by the Parties, and, if executed in more than one counterpart, all such counterparts shall together constitute one and the same instrument.

XVIII. SIGNATURES

Draft – Networked Community Microgrids MOA
Privileged and Confidential

This Agreement will become effective on the Effective Date set forth above.

BLUE LAKE RANCHERIA TRIBE

HOOPA VALLEY TRIBE

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

KARUK TRIBE

YUOK TRIBE

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

CAL POLY HUMBOLDT SPONSORED
PROGRAMS FOUNDATION on behalf of
SCHATZ ENERGY RESEARCH CENTER

REDWOOD COAST ENERGY
AUTHORITY

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

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Memorandum

Date: 3/26/2024

To: Eileen Verbeck, Acting Director, Redwood Coast Energy Authority

From: David Carter PE, Principal Engineer, Schatz Energy Research Center

Subject: GRIP 2 Proposal – RCEA Board Meeting Agenda Packet Materials

This memo provides information to support the agenda item on the March 28 RCEA Board Agenda, which seeks approval for RCEA staff to submit a proposal to the US Department of Energy Grid Resilience Innovation and Partnerships Program (GRIP) to implement a project to modernizes the Hoopa 1101 electrical distribution circuit, which is one the least reliable circuits in PG&E's service territory. The partners on the grant include the Hoopa Valley, Yurok, Karuk, and Blue Lake Rancheria Tribes, the Schatz Energy Research Center, and Pacific Gas & Electric.

The remainder of this memo provides information to support the Board's decisions, including the following sections:

- 1) Description of RCEA Board Action Item,
- 2) Background Information,
- 3) Project Goals and Objectives,
- 4) Project Budget,
- 5) Project Schedule.

We will be present during the March 28th Board Meeting to answer any questions related to this agenda item. The remainder of this memo provides summary information about the project.

Description of RCEA Board Action Item

RCEA would be the lead applicant on the GRIP proposal to the US Department of Energy (DOE), and if awarded, as the prime Recipient, RCEA would enter award negotiations with the DOE. If those negotiations were successful, RCEA would enter into a cooperative agreement with the DOE. The Hoopa Valley, Yurok, Karuk, and Blue Lake Rancheria Tribes and the Schatz Energy Research Center would be sub-recipients under RCEA. PG&E would be providing cost share through the Community Microgrid Enablement Program.

The RCEA Board Action Item is to grant approval for RCEA staff to submit the grant to the DOE, which is due on April 17, 2024.

Background

The Hoopa Substation feeds a single distribution circuit (Hoopa 1101) that is one of the least reliable circuits in PG&E's service territory. This circuit serves the Hoopa, Yurok, and Karuk Tribes and others who live along the Trinity and Klamath Rivers.

To solve this reliability problem, the Hoopa Valley, Yurok, Karuk, and Blue Lake Rancheria Tribes are working together with support from the Schatz Center, The Redwood Coast Energy Authority, and Pacific Gas & Electric to modernize the Hoopa 1101 circuit using microgrid technology that has been proven at the Blue Lake Rancheria microgrids and the Redwood Coast Airport Microgrid, and that is currently being deployed at the Cal Poly Humboldt Campus Microgrid.

The end goal is for the Hoopa Valley, Yurok, and Karuk Tribes to each own their Community Microgrid and operate them in a coordinated fashion to increase reliability and provide equitable revenue generation for each Tribe within the constraints of the circuit (it will only be able to transport a given amount of power at a given time). PG&E would retain ownership and O&M responsibility over the circuit itself and the Tribes would each own and operate the electricity generation resources that provide backup power on undamaged sections of the PG&E circuit when there is an outage. It is possible that RCEA will purchase the energy generated by these local projects.

The Blue Lake Rancheria has been owning and operating microgrids since 2017 and are supporting the effort to improve the reliability on the Hoopa 1101 circuit as a technical assistance and knowledge transfer partner. The goal here is that the Blue Lake Rancheria Microgrids will be updated to achieve their goals, which include becoming a testing and training facility that members of the Hoopa Valley, Yurok, and Karuk Tribes (among others) can use to learn how to own and operate microgrid generation resources and equipment.

To support this work, the Schatz Center is leading the preparation of a proposal that covers all four Tribal Community Microgrids that will be submitted to the **US Department of Energy under their Grid Resilience and Innovations Partnership Program (GRIP2), which is due on April 17, 2024. RCEA would be the lead applicant on this proposal, pending Board Approval.**

Last year these same four Tribal Community Microgrids were included in a State-wide proposal to the same DOE program that was led by the California Energy Commission, but that proposal was not funded. We are using work created during last year's effort to complete the revised proposal this year.

The Schatz Center is also preparing three proposals, one each for the Hoopa Valley, Yurok, and Karuk Tribes, under **PG&E's Microgrid Incentive Program (MIP). These proposals, which are coordinated with and compliment the GRIP2 proposal as match funds, are due April 30, 2024. RCEA is not a party to these MIP grant applications.**

Project Goals and Objectives

The goals of the project, as excerpted from the draft grant narrative, are: 1) To significantly improve the reliability of the Hoopa 1101 circuit using advanced distribution management systems and Tribally owned and operated Community Microgrids, 2) To further establish a robust inter-Tribal collaboration around Energy Justice and Sovereignty and workforce development, 3) To develop a replicable Tribally-centric business model and project development practices that can be shared broadly among Tribal nations and other Disadvantaged Communities, and 3) To safely (in a trauma-informed manner) onboard Tribal members into apprenticeship programs that have pathways to journeyman-level jobs where applicable, and/or technical certifications documenting competency in microgrid operations and maintenance work.

Per the draft grant narrative, the objectives of project with respect to the modernized Hoopa 1101 circuit are: 1) Operate automatically to coordinate equitable energy delivery to markets for the three Tribes within the constraints of the 200 amp circuit operating at 12,000 volts such that each Tribe can deliver up

to 13,200 MWh to the grid each year, 2) Reduce the Average Interruption Frequency Index, which is defined as the number of customer interruptions divided by the number of customers on the circuit (2086), from the 2022 value of 4.17 to less than 2.00 by 2030, and 3) Reduce the Average Interruption Duration Index, which is found by dividing the sum of all customer interruption minutes with the year by the number of customers, from the 2022 value of 1645 to less than 160 by 2030. This would reduce the average time without power for each of the 2086 customers from over 27 hours per year to less than 3 hours per year.

Per the draft grant narrative, the project objectives for the upgraded Blue Lake Rancheria Community Microgrid are: 1) Reduce the number of backup diesel startups (excluding exercising) from 10 per year to 1 per year by 2027, 2) Increase the electrical energy dispensed to vehicles from 5 MWh in 2023 to 50 MWh by 2030, and 3) Decrease the amount of electrical energy imported from the PG&E grid from 2000 MWh to 200 MWh per year.

Project Budget

The Tables 1 and 2 below show the draft budgets, that are still in the process of being finalized for the April 17th submission to the DOE.

Table 1: Overall Balance of Costs and Funding as of March 22, 2024- Work in Progress

Primary Entity	Estimated Costs	Estimated Funding	Balance
Blue Lake Rancheria	\$ (15,517,877)	\$ 16,263,644	\$ 745,767
Hoopla Valley Tribe	\$ (56,451,616)	\$ 56,868,062	\$ 416,446
Karuk Tribe	\$ (59,126,601)	\$ 59,127,194	\$ 593
PG&E	\$ (9,000,000)	\$ 9,000,000	\$ -
RCEA	\$ (6,000,000)	\$ 6,000,000	\$ -
Schatz Center	\$ (13,000,000)	\$ 13,000,000	\$ -
Yurok Tribe	\$ (39,252,143)	\$ 39,341,837	\$ 89,694
Grand Total	\$ (198,348,237)	\$ 199,600,736	\$ 1,252,500

Table 2: Summary of Funding Sources as of March 22, 2024- Work in Progress

Funding Source	Blue Lake Rancheria	Hoopla Valley Tribe	Karuk Tribe	PG&E	RCEA	Schatz Center	Yurok Tribe	Grand Total
BIA Grant							\$ 3,242,000	\$ 3,242,000
Cash from Internal	\$ 3,500,000							\$ 3,500,000
CEC Grant						\$ 3,000,000		\$ 3,000,000
GRIP2 Grant	\$ 6,112,500	\$ 24,525,000	\$ 22,000,000		\$ 6,000,000	\$ 5,000,000	\$ 17,242,000	\$ 80,879,500
In-Kind		\$ 3,525,000				\$ 5,000,000		\$ 8,525,000
Other Grant	\$ 825,000	\$ -					\$ -	\$ 825,000
PG&E MIP-CMEP Grant		\$ 15,000,000	\$ 15,000,000	\$ 9,000,000			\$ 15,000,000	\$ 54,000,000
Philanthropy Grant	\$ 2,200,000							\$ 2,200,000
State Grant			\$ 10,940,970					\$ 10,940,970
Tax Credits	\$ 3,626,144	\$ 13,818,062	\$ 11,186,224				\$ 3,857,837	\$ 32,488,266
Grand Total	\$ 16,263,644	\$ 56,868,062	\$ 59,127,194	\$ 9,000,000	\$ 6,000,000	\$ 13,000,000	\$ 39,341,837	\$ 199,600,736

Project Schedule

The draft project schedule is shown in Table 3 below. The project is organized into four phases/budget periods. Each phase has a set of milestones that must be met for the project to proceed to the next phase.

Table 3: Draft Project Schedule by Task and Phase with Milestones

Year ->	2025				2026				2027				2028				2029				2030			
Quarter ->	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Budget Period ->	1				2				3				4											
Phase ->	1) Design, Permitting, and Siting				2) Procurement and Acquisition				3) Construction and Deployment				4) Testing and Commissioning											
Task 1	Project Management and Planning																							
1.1	Project Management Plan																							
1.2	Community Benefits Plan																							
1.3	National Environmental Policy Act Compliance																							
1.4	Cybersecurity plan																							
1.5	Continuing Briefings																							
Task 2	Major Contracting																							
2.1	Subrecipients																							
2.2	EPC Contracts																							
2.3	Cybersecurity																							
2.4	Vendors																							
Task 3	Engineering Design																							
3.1	EPC Packages																							
3.2	BOS Packages																							
3.3	BLR CMG																							
3.4	Hoopa 1101 Circuit Automation																							
Task 4					Interconnection and HIL Testing																			
4.1					Hoopa CMG																			
4.2					Yurok CMG																			
4.3					Karuk CMG																			
4.4					BLR CMG																			
Task 5					Environmental Approvals																			
5.1					Hoopa CMG																			
5.2					Yurok CMG																			
5.3					Karuk CMG																			
5.4					BLR CMG																			
Task 6									Major Procurement															
6.1									Hoopa CMG															
6.2									Yurok CMG															
6.3									Karuk CMG															
6.4									BLR CMG															
Task 7													Construction and Deployment											
7.1													Hoopa CMG											
7.2													Yurok CMG											
7.3													Karuk CMG											
7.4									BLR CMG															
Task 8													Documentation and Training											
8.1													Hoopa CMG											
8.2													Yurok CMG											
8.3													Karuk CMG											
8.4									BLR CMG															
Task 9																	Commissioning							
9.1																	Hoopa CMG							
9.2																	Yurok CMG							
9.3																	Karuk CMG							
9.4													BLR CMG											
Task 10																	Measurement and Verification							
10.1																	Hoopa CMG							
10.2																	Yurok CMG							
10.3																	Karuk CMG							
10.4													BLR CMG											
G/NG Milestones ->	Design Plans and Specifications Major Contracts Signed Interconnection Applications Submitted				Major Components Procured Interconnection Agreements Signed Environmental Approvals in Hand				O&M Documentation Construction Complete Training Complete				Permission to Operate Permission to Island M&V Complete											

Tribal Energy Resilience and Sovereignty (TERAS)

Proposal to the US Department of Energy

Grid Resilience and Innovative Partnerships Program (DE-FOA-0003195)



THE YUROK TRIBE



Presentation to RCEA Board
Presented by David Carter PE, Schatz Energy
Research Center



Contents

- Project Description
- Hoopa 1101 Reliability Issues
- Microgrids and Resilience
- Hoopa 1101 Networked Microgrids
- Goals
- Objectives
- Draft Budgets
- Schedule and Workplan



Project Description

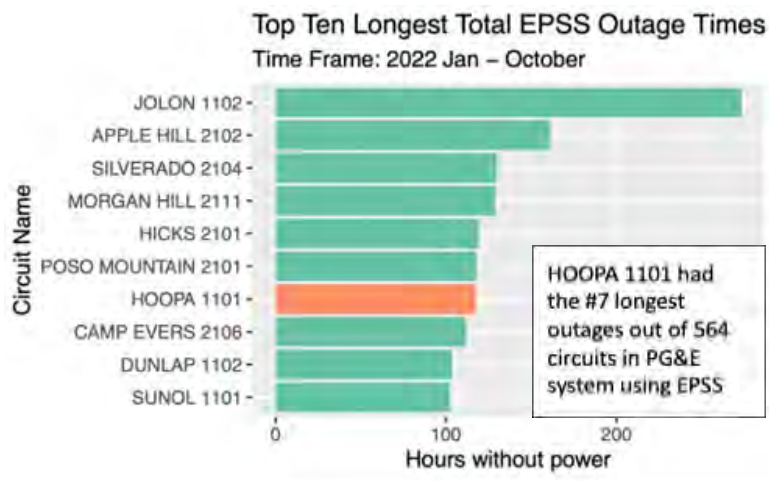
- **Project TERAS** will build on the success of local microgrids to solve intractable reliability problems on the Hoopa 1101 circuit, which serves the Hoopa Valley, Yurok, and Karuk Tribes and other community members, while strengthening inter-Tribal coordination, knowledge transfer and skills development around energy resilience and sovereignty
- **Partners:** RCEA (Lead Applicant), Hoopa Valley, Yurok, Karuk, and Blue Lake Rancheria Tribes, Schatz Energy Research Center (Subrecipients), and PG&E
- **Project Elements:**
 - Deploy three Tribally owned and operated community microgrids on the Hoopa 1101 circuit
 - Upgrade the Blue Lake Rancheria Microgrid
 - Develop replicable, open-source designs, business models, and collaboration frameworks
 - Implement a Community Benefits Plan that results in well-supported pathways to Good Jobs for Tribal members, underrepresented workers, and others

Concept Paper was encouraged by the DOE and full application is due April 17, 2024

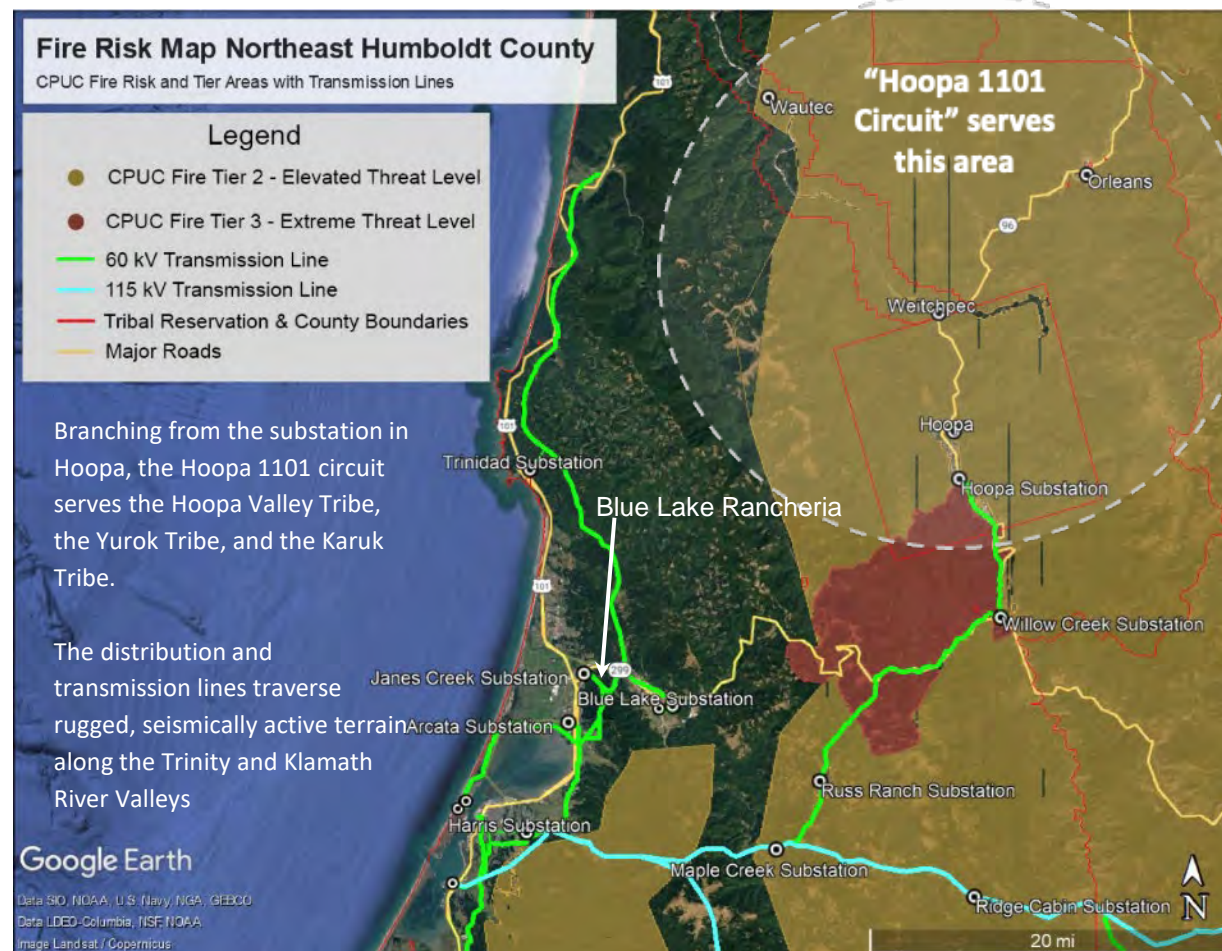
Hoopa 1101 Reliability Issues

On the Hoopa 1101 circuit, outages are frequent due to inclement weather, storms, landslides, fires, wildland fires, PSPS events, EPSS wildfire prevention settings#, and other causes.

The circuit **outage rate is many times the average** for PG&E territory*, and it is now among the least reliable circuits on the system overall.



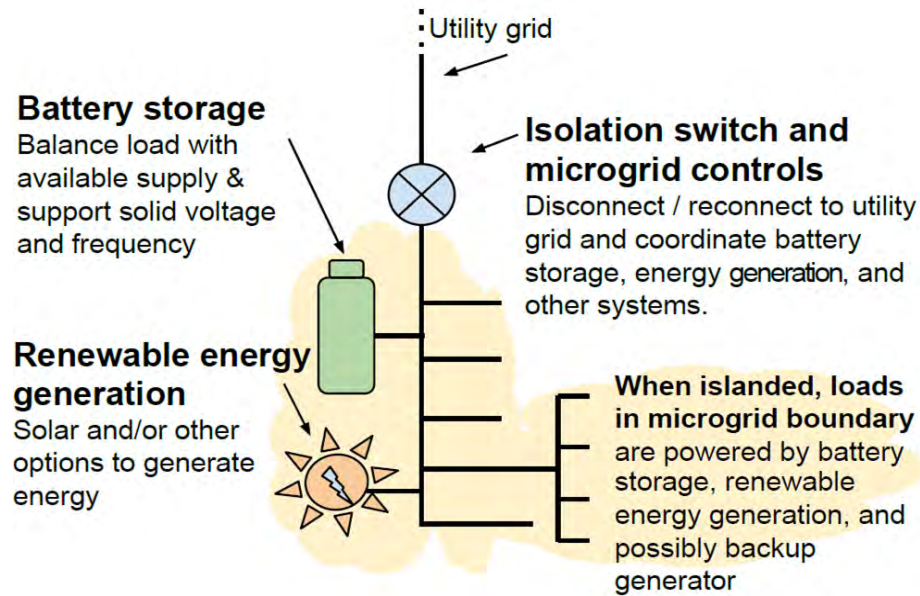
PSPS: “Public Safety Power Shutoff”; EPSS: “Enhanced Powerline Safety Settings”. Two types of utility power shutoff. PSPS is based on weather forecasts and EPSS based on sensitivity of lines to tree branch or other contact.



* Based on data from 2014 – 2018 showing 4x the average and more recent increased outages due to EPSS and PSPS events on top of the underlying deficiencies

Microgrids and Resilience

Microgrids integrate *energy generation, storage, isolation switches, and controls* to make a resilient system. Microgrids can run independently from the utility grid when needed, **keeping power on for local loads within the microgrid boundary.**



The scale of microgrids range from single facilities to campuses and communities. Proven local examples:

Blue Lake Rancheria:
Fueling station **facility-scale** microgrid
(in operation since 2020)



Blue Lake Rancheria:
Campus-scale microgrid, all behind one campus electric meter.
(in operation since 2017)



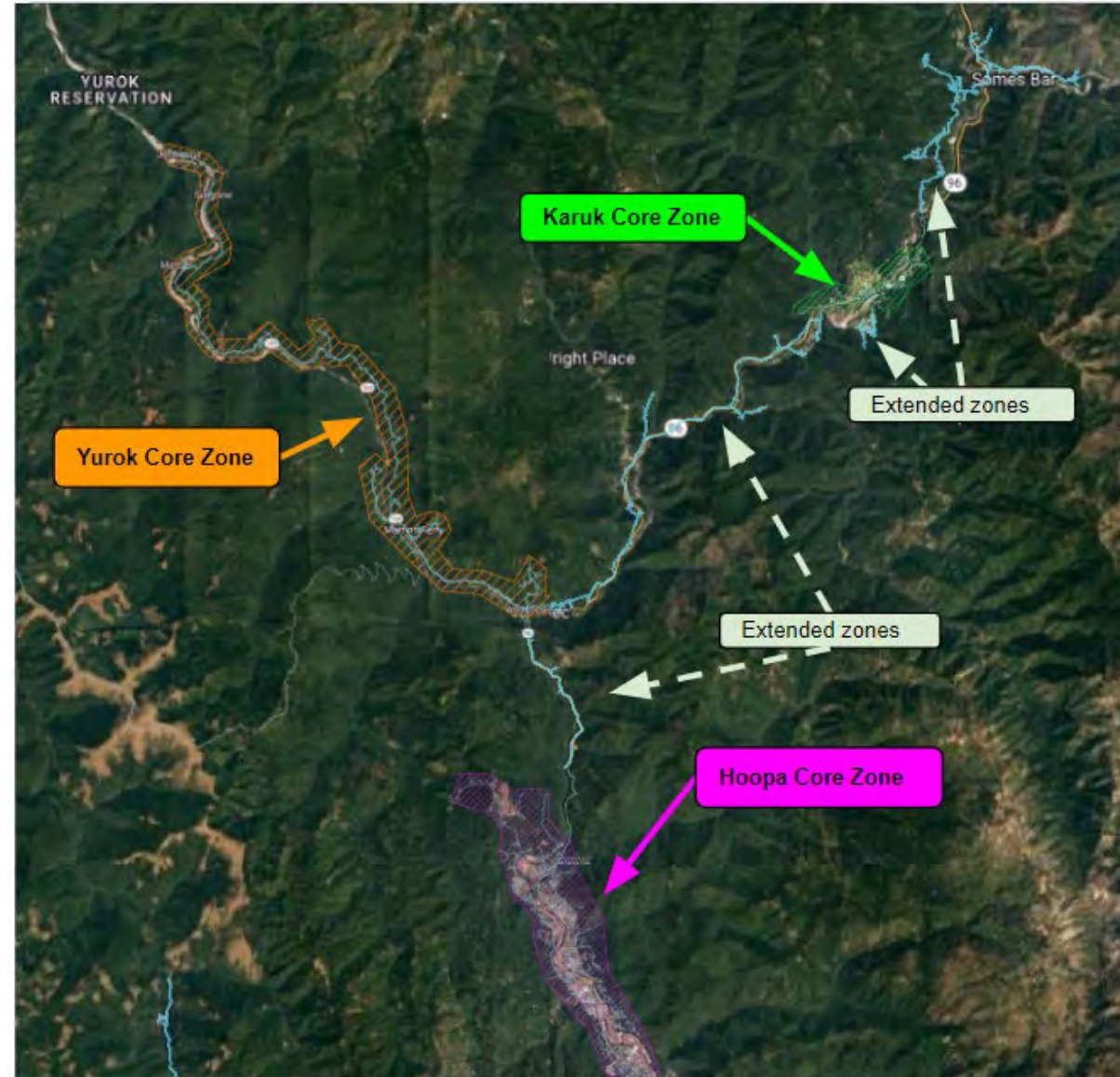
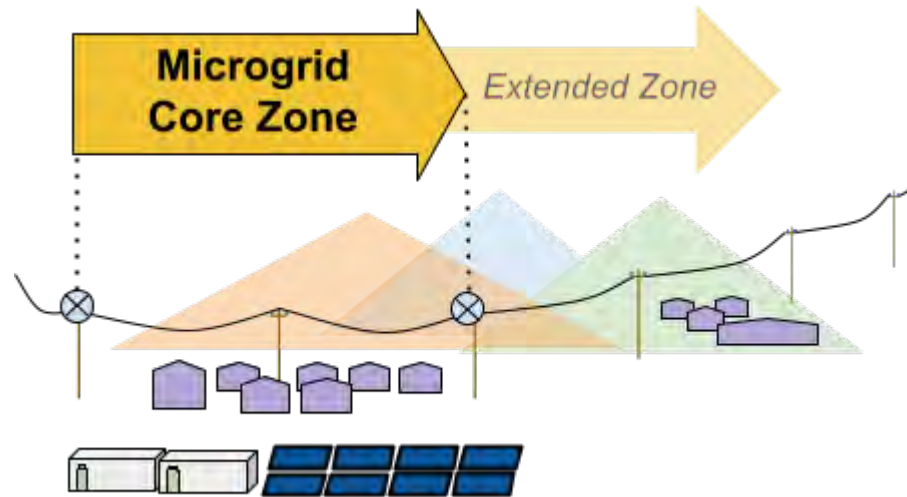
Redwood Coast Airport:
Community-scale microgrid serving 20 customers, connected thru PG&E distribution circuits.
(in operation since 2022)



Hoopa 1101 Networked Microgrids

Microgrid “core zones” are the areas with the highest level of **resilience**. These zones can be isolated and operate independently using batteries and generation within them.

Microgrid “extended zones” are all of the areas within the Hoopa 1101 Circuit outside the core zones. These extended service areas will have better reliability than they currently do because they can be powered by adjacent microgrids as long as there is not a fault (like a tree on a power line) within the extended zone, but not as reliable as the core zones.



Goals

1. To significantly improve the reliability of the Hoopa 1101 circuit using advanced grid management technology and Tribally owned and operated Community Microgrids
2. To further establish a robust inter-Tribal collaboration around Energy Justice and Sovereignty and workforce development
3. To develop a replicable Tribally-centric business model and project development practices that can be shared broadly among Tribal nations and other Disadvantaged Communities
4. To onboard Tribal members into apprenticeship programs that have pathways to journeyman-level jobs where applicable, and/or technical certifications documenting competency in microgrid operations and maintenance work

Objectives

1. Transform the Hoopa 1101 circuit from one of the least reliable circuits in PG&E service territory to one of the most advanced, reliable and decarbonized circuits of its type
2. Deploy automation to control the decarbonized Hoopa 1101 circuit to coordinate equitable energy delivery to markets for the Hoopa Valley, Yurok, and Karuk Tribes within the physical constraints of the circuit
3. Transform the Blue Lake Rancheria Microgrid to meet their 2030 energy goals, while also supporting of Objectives 1 and 2 through new testing and training features
4. Implement a comprehensive Community Benefits Plan that results in well-supported pathways for Tribal members and underrepresented workers to receive training and access to good jobs including union and non-union jobs in the trades, and microgrid operations and maintenance technical jobs

Draft Budgets

Summary of Estimated Costs and Funding

Primary Entity	Estimated Costs	Estimated Funding	Balance
Blue Lake Rancheria	\$ (15,517,877)	\$ 16,263,644	\$ 745,767
Hoopa Valley Tribe	\$ (56,451,616)	\$ 56,868,062	\$ 416,446
Karuk Tribe	\$ (59,126,601)	\$ 59,127,194	\$ 593
PG&E	\$ (9,000,000)	\$ 9,000,000	\$ -
RCEA	\$ (6,000,000)	\$ 6,000,000	\$ -
Schatz Center	\$ (13,000,000)	\$ 13,000,000	\$ -
Yurok Tribe	\$ (39,252,143)	\$ 39,341,837	\$ 89,694
Grand Total	\$ (198,348,237)	\$ 199,600,736	\$ 1,252,500

Draft Budgets

Summary of Funding Sources

Funding Source	Blue Lake Rancheria	Hoopla Valley Tribe	Karuk Tribe	PG&E	RCEA	Schatz Center	Yurok Tribe	Grand Total
BIA Grant							\$ 3,242,000	\$ 3,242,000
Cash from Internal	\$ 3,500,000							\$ 3,500,000
CEC Grant						\$ 3,000,000		\$ 3,000,000
GRIP2 Grant	\$ 6,112,500	\$ 24,525,000	\$ 22,000,000		\$ 6,000,000	\$ 5,000,000	\$ 17,242,000	\$ 80,879,500
In-Kind		\$ 3,525,000				\$ 5,000,000		\$ 8,525,000
Other Grant	\$ 825,000	\$ -					\$ -	\$ 825,000
PG&E MIP-CMEP Grant		\$ 15,000,000	\$ 15,000,000	\$ 9,000,000			\$ 15,000,000	\$ 54,000,000
Philanthropy Grant	\$ 2,200,000							\$ 2,200,000
State Grant			\$ 10,940,970					\$ 10,940,970
Tax Credits	\$ 3,626,144	\$ 13,818,062	\$ 11,186,224				\$ 3,857,837	\$ 32,488,266
Grand Total	\$ 16,263,644	\$ 56,868,062	\$ 59,127,194	\$ 9,000,000	\$ 6,000,000	\$ 13,000,000	\$ 39,341,837	\$ 199,600,736

Draft Schedule and Workplan

- If awarded, RCEA would negotiate a cooperative agreement with the DOE
- If negotiations are successful, then Phase 1 would be funded by the DOE
- End-of-phase milestones must be met for the project to proceed to the next phase

Year		2025				2026				2027				2028				2029				2030			
Calendar Quarter		Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Budget Period			1	1	1	1	1	1	2	2	2	2	2	2	3	3	3	3	3	3	4	4	4	4	4
Phase		1) Design, Permitting, and Siting				2) Procurement and Acquisition				3) Construction and Deployment				4) Testing and Commissioning											
Task	Task Description																								
1	Project Management and Planning																								
2	Major Contracting																								
3	Engineering Design																								
4	Interconnection and HIL Testing																								
5	Environmental Approvals																								
6	Major Procurement																								
7	Construction and Deployment																								
8	Document and Training																								
9	Commissioning																								
10	Measurement and Verification																								
G/NG Milestones ->		Design Plans and Specifications				Major Components Procured				O&M Documentation				Permission to Operate											
		Major Contracts Signed				Interconnection Agreements Signed				Construction Complete				Permission to Island											
		Interconnection Applications Submitted				Environmental Approvals in Hand				Training Complete				M&V Complete											

An aerial photograph of a large-scale solar farm. The solar panels are arranged in long, parallel rows that stretch across a grassy field. The panels are dark blue with a grid pattern. In the background, there are trees, a road, and some buildings. The sky is clear and blue.

Thank You



STAFF REPORT Agenda Item # 6.3

AGENDA DATE:	March 28, 2024
TO:	Board of Directors
PREPARED BY:	Matthew Marshall, Executive Director
SUBJECT:	Appoint Interim Executive Director and Provide Direction for Executive Director Recruitment

BACKGROUND

In February 2024, Executive Director Matthew Marshall announced his resignation effective March 31, 2024. The Executive Director is an important leadership role to RCEA, and with many on-going large-scale projects, Staff would like to support the Board as much as possible to minimize vacancy time.

In support of on-going operations, Staff believes it is beneficial that an Interim Executive Director be appointed during the recruitment process.

SUMMARY

Human Resources and Administrative Staff have identified the Executive Director position as one requiring extensive knowledge, strong leadership skills, and a dedication to public administration. Generally, recruitments for RCEA are handled “in-house” utilizing local job boards, business contacts, and industry mailing lists. Recruitment pools are usually robust but limited to the local population. In recognition of the unique aspects of the Executive Director role, HR and Administrative Staff are proposing to solicit quotes from qualified executive search firms to perform the Executive Director recruitment. The request for quotes will seek qualifications, pricing, and a timeline for completion of an executive search.

In addition to soliciting the assistance of a qualified recruitment firm, HR Staff is available to proceed with local “in-house” recruitment efforts, as directed by the Board.

Evaluation and Selection: Staff recommends the Board of Directors create an ad hoc subcommittee to approve a scope of work, review salary schedule of the Executive Director, review proposals and make a recommendation on an executive recruitment firm and salary schedule changes at the April Board of Directors meeting to execute a contract.

Staff is also recommending that the Board appoint Deputy Executive Director Eileen Verbeck to Interim Executive Director (compensated as stated in the February 22, 2024, Board meeting) effective April 1, 2024, and continuing until a new Executive Director begins employment.

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

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

EQUITY IMPACTS

As with all RCEA's solicitations, staff will encourage respondents to the executive search firm solicitation 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

Staff will come back to the Board for approval of a contract for executive recruitment and recommendations on salary schedule, and at that time will discuss the financial impact of the contract.

STAFF RECOMMENDATION

1. Approve Appointment of Deputy Executive Director Eileen Verbeck to Interim Executive Director, at Compensation Determined at the February 22, 2024, Board Meeting, Beginning April 1, 2024.
2. Authorize staff to solicit quotes from qualified executive search firms to perform the Executive Director recruitment.
3. Solicit Board of Director volunteers for an ad hoc Executive recruitment subcommittee.
4. Authorize the ad hoc Executive Director recruitment subcommittee to act as a review committee and authorize it to take the following actions: (i) approve scope of work, (ii) approve evaluation criteria, (iii) approve selected proposal based on the selection criteria to bring to the full Board for review and approval of resulting contract, (iv) review Executive Director salary schedule and make recommendations to the Board for any proposed changes.



STAFF REPORT
Agenda Item # 7.1

AGENDA DATE:	March 28, 2024
TO:	Board of Directors
PREPARED BY:	Richard Engel, Director of Power Resources
SUBJECT:	Biomass Emissions

BACKGROUND

RCEA has procured energy from HSC’s Scotia plant since launching our community choice energy (CCE) program in 2017. In the most recent power source reporting year (2022), RCEA procured 20.2% of its electricity for the CCE program’s base REpower portfolio from the Scotia plant. RCEA’s REpower+ 100% renewable “opt up” portfolio does not include biomass. Some environmental groups and community members have expressed objections to RCEA procuring power from HSC due to the greenhouse gases and criteria pollutants emitted.

At its February 2024 meeting, the RCEA Board asked staff to provide information on North Coast Unified Air Quality Management District’s (NCUAQMD) position on the regulatory compliance status of the Humboldt Sawmill Company (HSC) biomass plant in Scotia. The Board also asked to be informed of discussions on this topic by RCEA’s biomass technical advisory group (BTAG) and RCEA’s community advisory committee (CAC) that took place earlier this month.

RCEA has taken several actions in response to community concerns about emissions:

- A clause was included in RCEA’s power purchase agreement from the outset in 2017 allowing RCEA to terminate the agreement if HSC fails on a continuing basis to operate its plant in compliance with applicable laws (more on this below).
- In updating its strategic plan in 2019, RCEA added several bioenergy-related strategies, including:
 - establish BTAG (more details below)
 - investigate of the impacts of biomass emissions (more details below)
 - plan for a long-term transition away from direct combustion of forest-derived biomass and toward lower-impact uses of biomass (more details below)
- RCEA established the BTAG in 2023 with membership representing diverse stakeholders and convened meetings of the group to seek guidance on topics related to local biomass energy.
- Acting on the strategic plan goal to “investigate the impacts of biomass emissions,” RCEA staff with support from the North Coast Unified Air Quality Management District have begun to deploy ambient air quality sensors in the vicinity of the HSC plant and elsewhere. Data and findings from this project will be made public.

- Regarding “lower-impact uses of biomass,” RCEA engaged Humboldt State University’s (now Cal Poly Humboldt) senior capstone engineering class in 2020 to analyze alternative uses of local biomass; the class’s findings are now posted on RCEA’s website (<https://redwoodenergy.org/power-resources/>).
- RCEA entered into a memorandum of understanding (MOU) with HSC in 2021 under which HSC provides annual reporting to RCEA on its feedstock use and sources, power production, and emissions, as well as HSC’s efforts to investigate alternative uses for the residual material produced by its sawmill. The reports are made available to the BTAG and the CAC for review before being presented to the RCEA Board.
- Members of RCEA’s Board of Directors and Community Advisory Committee have toured the HSC sawmill and power plant to better understand how these facilities are operated and how emissions are controlled.
- RCEA adjusted its premium REpower+ portfolio beginning in 2021 to exclude biomass; this portfolio which is available for an added cost of \$0.01/kWh above RCEA’s base REpower portfolio (equivalent to about \$5 per month for an average residential account) now includes only carbon-free renewable resources. If enough RCEA customers opted up to REpower+, RCEA’s need for biomass power in its portfolio could be substantially reduced.

SUMMARY

BTAG Discussion Summary

BTAG convened a meeting on March 1, with the following members in attendance in person or online:

- Dennis Leonardi, RCEA CAC and BTAG meeting facilitator
- Dean Kerstetter, HSC
- Tom Wheeler, Environmental Protection Information Center
- Yana Valachovic, UC Cooperative Extension
- Roberto Beltran, US Forest Service/Klamath National Forest
- Daniel Chandler, 350 Humboldt
- Brian Wilson and Jason Davis, NCUAQMD
- Clarke Stevenson, The Watershed Center
- Kevin Fingerman, Cal Poly Humboldt
- Elishia Hayes, County of Humboldt Chief Administrative Officer (remotely, with Supervisor Rex Bohn listening in – Supervisor Bohn is not a BTAG member and Ms. Hayes later clarified that he was present only because the two of them were traveling together at the time the meeting took place)
- Matthew Marshall, Eileen Verbeck, Richard Engel, Jocelyn Gwynn, Faith Carlson, and Joseph Sloan, RCEA staff

The BTAG meeting provided a forum for participants including RCEA staff to better understand how the NCUAQMD enforces air quality regulations, what measures HSC is taking to control or reduce its emissions, and where the environmental groups perceive shortcomings in air quality enforcement. RCEA staff gave a background presentation and asked the group to discuss the following:

- Emissions and operating permit status claims about the HSC plant from Humboldt Coalition for Clean Energy and 350 Humboldt
- Given that HSC/AQMD are not reporting non-compliance to RCEA, how proactive should RCEA be to determine if HSC is in “compliance with all applicable Laws as determined by the Governmental Authority charged with implementation and/or enforcement of the specific Law at issue”?
- In the event of contract termination, would the HSC plant keep producing power at current output?
- If the HSC plant were to reduce or cease operation, what would become of the biomass residues?
- If no alternative use of biomass residuals is feasible (for technical, economic, or permitting reasons), could lack of residual disposal options impact the viability of the local forest products industry? (Due to time constraints, this question was not addressed in the meeting)

Key takeaways from the BTAG discussion included:

- Per NCUAQMD staff, HSC is currently operating under a valid Title V operating permit, though they may be penalized for submitting their most recent renewal application later than required¹
- NCUAQMD states that HSC is operating in compliance with air quality regulations.
- NCUAQMD is working to complete testing of the plant’s emissions that, depending on findings, could lead to an assessment of actual health impacts from the plant’s operation.
- HSC stated in the absence of a contract with RCEA, they would maintain operation and immediately begin selling power to PG&E.
- There is disagreement over whether HSC’s emissions are consistent with those of other comparable biomass plants in the state; there are some complexities to making such comparisons.
- There should be more discussion of how important RCEA’s local procurement goal is if cleaner non-local power is available.
- The BTAG asked to review the violation data from NCUAQMD and have NCUAQMD label the violations regarding severity.
- The BTAG did not come to an agreement on recommendations.

CAC Discussion Summary

At its March 12 meeting, the CAC heard presentations by:

- Wendy Ring, Humboldt Coalition for Clean Energy
- Richard Engel, RCEA, reporting on BTAG’s March 1 discussion on this issue
- Dean Kerstetter, Humboldt Sawmill Company
- Yana Valachovic, Forest Advisor, UC Cooperative Extension in Humboldt & Del Norte Counties
- Brian Wilson, North Coast Unified Air Quality Management District.

¹ NCUAQMD recently issued a press release clarifying a valid permit is in place, in response to claims to the contrary from environmental groups. EPIC followed up with a letter to NCUAQMD claiming that the Air District’s acceptance of a late permit application is not consistent with state and federal policies.

Dr. Ring provided information comparing the HSC plant's emissions unfavorably with those from other power plants. She described negative health impacts associated with emissions from biomass plants. She provided two pages of air quality notices of violation from 2019 to the present day. She stated that HSC has made an unacceptable number of air quality violations, only some of which have been cited by NCUAQMD. She noted that by ending its biomass contract RCEA could reinvest the savings in cleaner energy alternatives.

Mr. Engel provided some background information on RCEA's biomass procurement and reported on the BTAG discussion summarized above.

Mr. Kerstetter stated that the HSC plant is in regulatory compliance and has not hidden its compliance record. He characterized the notice of violation process as a means of communicating between HSC and the Air District to make corrections to plant operation and stay in compliance. He explained that the December 2022 earthquake damaged the plant, leading to a period of violations while repairs were made.

Ms. Valachovic stated that many forest-dependent communities are clamoring for biomass plants and other infrastructure to help maintain forest health. She noted that some claims about health impacts of biomass are extrapolated from studies in other locations that may not be applicable locally. She described biomass plants like HSC as one tool in the toolbox playing an essential role in forest stewardship.

Mr. Wilson described the NCUAQMD's role. He stated how many notices of violation (NOV) have been issued and how many citizen complaints NCUAQMD has received in recent years from the Rio Dell/Scotia area. He noted that some NOVs are classified as EPA high priority violations that receive extra scrutiny. Mr. Wilson stated NCUAQMD does not have a protocol or directive for reporting violations to RCEA. He confirmed HSC turned in their permit renewal application late, which is deemed a violation but does not invalidate their permission to operate.

The CAC members each took a turn to ask clarifying questions of the panelists and hear their answers. Following this, a robust public comment session took place with in-person and online participation. In addition, a large number of written comments were received before, during, and after the meeting. Comments both opposed and supported continued biomass procurement.

Per the CAC's charter, they are to seek consensus in making recommendations to the Board and, failing this, can take a vote requiring a 2/3 supermajority to pass on a recommendation. It was clear from discussion up to this point that the CAC members had differing views and would not reach consensus on making a recommendation to the Board on whether to seek to terminate RCEA's biomass PPA.

A motion was made and seconded to ask the Board to end the contract as soon as a viable long-term replacement contract can be negotiated. CAC members expressed hesitation to exit the contract with uncertainty about what alternatives could replace it; noted that the RCEA strategic plan calls for biomass procurement but also calls for planning to move away from biomass combustion; worried about the reputational harm to RCEA in procuring from a repeat violator of environmental regulations; stated that RCEA should not be responsible for helping a private company manage its waste; suggested that the community may have more leverage to move HSC toward cleaner operation with RCEA as local buyer of the biomass power; discussed

how the original decision to create RCEA's CCE program was contingent on purchase of biomass power; proposed that biomass power is a suitable bridge resource until future resources like offshore wind become available; acknowledged that the plant would keep operating with a different buyer and less accountability to the community if RCEA stops buying HSC power; pointed out that the small number of customers who have opted up to biomass-free REpower+ may indicate limited community opposition to biomass power; and asked whether RCEA might work with HSC to significantly reduce their emissions per unit of energy produced.

The motion and vote results were as follows:

M/S: Qiriaz, Fiske: The Community Advisory Committee recommends that RCEA exit the Humboldt Sawmill Company power purchase agreement as soon as a viable long term replacement contract can be negotiated that allows RCEA meets its requirements.

The motion failed with the following roll call vote (5/6/2). Ayes: Dukes, Fiske, Honar, Morris, Qiriaz. Noes: Burks, Goldberg, Latimer, Lawton, Mann, Leonardi. Abstain: Bell, Trirogoff. Absent: Johnson.

An alternative motion was then made, with vote results as follows:

M/S: Bell, Trirogoff: The Community Advisory Committee recommends that RCEA terminate the Humboldt Sawmill Company biomass contract in 3 years unless HSC can terminate greenhouse gas production in the process.

The motion failed with the following roll call vote (5/7/1). Ayes: Bell, Dukes, Fiske, Morris, Trirogoff. Noes: Burks, Goldberg, Honar, Latimer, Lawton, Mann, Leonardi. Abstain: Qiriaz. Absent: Johnson.

Board liaison Director Kris Mobley expressed appreciation for the CAC's deliberations and asked staff to summarize the discussion for the Board. Another motion was made and seconded to reconvene the CAC to discuss an energy generation opportunity that was described in one of the meeting's public comments, also failing to pass. In the end, CAC chair Dennis Leonardi gave direction to staff, in keeping with the CAC's charter, to summarize the CAC's discussion for the Board as requested by Director Mobley. Four CAC members agreed to review the staff summary; the review comments received are incorporated here.

PPA Terms Regarding Early Termination

Some concerned community stakeholders have pointed out language in the HSC-RCEA PPA they believe gives RCEA grounds for early termination due to HSC's alleged non-compliance with air quality regulations:

"An 'Event of Default' shall mean...with respect to Seller as the Defaulting Party...[among other listed Events of Default] Seller's failure to operate the Project in compliance with all applicable Laws as determined by the Governmental Authority charged with implementation and/or enforcement of the specific Law at issue...

...If an Event of Default with respect to a Defaulting Party shall have occurred and is continuing, the other Party ("Non-Defaulting Party") shall have the following rights: [PPA goes on to list steps for early termination of the agreement]"

Given NCUAQMD leadership’s statements in the BTAG and CAC meetings that HSC has a valid permit and is in regulatory compliance, staff and RCEA’s general counsel have determined that the above contract language does not currently provide RCEA grounds to terminate the contract early. Staff will continue to communicate with NCUAQMD staff on HSC’s compliance status and will revisit this conclusion with our legal counsel as needed.

Financial Implications of Early Termination

Community members have pointed out that terminating RCEA’s contract early might free up millions of dollars that could be reinvested in cleaner sources of energy. Staff asked our power portfolio management consultant The Energy Authority (TEA) to examine the net financial impact of early termination. TEA analyzed three hypothetical scenarios for replacing the power products RCEA procures through its PPA with HSC. In one scenario, RCEA procures a long-term contract for category 1 renewable energy certificates (RECs), the same category as the RECs provided by HSC. In the other scenarios, RCEA procures short-term RECs for several years until a long-term geothermal or solar-plus-storage project can be brought online.

In each of these scenarios, TEA calculated that RCEA would incur over \$50 million in added costs over the remaining seven years in the HSC PPA, mainly due to penalties for a period of non-compliance with the State’s requirement for long-term renewable energy procurement, and the higher market cost of State-mandated purchase of generation capacity or resource adequacy (RA) relative to the RA RCEA currently procures through our HSC PPA.

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

RCEA’s procurement of biomass power supports the following RCEA Strategic Plan goals:

- 4.1.4 Maximize Renewable Energy Content of RCEA’s CCE Program
- 4.1.5 Ensure Diversity in Local Sources
- 4.1.11.2 Procure Local Biomass Energy

RCEA’s Strategic Plan also calls for RCEA to “Plan for a Long-Term Transition Away from Direct Combustion of Forest-Derived Biomass and Toward Lower-Impact Uses of this Material” (strategy 4.1.11.6). RCEA continues to engage with HSC on their exploration of alternative uses of their sawmill residuals through consultations under the 2021 RCEA-HSC MOU.

EQUITY IMPACTS

This topic may have equity implications to the extent that Rio Dell and Scotia residents are more impacted than other county residents by plant emissions for production of energy that is provided to the whole county.

FINANCIAL IMPACT

N/A – this item is informational only.

STAFF RECOMMENDATION

N/A – this item is informational only.

ATTACHMENTS

None



Discussion of HSC Biomass Plant Emissions by RCEA's Biomass Technical Advisory Group

Presentation to RCEA Board of Directors
March 28, 2024



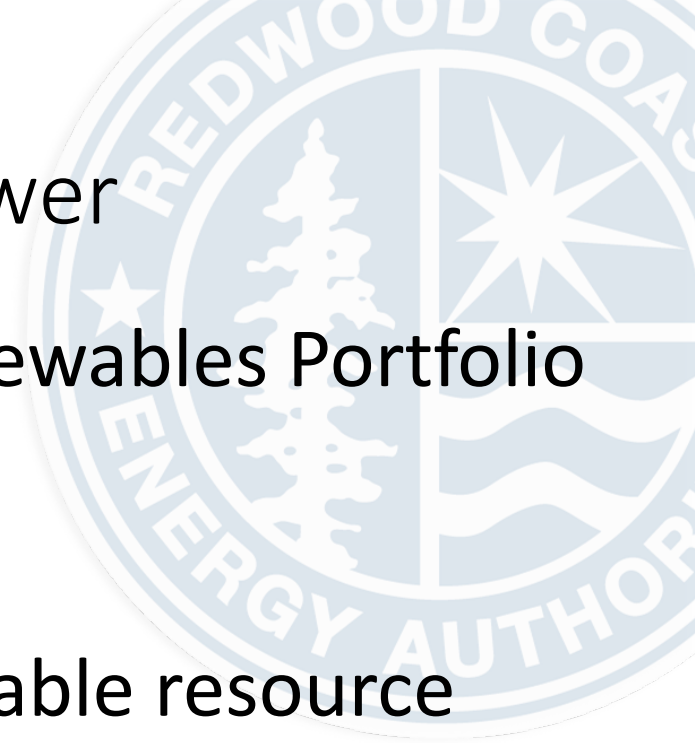
Topics

- Why RCEA procures biomass
- Community concerns about biomass emissions
- Programmatic responses to biomass concerns from community
- Recap of Biomass Technical Advisory Group's March 1 discussion
- Recap of Community Advisory Committee's March 12 discussion
- Contract terms regarding default and early termination
- Financial analysis of alternatives by The Energy Authority
- Staff and General Counsel analysis



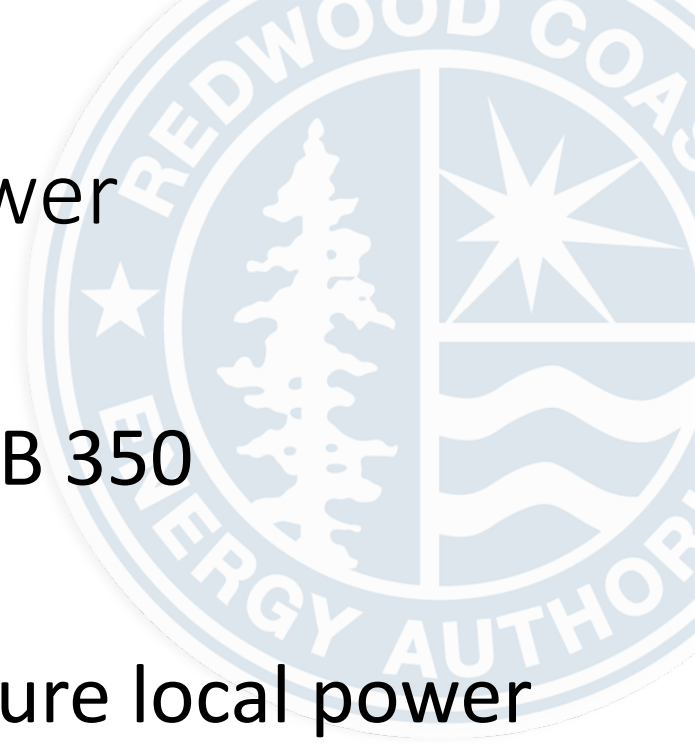
Background: Why RCEA procures biomass power

- Biomass is considered renewable per State's Renewables Portfolio Standard
- Biomass was the only existing utility-scale renewable resource available in 2017
- Development of other local renewables has seen challenges



Background: Why RCEA procures biomass power

- Biomass helps RCEA to comply with SB 100 and SB 350
- Biomass helps to meet RCEA Board's goal to procure local power
- Biomass provides round-the-clock, all-season baseload power
- RCEA's biomass contract is market-competitive



Concerns from community members about HSC emissions

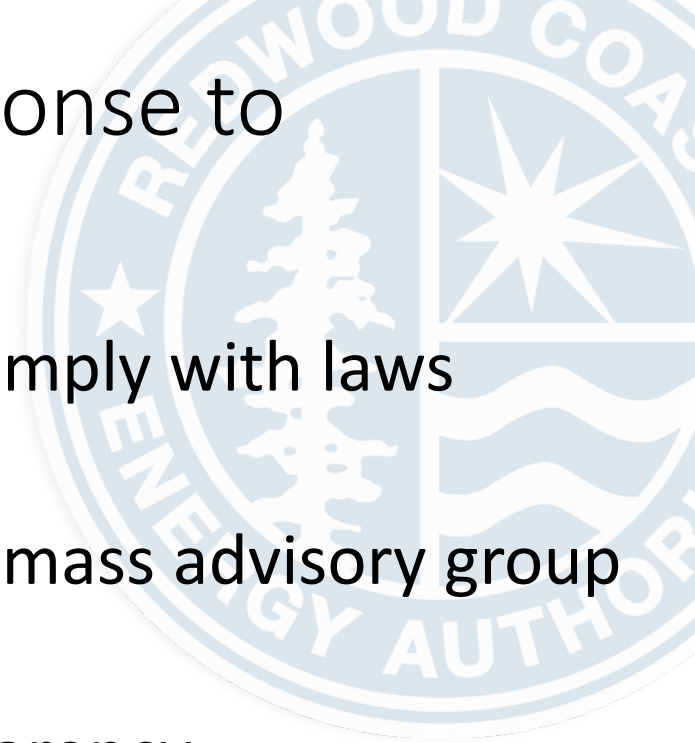
Claims include:

- Plant is operating on an expired permit
- Plant has had and continues to have numerous air quality violations
- Greenhouse gas emissions from the plant are greater than other power plant types, including coal plants and other biomass plants in the state
- Given the source of the plant's feedstock, it does not play a role in mitigating wildfire or open pile burning, or in improving forest health
- Other uses of the plant's feedstock are viable and would result in lower emissions



RCEA has made program adjustments in response to biomass concerns

- Contract termination clause for continuing failure to comply with laws
- Updated (2019) strategic plan calls for creation of a biomass advisory group
- RCEA and HSC have adopted a MOU to increase transparency
- RCEA adjusted its REpower+ premium portfolio in 2021 to no longer include biomass
- With NCUAQMD support, RCEA has begun deploying ambient air quality sensors in the Scotia/Rio Dell area and elsewhere

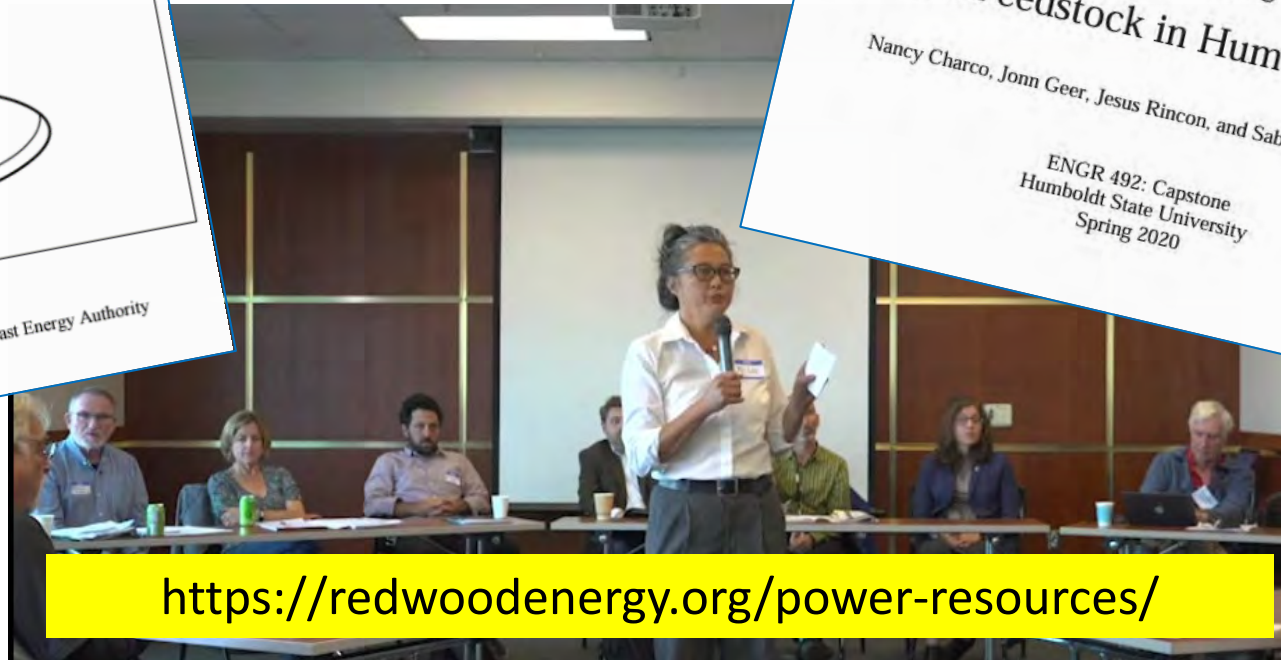
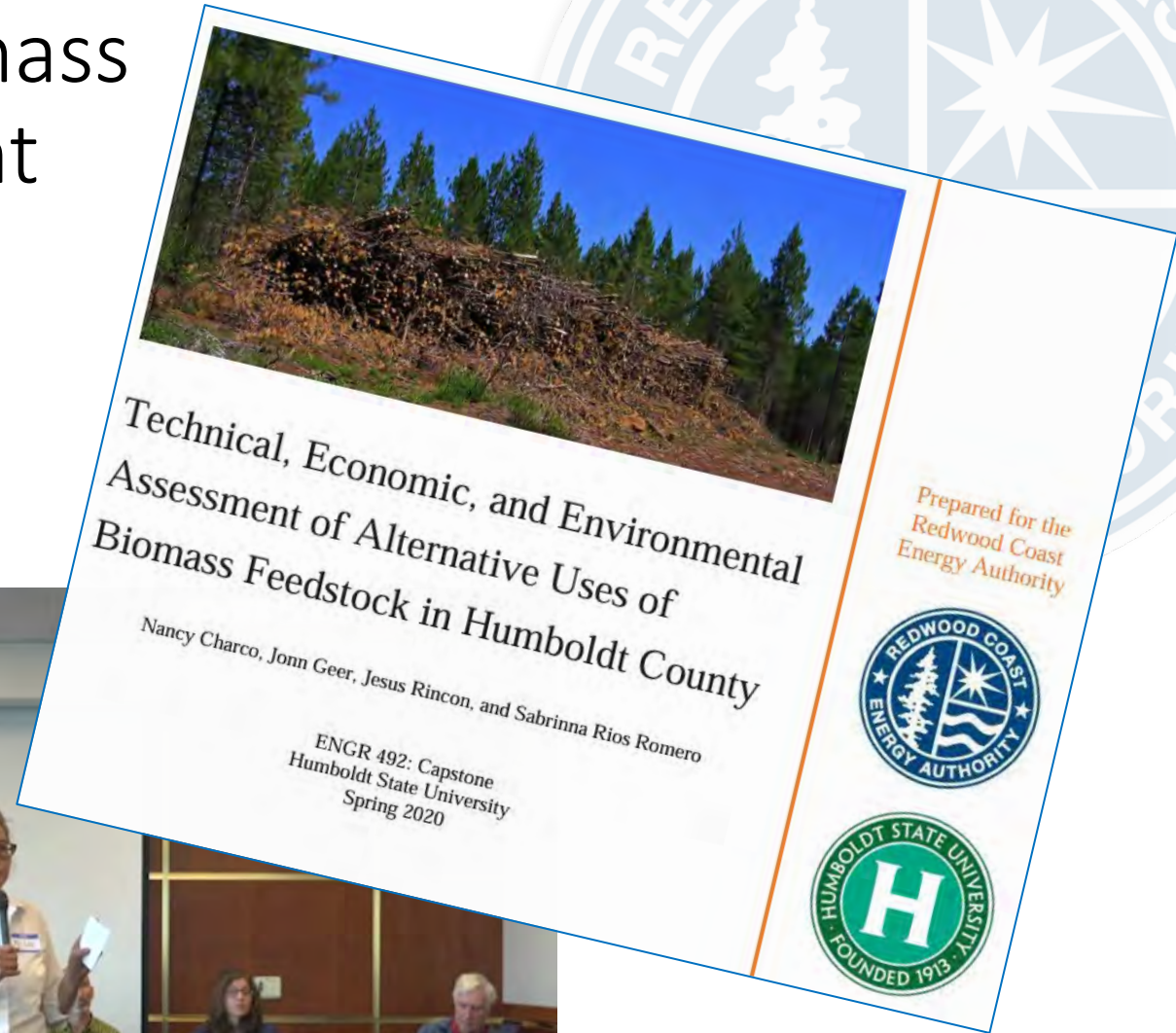
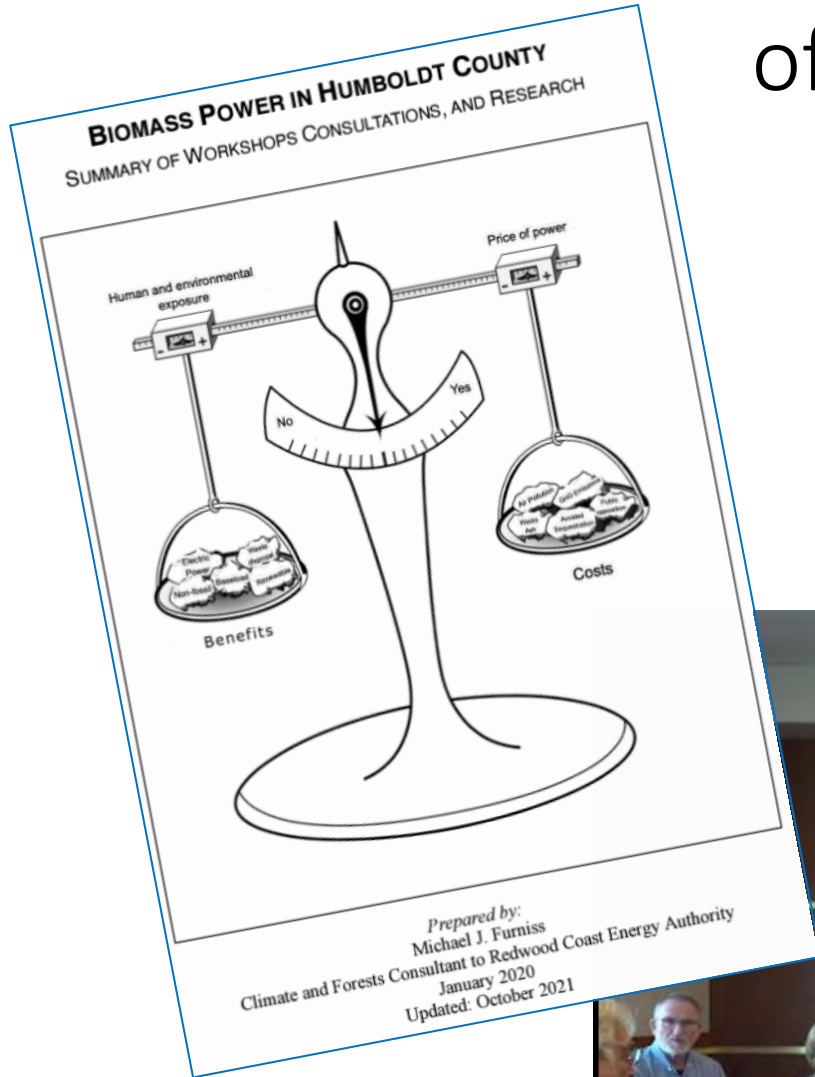


RCEA Ambient Air Quality Monitoring Project

- “Citizen Science” activity to acquire more data and increase transparency.
- Utilizing Purple Air sensors:
 - Affordable
 - Ease of Deployment
 - Access to wider Data in the Purple Air Network
- Cooperation with NCUAQMD:
 - Deployed new sensors allocated from CARB in Eureka, Ferndale, and Rio Dell. Continuing to deploy new sensors.
 - New and existing sensors deployed by NCUAQMD accessible for our data/observations. (<https://fire.airnow.gov>)
- In process:
 - Develop qualitative inquiry
 - Public communication of project
 - Integrate AQ data with wind and other environmental and topographic factors



Past analysis and discussion of RCEA's biomass procurement



<https://redwoodenergy.org/power-resources/>

Biomass Technical Advisory Group

Attendees (in person/online March 1, 2024)

- Dennis Leonardi, CAC chair and BTAG meeting facilitator
- Brian Wilson and Jason Davis, North Coast Unified Air Quality Management District
- Dean Kerstetter, Humboldt Sawmill Company
- Tom Wheeler, Environmental Protection Information Center
- Yana Valachovic, UC Cooperative Extension
- Roberto Beltran, US Forest Service/Klamath National Forest
- Daniel Chandler, 350 Humboldt
- Clarke Stevenson, The Watershed Center
- Kevin Fingerman, Cal Poly Humboldt
- Elishia Hayes, County of Humboldt Chief Administrative Officer
- RCEA staff



BTAG Discussion

- Claims regarding HSC's emissions from Humboldt Coalition for Clean Energy and 350 Humboldt
- How proactive should RCEA be to determine if HSC is in compliance with applicable laws?
- In the event of contract termination, would the HSC plant keep producing power at current output?
- If the HSC plant were to reduce or cease operation, what would become of the biomass residues?



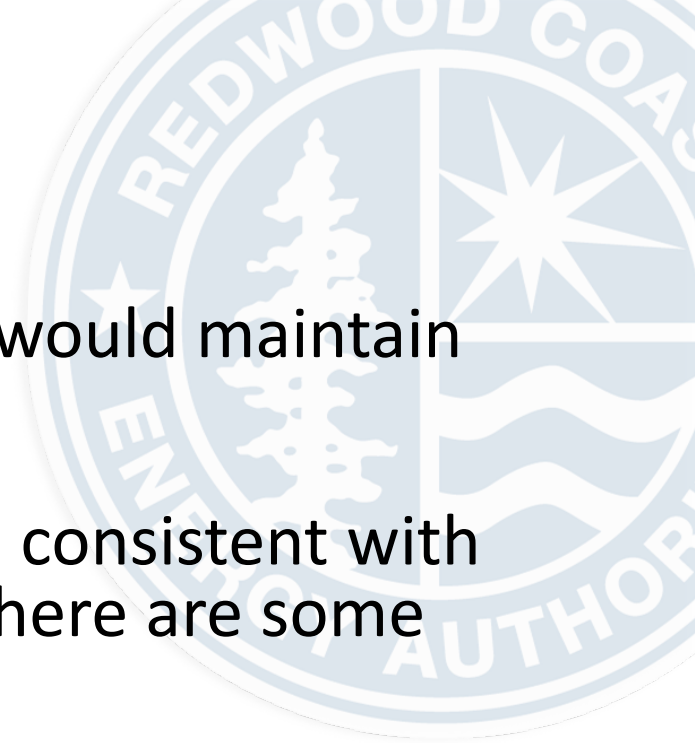
BTAG Discussion Takeaways

- HSC is currently operating under a valid Title V operating permit from the NCUAQMD, though they may be penalized for submitting their renewal application later than required
- NCUAQMD states that HSC is operating in compliance.
- NCUAQMD is working to complete testing of the plant's emissions that, depending on findings, could lead to an assessment of actual health impacts from the plant's operation



BTAG Discussion Takeaways

- HSC stated in the absence of a contract with RCEA, they would maintain operation and immediately begin selling power to PG&E
- There is disagreement over whether HSC's emissions are consistent with those of other comparable biomass plants in the state; there are some complexities to making such comparisons
- There should be more discussion of how important RCEA's local procurement goal is if cleaner non-local power is available
- The BTAG asked to review the violation data from NCUAQMD and have NCUAQMD label the violations regarding severity.
- The BTAG did not come to an agreement on recommendations.



CAC Biomass Discussion

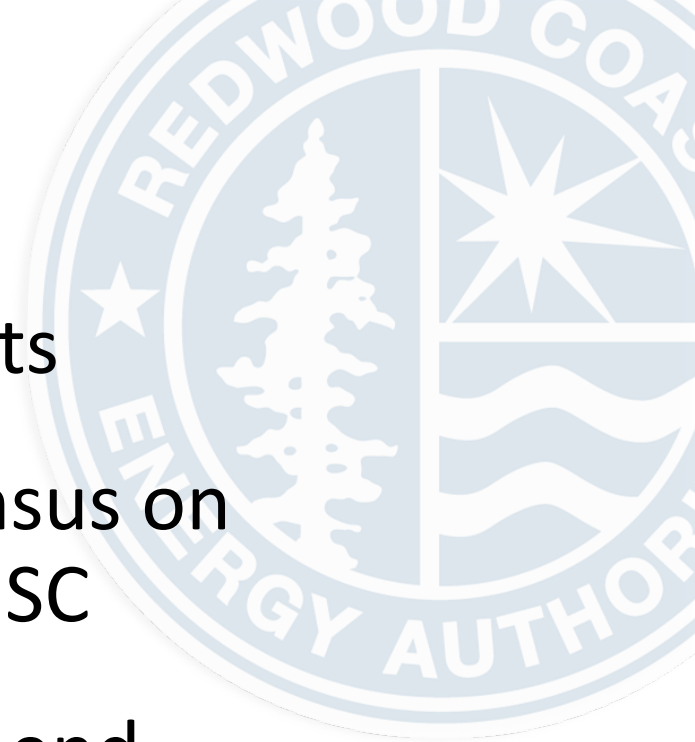
Included presentations by:

- Wendy Ring, Humboldt Coalition for Clean Energy
- Richard Engel, RCEA, reporting on BTAG's March 1 discussion on this issue
- Dean Kerstetter, Humboldt Sawmill Company
- Yana Valachovic, Forest Advisor, UC Cooperative Extension in Humboldt & Del Norte Counties
- Brian Wilson, North Coast Unified Air Quality Management District



CAC Biomass Takeaways

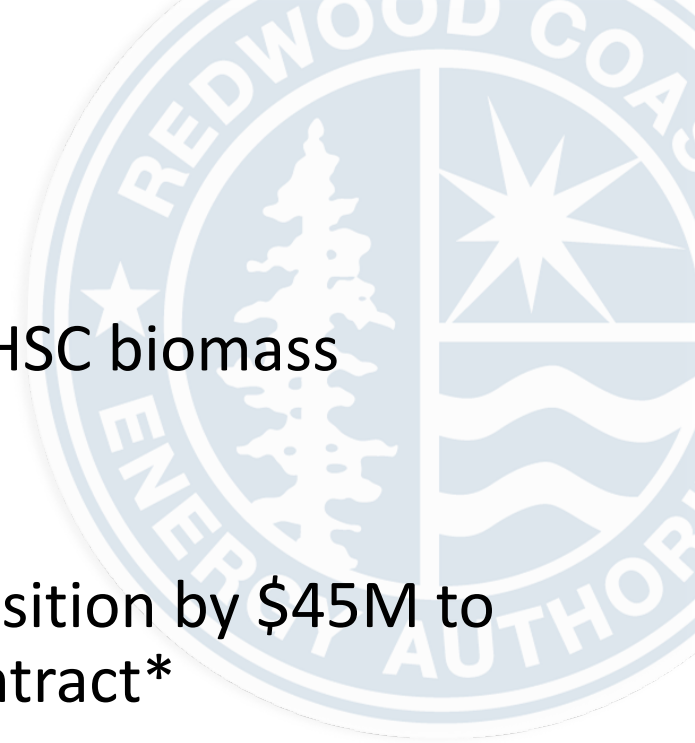
- Numerous members of the public made comments
- The CAC discussed the topic and found no consensus on whether RCEA should continue to procure from HSC
- CAC members made multiple motions to recommend terminating the biomass contract; none garnered a majority of CAC votes
- Staff were directed to report back to the Board



Financial Analysis – Terminate Contract

- The Energy Authority modeled 3 scenarios for replacing the HSC biomass contract with other renewable resources
- All of these scenarios would leave RCEA in worse financial position by \$45M to \$47M between 2024 and 2031 compared to keeping HSC contract*
- Financial harm comes mainly from 1) penalties for temporary non-compliance and 2) increased cost for procuring required resource adequacy

**Note: At the March 12 CAC meeting, staff mistakenly reported the cost impact would be \$50M+; this first-round analysis did not project the annual inflation adjustment of the HSC contract price.*



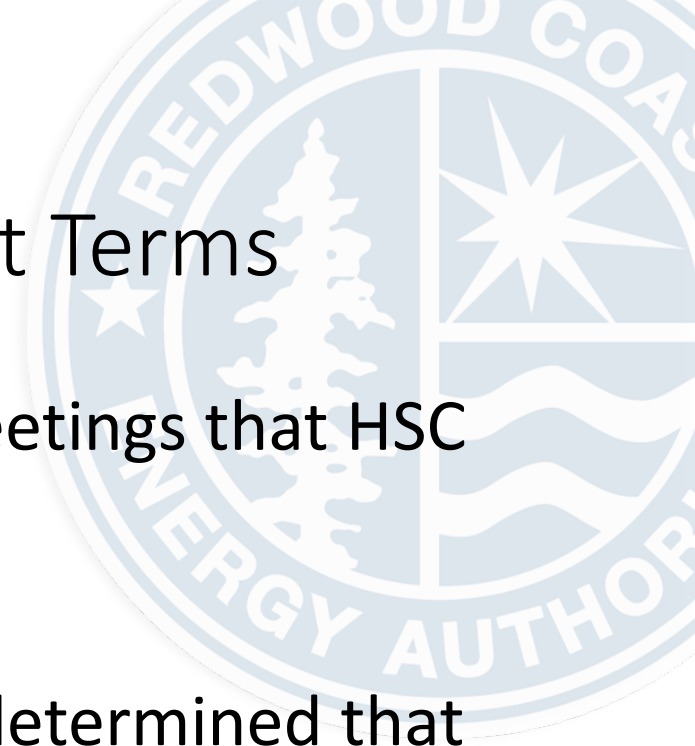
From Power Purchase Agreement between RCEA and HSC

“An ‘Event of Default’ shall mean...with respect to Seller as the Defaulting Party...*[among other listed Events of Default]* Seller’s failure to operate the Project in **compliance with all applicable Laws as determined by the Governmental Authority charged with implementation and/or enforcement of the specific Law** at issue...”

...If an Event of Default with respect to a Defaulting Party shall have occurred **and is continuing**, the other Party (“Non-Defaulting Party”) shall have the following rights: [PPA goes on to list steps for early termination of the agreement]”

Staff and General Counsel Analysis of Contract Terms

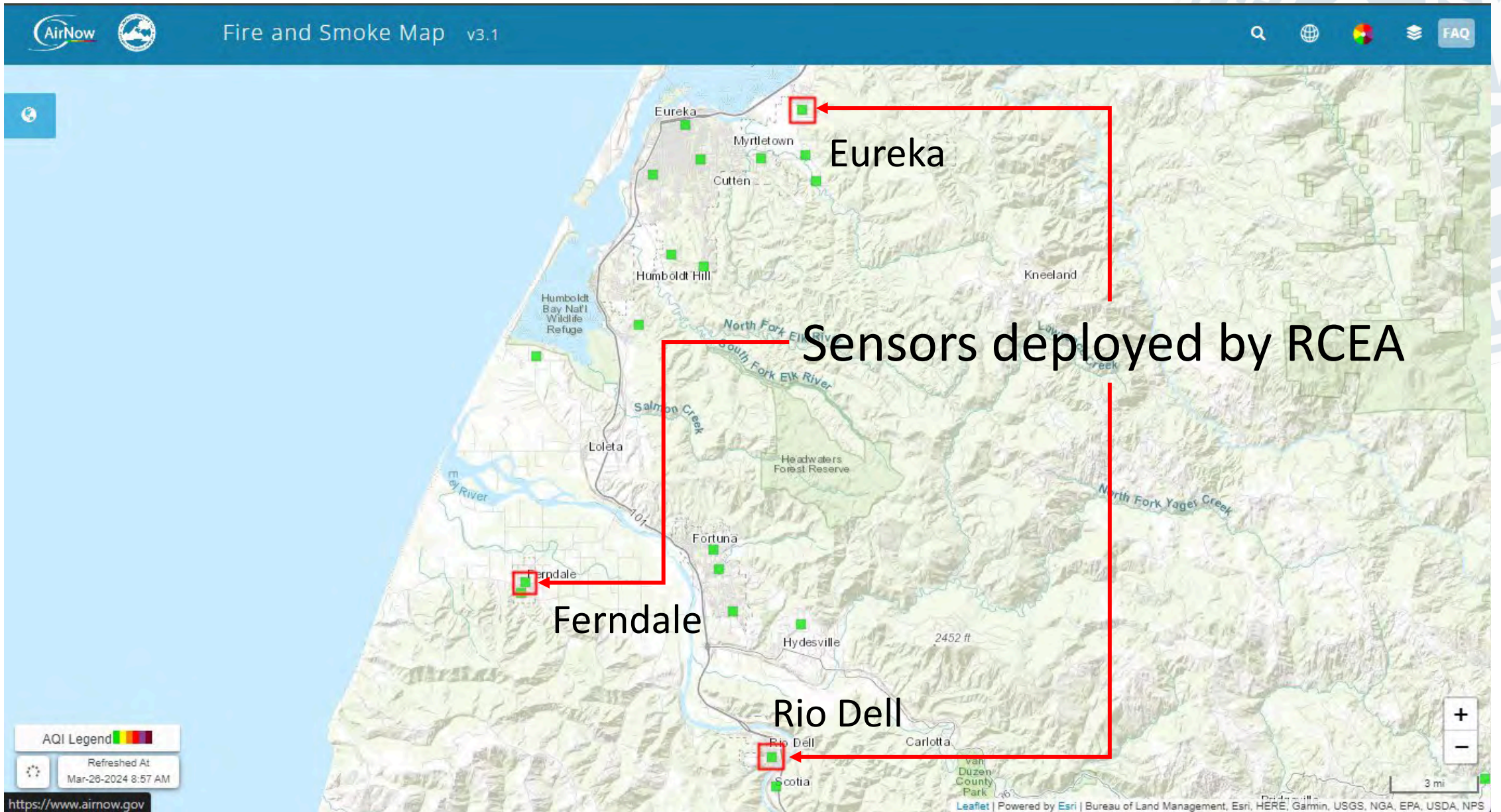
- NCUAQMD leadership stated in the BTAG and CAC meetings that HSC has a valid permit and is in regulatory compliance,
- Based on this, staff and RCEA's general counsel have determined that the contract language does not currently provide RCEA grounds to terminate the contract early.
- Staff will continue to communicate with NCUAQMD staff on HSC's compliance status and will revisit this conclusion with legal counsel as needed.



Questions?



Fire and Smoke Map at <https://fire.airnow.gov>





REDWOOD COAST
EnergyAuthority

STAFF REPORT
Agenda Item # 8.1

AGENDA DATE:	March 28, 2024
TO:	Board of Directors
FROM:	Matthew Marshall, Executive Director
SUBJECT:	Executive Director's Report

SUMMARY

Executive Director Matthew Marshall will provide updates on topics as needed.

RECOMMENDED ACTION

None. (Information only.)

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