



Redwood Coast Energy Authority
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NOTICE AND CALL OF A SPECIAL MEETING
OF THE BOARD OF DIRECTORS
OF THE REDWOOD COAST ENERGY AUTHORITY

TO THE BOARD OF DIRECTORS OF THE REDWOOD COAST ENERGY AUTHORITY
AND TO THE CLERK OF THE BOARD:

NOTICE IS HEREBY GIVEN that a special meeting of the Board of Directors of the Redwood Coast Energy Authority is hereby called to be held on **Monday, April 22, 2024**, at the Wharfinger Building Bay Room, 1 Marina Way, Eureka, at **3:30 p.m.** The purpose is to address items from the cancelled April 25, 2024, regular meeting agenda listed below.

Dated: April 19, 2024


Sarah Schaefer, RCEA Board Chair

BOARD OF DIRECTORS SPECIAL MEETING AGENDA

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

**April 22, 2024
Monday, 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.

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 March 28, 2024, Board Meeting.
- 4.2 Approve Disbursements Report.
- 4.3 Accept Financial Reports.

5. REMOVED FROM CONSENT CALENDAR ITEMS

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

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

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

6. OLD CCE BUSINESS

- 6.1. Energy Risk Management Quarterly Report

Accept Energy Risk Management Quarterly Report.

7. NEW CCE BUSINESS – None.

END OF COMMUNITY CHOICE ENERGY (CCE) BUSINESS

8. OLD BUSINESS

8.1 Executive Director Salary and Job Description

1. Adopt RCEA staff salary schedule with the removal of the Executive Director classification.
2. Adopt an Executive Director Salary schedule and approve the initial Executive Director salary range.
3. Approve updated Executive Director job description.

9. NEW BUSINESS

9.1 Foster Clean Power B Power Purchase Agreement

Approve Resolution 2024-4 Approving the Form and Authorizing the Execution of the Power Purchase Agreement with Foster Clean Power B LLC.

9.2 Energy Resilient Fire Services in High-Threat Communities Grant

Authorize RCEA Interim Executive Director to execute the California Office of Planning and Research Regional Resilience Grant Program Grant Agreement once finalized and reviewed by General Counsel.

Authorize RCEA Interim Executive Director to execute Partnership Agreement(s) with the RRGF fire station project partners.

10. STAFF REPORTS

10.1 Interim Executive Director's Report

11. FUTURE AGENDA ITEMS

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

12. ADJOURNMENT

NEXT REGULAR MEETING

Thursday, May 23, 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.

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STAFF REPORT
Agenda Item # 1.1

AGENDA DATE:	April 22, 2024
TO:	RCEA Board of Directors
FROM:	Eileen Verbeck, Interim Executive Director
SUBJECT:	Member Teleconference Participation

BACKGROUND

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

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

SUMMARY

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

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

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

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

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

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

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

Current Remote Participation Requests

As of the writing of this staff report, there have been no remote director participation for "just cause" or "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 MEETING MINUTES

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

**March 28, 2024
Thursday, 3:30 p.m.**

Chair Sarah Schaefer 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 March 22, 2024.

PRESENT: Natalie Arroyo, Vice Chair Scott Bauer, Skip Jorgensen, Alternate Director Mike Losey, Alt. Dir. Heidi Moore-Guynup, Elise Scafani, Chair Sarah Schaefer, Jack Tuttle, Frank Wilson, Sheri Woo (remote participation with just cause). ABSENT: Kris Mobley, Frankie Myers, Jason Ramos.

STAFF AND OTHERS PRESENT: EDP Renewables North America Director of Origination Chris Baxter; Schatz Energy Research Center Principal Engineer Dave Carter; Finance Specialist Ronnie Chaussé; Power Resources Director Richard Engel; Senior Power Resources Manager Jocelyn Gwynn; Demand-Side Management Director Stephen Kullmann; Executive Director Matthew Marshall; Community Advisory Committee Nominee Michael Shackelford; Board Clerk Lori Taketa; Deputy Executive Director Eileen Verbeck.

REPORTS FROM MEMBER ENTITIES

Director Arroyo and Chair Schaefer reported on their attendance at the CivicWell conference where they learned about electrification and transportation. CivicWell, formerly the Local Government Commission, obtained funding to launch regional energy agencies including RCEA.

ORAL AND WRITTEN COMMUNICATIONS

In honor of Women's History Month, member of the public Dan Chandler recognized Eunice Newton Foote for predicting that increasing CO2 levels would cause atmospheric warming.

Arcata resident Diane Ryerson requested two Board action items: 1) vote to amend strategic plan section 4.1.11.2 Procure Local Biomass Energy, and 2) vote to end the Humboldt Sawmill Company biomass contract.

CONSENT CALENDAR

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 Peffer, "PefferLegal."

Neither the Board nor public requested items be removed from the consent calendar. CAC nominee Michael Shackelford introduced himself to the Board.

M/S: Jorgensen, Arroyo: Approve Consent Calendar items.

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

NEW BUSINESS

6.1 Sandrini Battery Energy Storage Service Agreement

Power Resources Manager Gwynn reported on the battery storage agreement that will help RCEA meet state-mandated mid-term reliability and resource adequacy targets. For scale, the batteries will have enough capacity to meet Humboldt County's power needs for four hours per day. EDPR committed \$250,000 for workforce development to be used at RCEA and EDPR's discretion in Humboldt or Kern Counties. EDP Renewables' Chris Baxter described his company's experience in renewable energy project development. EDPR ranks fifth in renewable energy capacity in the U.S. There was no public comment on this agenda item.

M/S: Losey, Bauer: 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.

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

6.2 Grid Resilience Innovation Partnership Program Funding Opportunity

Deputy Executive Director Verbeck and Schatz Energy Research Center Principal Engineer Dave Carter described a grid modernization project that would draw on SERC's and the Blue Lake Rancheria's microgrid development experience to address intractable reliability problems faced in the Hoopa Valley, Yurok, and Karuk Tribal land areas. The project would build three Tribe-owned microgrids with battery storage, upgrade the Blue Lake Rancheria microgrid, provide pathways to journeyman-level job training programs for tribal members, and create a replicable model. The Department of Energy grant would fund half of the total project cost and requires match funding which project partners would secure. RCEA's project role would be as grant manager. The directors requested an estimate of costs to develop grant applications of this scale.

Outgoing CAC member Larry Goldberg, speaking as a member of the public, expressed support for this project and asked that this project be leveraged to develop similar publicly-funded projects in other grid-constrained Humboldt County areas like Southern Humboldt.

Director Moore-Guynup abstained from voting because her employer, Blue Lake Rancheria, is a partner in this funding application and project.

M/S: Arroyo, Scafani: 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.

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

6.3 Executive Director Recruitment

Executive Director Marshall reported that he would be leaving RCEA at the end of the month, Deputy Executive Director Verbeck would serve as the Interim Executive Director until a replacement is hired. The directors discussed the merits of working with a recruitment firm.

Directors Arroyo and Scafani and Chair Schaefer volunteered to serve on an ad hoc Executive Recruitment Subcommittee. Director Mobley was volunteered in absentia. Vice Chair Bauer volunteered to serve if Director Mobley could not join the working group.

Chair Schaefer and other directors expressed appreciation to Executive Director Marshall for his knowledgeable leadership in developing RCEA over his 15 years at the agency.

Speaking as a member of the public, Dave Carter thanked Executive Director Marshall for his long service to further renewable energy and fight climate change.

M/S: Bauer, Losey: 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.

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.

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

OLD BUSINESS

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

Power Resources Director Engel reviewed RCEA's local biomass power procurement. The HSC contract meets the Board's direction to procure local renewable energy which is very difficult to find or develop at needed scale and meets state mandates for baseload power under long-term contracts. In response to community concerns about procuring local biomass combustion-derived power, RCEA formed a Biomass Technical Advisory Group with diverse stakeholder membership, created a biomass-free customer option (RePower+), deployed ambient air quality sensors in the community around HSC's biomass plant, hired a consultant to study biomass power and engaged CalPoly Humboldt senior year engineering students to investigate alternative biomass uses. The last BTAG meeting focused on HSC's plant violations and resulted in no definitive recommendations. HSC confirmed they would sell excess power to PG&E if the RCEA contract was terminated, and the BTAG requested more clarity on whether cleaner power should be procured elsewhere if not available locally. The lengthy March Community Advisory Committee meeting also focused on the HSC biomass plant's operating violations and health and climate impacts but ended in split votes on recommended Board actions. The Energy Authority's financial analysis for terminating the HSC contract indicated significant financial harm to the agency from extremely high replacement resource adequacy costs and non-compliance penalties.

Local plumber Jeffrey Robinson refuted statements that the HSC biomass plant helps prevent forest fires and asked staff to investigate whether the state would waive penalties for ending the HSC contract.

Nancy Ihara opposed the HSC biomass contract due to the accelerating climate crisis and referred to public comments from the March RCEA Community Advisory Committee meeting.

Pat Kenzler opposed the HSC contract due to negative impacts on Rio Dell and Scotia residents' health. She asked that RCEA not put profit over public health.

Walt Paniak opposed the HSC contract due to concerns over cost and lack of timely carbon sequestration.

Joann McGarry supported increased energy conservation efforts to lower the amount of energy needed from HSC. She opposed the HSC contract.

Arcata resident Diane Ryerson opposed the HSC contract due to climate warming impacts. Ms. Ryerson refuted arguments that plant operation prevented wildfires and that the contract increased RCEA and local community leverage with HSC.

CAC member and Trinidad resident Larry Goldberg, speaking as a member of the public, suggested customers opt up to RCEA's RePower+ if they oppose HSC biomass power. HSC provides local baseload power which is otherwise provided by fracked natural gas. Onshore wind would have contributed to baseload power but was opposed by Humboldt County residents and ultimately rejected by the County Board of Supervisors.

Arcata resident Carolyn Goldammer opposed RCEA's contract with HSC and called for stronger emissions regulations.

Dr. Wendy Ring opposed the HSC biomass contract due to the plant's air violation history and negative health impacts. Dr. Ring also opposed Purple Air monitor deployment due to their inability to monitor fine particulate exposure.

Eureka resident Joanna Welch opposed the HSC biomass plant contract and asked that RCEA exit the contract when the Sandrini project comes online.

Daniel Chandler opposed RCEA's extension of the HSC biomass contract in 2021 and requested RCEA exit the contract as soon as a carbon-renewable replacement can be found.

Chip Sharpe opposed the HSC biomass contract and supported distributed solar with battery backup on every rooftop.

Martha Walden of 350 Humboldt opposed the HSC biomass contract and expressed concern that Biomass Technical Advisory Group and Community Advisory Committee discussions were weighted against climate activists.

Written comment opposing RCEA's biomass contract with HSC due to greenhouse gas and other emission concerns was received from:

Daniel Chandler	Lynda McDevitt
Elizabeth Connors-Keith	Caephren McKenna
Suzanne Cook	Siddharth Mehrortra
Tina Garsen	Sue Y. Lee Mossman
Patty Harvey	Walter Paniak
Mary Hurley	Dr. Wendy Ring
Paula Levine	Garth Rogers
Ben Martin	Emily Siegel

Andrew Wanzenberg supported forest fire fuel removal, briquetting and drying the fuel to combust for power.

Larry Goldberg submitted written comment supporting opting up to RePower+, which he read at the meeting. Chair Schaefer closed the public comment period.

The directors discussed the lack of a viable financial or legal pathway to contract termination, and how the need for biomass power would be reduced if many more customers opted up to RCEA's RePower+ service. North Coast Unified Air Quality Management District Executive Director and Air Pollution Control Officer Brian Wilson provided context for evaluating HSC's violations, explained different levels of air quality monitoring regulations and the difficulty of comparing biomass plants due to different feedstocks, equipment vintages and upgrades.

The directors requested to see Humboldt Sawmill Company's Title V permit renewal results and thanked staff for doing their due diligence.

STAFF REPORTS

8.1 Executive Director's Report (Information only)

Executive Director Marshall reported that RCEA's e-bike rebate program is launching. RCEA's rebates can be used in addition to state rebates. Mr. Marshall praised and thanked RCEA's staff. The directors thanked Executive Director Marshall for leaving RCEA a better agency after his long tenure. There was no public comment on this item.

FUTURE AGENDA ITEMS

The Directors requested discussion of strategies to incentivize customers to opt up to RePower+ service, information on proposed Senate Bill 1999 (Irwin) which would increase electricity customers' fixed flat rate, and a description of RCEA's contribution to the current electricity rate increases.

Chair Schaefer adjourned the meeting at 6:15 p.m.

Lori Taketa
Board Clerk

Redwood Coast Energy Authority
Disbursements Report
As of February 29, 2024

Type	Date	Num	Name	Memo	Amount
Bill Pmt -Check	02/02/2024	ACH	CalPine Corporation	Calpine December 2023 Costs	-60,819.36
Bill Pmt -Check	02/02/2024	ACH	Humboldt Sawmill Co.	December 2023 Electricity Charge	-639,468.26
Bill Pmt -Check	02/02/2024	ACH	Snow Mountain Hydro, LLC	December 2023 Electricity	-4,180.37
Liability Check	02/02/2024	ACH	Ascensus	Paydate 02/02/2024	-13,191.62
Liability Check	02/02/2024	ACH	EDD	Paydate 02/02/2024	-8,023.32
Liability Check	02/02/2024	ACH	Internal Revenue Service	Paydate 02/02/2024	-32,910.50
Liability Check	02/02/2024	ACH	Newport Group	Paydate 02/02/2024	-11,742.16
Liability Check	02/02/2024	16860	Principal Life Insurance Company	Feb 2024 premiums	-123.52
Bill Pmt -Check	02/02/2024	16861	Aiqueous, LLC	Support Hours Dec 2023	-562.50
Bill Pmt -Check	02/02/2024	16862	Arcata Technology Center	Site Host Reimbursement 10/01- 12/31/2023	-622.49
Bill Pmt -Check	02/02/2024	16863	Ascensus	10/01/2023-12/31/2023 E-delivery initial notice x 1	-1,002.00
Bill Pmt -Check	02/02/2024	16864	AT&T	RCAM Router charges - ACV: 11/19-12/18/23	-163.00
Bill Pmt -Check	02/02/2024	16865	AT&T	RCAM Router charges - ACV: 12/19-1/18/24	-163.00
Bill Pmt -Check	02/02/2024	16866	Blue Lake Rancheria	Site Host Reimbursement 10/01- 12/31/2023	-517.41
Check	02/02/2024	16867	NEM Customer	NEM Account Close Out	-71.06
Check	02/02/2024	16868	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240108-1805	-100.00
Bill Pmt -Check	02/02/2024	16869	Chargepoint	Qty 4 CT4001-CAP for Open Door and surplus	-886.60
Check	02/02/2024	16870	CCE Customer	CCE Equipment Rebate - Res #CCE-R-231212-1768	-100.00
Check	02/02/2024	16871	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240125-1855	-250.00
Bill Pmt -Check	02/02/2024	16872	City of Arcata	December 2023 Utility User Tax	-15,285.89
Bill Pmt -Check	02/02/2024	16873	City of Arcata	December 2023 Excessive Energy Use Tax	-2,337.79
Bill Pmt -Check	02/02/2024	16874	City of Arcata	Site Host Reimbursement 10/01- 12/31/2023	-852.60
Bill Pmt -Check	02/02/2024	16875	City of Blue Lake	Site Host Reimbursement 10/01- 12/31/2023	-193.42
Bill Pmt -Check	02/02/2024	16876	City of Eureka - REVNet	VOID: Site Host Reimbursement 10/1-12/31/2023	0.00
Bill Pmt -Check	02/02/2024	16877	City of Eureka-Water	VOID: 633 3rd St. Acct 0302-203299 11/27-12/19/23	0.00
Bill Pmt -Check	02/02/2024	16878	City of Trinidad	VOID: Site Host Reimbursement 10/01- 12/31/2023	0.00
Bill Pmt -Check	02/02/2024	16878	City of Trinidad	Site Host Reimbursement 10/01- 12/31/2023	-693.24
Bill Pmt -Check	02/02/2024	16879	Hilson, D.	Mileage reimbursement - Dec 2023	-37.73
Bill Pmt -Check	02/02/2024	16880	Developed Employment Services, LLC.	Facilities maintenance work-Yard Work 633 3rd St.	-101.99
Check	02/02/2024	16881	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240110-1817	-100.00
Check	02/02/2024	16882	CCE Customer	CCE Equipment Rebate - Res #CCE-R-231210-1763	-150.00
Check	02/02/2024	16883	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240110-1818	-200.00
Bill Pmt -Check	02/02/2024	16884	HSU - Sponsored Programs Foundation	MD/HD ZEV grant subcontracting - 9/1/23-10/11/23	-18,000.19
Bill Pmt -Check	02/02/2024	16885	HSU - Sponsored Programs Foundation	TO4 RCAM Op Support: Oct-Nov 2023 On-call	-7,000.90
Bill Pmt -Check	02/02/2024	16886	Humboldt Bay Coffee Co.	Office coffee	-77.85
Bill Pmt -Check	02/02/2024	16887	Humboldt Transit Authority	Bus Rides for RCEA Staff Oct-Dec 2023	-39.90
Check	02/02/2024	16888	NEM Customer	NEM Account Close Out	-88.20
Bill Pmt -Check	02/02/2024	16889	Rennie, J	Mileage reimbursement - Jan 2024	-186.93
Check	02/02/2024	16890	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240105-1801	-50.00
Check	02/02/2024	16891	NEM Customer	NEM Account Close Out	-261.74
Check	02/02/2024	16892	NEM Customer	NEM Account Close Out	-48.18
Check	02/02/2024	16893	CCE Customer	CCE Equipment Rebate - Res #CCE-R-231227-1787	-250.00
Bill Pmt -Check	02/02/2024	16894	Beals, K.	Decals for new RCEA phones	-32.81
Bill Pmt -Check	02/02/2024	16895	Siino,K.	Coffee maker for 917 3rd St	-87.39
Check	02/02/2024	16896	NEM Customer	NEM Account Close Out	-99.48
Check	02/02/2024	16897	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240122-1847	-100.00
Check	02/02/2024	16898	NEM Customer	NEM Account Close Out	-255.01
Check	02/02/2024	16899	CCE Customer	CCE Equipment Rebate - Res #CCE-R-231215-1775	-50.00
Bill Pmt -Check	02/02/2024	16900	Liebert Cassidy Whitmore	Dec 2023 Legal Opinion/Personnel Rule Review	-10,473.75
Bill Pmt -Check	02/02/2024	16901	Rodriguez, Louis	Mileage reimbursement - January 2024	-34.84

Redwood Coast Energy Authority Disbursements Report As of February 29, 2024

Type	Date	Num	Name	Memo	Amount
Check	02/02/2024	16902	CCE Customer	CCE Equipment Rebate - Res #CCE-R-231220-1779	-400.00
Check	02/02/2024	16903	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240114-1823	-150.00
Bill Pmt -Check	02/02/2024	16904	Bithell, M.	Mileage reimbursement - January 2024	-21.44
Check	02/02/2024	16905	NEM Customer	NEM Account Close Out	-310.12
Bill Pmt -Check	02/02/2024	16906	Mission Uniform & Linen	Office maintenance supplies - janitorial	-28.68
Bill Pmt -Check	02/02/2024	16907	Newport Group	Participant Fees for Retirement Plan - Q1/2024	-987.71
Bill Pmt -Check	02/02/2024	16908	North Coast Unified Air Quality	Site Host Reimbursement 10/01- 12/31/2023	-729.32
Bill Pmt -Check	02/02/2024	16909	NYLEX.net, Inc.	Onsite network support services - Feb 2024	-3,690.00
Bill Pmt -Check	02/02/2024	16910	O&M Industries	917 3rd St Heater Diagnostic	-100.00
Bill Pmt -Check	02/02/2024	16911	Open Door	Site Host Reimbursement 10/01- 12/31/2023	-260.85
Bill Pmt -Check	02/02/2024	16912	Pacific Paper Company	Office supplies	-10.87
Check	02/02/2024	16913	CCE Customer	CCE Equipment Rebate - Res #CCE-R-231202-1755	-50.00
Bill Pmt -Check	02/02/2024	16914	PG&E CCA	VOID: Dec 2023 CCE Charges	0.00
Bill Pmt -Check	02/02/2024	16915	PG&E EV Account	VOID: EV stations 12/14-01/15/24	0.00
Bill Pmt -Check	02/02/2024	16916	PG&E Office Utility	VOID: 12/07-01/05/24 utilities for 917 3rd Street	0.00
Bill Pmt -Check	02/02/2024	16917	PG&E Office Utility	VOID: 12/14-01/15/24 utilities for 633 3rd Street	0.00
Check	02/02/2024	16918	NEM Customer	NEM Account Close Out	-214.20
Check	02/02/2024	16919	NEM Customer	NEM Account Close Out	-25.30
Bill Pmt -Check	02/02/2024	16920	Keenan	Medical premiums - late fees	-1,359.02
Bill Pmt -Check	02/02/2024	16921	Redwood Community Radio	Radio underwriting - FY Q3 2023/24	-780.00
Check	02/02/2024	16922	NEM Customer	NEM Account Close Out	-115.53
Check	02/02/2024	16923	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240109-1806	-100.00
Check	02/02/2024	16924	CCE Customer	CCE Equipment Rebate - Res #CCE-R-231217-1776	-100.00
Bill Pmt -Check	02/02/2024	16925	St. Joseph Hospital	VOID: Site Host Reimbursement 10/01- 12/31/2023	0.00
Bill Pmt -Check	02/02/2024	16925	St. Joseph Hospital	Site Host Reimbursement 10/01- 12/31/2023	-1,690.53
Check	02/02/2024	16926	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240106-1803	-400.00
Check	02/02/2024	16927	CCE Customer	CCE Heat Pump Rebate #CCE-R-231212-1766	-1,850.00
Check	02/02/2024	16928	NEM Customer	NEM Account Close Out	-54.11
Check	02/02/2024	16929	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240110-1815	-650.00
Check	02/02/2024	16930	NEM Customer	NEM Account Close Out	-136.76
Bill Pmt -Check	02/02/2024	16931	Times Printing Company	Printing and postage	-789.43
Check	02/02/2024	16932	NEM Customer	NEM Account Close Out	-86.04
Bill Pmt -Check	02/02/2024	16933	Chausse-Heath, V.	Mileage reimbursement - January 2024	-34.30
Check	02/02/2024	16934	CCE Customer	CCE Heat Pump Rebate #CCE-R-231020-1683	-3,000.00
Paycheck	02/02/2024	ACH	Employees	Paydate 02/02/2024	-84,119.40
Bill Pmt -Check	02/05/2024	ACH	The Energy Authority	CAISO Weekly Settlement	-260,624.38
Bill Pmt -Check	02/05/2024	16935	City of Eureka - REVNet	Site Host Reimbursement 10/1-12/31/2023	-1,079.40
Bill Pmt -Check	02/05/2024	16936	City of Eureka-Water	633 3rd St. Acct 0302-203299 11/27/23-12/19/23	-327.03
Bill Pmt -Check	02/05/2024	16937	PG&E CCA	Dec 2023 CCE Charges	-21,700.98
Bill Pmt -Check	02/05/2024	16938	PG&E EV Account	EV stations 12/14-01/15/24	-1,316.95
Bill Pmt -Check	02/05/2024	16939	PG&E Office Utility	12/07-01/05/24 utilities for 917 3rd Street	-496.18
Bill Pmt -Check	02/05/2024	16940	PG&E Office Utility	12/14-01/15/24 utilities for 633 3rd Street	-1,423.41
Check	02/08/2024	16941	CCE Customer	CCE Heat Pump Rebate - Res #CCE-R-240109-1810	-837.50
Check	02/08/2024	16942	CCE Customer	CCE Heat Pump Rebate - Res #CCE-R-240101-1794	-800.00
Check	02/08/2024	16943	NEM Customer	NEM Account Closeout #6812524116	-8.11
Check	02/08/2024	16944	CCE Customer	CCE Equipment Rebate- Res #CCE-R-240110-1816	-250.00
Check	02/08/2024	16945	NEM Customer	NEM Account Closeout #9142807648	-361.85
Check	02/08/2024	16946	NEM Customer	NEM Account Closeout #4132801689	-161.71
Check	02/08/2024	16947	CCE Customer	CCE Equipment Rebate- Res #CCE-R-240121-1846	-100.00
Check	02/08/2024	16948	CCE Customer	CCE Heat Pump Rebate - Res #CCE-R-230825-1547	-800.00

Redwood Coast Energy Authority Disbursements Report As of February 29, 2024

Type	Date	Num	Name	Memo	Amount
Check	02/08/2024	16949	NEM Customer	NEM Account Closeout #3480483513	-93.74
Check	02/08/2024	16950	CCE Customer	Res EVSE rebate #EVSSE40	-297.84
Check	02/08/2024	16951	CCE Customer	CCE Heat Pump Rebate- Res #CCE-R-240112-1820	-600.00
Check	02/08/2024	16952	CCE Customer	CCE Heat Pump Rebate- Res- #CCE-R-231215-1772	-900.00
Check	02/08/2024	16953	NEM Customer	NEM Account Closeout #6864369121	-114.28
Check	02/08/2024	16954	CCE Customer	CCE Heat Pump Rebate- res #CCE-R-231202-1753	-725.00
Check	02/08/2024	16955	NEM Customer	NEM Account Closeout #7929644803	-259.31
Check	02/08/2024	16956	NEM Customer	NEM Account Closeout #1634291057	-48.70
Check	02/08/2024	16957	CCE Customer	CCE Heat Pump Rebate- Res #CCE-R-240109-1808	-1,100.00
Bill Pmt -Check	02/08/2024	16958	Hilson, D.	Mileage reimbursement - Jan 2024	-42.48
Bill Pmt -Check	02/12/2024	ACH	The Energy Authority	CAISO Weekly Settlement	-10,760.40
Bill Pmt -Check	02/12/2024	ACH	PG&E Voluntary Allocation	VOID: July 2023 Forecast Price- VA	0.00
Bill Pmt -Check	02/12/2024	ACH	Viridity Energy Solutions, Inc.	VOID: Tierra Buena Resource Adequacy Jan 2024	0.00
Bill Pmt -Check	02/12/2024	ACH	PG&E Voluntary Allocation	July 2023 Forecast Price- VA Long term & Short term	-114,867.30
Bill Pmt -Check	02/12/2024	ACH	Viridity Energy Solutions, Inc.	Tierra Buena Resource Adequacy Jan 2024	-16,900.00
Bill Pmt -Check	02/15/2024	ACH	The Energy Authority	TEA Invoice #TEA 12024 January 2024	-3,896,934.28
Check	02/15/2024	ACH	VISA	January 2024 Statement 12/21/2023 - 01/19/2024	-10,816.23
Bill Pmt -Check	02/16/2024	ACH	Humboldt Sawmill Co.	January 2024 Electricity Charge	-577,527.12
Bill Pmt -Check	02/16/2024	ACH	Leapfrog Power, Inc	January 2024 RA Invoice	-36,740.00
Bill Pmt -Check	02/16/2024	ACH	Recology	VOID:	0.00
Bill Pmt -Check	02/16/2024	ACH	Snow Mountain Hydro, LLC	Jan 2024 Electricity	-65,423.48
Liability Check	02/16/2024	ACH	Ascensus	Paydate 02/16/24	-13,375.78
Liability Check	02/16/2024	ACH	EDD	Paydate 02/16/24	-7,991.19
Liability Check	02/16/2024	ACH	Internal Revenue Service	Paydate 02/16/24	-34,132.15
Liability Check	02/16/2024	ACH	Newport Group	Paydate 02/16/24	-11,750.33
Liability Check	02/16/2024	ACH	CICCS Coalition for Controlling Insurance	EAP premium	-64.94
Liability Check	02/16/2024	16959	Ameritas - Dental	March 2024 Premiums	-2,381.92
Liability Check	02/16/2024	16960	Ameritas - Vision	March 2024 Premiums	-442.84
Check	02/16/2024	16961	CCE Customer	CCE Equipment Rebate- Res #CCE-R-240206-1883	-450.00
Check	02/16/2024	16962	CCE Customer	CCE Heat Pump Rebate- Res #CCE-R-240125-1856	-750.00
Check	02/16/2024	16963	CCE Customer	CCE Equipment Rebate- Res #CCE-R-240119-1837	-100.00
Check	02/16/2024	16964	CCE Customer	CCE Heat Pump Rebate- Res #CCE-R-230823-1534	-800.00
Check	02/16/2024	16965	CCE Customer	CCE Equipment Rebate- Res #CCE-R-240122-1850	-50.00
Check	02/16/2024	16966	CCE Customer	CCE Equipment Rebate- Res #CCE-R-240120-1844	-150.00
Check	02/16/2024	16967	CCE Customer	CCE Heat Pump Rebate- Res #CCE-R-231222-1782	-1,050.00
Check	02/16/2024	16968	CCE Customer	CCE Heat Pump Rebate- Res #CCE-R-240127-1862	-1,100.00
Check	02/16/2024	16969	CCE Customer	CCE Heat Pump Rebate- Res #CCE-R-240205-1879	-1,200.00
Check	02/16/2024	16970	CCE Customer	CCE Heat Pump Rebate- Res #CCE-R-231016-1660	-764.80
Check	02/16/2024	16971	CCE Customer	CCE Equipment Rebate- Res #CCE-R-240206-1884	-250.00
Check	02/16/2024	16972	CCE Customer	CCE Equipment Rebate- Res #CCE-R-231229-1790	-150.00
Check	02/16/2024	16973	CCE Customer	CCE Equipment Rebate- Res #CCE-R-240207-1888	-100.00
Bill Pmt -Check	02/16/2024	16974	Aiqueous, LLC	Jan 2024 Next 90 and Support Hours	-787.50
Bill Pmt -Check	02/16/2024	16975	AT&T	RCAM internet charges: 1/29-2/28/24	-889.58
Bill Pmt -Check	02/16/2024	16976	AT&T Long Distance	Phone charges 1/25 - 2/24/2024	-125.24
Bill Pmt -Check	02/16/2024	16977	Braun Blaising & Wynne	Legal Services - Regulatory - December 2023	-4,931.23
Bill Pmt -Check	02/16/2024	16978	City of Arcata	January 2024 Excessive Energy Use Tax	-3,384.61
Bill Pmt -Check	02/16/2024	16979	City of Arcata	January 2024 Utility User Tax	-17,530.86
Bill Pmt -Check	02/16/2024	16980	City of Eureka-Water	633 3rd St. Acct 0302-203299	-327.03
Bill Pmt -Check	02/16/2024	16981	CSMFO	CSMFO Membership Renewal	-135.00
Bill Pmt -Check	02/16/2024	16982	Boudreau, D.	Mileage Reimburement Feb 2024	-19.43

Redwood Coast Energy Authority Disbursements Report As of February 29, 2024

Type	Date	Num	Name	Memo	Amount
Bill Pmt -Check	02/16/2024	16983	Developed Employment Services, LLC.	633 3rd St. Yard work	-116.34
Bill Pmt -Check	02/16/2024	16984	Donald Dame	CCE Consulting services- Jan 2024	-232.75
Bill Pmt -Check	02/16/2024	16985	Food For People, Inc.	Donations Promo Sept 2023-Jan 2024	-2,300.00
Bill Pmt -Check	02/16/2024	16986	Frontier Energy, Inc.	PA Program Consulting - September 2023	-26,332.75
Bill Pmt -Check	02/16/2024	16987	Humboldt Bay Coffee Co.	Office coffee	-77.85
Bill Pmt -Check	02/16/2024	16988	Diamond, Nancy	Legal Services - general counsel	-17,237.65
Bill Pmt -Check	02/16/2024	16989	Local Worm Guy	Jan 2024 Compost service both locations	-60.00
Bill Pmt -Check	02/16/2024	16990	BitHELL, M.	Feb 2024 Mileage Reimbursement	-53.60
Bill Pmt -Check	02/16/2024	16991	Mission Uniform & Linen	Office maintenance service and supplies - janitorial	-280.01
Bill Pmt -Check	02/16/2024	16992	North Coast Cleaning	Office cleaning services	-1,090.00
Bill Pmt -Check	02/16/2024	16993	Optimum Business-633	633 3rd St: Phone & Internet access - 01/28-02/24/2024	-1,102.13
Bill Pmt -Check	02/16/2024	16994	Pacific Paper Company	Office supplies	-33.60
Bill Pmt -Check	02/16/2024	16995	Terry, P.	Employee Travel Per Diem: 2024 Tribal Clean Energy	-212.00
Bill Pmt -Check	02/16/2024	16996	PG&E Office Utility	01/06-02/05/2024 utilities for 917 3rd Street	-627.16
Bill Pmt -Check	02/16/2024	16997	Recology	Act 060703330, 633 3rd St. Jan 2024	-105.52
Bill Pmt -Check	02/16/2024	16998	Recology	Act 061371327, 917 3rd St. Jan 2024	-71.48
Bill Pmt -Check	02/16/2024	16999	Times Printing Company	Envelope order for Office	-169.89
Bill Pmt -Check	02/16/2024	17000	Times Printing Company	Printing and postage	-1,765.43
Bill Pmt -Check	02/16/2024	17001	Ubeo Business Services	633 3rd St Printer Charges: 01/06-02/05/24	-134.24
Bill Pmt -Check	02/16/2024	17002	Yakovleva, Vera A.	Employee Travel Per Diem: CALCCA Lobby Day	-143.00
Paycheck	02/16/2024	ACH	Employees	Paydate 2/16/24	-86,614.68
Check	02/22/2024	Debit	Umpqua	Service Charge	-127.56
Bill Pmt -Check	02/22/2024	ACH	The Energy Authority	Special Invoice- Carbon Free Energy Product July 2023	-145,000.00
Bill Pmt -Check	02/23/2024	ACH	CalPine Corporation	Calpine January 2024 Costs	-95,751.23
Liability Check	02/23/2024	ACH	Keenan	March 2024 Premiums	-36,404.79
Check	02/23/2024	17003	CCE Customer	CCE Equipment Rebate - Res #CCE-R-231231-1792	-150.00
Check	02/23/2024	17004	CCE Customer	CCE Equipment Rebate - Res #CCE-R-240207-1887	-50.00
Check	02/23/2024	17005	CCE Customer	Heat Pump Rebate #CCE-R-240109-1813	-800.00
Check	02/23/2024	17006	CCE Customer	Heat Pump Rebate #CCE-R-240115-1824	-900.00
Bill Pmt -Check	02/23/2024	17007	Amazon.com	Dec 2023 & Jan 2024 purchases	-1,773.23
Bill Pmt -Check	02/23/2024	17008	Braun Blaising & Wynne	Legal Services - Regulatory -January 2024	-7,609.91
Bill Pmt -Check	02/23/2024	17009	Carter Properties, LLC	917 3rd Street Office Lease -March 2024 rent	-2,300.00
Bill Pmt -Check	02/23/2024	17010	Chargepoint	Initial Station Activations and Cloud Plans	-9,625.00
Bill Pmt -Check	02/23/2024	17011	City of Arcata	3/9/24 Heat Pump Workshop Deposit Fee	-500.00
Bill Pmt -Check	02/23/2024	17012	Frontier Energy, Inc.	PA Program Consulting - October 2023	-11,595.00
Bill Pmt -Check	02/23/2024	17013	Humboldt Bay Coffee Co.	Office Coffee-917 3rd St	-25.95
Bill Pmt -Check	02/23/2024	17014	Law Office of David Peffer	October & November 2023 Services	-19,530.00
Bill Pmt -Check	02/23/2024	17015	NYLEX.net, Inc.	Onsite network support services - March 2024	-3,690.00
Bill Pmt -Check	02/23/2024	17016	PG&E CCA	Jan 2024 CCE Charges	-21,681.52
Bill Pmt -Check	02/23/2024	17017	Whitchurch Engineering, Inc	Dec 2023 & Jan 2024 Services - EV station plans	-39,742.60
Bill Pmt -Check	02/23/2024	17018	Winzler, John	Office Lease - 633 3rd St. March 2024	-7,752.50
Liability Check	02/24/2024	ACH	Principal Life Insurance Company	March 2024 Premiums	-123.52
Liability Check	02/24/2024	17019	Colonial Life	March 2024 premiums	-2,819.30
Bill Pmt -Check	02/26/2024	ACH	CA Community Power	FY 2023-24 Funding for Dues and General costs	-84,338.00
Bill Pmt -Check	02/26/2024	ACH	The Energy Authority	CAISO Weekly Settlement	-113,284.49
Bill Pmt -Check	02/28/2024	ACH	Viridity Energy Solutions, Inc.	Tierra Buena RA-February 2024	-16,900.00
Liability Check	02/28/2024	ACH	Newport Group	Paydate 03/01/24	-11,778.55
TOTAL					<u>-6,836,865.93</u>

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

	<u>Jul '23 - Feb 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	177,287.93	155,000.00	114.38%
Total 5400 · Revenue-nongovernment agencies	437,622.20	582,802.00	75.09%
Total 5500 · Revenue - Electricity Sales	<u>51,599,492.98</u>	<u>85,206,156.00</u>	<u>60.56%</u>
Total 5 REVENUE EARNED	<u>52,481,478.01</u>	<u>86,530,057.00</u>	<u>60.65%</u>
Total Income	<u>52,481,728.01</u>	<u>86,530,057.00</u>	<u>60.65%</u>
Gross Profit	52,481,728.01	86,530,057.00	60.65%
Expense			
Total 6 WHOLESALE POWER SUPPLY	41,151,064.98	65,436,704.00	62.89%
Total 7 PERSONNEL EXPENSES	3,005,144.64	5,148,499.00	58.37%
Total 8.1 FACILITIES AND OPERATIONS	357,545.51	1,537,574.00	23.25%
Total 8.2 COMMUNICATIONS AND OUTREACH	72,495.82	160,485.00	45.17%
8.4 PROFESSIONAL & PROGRAM SRVS			
8400 · Regulatory	88,362.95	205,000.00	43.1%
8410 · Contracts - Program Related Ser	303,014.86	640,900.00	47.28%
8420 · Accounting	61,073.84	191,000.00	31.98%
8430 · Legal	214,500.70	230,000.00	93.26%
8450 · Wholesale Services - TEA	544,749.52	766,853.00	71.04%
8460 · Procurement Credit - TEA	130,558.19	414,075.00	31.53%
8470 · Data Management - Calpine	<u>529,124.38</u>	<u>887,187.00</u>	<u>59.64%</u>
Total 8.4 PROFESSIONAL & PROGRAM SRVS	1,871,384.44	3,335,015.00	56.11%
Total 8.5 PROGRAM EXPENSES	189,327.71	290,014.00	65.28%
Total 8.6 INCENTIVES & REBATES	244,183.80	402,575.00	60.66%
Total 9 NON OPERATING COSTS	<u>70,333.23</u>	<u>129,500.00</u>	<u>54.31%</u>
Total Expense	<u>46,961,480.13</u>	<u>76,440,366.00</u>	<u>61.44%</u>
Net Ordinary Income	<u>5,520,247.88</u>	<u>10,089,691.00</u>	<u>54.71%</u>
Net Income	<u>5,520,247.88</u>	<u>10,089,691.00</u>	<u>54.71%</u>

Redwood Coast Energy Authority
Balance Sheet
As of February 29, 2024

	Feb 29, 24
ASSETS	
Current Assets	
Checking/Savings	
1010 · Petty Cash	300.00
1060 · Umpqua Checking Acct 0560	208,215.87
1071 · Umpqua Deposit Control Acct 8215	17,594,103.13
1075 · Umpqua Reserve Account 2300	1,700,000.00
1076 · First Republic Bank - 4999	399,967.48
Total Checking/Savings	19,902,586.48
Total Accounts Receivable	118,674.47
Other Current Assets	
1101 · Allowance for Doubtful Accounts	-6,093,887.96
1103 · Accounts Receivable-Other	18,913,597.54
1120 · Inventory Asset	35,452.21
1205 · Prepaid Insurance	-128.49
1210 · Retentions Receivable	17,652.91
Total Other Current Assets	12,872,686.21
Total Current Assets	32,893,947.16
Total Fixed Assets	9,435,805.88
Other Assets	
1700 · Security Deposits	4,198,623.26
Total Other Assets	4,198,623.26
TOTAL ASSETS	46,528,376.30
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Total Accounts Payable	5,038,188.68
Total Credit Cards	9,681.48
Other Current Liabilities	
2002 · Deposits Refundable	2,271,795.01
2011 · NEM Escrow Liability	142,989.30
Total 2100 · Payroll Liabilities	178,013.74
Total 2200 · Accrued Expenses	30,976.03
Total Other Current Liabilities	2,623,774.08
Total Current Liabilities	7,671,644.24
Total Long Term Liabilities	6,085,188.01
Total Liabilities	13,756,832.25
Equity	
2320 · Investment in Capital Assets	49,064.67
3900 · Fund Balance	27,202,231.50
Net Income	5,520,247.88
Total Equity	32,771,544.05
TOTAL LIABILITIES & EQUITY	46,528,376.30



REDWOOD COAST Energy Authority

STAFF REPORT Agenda Item # 6.1

AGENDA DATE:	April 22, 2024
TO:	Board of Directors
PREPARED BY:	Jaclyn Harr, TEA Account Director – California Richard Engel, Director of Power Resources
SUBJECT:	Energy Risk Management Quarterly Report

BACKGROUND

The RCEA Board of Directors adopted an [Energy Risk Management Policy \(RCEA-ERMP-Approved-Dec-2022.pdf \(redwoodenergy.org\)\)](#) in December 2016 and most recently revised in December 2022, to establish functions and procedures to manage the risks associated with the Community Choice Energy (CCE) program's power procurement activities. In accordance with this policy, a quarterly update on activities and projected financial performance is presented to the Board during business meetings.

SUMMARY

The Energy Authority (TEA) California Account Director Jaclyn Harr and RCEA staff will provide an energy risk management quarterly update.

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

Not applicable.

EQUITY IMPACTS

Not applicable.

RECOMMENDED ACTION

Accept Energy Risk Management Quarterly Report.

ATTACHMENTS

Energy Risk Management Quarterly Report slides will be presented at the meeting.

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STAFF REPORT
Agenda Item # 8.1

AGENDA DATE:	April 22, 2024
TO:	Board of Directors
PREPARED BY:	Kristy Siino, Human Resources Manager
SUBJECT:	Revised Executive Director Salary and Job Description Update

SUMMARY

In anticipation of the upcoming Executive Director recruitment, staff proposed revising the current Executive Director salary to the Ad Hoc Recruitment Subcommittee. Staff presented multiple scenarios and the Committee proposed removing the Executive Director salary from the RCEA staff salary schedule and creating a new salary schedule for the Executive Director only. Placement within the range will be negotiable in the new Executive Director contract, dependent on the successful candidate's experience.

The current Executive Director job description predates the CCA program and the creation of the Deputy Executive Director position. Staff propose updating the description prior to opening the Executive Director recruitment. The Board and staff will work with the executive recruitment firm selected to further refine the job description if it is deemed appropriate by the selected firm.

BACKGROUND

The 7/1/2023 Salary Survey was prepared in accordance with the Board Approved Compensation Policy. This policy lists labor market agencies that are identified as comparable to RCEA. These agencies are a mix of local counterparts, other CCAs of a similar size to RCEA, and Northern California utility districts.

Salaries were collected from labor market agencies beginning early 2023. Staff used job descriptions to identify similarly situated positions and compared salaries for these positions. In this survey, the ED salary was compared to seven labor market agencies, including two local agencies. Based on salary comparisons, differences existed for all classifications. The largest differences were found at the Director level (approximately 24%) and at the ED level (38%).

The average difference, excluding the ED class, was approximately 12%. The Board approved a 14% increase effective 7/1/23, for all classifications (including ED). Once approved, RCEA salaries were approximately equal to counterparts, with the exception of Directors and the ED, which still lagged behind by 14% and 24%, respectively.

At the September 28, 2023, regular Board Meeting, the Board was presented with a Staff Report to increase the ED salary for a second time amid retention and recruitment concerns. In the proposal, the labor market agencies were decreased from the seven originally used to five, which represented only the top salaries presented in the full survey and included no local

agency counterparts. In addition, the salaries for three of the agencies were increased from the original amounts based on updated salary information. This resulted in the ED salary being shown as 47% below counterparts (the original difference calculated was 24%).

The methods used to justify the increase for the ED salary were not consistent with methods used in the original salary survey. Had the same method (i.e. using only those salaries that represented the highest counterparts) been used for all staff, RCEA salaries would have been approximately 37% lower than counterparts versus the original 12%. The approved salary increase also created an 89% differential between Director and ED classifications. Prior to this increase, that difference was 30%. Staff reviewed the Labor Market agencies used in the ED salary increase and identified differentials between Director and ED-type classifications of 10-40%. The 89% differential created with the ED salary increase is the highest across all comparable agencies in the Compensation Policy. (It should be noted that ED/C-Suite salaries at other CCAs are often negotiated in an employment contract, and therefore a direct comparison may not be appropriate.)

During the September 2023 Board meeting, Board members requested additional information on how RCEA positions compare to other CCA’s regarding classification, compensation, and organizational structure. Board members also questioned the comparison of some RCEA positions to non-CCA positions. Based on these discussion staff recommend conducting a classification and compensation study prior to beginning the next biennial salary review in 2025. Staff will prepare a proposed budget item to include in the 2024/25 budget proposal to obtain a full class and compensation report.

The Board must set an Executive Director salary range prior to recruitment and a formal classification and compensation study can take months or up to a year. In an attempt to move forward with the Executive Director recruitment staff prepared multiple proposals for the ad hoc subcommittee’s consideration.

The proposals presented to the Executive Director Recruitment Ad Hoc Subcommittee on April 11, 2024, were as follows:

Proposal	Reinstate 7/1/23 Salary	Increase 7/1/23 Salary by 10%	Increase 7/1/23 Salary by 24%	Maintain Current ED Salary
ED/Dept. Dir. Salary Difference	30%	43%	61%	89%
Agency Counterpart Difference based on 7/1/23 data	24% below	14% below	0%	15% above

The Ad Hoc Subcommittee proposed removing the ED salary from the RCEA staff salary schedule and establishing a separate annual salary range for the ED of \$182,852.59 - \$245,916.41 annually. This salary range represents a 10% salary increase from the 7/1/2023 Step 1 salary and increases until the top ED salary represents a 50% differential between the ED and the next employee class, which was a modification from the proposals presented above.

The proposed salary range would have 13 steps, which is different than the staff salary range of 10 steps.

	Steps												
Executive Director	1	2	3	4	5	6	7	8	9	10	11	12	13
Hourly	87.91	90.11	92.36	94.67	97.04	99.46	101.95	104.50	107.11	109.79	112.53	115.35	118.23
Monthly	15,237.72	15,618.66	16,009.13	16,409.35	16,819.59	17,240.08	17,671.08	18,112.86	18,565.68	19,029.82	19,505.56	19,993.20	20,493.03
Annual	182,852.59	187,423.90	192,109.50	196,912.24	201,835.05	206,880.92	212,052.95	217,354.27	222,788.13	228,357.83	234,066.77	239,918.44	245,916.40

The separate salary schedule would be excluded from the bi-annual salary survey, but the Board would have the latitude to extend any approved increases to the ED, as well as adjust the salary outside of the survey whenever it is deemed necessary.

The current Executive Director job description pre-dates the implementation of the CCA. Staff has taken this opportunity to revise the job description to bring it more in line with current ED duties and clarify the separation of duties between Directors, the Deputy ED and the ED under RCEA’s current operating structure. Using these initial updates and revisions, Staff will work with the chosen recruitment firm to further refine the job description prior to the beginning of the ED recruitment.

FINANCIAL IMPACT

Potential for salary savings between \$56,169.59 and \$58,432.08 annually.

RECOMMENDATION

1. Adopt RCEA staff salary schedule with the removal of the Executive Director classification.
2. Adopt an Executive Director Salary schedule and approve the initial Executive Director salary range.
3. Approve updated Executive Director job description.

ATTACHMENT

- Proposed Executive Director Job Description (redline version)
- Proposed Staff Salary Schedule
- Proposed Executive Director Salary Schedule

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Executive Director

General Class Description: Under the delegated authority of the RCEA Board of Directors, the Executive Director oversees all the functions and activities of the organization and provides expert professional guidance to staff and the Board of Directors. The Executive Director works with the Board of Directors and staff to ensure consistent and efficient implementation of agency operational policies and long-term operational excellence. This position class is distinguished by organization-level responsibility, and complex and widely scoped duties with major financial and operational impact on key business processes. 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 Board of Directors.

Summary

The Executive Director works under the general direction and delegated authority of the Redwood Coast Energy Authority (RCEA) Board of Directors and is responsible for strategic leadership of the organization, including management of power supply planning and procurement, finance and rates, local energy and decarbonization programs, energy services and customer relations, strategic development, administrative services, and regulatory and legislative affairs. The Executive Director represents RCEA on a variety of boards, committees, and commissions, and in public hearings and meetings. Additionally, the Executive Director provides frequent communication and maintains positive relationships with RCEA's member agencies, customers, private businesses, regulatory agencies including the California Public Utilities Commission (CPUC), California Energy Commission (CEC), California Independent System Operator (CAISO), California Air Resources Board (CARB), California Community Choice Association (CalCCA), Pacific Gas & Electric company and other IOUs, and other key stakeholders

~~The Executive Director works under the general direction and delegated authority of the Redwood Coast Energy Authority (RCEA) Board of Directors and has overall strategic and operational responsibility for RCEA staff, programs, and execution of RCEA's mission. The Executive Director manages the staffing and oversight of RCEA's department Directors, the Community Strategies Manager, and Board Clerk positions. The position requires deep knowledge of the energy field, core programs, and public agency governance, as well as operations and business plans for the Redwood Coast Energy Authority and management of an organization of approximately 25-40 people.~~

Essential Functions and Responsibilities

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

- Provide leadership in support of RCEA's mission.
- Foster a collaborative, customer-focused, continuous-learning, and high-performance culture within all departments and all employees of the agency.
- Lead the ongoing implementation of RCEA's Racial Justice Plan and actively champion and support justice, equity, diversity and inclusion efforts across the organization.
- Proactively develop a variety of communication methods with individual Board members and the Board as a whole, ensuring the Board is oriented, educated and up-to-speed with various issues so they can set policy for the organization and carry out their Board responsibilities efficiently and effectively.
- Oversee implementation of the Humboldt County Comprehensive Action Plan for Energy (CAPE).
- Understand the complex California energy industry and all its nuances.

- ~~Support the Board of Directors, and build and maintain board involvement. Assist the Executive Committee (Chair and Vice-Chair) with administration of Board of Directors meetings and matters.~~
- ~~Develop and manage energy programs and services for the benefit of energy consumers in the Humboldt County region.~~
- Develop risk management strategies, policies, and contingency plans to address changing needs.
 - ~~Function as RCEA's Public Information Officer and serve as primary media contact; approve all press releases and public service announcements, web site content, and paid advertising.~~
- Establish and maintain close contact with member agency representatives, including City Managers, Council members, Supervisors, and others to achieve the objectives of RCEA.
- ~~Develop energy partnerships among private, non-profit, governmental and educational organizations and enter into other services and programs as directed by the Board of Directors.~~
- Collaborate with external partners and stakeholders, regulators, public and investor-owned utilities, energy services and power suppliers and local advocacy organizations.
- Use external presence and relationships to garner new opportunities, build partnerships in new markets, and communicate new initiatives, program updates, and program results.
- Perform strategic planning and development of work plans.
- Analyze complex employment situations, assess benefits, and potentially provide proposed action and alternatives, and make effective recommendations to implement or ensure implementation of recommendations.
- Effectively communicate, both orally and in writing, including making presentations of findings, recommendations, and policies orally or in writing to Board members, department directors, and employees.
- ~~_____~~
- Oversee the management of RCEA staff, operations, and administration.
- Ensure ongoing programmatic excellence, rigorous program evaluation, consistent quality of ~~finance and~~ administration, communications, and development of resources to achieve strategic goals.
- Oversee budget development and management.
 - ~~Lead, coach, develop and retain a high-performing senior management team.~~
- Ensure effective systems to track progress and regularly evaluate organization components.
 - ~~Establishes and maintains relationships with appropriate agencies, consultants, professional groups and programs associated with RCEA management and operations.~~
 - ~~Develops, writes, and presents staff reports and recommendations to the Board.~~

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 equal to a bachelor's or master's degree with major course-work in energy, environment, economic development, public administration, or a closely related field.
- A minimum of ten (10) years of progressively responsible professional and managerial experience in **energy/utility agencies**, with at least five years' experience supervising professional staff. ~~Pa public or private sector energy program or business (public sector experience is strongly desired).~~ Additional certifications or training in managerial and leadership techniques are highly desirable.
- Five years of broad and extensive experience in a management position responsible for the formulation and implementation of programs, budgets and administrative operations.
- Additional certifications or training in managerial and leadership techniques are highly desirable.

Knowledge of:

- Principles of public agency ~~administration,~~ management, and governance, including public accounting and the Brown Act.
- Principles and practices, methods and technical requirements of utility management, organization, administration, financing, ~~pricing,~~ and community relations.
- ~~Demonstrate knowledge of m~~Methodologies to develop strong teams, collaboration, and a positive work culture.
- _____
- Principles of business and organizational management, including finance, human resources, and operations; supervision and training of staff; and customer service.
- Energy sector, ~~Investor Owned Utility,~~ state, and federal energy efficiency and renewable energy programs; grant and contract management; and data-driven program innovation and evaluation.
- Local, state, and federal energy policy.
- Principles of marketing, public relations, and development, with the goal of engaging a wide range of stakeholders and cultures.
- Current business software applications, including Microsoft Office ~~and QuickBooks.~~

Demonstrated ability to:

- Effectively lead a performance- and outcomes-based organization and staff, and staff, as well as develop and implement strategies to take the organization to the next stage of growth.
- Act with integrity, maintain a positive attitude and leadership-style, and be mission-driven and self-directed.
- Employ an action-oriented, entrepreneurial, and adaptable approach to business planning.
- Coordinate and align departmental performance toward overall organizational success.
- Manage and develop high-performance teams, set and achieve strategic objectives, and manage an organization-wide budget.
- Represent, uphold, and communicate RCEA administrative policies and procedures to internal staff, the Board of Directors and external parties and vendors.
- Cultivate relationships with Board members, community stakeholders, and industry-leaders.
- Effectively represent and communicate organization-related business to a wide audience, including the public, media, stakeholders, Board members, and staff.
- Advocate for effective and positive working relationships amongst staff.
- Manage multiple priorities, meet deadlines, and quickly adapt to changing priorities in a fast-paced dynamic environment.
- Work well under pressure.
- Be thorough and detail-oriented.
- ~~Demonstrate~~ patience, tact, teamwork and commitment to superior service and performance.
- _____

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 is required.

Preferred Qualifications

- Master's degree in a related field.
- Knowledge of RCEA programs.
- Prior experience working with public agencies and/or public utilities.
- 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.

Redwood Coast Energy Authority - PROPOSED Job Classifications and Pay Scales

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9	Step 10
Assistant/Coordinator/Associate										
Hourly	21.52	22.07	22.63	23.21	23.81	24.40	25.01	25.64	26.28	26.94
Monthly	3,729.51	3,758.03	3,854.39	3,953.22	4,054.59	4,155.95	4,259.85	4,366.35	4,475.51	4,587.39
Annual	44,754.13	45,901.67	47,078.64	48,285.78	49,523.88	50,761.98	52,031.03	53,331.80	54,665.10	56,031.72

Specialist										
Hourly	31.34	32.14	32.97	33.81	34.68	35.57	36.48	37.42	38.35	39.31
Monthly	5,432.01	5,571.29	5,714.14	5,860.66	6,010.93	6,165.06	6,323.14	6,485.27	6,647.40	6,813.59
Annual	65,184.09	66,855.48	68,569.72	70,327.92	72,131.20	73,980.72	75,877.66	77,823.24	79,768.82	81,763.04
Senior Specialist										
Hourly	36.04	36.96	37.91	38.88	39.88	40.90	41.93	42.97	44.05	45.15
Monthly	6,246.81	6,406.98	6,571.26	6,739.76	6,912.57	7,089.82	7,267.06	7,448.74	7,634.96	7,825.83
Annual	74,961.71	76,883.80	78,855.18	80,877.11	82,950.88	85,077.83	87,204.77	89,384.89	91,619.51	93,910.00

Technician										
Hourly	37.04	37.99	38.96	39.96	40.98	42.03	43.11	44.22	45.32	46.46
Monthly	6,419.65	6,584.25	6,753.08	6,926.23	7,103.83	7,285.98	7,472.80	7,664.41	7,856.02	8,052.42
Annual	77,035.74	79,011.02	81,036.94	83,114.81	85,245.96	87,431.76	89,673.60	91,972.92	94,272.24	96,629.05
Senior Technician										
Hourly	42.59	43.68	44.80	45.95	47.13	48.34	49.55	50.79	52.06	53.36
Monthly	7,382.59	7,571.89	7,766.04	7,965.17	8,169.40	8,378.88	8,588.35	8,803.06	9,023.13	9,248.71
Annual	88,591.11	90,862.67	93,192.49	95,582.04	98,032.86	100,546.52	103,060.18	105,636.69	108,277.61	110,984.55

Manager										
Hourly	42.73	43.83	44.95	46.11	47.29	48.50	49.74	51.02	52.30	53.60
Monthly	7,407.28	7,597.21	7,792.01	7,991.81	8,196.73	8,406.90	8,622.46	8,843.55	9,064.64	9,291.25
Annual	88,887.40	91,166.56	93,504.17	95,901.71	98,360.73	100,882.80	103,469.54	106,122.60	108,775.67	111,495.06
Senior Manager										
Hourly	49.14	50.40	51.70	53.02	54.38	55.78	57.17	58.60	60.07	61.57
Monthly	8,518.38	8,736.80	8,960.82	9,190.58	9,426.24	9,667.93	9,909.63	10,157.37	10,411.31	10,671.59
Annual	102,220.51	104,841.55	107,529.79	110,286.96	113,114.84	116,015.22	118,915.60	121,888.49	124,935.70	128,059.09

Director										
Hourly	61.48	63.05	64.67	66.33	68.03	69.73	71.47	73.26	75.09	76.97
Monthly	10,655.75	10,928.97	11,209.20	11,496.62	11,791.40	12,086.19	12,388.34	12,698.05	13,015.50	13,340.89
Annual	127,868.94	131,147.64	134,510.40	137,959.38	141,496.80	145,034.22	148,660.08	152,376.58	156,185.99	160,090.64

Executive Director										
Hourly	116.00	118.98	122.03	125.16	128.37	131.57	134.86	138.24	141.69	145.23
Monthly	20,107.06	20,622.62	21,151.41	21,693.75	22,250.00	22,806.25	23,376.41	23,960.82	24,559.84	25,173.83
Annual	241,284.67	247,471.45	253,816.88	260,325.00	267,000.00	273,675.00	280,516.88	287,529.80	294,718.04	302,085.99

Redwood Coast Energy Authority -Proposed Executive Director Pay Scale

Executive Director

Hourly	87.91	90.11	92.36	94.67	97.04	99.46	101.95	104.50	107.11	109.79	112.53	115.35	118.23
Monthly	15,237.72	15,618.66	16,009.13	16,409.35	16,819.59	17,240.08	17,671.08	18,112.86	18,565.68	19,029.82	19,505.56	19,993.20	20,493.03
Annual	182,852.59	187,423.90	192,109.50	196,912.24	201,835.05	206,880.92	212,052.95	217,354.27	222,788.13	228,357.83	234,066.77	239,918.44	245,916.40



STAFF REPORT
Agenda Item # 9.1

AGENDA DATE:	April 22, 2024
TO:	Board of Directors
PREPARED BY:	Jocelyn Gwynn, Senior Power Resources Manager Richard Engel, Director of Power Resources
SUBJECT:	Foster Clean Power B Power Purchase Agreement

BACKGROUND

At its September 2022 meeting, the Board approved a 20-year power purchase agreement (PPA) for Foster Clean Power A, and then approved an amendment to that PPA in September 2023. Foster Clean Power A is a local project comprised of 3 MW solar plus 1.25 MW battery storage that is being developed by Renewable America (RNA) on land adjacent to Foster Avenue in the Arcata area.

RNA then submitted a second phase of the project, Foster Clean Power B, to RCEA's 2023 Request for Offers for Zero-Emission Reliability Resources. The offer was not initially recommended to the Board ad hoc offer review committee for shortlisting, but given the project's local status, the committee authorized staff to negotiate with RNA on the material terms to bring them in line with those of Foster Clean Power A. Those negotiations were successful, so the project was shortlisted and the proposed PPA was negotiated.

SUMMARY

Foster Clean Power B is a 4 MW solar plus 1.25 MW/5 MWh battery energy storage project being developed by RNA on land adjacent to Foster Avenue in the Arcata area, to the north of Foster Clean Power A. The project has received its discretionary use permit from Humboldt County and is expected to become operational in September 2024. RNA plans to pair the project with pollinator habitat to maintain some agricultural value of the site, which is on property owned by Sun Valley Floral Farms. The project will also utilize a design that emphasizes minimal site disturbance, grading and excavation, with a pile foundation instead of concrete footings.

RCEA hopes to count the project toward its June 2025 Mid-Term Reliability (MTR) compliance milestone. The project will need to obtain a deliverability allocation after it comes online to provide resource adequacy (RA) and MTR compliance value. Recognizing that this RA deliverability is not guaranteed, the existing contract has different energy storage prices for the scenario where RA is provided and the lower-value scenario where it is not. If the project does not secure RA deliverability by 2026, then the storage price will be reduced to reflect the reduction in value to RCEA.

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

By continuing to build RCEA's portfolio of long-term, local renewable and storage resources, this project contributes to many Strategic Plan goals:

- *4.1.1 Maximize the Use of Local Renewable Energy to the Extent Technically and Economically Feasible and Prudent.*
- *4.1.2 Minimize Greenhouse Gas Emissions Associated with RCEA's CCE Program.*
- *4.1.4 Maximize Renewable Energy Content of RCEA's CCE Program.*
- *4.1.5 Ensure Diversity in Local Sources*
- *4.1.7.2 Develop Distributed Generation.*
- *4.1.8.1 Support Utility Scale Solar Energy Development.*
- *4.1.8.2 Procure Local Solar Energy.*

EQUITY IMPACTS

Renewable America is not listed in the CPUC's Supplier Diversity Clearinghouse as a diverse business enterprise. They are working with GRID Alternatives on workforce development opportunities through this and their other projects, including potential community benefit or project labor agreements.

FINANCIAL IMPACT

The forecasted value of the products the project will deliver (energy, renewable certificates, ancillary services and eventually RA) are about at parity with the value of equivalent products procured on a short-term or spot-market basis. These costs and revenues are accounted for in RCEA's financial model and will be incorporated into the budget starting in fiscal year 2024-2025.

STAFF RECOMMENDATION

Approve Resolution 2024-4 Approving the Form and Authorizing the Execution of the Power Purchase Agreement with Foster Clean Power B LLC.

ATTACHMENTS

Resolution 2024-4

Attachment A: Power Purchase Agreement with Foster Clean Power B LLC

RESOLUTION NO. 2024-4

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE REDWOOD COAST ENERGY AUTHORITY
APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION
OF THE POWER PURCHASE AGREEMENT
WITH FOSTER CLEAN POWER B LLC**

WHEREAS, Redwood Coast Energy Authority (“RCEA”) issued Request for Offers for Zero-Emission Resources in February 2023 (“RFO”); and

WHEREAS, the Foster Clean Power B project (“Project”) was submitted into RCEA’s RFO by Renewable America and was subsequently approved for shortlisting by the Board RFO subcommittee, contingent on material terms being similar to the Foster Clean Power A Power Purchase Agreement; and

WHEREAS, Foster Clean Power B is a project company owned by Renewable America; and

WHEREAS, under the Power Purchase Agreement provided as Attachment A (“Agreement”), Renewable America will provide and RCEA will receive full access to all products and services from the Project for the 20-year term, thereby contributing to RCEA’s local power portfolio and benefitting the local community.

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

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

Adopted this ____ day of _____, 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. 2024-4 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

Attachment A: Power Purchase Agreement between RCEA and
Foster Clean Power B, LLC

RENEWABLE PLUS STORAGE POWER PURCHASE AGREEMENT

COVER SHEET

Seller: Foster Clean Power B LLC, a Delaware limited liability company.

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

Description of Facility: A 4 MW solar power electric generating facility combined with a 1.25 MW / 5 MWh lithium iron phosphate battery energy storage facility.

Development Milestones:

Milestone	Expected Date for Completion
Demonstrate Site Control	Complete
Execute Interconnection Agreement	Complete
Procure Major Equipment	6/1/2024
Obtain Conditional Use Permit	Complete
Expected Construction Start Date	7/1/2024
Guaranteed Construction Start Date	8/1/2024
Expected Commercial Operation Date	9/30/2024
Guaranteed Commercial Operation Date	12/31/2024
Expected Full Capacity Deliverability Status Date	3/31/2025
RA Guarantee Date	3/31/2026

Delivery Term: 20 Contract Years

Expected Energy:

Contract Year	Expected Energy (MWh)
1	7,524
2	7,486
3	7,449
4	7,412
5	7,375
6	7,338
7	7,301
8	7,265
9	7,228

Contract Year	Expected Energy (MWh)
10	7,192
11	7,156
12	7,120
13	7,085
14	7,049
15	7,014
16	6,979
17	6,944
18	6,909
19	6,875
20	6,840

Maximum Discharging Energy:

Contract Year	Maximum Annual Discharging Energy (MWh)
1	█
2	█
3	█
4	█
5	█
6	█
7	█
8	█
9	█
10	█
11	█
12	█
13	█
14	█
15	█
16	█
17	█
18	█

Contract Year	Maximum Annual Discharging Energy (MWh)
19	█
20	█

Guaranteed Generation Capacity: 4 MW

Guaranteed Installed Storage Capacity: 1.25 MW

Storage Capacity Default Threshold: 1.25 MW

Maximum Round-Trip Efficiency: █%

Minimum Round-Trip Efficiency: █%

Contract Price:

Generation Rate: \$ █ per MWh

Storage Rate: \$ █ per kW-month, subject to modification pursuant to Section 3.8(c)

Product: (select options below as applicable)

- Energy Generation
- Discharging Energy
- Green Attributes (Portfolio Content Category 1)
- Storage Capacity
- Capacity Attributes
 - Full Capacity Deliverability Status

Scheduling Coordinator: Buyer or Buyer's Agent

Security and Damages

Development Security: \$ █

Performance Security: \$ █

Damage Payment: An amount equal to the Development Security

RA Deficiency Multiplier:

Month	Multiplier (\$/kW-month)
January	\$ █
February	\$ █
March	\$ █

April	\$	
May	\$	
June	\$	
July	\$	
August	\$	
September	\$	
October	\$	
November	\$	
December	\$	

Compliance Expenditure Cap amount: \$

APPROVAL DRAFT

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EXHIBIT F-2: AVAILABLE GENERATING CAPACITY

EXHIBIT G: GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

EXHIBIT H: FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

EXHIBIT I: FORM OF INSTALLED CAPACITY CERTIFICATE

EXHIBIT J: FORM OF CONSTRUCTION START DATE CERTIFICATE

EXHIBIT K: FORM OF LETTER OF CREDIT

EXHIBIT L: FACILITY SAFETY PLAN AND DOCUMENTATION

EXHIBIT M: FORM OF REPLACEMENT RA NOTICE

EXHIBIT N: NOTICES

EXHIBIT O: STORAGE CAPACITY TESTS AND ROUND-TRIP EFFICIENCY
MEASUREMENTS

EXHIBIT P: STORAGE AVAILABILITY

EXHIBIT Q: OPERATING RESTRICTIONS

EXHIBIT R: METERING DIAGRAM

EXHIBIT S: CONTRIBUTION TO MID-TERM RELIABILITY PROCUREMENT

RENEWABLE PLUS STORAGE POWER PURCHASE AGREEMENT

PREAMBLE

This Renewable Plus Storage Power Purchase 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.

“**Accepted Compliance Costs**” has the meaning set forth in Section 3.11.

“**Actual Round-Trip Efficiency**” means the measured round-trip efficiency rate of the Storage Facility, as a percentage, measured in accordance with Exhibit O.

“**Adjusted Energy Production**” has the meaning set forth in Exhibit G.

“**Adjusted Facility Energy**” means, for the applicable period, the sum of (a) the total Facility Energy for such period, plus (b) the result of subtracting (i) the Charging Energy for such period multiplied by the Maximum Round-Trip Efficiency from (ii) the Charging Energy for such period.

“**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 any Exhibits, schedules and any written supplements hereto, the Cover Sheet, and any designated collateral, credit support or similar arrangement between the Parties.

“**Ancillary Services**” means all ancillary services, products and other attributes, if any, associated with the Facility.

“**Approved Forecast Vendor**” means (x) any of AWS Truepower (a division of UL), Reuniwatt, SteadySun, or (y) any other vendor reasonably acceptable to both Buyer and Seller for the purposes of providing or verifying the forecasts under Section 4.3(d).

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

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

“**Available Generating Capacity**” means the capacity of the Generating Facility, expressed in whole MWs, that is mechanically available to generate Energy.

“**Bankrupt**” means with respect to any entity, such entity that (a) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar Law, (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.

“**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 Bid Curtailment**” means the occurrence of all of the following:

(a) the CAISO provides notice, including through ADS, to a Party or the Scheduling Coordinator for the Facility, requiring the Party to deliver less Facility Energy or Grid Energy from the Facility than the full amount of energy forecasted in accordance with Section 4.3 to be produced from the Facility for a period of time; and

(b) for the same time period as referenced in (a), the notice referenced in (a) results from the manner in which Buyer or the SC schedules or bids the Facility, Facility Energy, Grid Energy, or Ancillary Services, including where the Buyer or the SC for the Facility:

(i) did not submit a Self-Schedule for the MW subject to the reduction; or

(ii) submitted an Energy Supply Bid and the CAISO notice referenced in (a) is solely a result of CAISO implementing the Energy Supply Bid; or

(iii) submitted a Self-Schedule for less than the full amount of Facility Energy and Grid Energy forecasted to be generated by or delivered from the Facility.

“Buyer Curtailment Order” means the instruction from Buyer to Seller to reduce delivery of Energy from the Facility by the amount, and for the period of time set forth in such instruction.

“Buyer Curtailment Period” means the period of time, as measured using relevant Settlement Intervals, during which Seller reduces delivery of Energy from the Facility pursuant to or as a result of (a) Buyer Bid Curtailment, (b) a Buyer Curtailment Order or a (c) Buyer Default; provided that the duration of any Buyer Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

“Buyer Default” means a failure by Buyer (or its agents) to perform any of its obligations hereunder.

“Buyer’s WREGIS Account” has the meaning set forth in Section (c)(a).

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

“CAISO Approved Meter” means a CAISO approved revenue quality meter or meters, CAISO approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Facility Energy and Grid Energy delivered to the Delivery Point.

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

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

“CAISO Operating Order” means the “operating instructions” defined in Section 37.2.1.1 of the CAISO Tariff, as such provision may be modified or amended from time to time.

“UCAP Valuation” means any regulatory change, adopted by the CPUC or CAISO, 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.”

“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.

“CAISO VER Forecast” means the forecast of output provided by CAISO pursuant to Section 4.8.2.1.2 and Appendix Q of the CAISO Tariff, as such provisions may be modified or amended from time to time.

“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 SB 100 (2018) 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 generate and deliver to the Delivery Point at a particular moment and that can be purchased and sold under CAISO market rules, including Resource Adequacy Benefits.

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

“CEC Certification and Verification” means that the CEC has certified that the Generating Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Facility Energy delivered to the Delivery Point qualifies as generation from an Eligible Renewable Energy Resource.

“CEC Precertification” means that the CEC has issued a precertification for the Generating Facility indicating that the planned operations of the Generating Facility would comply with applicable CEC requirements for CEC Certification and Verification.

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

“Change in Tax Law” means (a) (i) any change in or amendment to the United States Internal Revenue Code of 1986, as amended, (“Tax Code”) or another applicable federal income tax statute; (ii) any change in, or issuance of, or promulgation of any temporary or final regulations by the U.S. Department of the Treasury that would result in any change to the interpretation of the Tax Code or existing temporary or final regulations promulgated by the U.S. Department of the Treasury; (iii) any IRS guidance published in the Internal Revenue Bulletin and/or Cumulative Bulletin, notice, announcement, revenue ruling, revenue procedure, technical advice memorandum, examination directive or similar authority issued by the IRS Large Business and International division, or any published advice, advisory, or legal memorandum issued by IRS Chief Counsel, that applies, advances or articulates a new or different interpretation or analysis of any provision of the Tax Code, any other applicable federal tax statute or any temporary or final Treasury Regulation promulgated thereunder; or (iv) any change in the interpretation of any of the authorities described in clauses (a)(i) through (iii) by a decision of the U.S. Tax Court, the U.S. Court of Federal Claims, a U.S. District Court, a U.S. Court of Appeals or the U.S. Supreme Court, that applies, advances or articulates a new or different interpretation or analysis of federal income tax law, and (b) in the case of (a)(i) through (iv), such change or new or different interpretation, as applicable, occurs between the Execution Date and before the end of the Congress in session when the Commercial Operation Date occurs.

“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 that 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 as-available Energy produced by the Generating Facility, less transformation and transmission losses, if any, delivered to the Storage Facility pursuant to a Charging Notice.

“Charging Notice” means the operating instruction, and any subsequent updates, given by Buyer to Seller, directing the Storage Facility to charge at a specific MW rate to a specified Stored Energy Level, provided that any such operating instruction shall be in accordance with the Operating Procedures. For the avoidance of doubt, (i) any Buyer request to initiate a Storage Capacity Test shall not be considered a Charging Notice, and (ii) any Charging Notice shall not constitute a Buyer Bid Curtailment, Buyer Curtailment Order, or Curtailment Order.

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

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

“Commercial Operation” has the meaning set forth in Exhibit B.

“Commercial Operation Date” has the meaning set forth in Exhibit B.

“Commercial Operation Delay Damages” means an amount equal to (a) the amount of Development Security that is remaining as of the Guaranteed Commercial Operation Date, as such date has been extended pursuant to Exhibit B divided by (b) one hundred and eighty (180).

“Construction Start Delay Damages” means an amount equal to (a) the Development Security amount required hereunder, divided by (b) one hundred and eighty (180).

“Compliance Actions” has the meaning set forth in Section 3.11.

“Compliance Expenditure Cap” has the meaning set forth in Section 3.11.

“Confidential Information” has the meaning set forth in Section **Error! Reference source not found.**

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

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

“Contract Price” has the meaning set forth on the Cover Sheet and is each of the Generation Rate and the Storage Rate.

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

“Contracted Storage Capacity” means the total capacity (in MW) of the Storage Facility initially equal to the Installed Storage Capacity, and as the same may be adjusted from time to time pursuant to Section 4.9 and Exhibit O to reflect the results of the most recently performed Storage Capacity Test, subject to the limit of the Storage Capacity Default Threshold as designated on the Cover Sheet.

“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.

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

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

“Curtailment Order” means any of the following:

(a) CAISO orders, directs, alerts, or provides notice, including through ADS, to a Party, including a CAISO Operating Order, to curtail deliveries of Discharging 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.

"Curtailment Period" means the period of time, as measured using relevant Settlement Intervals, during which generation from the Facility is reduced pursuant to a Curtailment Order; provided that the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"Damage Payment" means the dollar amount that is equal to the Development Security.

"Day-Ahead Forecast" has the meaning set forth in Section 4.3(c).

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

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

"Deemed Delivered Energy" means the amount of Energy expressed in MWh that the Generating Facility would have produced and delivered to the Storage Facility or the Delivery Point, but that is not produced by the Generating Facility during a Buyer Curtailment Period, which amount shall be equal to the Real-Time Forecast (of the hourly expected Energy) provided pursuant to Section 4.3(d) for the period of time during the Buyer Curtailment Period (or other relevant period), less the amount of Energy delivered to the Storage Facility or the Delivery Point during the Buyer Curtailment Period; provided that, if the applicable difference is negative, the Deemed Delivered Energy shall be zero (0). If the Facility is subject to a Planned Outage, Forced Facility Outage, Force Majeure Event and/or a Curtailment Period during a time period where the CAISO provides notice, including through ADS, to a Party or the Scheduling Coordinator for the Facility, requiring the Party to deliver less Facility Energy from the Facility than the full amount of energy forecasted in accordance with Section 4.3 to be produced from the Facility for a period of time, then the calculation of Deemed Delivered Energy during such period does not include any Energy that was not generated or stored due to such Planned Outage, Forced Facility Outage, Force Majeure Event or Curtailment Period.

"Defaulting Party" has the meaning set forth in Section ARTICLE 11(a).

"Deficient Month" has the meaning set forth in Section (c)(e).

"Delivery Point" has the meaning set forth in Exhibit A.

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

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

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

“Discharging Energy” means all Energy delivered to the Delivery Point from the Storage Facility, net of the Electrical Losses, as measured at the Storage Facility Metering Points by the Storage Facility Meter.

“Discharging Notice” means the operating instruction, and any subsequent updates, given by Buyer to Seller, directing the Storage Facility to discharge Discharging Energy at a specific MW rate to a specified Stored Energy Level, provided that any such operating instruction or updates shall be in accordance with the Operating Procedures. For the avoidance of doubt, any Discharging Notice shall not constitute a Buyer Bid Curtailment, Buyer Curtailment Order or Curtailment Order.

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

“Economic Benefit” has the meaning set forth in Section 3.12(a).

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

“Electrical Losses” means all transmission or transformation losses between the Facility and the Delivery Point, including losses associated with (i) delivery of Energy Generation to the Delivery Point, (ii) delivery of Charging Energy to the Storage Facility, (iii) conversion of Charging Energy into Discharging Energy, and (iv) delivery of Discharging Energy to the Delivery Point.

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

“Energy” means electrical energy generated by the Generating Facility.

“Energy Generation” means that portion of Energy that is delivered directly to the Delivery Point and is not Discharging Energy.

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

“Environmental Laws” has the meaning set forth in Section 16.3.

“Event of Default” has the meaning set forth in Section ARTICLE 11.

“Excess MWh” has the meaning set forth in Exhibit C.

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

“Expected Construction Start Date” has the meaning set forth on the Cover Sheet.

“Expected Energy” means the quantity of Energy that Seller expects to be able to deliver to Buyer from the Generating Facility during each Contract Year in the quantity specified on the Cover Sheet.

“Expected Full Capacity Deliverability Status Date” has the meaning set forth on the Cover Sheet.

“Facility” means the Generating Facility and the Storage Facility.

“Facility Energy” means the sum of Energy Generation and Discharging Energy, minus the amount of any Grid Energy, during any Settlement Interval or Settlement Period, net of Electrical Losses and Station Use, as measured by the Facility Meter, which Facility Meter will be adjusted in accordance with CAISO meter requirements and Prudent Operating Practices to account for Electrical Losses and Station Use.

“Facility Meter” means the CAISO Approved Meter that will measure all Facility Energy.

“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.

“Facility Safety Plan Documents” means the information and documentation listed in Exhibit L.

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

“Forecasting Penalty” has the meaning set forth in Section 4.3(f).

“Force Majeure Event” has the meaning set forth in Section ARTICLE 10.

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

“Forward Certificate Transfers” has the meaning set forth in Section (c)(a).

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

“Future Environmental Attributes” shall mean any and all generation attributes (other than Green Attributes or Renewable Energy Incentives) under the RPS regulations and/or under any and all other international, federal, regional, state or other law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any

voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now, or in the future, to the generation of electrical energy by the Facility. Future Environmental Attributes do not include investment tax credits or production tax credits associated with the construction or operation of the Facility, or other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation.

“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 Green Attributes and Capacity Attributes.

“Generating Facility” means the generating 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 (i) Energy Generation to the Delivery Point, and (ii) Charging Energy to the Storage Facility; provided that the “Generating Facility” does not include the Storage Facility or the Shared Facilities.

“Generation Rate” has the meaning set forth on the Cover Sheet.

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

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Facility and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Facility Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii)

production tax credits associated with the construction or operation of the Facility and other financial incentives in the form of credits, reductions, or allowances associated with the Facility that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. If the Facility is a biomass or landfill gas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Facility.

“**Green Tag Reporting Rights**” means the right of a purchaser of renewable energy to report ownership of accumulated “green tags” in compliance with and to the extent permitted by applicable Law and include, without limitation, rights under Section 1605(b) of the Energy Policy Act of 1992, and any present or future federal, state or local certification program or emissions trading program, including pursuant to the WREGIS Operating Rules.

“**Grid Energy**” means energy used to charge the Storage Facility other than Charging Energy from the Generating Facility.

“**Guaranteed Generation Capacity**” means the total capacity (in MW) of the Generating Facility initially equal to the amount set forth on the Cover Sheet, as the same may be adjusted pursuant to Section (c) of Exhibit C.

“**Guaranteed Commercial Operation Date**” means the Expected Commercial Operation Date, as such date may be extended by the Development Cure Period.

“**Guaranteed Construction Start Date**” means the Expected Construction Start Date, as such date may be extended by the Development Cure Period.

“**Guaranteed Energy Production**” has the meaning set forth in Section 4.7.

“**Guaranteed Installed Storage Capacity**” has the meaning set forth on the Cover Sheet.

“**Guaranteed Storage Availability**” has the meaning set forth in Section 4.8.

“**Hazardous Materials**” means any substance, material or waste which is (1) defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” or “restricted hazardous waste” under any provision of California law; (2) petroleum or petroleum products; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive materials; (6) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act, 33 U.S.C. section 1251 *et seq.* (33 U.S.C. § 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. § 1317); (7) defined as a “hazardous substance” pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. section 6901 *et seq.* (42 U.S.C. § 6903) or its implementing regulations; (8) defined as a “hazardous substance” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. section 9601 *et seq.* (42 U.S.C. § 9601); or (9) determined by California, federal or local governmental authority to be

capable of posing a risk of injury to health, safety or property.

“**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**” has the meaning set forth in Section ARTICLE 16.

“**Indemnifying Party**” has the meaning set forth in Section ARTICLE 16.

“**Initial Synchronization**” means the initial delivery of Facility Energy to the Delivery Point.

“**Installed Capacity**” means the sum of (x) the Installed Generation Capacity and (y) the Installed Storage Capacity.

“**Installed Storage Capacity**” means the maximum dependable operating capability of the Storage Facility to discharge electric energy, as measured in MW(ac) at the Delivery Point, that achieves Commercial Operation, adjusted for ambient conditions on the date of the performance test, and as evidenced by a certificate substantially in the form attached as Exhibit I hereto.

“**Installed Generation Capacity**” means the actual generating capacity of the Generating Facility, as measured in MW-AC at the Delivery Point, that achieves Commercial Operation, adjusted for ambient conditions on the date of the performance test, and as evidenced by a certificate substantially in the form attached as Exhibit I hereto.

“**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 Delay**” means that the Interconnection Facilities or Network Upgrades are not complete and ready for the Facility to connect and sell Product at the Delivery Point or to obtain FCDS.

“**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.

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

“**Inter-SC Trade**” or “**IST**” 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 12/15/2015, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

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

“Lender” means, collectively, any Person (i) 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, (ii) providing Interest Rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations and/or (iii) 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. branch with such bank having a Credit Rating of at least BBB+ with an outlook designation of “stable” from S&P or Baa1 with an outlook designation of “stable” from Moody’s, in a form 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.

“Locational Marginal Price” or **“LMP”** has the meaning set forth in the CAISO Tariff.

“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 Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

“Lost Output” has the meaning set forth in Section 4.7.

“Maximum Round-Trip Efficiency” has the meaning set forth on the Cover Sheet.

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

“Minimum Round-Trip Efficiency” has the meaning set forth on the Cover Sheet.

“Monthly Delivery Forecast” has the meaning set forth in Section 4.3(b).

“Monthly Storage Availability” has the meaning set forth in Exhibit P.

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

“Multiplier” has the meaning set forth in Section 3.8(a).

“MW” means megawatts measured 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.

“Negative LMP” means, in any Settlement Period or Settlement Interval, the LMP at the Facility’s PNode is less than Zero dollars (\$0).

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

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

“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, facsimile 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 Procedures” or **“Operating Restrictions”** means those rules, requirements, and procedures set forth on Exhibit Q.

“Participating Transmission Owner” means an entity that owns transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities where the Facility is interconnected. For purposes of this Agreement, the Participating Transmission Owner is Pacific Gas and Electric Company.

“Participating Transmission Operator” means an entity that operates and maintains transmission or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities where the Facility is interconnected. For purposes of this Agreement, the Participating Transmission Operator is Pacific Gas and Electric Company.

“PTO” means either Participating Transmission Owner or Participating Transmission Operator, as applicable.

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

“Performance Measurement Period” has the meaning set forth in Section 4.7.

“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 has, or is controlled by another Person that satisfies the following requirements:

(A) A tangible net worth of not less than one hundred fifty million dollars (\$150,000,000) or a Credit Rating of at least BBB+ from S&P, BBB+ from Fitch, or Baa1 from Moody’s; and

(B) At least two (2) years of experience in the ownership and operations of power generation 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 the removal of the Facility from service to perform work on specific components that will result in an interruption in delivery of Energy to Buyer (e.g., for annual overhaul, inspections or testing).

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

“Portfolio Content Category” means PCC1, PCC2 or PCC3, as applicable.

“Portfolio Content Category 1” or **“PCC1”** means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code

Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

“Portfolio Content Category 2” or **“PCC2”** means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(2), as may be amended from time to time or as further defined or supplemented by Law.

“Portfolio Content Category 3” or **“PCC3”** means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(3), as may be amended from time to time or as further defined or supplemented by Law.

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

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

“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 utility industry during the relevant time period with respect to grid-interconnected, utility-scale generating facilities with integrated storage in the Western United States, or (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 generating facilities with integrated storage in the Western United States.

“PTC” means the production tax credit established pursuant to Section 45 of the United States Internal Revenue Code of 1986.

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

“RA Compliance Showing” means the System RAR compliance or advisory showings (or similar or successor showings an entity is required to make to the CAISO pursuant to the CAISO Tariff, to the CPUC pursuant to the Resource Adequacy Rulings, or to any Governmental Authority.

“RA Deficiency Amount” means the liquidated damages payment that Seller shall pay to Buyer for an applicable RA Shortfall Month as calculated in accordance with Section 3.8(a).

“RA Deficiency Multiplier” has the meaning shown on the Cover Sheet.

“RA Guarantee Date” has the meaning shown on the Cover Sheet.

“RA Shortfall Amount” has the meaning set forth in Section 3.8(b).

“RA Shortfall Month” means, for purposes of calculating an RA Deficiency Amount under Section 3.8(a), any Showing Month in which either:

(a) the Facility has not achieved FCDS; or

(b) the Net Qualifying Capacity of the Facility for such Showing Month was either (i) not published by or otherwise established with the CAISO by the Notification Deadline for such Showing Month, or (ii) was less than the Qualifying Capacity of the Facility for such month.

“Real-Time Forecast” means any Notice of any change to the Available Generating Capacity, Storage Capacity, or hourly expected Energy delivered by or on behalf of Seller pursuant to Section 4.3(d).

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

“Real-Time Price” means the Resource-Specific Settlement Interval LMP as defined in the CAISO Tariff. If there is more than one applicable Real-Time Price for the same period of time, Real-Time Price shall mean the price associated with the smallest time interval.

“Release” has the meaning set forth in Section 16.3.

“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 reasonable 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.

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

“Renewable Energy Incentives” means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986,

as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that is not a Green Attribute or a Future Environmental Attribute.

“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 Deficiency Amount is due to Buyer.

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

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024 14-06-050, 15-06-063, 16-06-045, 17-06-027, 18-06-030, 18-06-031, 19-02-022, 19-06-026, 19-10-021, 20-01-004, 20-03-016, 20-06-002, 20-06-031, 20-06-028, 20-12-006 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 Delivery Term.

“Resource Generation Capability” has the meaning set forth in Exhibit I.

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

“S&P” means the Standard & Poor’s Financial Services, LLC (a subsidiary of The McGraw-Hill Companies, 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, the requirements of CPUC General Order No. 167 that are applicable to the Facility, 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.

“**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, FMM Schedule (as defined in the CAISO Tariff), and/or any other financially binding Schedule, 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.

“**Self-Schedule**” has the meaning set forth in the CAISO Tariff.

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

“**Seller Permitted Party**” means any actual or potential: (i) Lender, (ii) direct or indirect purchaser of all or any part of Seller or the Facility, (iii) engineering, procurement, and construction contractor, and (iv) operation and maintenance provider.

“**Seller’s WREGIS Account**” has the meaning set forth in Section (c)(a).

“**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 energy from the Facility (which is excluded from Shared Facilities) to the

point of interconnection, including the Interconnection Agreement itself, that are used in common with third parties.

“Showing Month” shall be a calendar month of the Delivery Term, commencing with the Showing Month that contains the Expected Full Capacity Deliverability Status Date, that is the subject of a 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 achieves Construction Start.

“Site Control” means that Seller or 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.

“Station Use” means: (a) the Energy produced or discharged by the Facility that is used within the Facility to power the lights, motors, control systems and other electrical loads that are necessary for operation of the Facility; and (b) the Energy produced or discharged by the Facility that is consumed within the Facility’s electric energy distribution system as losses.

“State of Charge” or **“SOC”** means the Equipment’s state of charge which is the ratio of the current capacity of the battery to the maximum available current capacity of the battery, expressed as a percentage.

“Storage Capacity” means the maximum dependable operating capability of the Storage Facility to discharge electric energy, and any other products that may be developed or evolve from time to time during the Term that the Storage Facility is able to provide as the Facility is configured on the Commercial Operation Date and that relate to the maximum dependable operating capability of the Storage Facility to discharge electric energy.

“Storage Capacity Default Threshold” has the meaning set forth on the Cover Sheet.

“Storage Capacity Test” means any test or retest of the capacity of the Storage Facility conducted in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O.

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

“Storage Facility Meter” means the bi-directional revenue quality meter or meters (with an accuracy class between 0.3 and 0.5, as selected by Seller and approved by Buyer, each acting reasonably), along with a compatible data processing gateway or remote intelligence gateway,

telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, (i) the amount of Charging Energy delivered to the Storage Facility Metering Points, (ii) the amount of Grid Energy delivered to the Storage Facility Metering Points, and (iii) the amount of Discharging Energy discharged from the Storage Facility at the Storage Facility Metering Points to the Delivery Point for the purpose of invoicing in accordance with Section ARTICLE 8. For clarity, the Facility will contain multiple measurement devices that will make up the Storage Facility Meter, and, unless otherwise indicated, references to the Storage Facility Meter shall mean all such measurement devices and the aggregated data of all such measurement devices, taken together.

“Storage Facility Metering Points” means the locations of the Storage Facility Meters shown on Exhibit R.

“Storage Product” means (a) Discharging Energy, (b) Capacity Attributes, if any, (c) Storage Capacity, and (d) Ancillary Services (as defined in the CAISO Tariff), if any, in each case arising from or relating to the Storage Facility.

“Storage Rate” has the meaning set forth on the Cover Sheet, as such rate may be modified pursuant to Section 3.8(c).

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

“System Emergency” means any condition that requires, as determined and declared by CAISO or the PTO, 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, 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 Benefits” means any state, local and/or federal tax benefit or incentive, including energy credits determined under Section 45 or 48 of the Internal Revenue Code of 1986, as amended, investment tax credits, production tax credits, depreciation, amortization, deduction, expense, exemption, preferential rate, and/or other tax benefit or incentive associated with the production of renewable energy and/or the operation of, construction, investments in or ownership of the Facility (including any cash payment or grant).

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

“Tax Equity Financing” means a transaction or series of transactions involving one or more investors seeking a return that is enhanced by tax credits and/or tax depreciation and

generally (i) described in Revenue Procedures 2001-28 (sale-leaseback (with or without “leverage”)), 2007- 65 (flip partnership) or 2014-12 (flip partnership and master tenant partnership) as those revenue procedures are reasonably applied or analogized to the Project or (ii) contemplated by Section 50(d)(5) of the Internal Revenue Code of 1986, as amended (a pass-through lease).

“**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 or entities transmitting or transporting the Facility Energy on behalf of Seller or Buyer to or from the Delivery Point, including any Participating Transmission Owner or distribution provider.

“**Transmission System**” means the transmission facilities operated by the CAISO, now or hereafter in existence, or the distribution facilities operated by a Participating Transmission Owner or other distribution provider, 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.

“**Ultimate Parent**” means your solar LLC.

“**Variable Energy Resource**” or “**VER**” has the meaning set forth in the CAISO Tariff.

“**Wildfire Smoke-Caused Output Reduction**” means a reduction in the generation output of the facility that is caused by smoke clouds and aerosols from a wildfire, calculated pursuant to Section 4.6(f).

“**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.

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

“**WREGIS Certificate Deficit**” has the meaning set forth in Section (c)(e).

“WREGIS Certificates” has the same meaning as “Certificate” as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

“WREGIS Operating Rules” means those operating rules and requirements adopted by WREGIS as of May 1, 2018, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

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 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 term “including” means “including without limitation” and any list of examples following such term shall in no way restrict or limit the generality of the work 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 and any contract term extension provisions set forth herein (“**Contract Term**”); provided that that subject to Buyer’s obligations in Section 3.6, 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.

(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 two (2) years 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. The Delivery Term shall not commence until Seller completes each of the following conditions, which must be satisfied and delivered to Buyer at least forty-five (45) days before the Commercial Operation Date:

(a) Seller shall have provided to Buyer, by no earlier than ninety (90) days prior to the Commercial Operating 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 completion 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 on the Commercial Operation Date.

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

(d) An Interconnection Agreement between Seller and the PTO shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;

(e) All applicable regulatory authorizations, approvals and permits necessary for the operation of the Facility have been obtained and shall be in full force and effect and all conditions thereof that are capable of being satisfied on the Commercial Operation Date shall have been satisfied;

(f) Seller shall have received CEC Precertification of the Facility (and reasonably expects to receive final CEC Certification and Verification for the Facility in no more than one hundred eighty (180) days from the Commercial Operation Date);

(g) Seller shall have completed all applicable WREGIS registration requirements, including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system;

(h) Seller shall have submitted to Buyer a Facility Safety Plan;

(i) Seller shall have delivered to Buyer all insurance documents required under Article 17;

(j) Seller shall have submitted to Buyer a Metering Diagram in the form of Exhibit R;

(k) If any applicable Governmental Authority required Seller to develop a decommissioning plan as part of any permitting process for the Facility, then Seller shall have provided such decommissioning plan to Buyer;

(l) Seller shall have delivered the Performance Security to Buyer in accordance with Section 8.8; and

(m) Seller shall have paid Buyer for all amounts owing under this Agreement, if any, including any Commercial Operation Delay Damages.

2.3 Progress Reporting. Within fifteen (15) days after the close of (i) each calendar quarter from the first calendar quarter following the Effective Date until the achievement of Construction Start, and (ii) each calendar month from the first calendar month following the achievement of Construction Start until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and agree to regularly scheduled meetings between representatives of Buyer and Seller to review such monthly reports and discuss Seller's construction progress. The form of the

Progress Report is set forth in Exhibit E. Seller shall also provide Buyer with any reasonable requested documentation (subject to confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request by Seller. For the avoidance of doubt, Seller is solely responsible for the design and construction of the Facility, including the location of the Site, the Facility layout, and the selection, procurement and installation of the equipment comprising the Facility.

2.4 Remedial Action Plan. If Seller misses three (3) or more Milestones, or misses any one (1) by more than ninety (90) days, except as the result of Force Majeure Event or Buyer Default, Seller shall submit to Buyer, within ten (10) Business Days of such missed 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 Guaranteed Commercial Operation Date. 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.

ARTICLE 3: PURCHASE AND SALE

3.1 Purchase and Sale of Product. Subject to the terms and conditions of this Agreement, during the Delivery Term, Buyer will purchase all the Product produced by or associated with the Facility at the Contract Price and in accordance with Exhibit C, and Seller shall supply and deliver to Buyer all the Product produced by or associated with the Facility. At its sole discretion, Buyer may during the Delivery Term re-sell or use for another purpose all or a portion of the Product, provided that no such re-sale or use shall relieve Buyer of any obligations hereunder. During the Delivery Term, Buyer will have exclusive rights to offer, bid, or otherwise submit the Product, and/or any Capacity Attributes thereof, from the Facility after the Delivery Point for resale in the market, and retain and receive any and all related revenues. Subject to Buyer’s obligation to purchase Capacity Attributes and Storage Product in accordance with this Section ARTICLE 3 and Exhibit C, Buyer has no obligation to purchase from Seller any Product for which the associated Facility Energy is not or cannot be delivered to the Delivery Point as a result of an outage of the Facility, a Force Majeure Event, or a Curtailment Order.

3.2 Sale of Green Attributes. During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all Green Attributes attributable to the Facility Energy generated by the Facility.

3.3 Imbalance Energy. Buyer and Seller recognize that in any given Settlement Period the amount of Facility Energy may deviate from the amount of energy scheduled with the CAISO. To the extent there are such deviations, any costs or revenues from such imbalances shall be solely for the account of Buyer.

3.4 Ownership of Renewable Energy Incentives. Seller shall have all rights, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are

initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller's sole expense, in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

3.5 Future Environmental Attributes.

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. Subject to the final sentence of this Section 3.5(a), and Sections 3.5(b) and 3.11, in such event, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.5(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) appropriate allocation of any additional costs; provided that the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.6 Test Energy. No less than fourteen (14) days prior to the first day on which Test Energy is expected to be available from the Facility, but in no case more than seventy-five (75) calendar days prior to the Expected Commercial Operation Date of the Facility, Seller shall notify Buyer of the availability of the Test Energy. If and to the extent the Facility generates Test Energy, Seller shall sell and Buyer shall purchase from Seller all Test Energy on an as-available basis. As compensation for such Test Energy, Buyer shall pay Seller an amount equal to fifty percent (50%) of the Generation Rate. For the avoidance of doubt, the conditions precedent in Section 2.2 are not applicable to the Parties' obligations under this Section 3.6.

3.7 Capacity Attributes. Seller shall request Full Capacity Deliverability Status 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 3.11, 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 3.11, Seller shall use commercially reasonable efforts to maintain eligibility for 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 to Buyer. Throughout the Delivery Term, and subject to Section 3.11, Seller hereby covenants and agrees to transfer all Resource Adequacy Benefits to Buyer.

(c) 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 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 3.11:

(i) the Product qualifies as incremental capacity pursuant to D.21-06-035 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

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

(d) In furtherance of Buyer's compliance and reporting obligations under D.21-06-035 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.

3.8 Resource Adequacy Failure.

(a) RA Deficiency Determination. Except as specified in Section 3.8(c), for each RA Shortfall Month, Seller shall pay to Buyer as liquidated damages the RA Deficiency Amount, as set forth in Section 3.8(b), and/or provide Replacement RA, as set forth in Section 3.8(b), as the exclusive remedy for the Capacity Attributes that Seller failed to convey to Buyer.

(b) RA Deficiency Amount Calculation. Except as specified in Section 3.8(c), for each RA Shortfall Month, Seller shall pay to Buyer an amount (the "**RA Deficiency Amount**") 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 Deficiency Multiplier, as designated on the Cover Sheet; provided that Seller may, as an alternative to paying RA Deficiency Amounts, provide Replacement RA in the amount of the RA Shortfall Amount with respect to such Showing Month, provided that 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 at least seventy-five (75) calendar days before the RA Shortfall Month. 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.

(c) If the Facility has not achieved FCDS by the RA Guarantee Date, then the provisions of Section 3.8(a) and (b) shall be suspended and, as an alternative basis of liquidated damages, the Storage Rate shall be reduced to [REDACTED] per kilowatt-month (\$ [REDACTED]/kW-month) for all subsequent months. If the Facility subsequently achieves FCDS, the Storage Rate shall be increased to [REDACTED] per kilowatt-month (\$ [REDACTED]/kW-month) and the requirements of the Sections 3.8 (a) and (b) shall apply to all such months occurring after the Facility achieves FCDS.

3.9 CEC Certification and Verification. Subject to Section 3.11 and in accordance with the timing set forth in this Section 3.9, Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to obtain and maintain CEC Certification and Verification for the Facility throughout the Delivery Term, including compliance with all applicable requirements for certified facilities set forth in the current version of the *RPS Eligibility Guidebook* (or its successor). Seller shall obtain CEC Precertification by the Commercial Operation Date. Within thirty (30) days after the Commercial Operation Date, Seller shall apply with the CEC for final CEC Certification and Verification. Seller must promptly notify Buyer and the CEC of any changes to the information previously submitted in Seller’s application for CEC Certification and Verification for the Facility.

3.10 California Renewables Portfolio Standard.

(a) Eligibility. Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Facility qualifies and is certified by the CEC as an Eligible Renewable Energy Resource as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Facility Energy delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. As used in this Section 3.10(a), “certified by the CEC” means the Facility has received CEC Certification and Verification.

(b) Transfer of Renewable Energy Credits. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the renewable energy credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law

occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

(c) Tracking of RECs in WREGIS. Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in WREGIS will be taken prior to the first delivery under this Agreement.

3.11 Change in Law.

(a) The Parties acknowledge that an essential purpose of this Agreement is to both provide Resource Adequacy Benefits that satisfy the requirements of the Resource Adequacy Rulings, including the requirements of D.21-06-035, and to provide renewable generation that meets the requirements of the California Renewables Portfolio Standard. 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 Green 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 commercially reasonable actions that may be requested by Buyer to assure that the Facility is an Eligible Renewable Energy resource under the California Renewables portfolio Standard; provided that Seller shall have no obligation to modify this Agreement, 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) CEC Certification and CEC Verification;
- (ii) Green Attributes;
- (iii) WREGIS;
- (iv) Capacity Attributes;
- (v) Eligibility as an Eligible Renewable Energy Resource; and
- (vi) California Renewables Portfolio Standard qualification.

(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 UCAP Valuation) 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 3.11, then the Net Qualifying Capacity of the Facility shall be automatically deemed to refer to the Net Qualifying Capacity of the Facility immediately before the occurrence of the change in Laws. The Parties agree that if (A) a UCAP Valuation is adopted 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 3.11, Seller's obligation to deliver the applicable Contracted Storage Capacity will not be reduced on the basis of such reduction and the automatic adjustments described in the foregoing sentence shall not be implemented.

3.12 Change in Tax Law.

(a) If at any time prior to the end of the Delivery Term, Seller realizes any economic benefit from a Change in Tax Law with respect to the Facility ("Economic Benefit"), then Seller shall pay Buyer ██████████ percent (██████%) of such Economic Benefit realized each month, which amount shall be due to Buyer sixty days after the end of the month in which Seller realized such Economic Benefit, through the remainder of the Delivery Term.

(b) Seller shall provide Notice to Buyer within seven (7) days after realizing any Economic Benefit.

(c) For purposes of determining when an Economic Benefit is realized under this Section 3.12, realization will have been deemed to have occurred upon the earliest occurrence of any of the following: (i) the closing of any Tax Equity Financing by Seller (ii) the transfer of

any income tax credits generated as a result of Change in Tax Law, (iii) the claiming of any income tax credits on the federal income tax return (on the date such return is filed) of any entity, or (iv) the date upon which Seller realizes an Economic Benefit not otherwise listed in this Section 3.12. Determination of whether an Economic Benefit has been realized, and the extent of that Economic Benefit, shall be determined by Seller, in its sole discretion.

3.13 Facility Configuration. In order to optimize the benefits of the Facility, Buyer and Seller each agree that if requested by the other Party, then Buyer and Seller will discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities; provided that neither Party shall be obligated to agree to any changes under this Agreement, or to incur any unreimbursed expense in connection with such changes, except under terms mutually acceptable to both Parties as set forth in a written agreement.

3.14 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) neither the creation, registration, sale or transfer of such Additional Products (A) shall 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 generation 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; and (ii) the sale or transfer of such Additional Products is permitted by (and capable of being implemented pursuant to) law.

(b) If the CPUC adopts a Slice of Day reform, or another similar type of reform that results in a change in the RA capacity product, these additional attributes will not be considered Additional Products.

ARTICLE 4: OBLIGATIONS AND DELIVERIES

4.1 Delivery.

(a) **Energy.** 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 will 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 from the Generating Facility 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. Buyer shall be responsible for all costs, charges, and penalties, if any, imposed in connection with the delivery of Grid Energy to the Storage Facility. The Facility Energy will be scheduled to the CAISO by Buyer (or Buyer's designated Scheduling Coordinator) in accordance with Exhibit D.

(b) Green Attributes. All Green Attributes associated with the Test Energy and the Facility during the Delivery Term are exclusively dedicated to and vested in Buyer. Seller represents and warrants that Seller holds the rights to all Green Attributes from the Facility, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product from the Facility.

4.2 Title and Risk of Loss.

(a) Energy. Title to and risk of loss related to the Facility Energy, shall pass and transfer from Seller to Buyer at the Delivery Point. Seller warrants that all Product delivered to Buyer is free and clear of all liens, security interests, claims and encumbrances of any kind.

(b) Green Attributes. Title to and risk of loss related to the Green Attributes shall pass and transfer from Seller to Buyer upon the transfer of such Green Attributes in accordance with WREGIS.

4.3 Forecasting. Seller shall provide the forecasts described below at Seller's sole expense. Seller's capacity forecasts shall include both Available Generating Capacity and Storage Capacity. Seller shall use commercially reasonable efforts to forecast the Available Generating Capacity and Storage Capacity accurately and to transmit such information in a format reasonably acceptable to Buyer (or Buyer's designee).

(a) Annual Forecast of Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the beginning of each calendar year for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer and the SC a non-binding forecast of each month's average-day Expected Energy, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit F-1, or as reasonably requested by Buyer.

(b) Monthly Forecast of Energy and Available Generating Capacity. 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 Energy, Available Generating Capacity and Storage Capacity for each day of the following month in a form substantially similar to the table found in Exhibit F-2 ("**Monthly Delivery Forecast**").

(c) Day-Ahead Forecast. By 5:30 AM Pacific Prevailing Time on the Business Day immediately preceding the date of delivery, or as otherwise specified by Buyer consistent with Prudent Operating Practice, Seller shall provide Buyer with a non-binding forecast of

(i) Available Generating Capacity and (ii) Storage Capacity and (iii) hourly expected Energy, in each case, for each hour of the immediately succeeding day (“**Day-Ahead Forecast**”). A Day-Ahead Forecast provided in a day prior to any non-Business Day(s) shall include non-binding forecasts for the immediate day, each succeeding non-Business Day and the next Business Day. Each Day-Ahead Forecast shall clearly identify, for each hour, Seller’s best estimate of (i) the Available Generating Capacity and (ii) the Storage Capacity and (iii) the hourly expected Energy. These Day-Ahead Forecasts shall be sent to Buyer’s on-duty Scheduling Coordinator. If Seller fails to provide Buyer with a Day-Ahead Forecast as required herein for any period, then for such unscheduled delivery period only Buyer shall rely on any Real-Time Forecast provided in accordance with Section 4.3(d) or the Monthly Delivery Forecast or Buyer’s best estimate based on information reasonably available to Buyer.

(d) Real-Time Forecasts. During the Delivery Term, Seller shall notify Buyer of any changes from the Day-Ahead Forecast of one (1) MW or more in (i) Available Generating Capacity or (ii) Storage Capacity or (iii) hourly expected Energy, in each case, whether due to Forced Facility Outage, Force Majeure Event or other cause, as soon as reasonably possible, but no later than one (1) hour prior to the deadline for submitting Schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. If the Available Generating Capacity, Storage Capacity, or hourly expected Energy changes by at least one (1) MW as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts of Energy shall be provided by an Approved Forecast Vendor and shall contain information regarding the beginning date and time of the event resulting in the change in Available Generating Capacity, Storage Capacity, or hourly expected Energy, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use commercially reasonable efforts to notify Buyer of such outage within ten (10) minutes of the commencement of the Forced Facility Outage. Seller shall inform Buyer of any developments that will affect either the duration of such outage or the availability of the Facility during or after the end of such outage. These Real-Time Forecasts shall be communicated in a method acceptable to Buyer; provided that Buyer specifies the method no later than sixty (60) days prior to the effective date of such requirement. In the event Buyer fails to provide Notice of an acceptable method for communications under this Section 4.3(d), then Seller shall send such communications by telephone and e-mail to Buyer.

(e) Forced Facility Outages. Notwithstanding anything to the contrary herein, Seller shall promptly notify Buyer’s on-duty Scheduling Coordinator of Forced Facility Outages and Seller shall keep Buyer informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of the outage.

(f) Forecasting Penalties. Subject to a Force Majeure Event, in the event Seller does not in a given hour provide the forecast required in Section 4.3(d) and Buyer incurs a loss or penalty resulting from its scheduling activities with respect to Facility Energy during such hour, Seller shall be responsible for a “**Forecasting Penalty**” for each such hour equal to the product of (A) the absolute difference (if any) between (i) the expected Energy for such hour (which, for the avoidance of doubt, assumes no Charging Energy or Discharging Energy in such hour) set forth in the Monthly Delivery Forecast, and (ii) the actual Energy produced by the Generating Facility (absent any Charging Energy and Discharging Energy), multiplied by (B) the absolute value of the

Real-Time Price in such hour. Settlement of Forecasting Penalties shall occur as set forth in Article 8 of this Agreement.

(g) **CAISO Tariff Requirements.** Subject to the limitations expressly set forth in Section 3.11, to the extent such obligations are applicable to the Facility, Seller will comply with all applicable obligations for Variable Energy Resources under the CAISO Tariff and the Eligible Intermittent Resource Protocol, including providing appropriate operational data and meteorological data, and will fully cooperate with Buyer, Buyer's SC, and CAISO, in providing all data, information, and authorizations required thereunder.

4.4 Curtailement.

(a) **General.** Seller agrees to reduce the amount of Facility Energy produced by the Facility, by the amount and for the period set forth in any Curtailement Order, Buyer Curtailement Order, or notice received from CAISO in respect of a Buyer Bid Curtailement, provided that Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Facility set out in the Operating Restrictions.

(b) **Buyer Curtailement.** Buyer shall have the right to order Seller to curtail deliveries of Facility Energy through Buyer Curtailement Orders, provided that Buyer shall pay Seller for all Deemed Delivered Energy associated with a Buyer Curtailement Period at the Generation Rate.

(c) **Failure to Comply.** If Seller fails to comply with a Buyer Curtailement Order, Buyer Bid Curtailement or Curtailement Order, then, for each MWh of Facility Energy that is delivered by the Facility to the Delivery Point in contradiction to the Buyer Curtailement Order, Buyer Bid Curtailement or Curtailement Order, Seller shall pay Buyer for each such MWh at an amount equal to the sum of (A) + (B) + (C), where: (A) is the amount, if any, paid to Seller by Buyer for delivery of such excess MWh and, (B) is the sum, for all Settlement Intervals with a Negative LMP during the Buyer Curtailement Period or Curtailement Period, of the absolute value of the product of such excess MWh in each Settlement Interval and the Negative LMP for such Settlement Interval, and (C) is any penalties assessed by the CAISO or other charges assessed by the CAISO resulting from Seller's failure to comply with the Buyer Curtailement Order, Buyer Bid Curtailement or Curtailement Order.

(d) **Seller Equipment Required for Curtailement Instruction Communications.** Seller shall acquire, install, and maintain such facilities, communications links and other equipment, and implement such protocols and practices, as necessary to respond and follow instructions, including an electronic signal conveying real time and intra-day instructions, to operate the Facility as directed by the Buyer in accordance with this Agreement and/or a Governmental Authority, including to implement a Buyer Curtailement Order, Buyer Bid Curtailement or Curtailement Order in accordance with the methodology used to transmit such instructions as it may change from time to time. If at any time during the Delivery Term Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with then-current methodologies, Seller shall take the steps necessary to become compliant as soon as commercially reasonably possible. Seller shall be liable pursuant to Section 4.4(c) for failure to comply with a Buyer Curtailement Order, Buyer Bid Curtailement or Curtailement Order, during

the time that Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with methodologies. For the avoidance of doubt, a Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order communication via such systems and facilities shall have the same force and effect on Seller as any other form of communication.

4.5 Charging Energy Management.

(a) Upon receipt of a valid Charging Notice, Seller shall take any and all action necessary to deliver the Charging Energy or Grid Energy to the Storage Facility in order to deliver the Storage 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 Generating Facility or Grid Energy to the Storage Facility.

(b) Buyer will have the right to charge the Storage Facility seven (7) days per week and twenty-four (24) hours per day (including holidays), by providing Charging Notices to Seller electronically, provided that Buyer's right to issue Charging Notices is subject to the requirements and limitations set forth in this Agreement, including the Operating Restrictions and the provisions of Section 4.5(a). Each Charging Notice issued in accordance with this Agreement will be effective unless and until Buyer modifies such Charging Notice by providing Seller with an updated Charging Notice. Buyer shall have the right to charge the Storage Facility with Grid Energy rather than Energy from the Generating Facility.

(c) Seller shall not charge the Storage Facility during the Term other than pursuant to a valid Charging Notice, or in connection with a Storage Capacity Test, or pursuant to a notice from CAISO, the PTO, Transmission Provider, or any other Governmental Authority, or as reasonably determined to be necessary for maintenance or repairs consistent with Prudent Operating Practice. If, during the Contract Term, Seller (a) charges the Storage Facility to a Stored Energy Level greater than the Stored Energy Level provided for in the Charging Notice or (b) charges the Storage Facility in violation of the first sentence of this Section 4.5(c), then (x) Seller shall be responsible for all energy costs associated with such charging of the Storage Facility, (y) Buyer shall not be required to pay for the charging of such energy (i.e., Charging Energy), and (z) Buyer shall be entitled to discharge such energy and entitled to all of the benefits (including Storage Product) associated with such discharge.

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

(e) Notwithstanding anything in this Agreement to the contrary, during any Settlement Interval, Curtailment Orders, Buyer Curtailment Orders, and Buyer Bid Curtailments applicable to such Settlement Interval shall have priority over any Charging Notices and Discharging Notices applicable to such Settlement Interval, and Seller shall have no liability for violation of this Section 4.5 or any Charging Notice or Discharging Notice if and to the extent such violation is caused by Seller's compliance with any Curtailment Order, Buyer Curtailment Order,

Buyer Bid Curtailment or other instruction or direction from a Governmental Authority or the PTO or the Transmission Provider. Buyer shall have the right, but not the obligation, to provide Seller with updated Charging Notices and Discharging Notices during any Buyer Curtailment Order, Buyer Bid Curtailment or Curtailment Order consistent with the Operating Procedures.

4.6 Reduction in Delivery Obligation. For the avoidance of doubt, and in no way limiting Section ARTICLE 3 or Exhibit G:

(a) Facility Maintenance.

(i) By no later than sixty (60) days prior to Commercial Operation Date, and by October 15 of each Contract Year, Seller shall provide Buyer with a non-binding written projection of all Planned Outages for the succeeding calendar year (the "**Planned Outage Projection**"). The Planned Outage Projection shall include information concerning all projected Planned Outages during such period, including (A) the anticipated start and end dates of each Planned Outage; (B) a description of the maintenance or repair work to be performed during the Planned Outage; and (C) the anticipated MW of operational capacity of the Facility, if any, during the Planned Outage. Seller shall use commercially reasonable efforts to notify Buyer of any change in the Planned Outage Projection as soon as practicable.

(ii) In addition to the requirements of Section 4.6(a)(i), Seller shall provide Buyer with Notice of each Planned Outage at least one hundred twenty (120) days prior to the occurrence of such Planned Outage, provided that (i) no Notice is required for scheduled maintenance or any changes or extensions thereto which do not result in a shutdown of more than three percent (3%) of the Installed Facility Generation Capacity and three percent (3%) of the Installed Storage Capacity, and (ii) Seller may adjust the dates of any scheduled maintenance with fewer than one hundred and twenty (120) days' prior Notice to Buyer so long as (X) Seller makes its request more than five (5) Business Days prior to the expected start date of such scheduled maintenance and (Y) the requested alternate date is reasonably acceptable to Buyer. To the extent notice is not already required under the terms hereof, Seller shall notify Buyer as soon as practicable of any extensions to scheduled maintenance and expected end dates thereof. Subject to the foregoing, Seller shall be permitted to reduce deliveries of Product during any period of scheduled maintenance on the Facility, provided that, between June 1 and September 30, Seller shall not schedule non-emergency maintenance 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 the period of June 1 to September 30, (iii) such outage is required in accordance with Prudent Operating Practices, (iv) the Parties agree otherwise in writing, or (v) such outage is required to perform a Storage Capacity Test or measurement of the Actual Round-Trip Efficiency, in each case, performed at Seller's request (any of the scheduled maintenance permitted by the foregoing Section 4.6(a), a "**Planned Outage**").

(b) Forced Facility Outage. Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage.

(c) System Emergencies and other Interconnection Events. Seller shall be permitted to reduce deliveries of Product during any period of System Emergency, Transmission

System Outage, Buyer Curtailment Period or upon Notice of a Curtailment Order pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff.

(d) Force Majeure Event. Seller shall be permitted to reduce deliveries of Product during any Force Majeure Event.

(e) Health and Safety. Seller shall be permitted to reduce deliveries of Product as necessary to maintain health and safety pursuant to Section 6.2.

(f) Buyer Default. Seller shall be permitted to reduce deliveries to buyer of Product during any period in which there is a Buyer Default or sell such Product to third parties during such Buyer Default.

(g) Wildfire Smoke-Caused Output Reduction. Seller shall be permitted to reduce deliveries due to a Wildfire Smoke-Caused Output Reduction. In order to qualify for this Section 4.6(f), Seller shall provide Notice to Buyer demonstrating that (i) CalFIRE has designated a wildfire incident; (ii) the National Weather Service, or similar weather monitoring service, has issued a map showing that the smoke from the identified wildfire spread to cover area over the Facility; and (iii) the air pollution sensor maintained by the North Coast Unified Air Quality Management District produces an output reading exceeding two hundred (200) (ug/m³) for PM 2.5 during the applicable time period. Such Notice shall calculate the amount of Wildfire Smoke-Caused Output Reduction by demonstrating the difference between (i) the expected generation during the affected time period based on actual weather and irradiation data and (ii) the actual generation during the affected time period.

4.7 Guaranteed Energy Production. During the Delivery Term, Seller shall be required to deliver to Buyer an amount of Adjusted Facility Energy, not including any Excess MWh, equal to no less than the Guaranteed Energy Production (as defined below) in any period of two (2) consecutive Contract Years during the Delivery Term ("**Performance Measurement Period**"). "**Guaranteed Energy Production**" means an amount of Adjusted Facility Energy, as measured in MWh, equal to [REDACTED] percent ([REDACTED]%) of the total Expected Energy for the two (2) Contract Years constituting such Performance Measurement Period. Seller shall be excused from achieving the Guaranteed Energy Production during any Performance Measurement Period only to the extent of any Buyer Default, or other Buyer failure to perform directly prevents Seller from being able to deliver Facility Energy to the Delivery Point or due to Force Majeure Events, System Emergency, Curtailment Periods, or Buyer Curtailment Periods. For purposes of determining whether Seller has achieved the Guaranteed Energy Production, Seller shall be deemed to have delivered to Buyer (1) any Deemed Delivered Energy and (2) Energy in the amount it could reasonably have delivered to Buyer but was prevented from delivering to Buyer by reason of any Force Majeure Events, System Emergency, Transmission System Outage, Wildfire Smoke-Caused Output Reduction, or Curtailment Periods ("**Lost Output**"). If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall pay Buyer damages calculated in accordance with Exhibit G; provided that Seller may, as an alternative, provide Replacement Product (as defined in Exhibit G) delivered to Buyer within ninety (90) days after the conclusion of the applicable Performance Measurement Period in the event Seller fails to deliver the Guaranteed Energy Production during such Contract Years (i) upon a schedule reasonably acceptable to Buyer and (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller refuses to provide

reimbursement.

4.8 Storage Availability.

(a) During the Delivery Term, the Storage Facility shall maintain a Monthly Storage Availability during each month of no less than ninety-five percent (95%) (the “**Guaranteed Storage Availability**”), which Monthly Storage Availability shall be calculated in accordance with Exhibit P.

(b) If, the Monthly Storage Availability during any month is less than the Guaranteed Storage Availability, then Buyer’s payment for the Storage Product shall be calculated by reference to the Availability Adjustment (as determined in accordance with Exhibit C).

4.9 Storage Capacity Tests.

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

(b) Buyer shall have the right to send one or more representative(s) to witness all Storage Capacity Tests. Buyer shall be responsible for all costs, expenses and fees payable or reimbursable to its representative(s) witnessing any Storage Capacity Test. All other costs of any Storage Capacity Test shall be borne by Seller.

(c) Following each Storage Capacity Test, Seller shall submit a testing report in accordance with Exhibit O. If the actual capacity determined pursuant to a Storage Capacity Test is less than the then current Contracted Storage Capacity, then the actual capacity determined pursuant to a Storage Capacity Test shall become the new Contracted Storage Capacity at the beginning of the day following the completion of the test for all purposes under this Agreement. If, pursuant to this Section 4.9, the Contracted Storage Capacity is changed to a level below the Storage Capacity Default Threshold, such occurrence shall be an Event of Default pursuant to Section 11.1(b)(viii).

4.10 WREGIS

. Seller shall, at its sole expense, but subject to Section 3.11, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Facility Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer’s sole benefit. Seller shall transfer the Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall be deemed to have satisfied the warranty in Section (c)(g), provided that Seller fulfills its obligations under Sections (c) (a) through (g) below. In addition:

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS (“**Seller’s WREGIS Account**”), which

Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using “**Forward Certificate Transfers**” (as described in the WREGIS Operating Rules) from Seller’s WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller (“**Buyer’s WREGIS Account**”). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller’s WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller’s WREGIS Account to Buyer’s WREGIS Account.

(b) Seller shall cause Forward Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Facility Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Facility Energy for such calendar month as evidenced by the Facility’s metered data.

(d) Due to the ninety (90) day delay in the creation of WREGIS Certificates relative to the timing of invoice payment under Section 8.2, Buyer shall make an invoice payment for a given month in accordance with Section 8.2 before the WREGIS Certificates for such month are formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section (c). Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A “**WREGIS Certificate Deficit**” means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Facility Energy for the same calendar month (“**Deficient Month**”) caused by an error or omission of Seller. If any WREGIS Certificate Deficit is caused, or the result of any action or inaction by Seller, then the amount of Adjusted Facility Energy in the Deficient Month shall be reduced by the amount of the WREGIS Certificate Deficit for purposes of calculating Buyer’s payment to Seller under Article 8 and the Guaranteed Energy Production for the applicable Contract Year; provided that that such adjustment shall not apply to the extent that Seller either (x) resolves the WREGIS Certificate Deficit within ninety (90) days after the Deficient Month or (y) provides Replacement Product (as defined in Exhibit G) within ninety (90) days after the Deficient Month (i) upon a schedule reasonably acceptable to Buyer and (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller refuses to provide reimbursement. Without limiting Seller’s obligations under this Section (c), if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section (c) after the Effective Date, the Parties promptly shall modify this Section (c) as reasonably required to cause and enable Seller to transfer to Buyer’s WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Facility Energy in the same calendar month.

(g) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in WREGIS will be taken prior to the first delivery under this Agreement.

ARTICLE 5: TAXES

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 within thirty (30) days after the Effective Date to evidence such exemption or exclusion. If Buyer does not provide such documentation, then Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes 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 that that 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.

ARTICLE 6: MAINTENANCE OF THE FACILITY

6.1 Maintenance of the Facility. Seller shall comply with Law and Prudent Operating Practice relating to the operation and maintenance of the Facility and the generation and sale of Product.

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 on 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 Energy or Discharging Energy to Buyer.

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 Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities may be subject to joint ownership and shared maintenance

and operation arrangements. Any such agreement is permissible only if it (i) permits Seller to perform or satisfy, and does not purport to limit, its obligations hereunder and (ii) provides for separate metering of the Facility. Without limiting the foregoing, Buyer acknowledges that the Facility may share a transformer with a separate, but neighboring energy generating or storage plant.

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.

(iv) 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, which shall not be unreasonably withheld, 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 reasonable 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 Facility Energy using the Facility Meter, which will be operated pursuant to applicable CAISO-approved calculation methodologies and subject to adjustment in accordance with applicable CAISO meter requirements, including to account for Electrical Losses and Station Use. The Facility Meter will be located on the high-voltage side of the transformer that serves the Facility (subject to Section 6.3). Seller shall measure the Charging Energy, Grid Energy, and the Discharging Energy using the Storage Facility Meters. To the extent not inconsistent with applicable CAISO-approved calculation methodologies or the requirements of this Agreement, all meters will be operated in accordance with Prudent Operating Practices. All meters will be maintained at Seller's cost. All meters shall be programmed to adjust for all losses from such meter to the Delivery Point in a manner subject to Buyer's prior written approval, not to be unreasonably withheld. Metering will be consistent with the Metering Diagram set forth as Exhibit R. The Facility Meter shall be kept under seal, such seals to be broken only when the 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 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, or Buyer's Scheduling Coordinator, shall cooperate to allow both Parties to retrieve the meter reads from the CAISO Operational Meter Analysis and Reporting (OMAR) web and/or directly from the CAISO meter(s) at the Facility.

7.2 Meter Verification. Annually, if Seller has reason to believe there may be a meter malfunction, or upon Buyer's reasonable request, Seller shall test the 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 meter is inaccurate, then it shall be promptly repaired or replaced.

ARTICLE 8: INVOICING AND PAYMENT; CREDIT

8.1 Invoicing. Seller shall make good faith efforts to deliver an invoice to Buyer for Product no sooner than fifteen (15) Business Days after the end of the prior monthly billing period. Each invoice shall reflect (a) records of metered data, including 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 Energy Generation produced by the Generating Facility as read by the Facility Meter, the amount of Charging Energy delivered to the Storage Facility, the amount of Grid Energy delivered to the Storage Facility, and the amount of Discharging Energy delivered from the Storage Facility, in each case, as read by the Storage Facility Meter, the amount of Replacement RA and Replacement Product delivered to Buyer (if any), the calculation of Adjusted Facility Energy, Deemed Delivered Energy and Adjusted Energy Production, the LMP prices at the Delivery Point for each Settlement Period, and the Contract Price applicable to such Product in accordance with Exhibit C; (b) access to any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy of any amount; and (c) be in a format reasonably specified by Buyer, covering the services 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 for Product by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts within thirty (30) days after receipt of the invoice. 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.

8.4 Payment Adjustments; Billing Errors. Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5 or an adjustment to an amount previously invoiced or paid is required due to a correction of data by the CAISO; provided that there shall be no adjustments to prior invoices based upon meter inaccuracies. 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.

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 mutual debts and payment obligations due and owing to each other 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, G, and P, interest, and payments or credits, shall be netted so that only the excess amount remaining due 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 Development Security to Buyer within thirty (30) days of the Effective Date. Seller shall maintain the Development Security in full force and effect and Seller shall within ten (10) Business Days after any draw thereon replenish the Development Security in the event Buyer collects or draws down any portion of the Development Security for any reason permitted under this Agreement other than to satisfy a Damage Payment or a Termination Payment. Upon the earlier of (i)

Seller's delivery of the Performance Security, or (ii) 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. If the Development Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the minimum Credit Rating specified in the definition of Letter of Credit, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit by such issuer, Seller shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit that meets the requirements set forth in the definition of Development Security.

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. If the Performance Security is not in the form of cash or Letter of Credit, it shall be substantially in the form set forth in Exhibit K. Seller shall maintain the Performance Security in full force and effect, subject to any draws made by Buyer in accordance with this Agreement, until the following have occurred: (A) the Delivery Term has expired or terminated early; and (B) all payment obligations of the Seller then 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. If the Performance Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain the minimum Credit Rating set forth in the definition of Letter of Credit, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, or (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit by such issuer, Seller shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit that meets the requirements set forth in the definition of 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; 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 these obligations are satisfied in full.

8.10 Seller Financial Information. If requested by Buyer, Seller shall deliver to Buyer (i) within one hundred twenty (120) days following the end of each of Seller's fiscal years, a copy of Seller's annual report containing unaudited consolidated financial statements for such fiscal year (or audited consolidated financial statements for such fiscal year if otherwise available) and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Seller's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with Generally Accepted Accounting Principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Seller diligently pursues the preparation, certification and delivery of the statements.

ARTICLE 9: NOTICES

9.1 Addresses for the Delivery of Notices. Any Notice required, permitted, or contemplated hereunder shall be in writing, shall be addressed to the Party to be notified at the address set forth on 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, five (5) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail, facsimile, or other electronic means) and if concurrently with the transmittal of such electronic communication the sending Party provides a copy of such electronic Notice by hand delivery or express courier, at the time indicated by the time stamp upon delivery; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10: FORCE MAJEURE

10.1 Definition.

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

(b) Notwithstanding the foregoing, the term “**Force Majeure Event**” does not include (i) economic conditions that render a Party’s performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including Buyer’s ability to buy electric energy at a lower price, or Seller’s ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller’s inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the 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; (iv) a Curtailment Order; (v) Seller’s inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility 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; or (viii) a Wildfire Smoke-Caused Output Reduction.

10.2 No Liability If a Force Majeure Event Occurs. Neither Seller nor Buyer shall be liable to the other Party in the event it is prevented from performing its obligations hereunder in whole or in part due to a Force Majeure Event. The Party rendered unable to fulfill any obligation by

reason of a Force Majeure Event shall take reasonable actions necessary to remove such inability with due speed and diligence. Nothing herein shall be construed as permitting that Party to continue to fail to perform after said cause has been removed. The obligation to use due speed and diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party having such difficulty. Neither Party shall be considered in breach or default of this Agreement if and to the extent that any failure or delay in the Party's performance of one or more of its obligations hereunder is caused by a Force Majeure Event. The occurrence and continuation of a Force Majeure Event shall not suspend or excuse the obligation of a Party to make any payments due hereunder.

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

10.4 **Termination Following Force Majeure Event.**

If a Force Majeure Event has occurred that has caused either Party to be wholly or partially unable to perform its obligations hereunder, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon written Notice to the other Party with respect to the Facility experiencing the Force Majeure Event. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section ARTICLE 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 thirty (30) days, if the Defaulting Party provides Notice demonstrating that the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite exercising commercially reasonable efforts;

(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 ARTICLE 11; and except for (1) failure to achieve Full Capacity Deliverability Status by the Expected Full Capacity Deliverability Status Date or the RA Guarantee Date, the exclusive remedies for which are set forth in Section 3.8, (2) failures related to the Adjusted Energy Production that do not trigger the provisions of Section ARTICLE 11(b)(iii), the exclusive remedies for which are set forth in Section 4.7; and (3) failures related to the Monthly Storage Availability that do not trigger the provisions of Section ARTICLE 11(b)(iv), the exclusive remedies for which are set forth in Section 4.8) 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) days period despite exercising commercially reasonable efforts);

(iv) such Party becomes Bankrupt;

(v) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Section 14.2 or 14.3, as appropriate; 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 electric energy to the Delivery Point for sale under this Agreement that was not generated or discharged by the Facility, except for qualifying Replacement Product;

(ii) the failure by Seller to achieve Commercial Operation on or prior to the day that is one hundred eighty (180) calendar days after the Guaranteed Commercial Operation Date, as such date may be extended pursuant to Exhibit B;

(iii) if, in any single Contract Year, the Adjusted Energy Production amount (calculated in accordance with Exhibit G) for such period is less than sixty-five percent (65%) of the Expected Energy amount for such period;

(iv) if, in any two consecutive Contract Years, the Monthly Storage Availability is not, on average, at least seventy-five percent (75%);

(v) failure by Seller to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 after Notice and expiration of the cure periods set forth therein, including the failure to replenish the Development Security or Performance Security amount in accordance with this Agreement in the event Buyer draws against either for any reason other than to satisfy a Damage Payment or a Termination Payment;

(vi) 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 BBB by S&P or Baa2 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.

vii. failure by Seller to maintain a Contracted Storage Capacity that is equal to or exceeds the Storage Capacity Default Threshold.

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 (in the case of an Event of Default by Seller occurring before the Commercial Operation Date), or (ii) the Termination Payment calculated in accordance with Section 11.3 below (in the case of any other Event of Default by either Party);

- (c) to withhold any payments due to the Defaulting Party under this Agreement;
- (d) to suspend performance; or
- (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 that 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 the Termination Payment, as applicable, in accordance with this Section 11.3.

Damage Payment Prior to Commercial Operation Date. If the Early Termination Date occurs before the Commercial Operation Date, and then the Damage Payment shall be calculated as follows.

If Seller is the Defaulting Party, then the Damage Payment 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. 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.

Damage Payment After Commercial Operation Date. The Termination Payment ("**Termination Payment**") for a Terminated Transaction occurring after the Commercial Operation Date shall be the aggregate of all Settlement Amounts plus any or 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 (a) 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, (b) the Damage Payment or Termination Payment described in Section 11.2 or this Section 11.3 (as applicable) is a reasonable and appropriate approximation of such damages, and (c) the Damage Payment or Termination Payment described in Section 11.2 or this Section 11.3 (as applicable) 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. As soon as practicable after a Terminated Transaction, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Damage Payment or Termination Payment and whether the Termination Payment 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 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. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute. Disputes regarding the Termination Payment shall be determined in accordance with Article 15.

11.6 Rights And Remedies Are Cumulative. Except as set forth in Section 4.8(b) and except where liquidated damages are 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.

11.7 Mitigation. Any Non-Defaulting Party shall be obligated 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 INCLUDED AS PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, OR PART OF AN ARTICLE 16 INDEMNITY CLAIM, OR INCLUDED IN A LIQUIDATED DAMAGES CALCULATION, 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 3.8, 4.7, 4.8, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B, EXHIBIT G, AND EXHIBIT P, THE PARTIES ACKNOWLEDGE THAT 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; AUTHORITY

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

(a) Seller is a 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 is responsible for obtaining all permits necessary to construct and operate the Facility and Seller or an Affiliate will be the applicant on any CEQA documents.

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

(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 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 filed in state court 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.). 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 6500 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.

ARTICLE 14: ASSIGNMENT

14.1 General Prohibition on Assignments. Except as provided below, neither Party may voluntarily 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. Except as provided in this Article 14, any Change of Control of Seller or direct or indirect change of control of Buyer (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any assignment made without required written consent, or in violation of the conditions to assignment set out below, shall be null and void. Seller shall be responsible for Buyer's reasonable costs associated with the preparation, review, execution and delivery of documents in connection with any assignment of this Agreement, 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 to agree upon a consent to collateral assignment of this Agreement (“**Collateral Assignment Agreement**”). The Collateral Assignment Agreement must be in 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;

(g) 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

(h) 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.

ARTICLE 15: DISPUTE RESOLUTION

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

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

15.3 Attorneys' Fees. In any proceeding brought to enforce this Agreement or because of the breach by any Party of any covenant or condition herein contained, the prevailing Party shall be entitled to reasonable attorneys' fees (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) To the full extent permitted by law, Seller shall indemnify, defend and hold harmless Buyer, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, and/or caused in whole or in part by any negligent or wrongful act, error, or omission of Seller or by any individual or agency for which Seller is legally liable, including officers, agents, employees or subcontractors of Seller.

(b) Buyer shall defend, indemnify and hold harmless the Seller, its officers, agents, and representatives from and against any loss, injury, damage, claim, lawsuit, liability, expense, or damages of any kind or nature arising out of or in connection with (i) Buyer Scheduling Coordinator's performance as Scheduling Coordinator for the Facility, or (ii) the negligent or willful misconduct of such Buyer or by any individual or agency for which such Buyer is legally liable, including officers, agents, or employees of Buyer.

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

16.2 Claims. Promptly after receipt by a Party of any claim or Notice of the commencement of any action, administrative, or legal proceeding, or investigation as to which the indemnity provided for in this Article 16 may apply, the Indemnified Party shall notify the Indemnifying Party in writing of such fact. The Indemnifying Party shall assume the defense thereof with counsel designated by such Party and satisfactory to the Indemnified Party, provided that that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the Indemnifying Party, the Indemnified Party shall have the right to select and be represented by separate counsel, at the Indemnifying Party's expense, unless a liability insurer is willing to pay such costs. If the Indemnifying Party fails to assume the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim, provided that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is

meritorious or warrants settlement. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

16.3 Environmental Indemnity. Seller shall indemnify, defend and hold harmless Buyer, and any and all of its employees, officials and agents from and against any third party liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of or are in any way attributable to, and or caused by (a) any Release on the Site caused by Seller or Seller's contractors or service providers or (b) any claim or legal proceeding pursuant to Environmental Law by any third party with regard to any violation or alleged violation of any Environmental Laws by Seller or the Seller's contractors or service providers. For the purposes hereof, (A) "**Release**" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping into the environment of Hazardous Materials introduced to the Facility by Seller or Seller's contractors or service providers in violation of any Environmental Laws that are required to be investigated, remediated or otherwise cleaned up by a Governmental Authority; and (B) "**Environmental Laws**" shall mean all federal, state, and local laws, statutes, ordinances, and regulations now or hereafter in effect, and in each case as amended, and any binding judicial or administrative interpretation thereof relating to the protection of human health, safety, the environment and natural resources (including ambient air, surface water, groundwater, wetlands, land, surface or subsurface strata, wildlife, aquatic species and vegetation), including laws and regulations relating to Releases of Hazardous Materials or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

ARTICLE 17: INSURANCE

17.1 **Insurance.**

(a) **General Liability.** Seller shall maintain, or cause to be maintained at its sole expense, (i) 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; and (ii) an umbrella insurance policy in a minimum limit of liability of Five Million Dollars (\$5,000,000). Defense costs shall be provided as an additional benefit and not included within the limits of liability. Such insurance shall contain standard cross-liability and severability of interest provisions.

(b) **Employer's Liability Insurance.** Employers' Liability insurance shall not be less than One Million Dollars (\$1,000,000.00) for injury or death occurring as a result of each accident. 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 applicable requirements of Law.

(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.

(e) 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, and naming the Seller (and Lender if any) as the loss payee.

(f) 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.

(g) 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 include Seller as an additional insured to insurance carried pursuant to clauses (f)(i) and (f)(iii). All subcontractors shall provide a primary endorsement and a waiver of subrogation to Seller for the required coverage pursuant to this Section ARTICLE 17(g).

(h) Evidence of Insurance. Commencing with the Construction Start Date and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. These 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. 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.

(i) 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, act as an insurer and provide insurance 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 §§ 6250 et seq, "CPRA"), all documents, data (including operating data provided in connection with the scheduling of energy or otherwise pursuant to this Agreement), drawings, studies, projections, plans and other written information that relate to economic benefits to, or amounts payable by, any Party under this Agreement, and with respect to documents that are clearly marked "Confidential" at the time a Party shares such information with the other Party ("Confidential Information"). The provisions of this Section 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's invoices for all fees and costs incurred by Buyer and all indemnitees, as well as all damages or liability of any nature.

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

19.12 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 employees, directors, officers, consultants or advisors or Buyer or its constituent members, in connection with this Agreement.

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

19.14 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, or constitute, or form the basis of, a Force Majeure Event, and (ii) all of unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

[Signatures on following page]

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

Foster Clean Power B LLC, a Delaware limited liability company

Redwood Coast Energy Authority, a California joint powers authority

By: _____

Name: Ardeshir Arian

Title: President & CEO

By: _____

Name: Matthew Marshall

Title: Executive Director

APPROVAL DRAFT

EXHIBIT A: FACILITY DESCRIPTION

Site Name: Foster Clean Power B

Site includes all or some of the following APNs: [REDACTED]

County: Humboldt

Type of Generating Facility: Solar Power

Operating Characteristics of Generating Facility: see Exhibit Q

Type of Storage Facility: Lithium-ion Battery Energy Storage Facility

Operating Characteristics of Storage Facility:

Maximum Charging Capacity (MW): 1.25 MW

Maximum Discharging Capacity (MW): 1.25 MW

Maximum Stored Energy Level (MWh): 5 MWh

Operating Restrictions of Storage Facility: see Exhibit Q

Guaranteed Generation Capacity: 4 MW AC

Guaranteed Installed Storage Capacity: 1.25 MW AC

Maximum Output: The Facility cannot in any event deliver more than an aggregate of 4 MW AC to the Delivery Point at any point in time.

Delivery Point: Arcata 1105

Facility Meter: See Exhibit R

Storage Facility Meter Locations: See Exhibit R

P-node: ARCATA_6_N001

Participating Transmission Owner: PG&E

EXHIBIT B: FACILITY CONSTRUCTION AND COMMERCIAL OPERATION

1. Construction of the Facility and Interconnection Agreement.

- 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 Full Notice to Proceed with the construction of the Facility. The date of Construction Start will be evidenced by Seller's delivery to Buyer of a certificate substantially in the form attached as Exhibit J hereto, and Buyer's acceptance and written acknowledgement thereof, and the dated certified therein shall be the "**Construction Start Date**." The Seller shall cause Construction Start to occur no later than the Guaranteed Construction Start Date.
- c. If Construction Start is not achieved by the Guaranteed Construction Start Date, 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 Guaranteed Construction Start Date. 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. Construction Start Delay Damages shall be refundable to Seller pursuant to Section 2(b) of this Exhibit B. 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 Damage Payment, as applicable, upon exercise of Buyer's default right pursuant to Section 11.2.
- d. Seller shall execute an Interconnection Agreement with the PTO for the Facility by no later than the date listed in the Cover Sheet.

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, and Seller has 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 Guaranteed Commercial Operation Date. Seller shall notify Buyer at least forty-five (45) days before the anticipated Commercial Operation Date.

- b. If Seller achieves Commercial Operation by the Guaranteed Commercial Operation Date, ninety-five percent (95%) of all Construction Start Delay Damages and Interconnection Agreement Delay Damages paid by Seller shall be refunded to Seller. Seller shall include the request for refund of the Construction Start Delay Damages and Interconnection Agreement Delay Damages with the first invoice to Buyer after Commercial Operation.
- c. If Seller does not achieve Commercial Operation by the Guaranteed Commercial Operation Date, Buyer shall retain the Construction Start Delay Damages and Seller shall pay Commercial Operation Delay Damages for each day following the Guaranteed Commercial Operation Date 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. The RA Guarantee Date shall automatically be extended on a day-for-day basis for each day for which Seller pays Commercial Operation Delay Damages.

On or before the tenth (10th) day of each month, Buyer shall invoice Seller for Commercial Operation Delay Damages, if any, accrued during the prior month. The Parties agree that Buyer's receipt of Commercial Operation Delay Damages shall be Buyer's sole and exclusive remedy for Seller's unexcused delay in achieving the Commercial Operation Date on or before the Guaranteed 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 eighty (180) calendar days.

- 3. **Extension of the Guaranteed Dates.** The RA Guarantee Date and the Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be automatically extended on a day-for-day basis (the "**Development Cure Period**") for the duration of any and all delays arising out of the following circumstances:
 - a. Seller has not acquired by the Expected Construction Start Date 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; or
 - b. a Force Majeure Event occurs; or
 - c. The Interconnection Facilities or Network Upgrades, if applicable, are not complete and ready for the Project to connect and sell Product at the Delivery Point by the Expected Initial Delivery Date despite the exercise of 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 Guaranteed Commercial Operation Date.

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under Section 3 of this Exhibit B shall not exceed one hundred eighty (180) days, 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, but in no case more than thirty (30) days after Seller became aware of such delay. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

4. **Buyer's Right to Draw on Development Security.** If Seller fails to timely pay any Commercial Operation Delay Damages, Buyer may draw upon the Development Security to satisfy Seller's payment obligation thereof.
5. **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, Interconnection Agreement 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. Such cap on Seller Liability shall not limit Seller's obligations under Section 3.8.

EXHIBIT C: COMPENSATION

Buyer shall compensate Seller for the Product in accordance with this Exhibit C.

(a) **Generation Rate.** Buyer shall pay Seller the Generation Rate for each MWh of Adjusted Facility Energy, plus Deemed Delivered Energy, if any, up to one hundred fifteen percent (115%) of the Expected Energy for such Contract Year.

(b) **Excess Contract Year Deliveries in excess of** [REDACTED] **%.** If, at any point in any Contract Year, the amount of Facility Energy plus the amount of Deemed Delivered Energy exceeds [REDACTED] percent ([REDACTED]%) of the Expected Energy for such Contract Year, for each additional MWh of Facility Energy (but not Deemed Delivered Energy, for which no additional compensation shall be paid), if any, delivered to Buyer in such Contract Year, the price to be paid shall be the lesser of (i) [REDACTED] percent ([REDACTED]%) of the Generation Rate or (ii) the Day-Ahead price for the applicable Settlement Interval; provided that if there is a Negative LMP during such Settlement Interval, then then the price applicable to all such additional MWh of Facility Energy in such Settlement Interval shall be zero dollars (\$0).

(c) **Excess Settlement Interval Deliveries.** If during any Settlement Interval, Seller delivers Product amounts, as measured by the amount of Facility Energy, in excess of the product of the Guaranteed Generation Capacity and the duration of the Settlement Interval, expressed in hours ("**Excess MWh**"), then the price applicable to all such excess MWh in such Settlement Interval shall be zero dollars (\$0), and if there is a Negative LMP during such Settlement Interval, Seller shall pay to Buyer an amount equal to the absolute value of the Negative LMP times such excess MWh ("**Negative LMP Costs**").

(d) **Storage Rate.** All Storage Product shall be paid at the Storage Rate x the current Contracted Storage Capacity x the Availability Adjustment x the Round-Trip Efficiency Rate Adjustment x 1000. Such payment constitutes the entirety of the amount due to Seller from Buyer for the Storage Product.

(i) **Availability Adjustment.** The "**Availability Adjustment**" or "**AA**" is calculated as follows:

(A) If the Monthly Storage Availability is greater than or equal to the Guaranteed Storage Availability, then:

$$AA = 100\%$$

(B) If the Monthly Storage Availability is less than the Guaranteed Storage Availability, but greater than or equal to 70%, then:

$$AA = 100\% - (95\% - \text{Monthly Storage Availability})$$

(C) If the Monthly Storage Availability is less than 70%, then:

$$AA = 0$$

(ii) Round-Trip Efficiency Rate Adjustment. The “Round-Trip Efficiency Rate Adjustment” is calculated as follows:

(A) If the Actual Round-Trip Efficiency is greater than or equal to the Minimum Round-Trip Efficiency, then:

$$\text{Round-Trip Efficiency Rate Adjustment} = 100\%$$

(B) If the Actual Round-Trip Efficiency is less than the Minimum Round-Trip Efficiency, but greater than or equal to 75%, then:

$$\text{Round-Trip Efficiency Rate Adjustment} = 100\% - [(\text{Minimum Round-Trip Efficiency} - \text{Actual Round-Trip Efficiency}) \times .5]$$

(C) If the Actual Round-Trip Efficiency is less than 75%, then:

$$\text{Round-Trip Efficiency Rate Adjustment} = 0$$

(e) Test Energy. Test Energy is compensated in accordance with Section 3.6.

EXHIBIT D: SCHEDULING COORDINATOR RESPONSIBILITIES

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 of Test Energy and 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 or real time basis, 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 will 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 facsimile transmission to the personnel designated to receive such information.

(c) CAISO Costs and Revenues.

(i) Except as otherwise set forth below, Buyer (as Scheduling Coordinator for the Facility) shall be responsible for CAISO costs (including penalties, Imbalance Energy costs or revenues, and other charges) and shall be entitled to all CAISO revenues (including 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 Facility.

(ii) Seller shall be responsible for all CAISO penalties resulting from any failure by Seller to abide by the CAISO Tariff 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). The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of the Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of

the 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 the 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 will 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 these 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 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.

EXHIBIT E: PROGRESS REPORTING FORM

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

1. Executive Summary.
2. Facility description.
3. Site plan of the Facility.
4. Description of any material planned changes to the Facility or the site.
5. Gantt chart schedule showing progress on achieving each of the Milestones.
6. Summary of activities during the previous calendar quarter or month, as applicable, including any OSHA labor hour reports.
7. Forecast of activities scheduled for the current calendar quarter.
8. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.
9. Progress and schedule of all major agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
10. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the Transmission System and all other interconnection utility services.
11. Any other documentation reasonably requested by Buyer.

EXHIBIT F-1: AVERAGE EXPECTED ENERGY

[Average Expected Energy, MWh Per Hour]

	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	
JAN																									
FEB																									
MAR																									
APR																									
MAY																									
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SEP																									
OCT																									
NOV																									
DEC																									

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 F-2: AVAILABLE GENERATING CAPACITY

[Available Generating Capacity, MWh 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: GUARANTEED ENERGY PRODUCTION DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, a liquidated damages payment shall be due from Seller to Buyer, calculated as follows:

$$[(A - B) * (C - D)]$$

where:

A = the Guaranteed Energy Production amount for the Performance Measurement Period in MWh

B = the Adjusted Energy Production amount for the Performance Measurement in MWh

C = Replacement price for the Contract Year, in \$/MWh, which is the sum of (a) the simple average of the Integrated Forward Market hourly price for all the hours in the Performance Measurement Period, as published by the CAISO, for the Existing Zone Generation Trading Hub (as defined in the CAISO Tariff) for the Delivery Point, plus the value of Replacement Green Attributes determined by using the average of three broker quotes

D = the Generation Rate for the Contract Year, in \$/MWh

The Parties agree that in the above calculation of Guaranteed Energy Production Damages, if the result of “(C-D)” is less than \$█/MWh, then “(C-D)” will be replaced with \$█/MWh. The Parties also agree that in the above calculation of Guaranteed Energy Production Damages, if the result of “(C-D)” is more than \$█/MWh, the “(C-D)” will be replaced with \$█/MWh.

“**Adjusted Energy Production**” shall mean the sum of the following: Adjusted Facility Energy + Deemed Delivered Energy + Lost Output + Replacement Energy.

“**Lost Output**” has the meaning given in Section 4.7 of the Agreement. The Lost Output shall be calculated in the same manner as Deemed Delivered Energy is calculated, in accordance with the definition thereof.

“**Replacement Green Attributes**” means Renewable Energy Credits of the same Portfolio Content Category (i.e., PCC1) as the Green Attributes portion of the Product and of the same timeframe for retirement as the Renewable Energy Credits that would have been generated by the Facility during the Performance Measurement Period for which the Replacement Green Attributes are being provided. To establish the value of Replacement Green Attributes, Buyer shall provide Seller with at least one independently-prepared estimate of the value of Replacement Green Attributes based, if available, on the most recently available actual contract and sales information. Seller may provide an alternative estimate based on actual contract and sales information.

“Replacement Capacity Attributes” means Capacity Attributes, if any, equivalent to those that would have been provided by the Facility during the Performance Measurement Period for which the Replacement Product is being provided.

“Replacement Energy” means energy produced by a facility other than the Facility that, at the time delivered to Buyer, qualifies under Public Utilities Code 399.16(b)(1), and has Green Attributes that have the same or comparable value, including with respect to the timeframe for retirement of such Green Attributes, if any, as the Green Attributes that would have been generated by the Facility during the Contract Year for which the Replacement Energy is being provided.

“Replacement Product” means (a) Replacement Energy, (b) Replacement Capacity Attributes, and (c) all Replacement Green Attributes.

No payment shall be due if the calculation of (A - B) or (C - D) yields a negative number.

Within sixty (60) days after each Contract Year, Buyer will send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Performance Measurement Period, provided that the amount of damages owing shall be adjusted to account for Replacement Product, if any, delivered after each applicable Performance Measurement Period.

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 (“**Buyer**”) in accordance with the terms of that certain Renewable Power Purchase Agreement dated [_____] (“**Agreement**”) by and between [_____] 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 Generating Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.

2. Seller has installed equipment for the Generating Facility with a nameplate capacity of no less than ninety-five percent (95%) of the Guaranteed Generation Capacity.

3. Seller has installed equipment for the Storage Facility with a nameplate capacity of no less than ninety-five percent (95%) of the Guaranteed Installed Storage Capacity.

4. The Generating Facility’s testing included a performance test demonstrating peak electrical output of no less than ninety-five percent (95%) of the Guaranteed Generation Capacity for the Generating Facility at the Delivery Point, as adjusted for ambient conditions on the date of the Facility testing, and such peak electrical output, as adjusted, was [peak output in MW].

5. The Storage Facility is fully capable of charging, storing and discharging energy up to no less than ninety-five percent (95%) of the Guaranteed Installed Storage Capacity and receiving instructions to charge, store and discharge energy, all within the operational constraints and subject to the applicable Operating Restrictions.

6. Authorization to parallel the Facility was obtained by the Participating Transmission Provider, [Name of Participating Transmission Owner as appropriate] on _____ [DATE]_____.

7. The Transmission Provider has provided documentation supporting full unrestricted release for Commercial Operation by [Name of Participating Transmission Owner as appropriate] on _____ [DATE]_____.

8. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on _____ [DATE]_____.

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]

this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]

By: _____

Its: _____

Date: _____

APPROVAL DRAFT

EXHIBIT I: FORM OF INSTALLED CAPACITY CERTIFICATE

This certification (“**Certification**”) of Installed Capacity is delivered by [licensed professional engineer] (“**Engineer**”) to Redwood Coast Energy Authority (“**Buyer**”) in accordance with the terms of that certain Renewable Power Purchase Agreement dated [_____] (“**Agreement**”) by and between [_____] 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 the following:

(a) The performance test for the Generating Facility demonstrated peak electrical output of __MW AC at the Delivery Point, as adjusted for ambient conditions on the date of the performance test (“**Installed Generation Capacity**”);

(b) The Storage Capacity Test demonstrated a maximum dependable operating capability to discharge electric energy of __MW AC to the Delivery Point, in accordance with the testing procedures, requirements and protocols set forth in Section 4.9 and Exhibit O (the “**Installed Storage Capacity**”); and

(c) The sum of (a) and (b) is __MW AC and shall be the “**Installed Capacity**”.

(d) As of the date of the performance test, the Facility is capable of producing the average daily generation set forth in Exhibit S (“**Resource Generation Capability**”), and is capable of delivering Discharging Energy to the Delivery Point as set forth in Exhibit S.

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”) to Redwood Coast Energy Authority, a California joint powers authority (“Buyer”) in accordance with the terms of that certain Renewable Power Purchase Agreement dated _____ (“Agreement”) by and between Seller and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Seller hereby certifies and represents to Buyer the following:

1. Construction Start (as defined in Exhibit B of the Agreement) has occurred, and a copy of the full notice to proceed that Seller issued to its contractor as part of Construction Start is attached hereto.
2. the precise Site on which the Facility is located is, which must include some or all of the previously identified APNs (such description shall amend the description of the Site in Exhibit A): _____.

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\$[XXXXXXXX]
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. \$[XXXXXX] (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 _____, 201_.

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. [XXXXXXX] (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**”) to [_____] (“**Buyer**”) in accordance with the terms of that certain Renewable Power Purchase 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 3.8(b) 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 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

Seller	Buyer
<p>All Notices: Attn: Ardeshir Arian 4675 Stevens Creek Blvd Suite 250, Santa Clara, CA 95051 Phone: [REDACTED] Email: [REDACTED]</p>	<p>All Notices: Redwood Coast Energy Authority Attn: Richard Engel 633 3rd St Eureka, CA 95501 Phone: [REDACTED] Email: [REDACTED] With cc to [REDACTED] and [REDACTED]</p>
<p>Reference Numbers: Duns: [REDACTED] Federal Tax ID Number: [REDACTED]</p>	<p>Reference Numbers: DUNS: [REDACTED] Federal Tax ID Number: [REDACTED]</p>
<p>Invoices and Payments: Attn: Ardeshir Arian Phone: [REDACTED] E-mail: [REDACTED]</p>	<p>Invoices and Payments: Attn: Accounting Phone: 707-269-1700, ext. [REDACTED] Email: [REDACTED]</p>
<p>Scheduling: Attn: Uriel Ruiz Phone: [REDACTED] Email: [REDACTED]</p>	<p>Scheduling: Attn: The Energy Authority designated as Buyer's SC Day Ahead Desk Phone: [REDACTED] Real Time Desk Phone: [REDACTED] Email: [REDACTED]</p>
<p>Wire Transfer: BNK: Bank of the West ABA: [REDACTED] ACCT: [REDACTED]</p>	<p>Wire Transfer: BNK: Umpqua Bank ABA: [REDACTED] ACCT: [REDACTED]</p>
<p>Credit and Collections: Attn: Ardeshir Arian Phone: [REDACTED] E-mail: [REDACTED]</p>	<p>Credit and Collections: Attn: Lori Biondini, Director of Business Planning and Finance Phone: [REDACTED] Email: [REDACTED]</p>
<p>Notice of an Event of Default to: Attn: Ardeshir Arian Phone: [REDACTED] E-mail: [REDACTED]</p>	<p>Notice of an Event of Default to: Attn: Lori Biondini Director of Business Planning and Finance Phone: [REDACTED] Facsimile: 707-269-1777 Email: [REDACTED]</p>

Seller	Buyer
<p>With additional Notices of an Event of Default to:</p> <p>Attn: Uriel Ruiz Phone: [REDACTED] Email: [REDACTED]</p>	<p>With additional Notices of an Event of Default to:</p> <p>RCEA General Counsel Nancy Diamond, Law Offices of Nancy Diamond 822 G Street, Suite 3 Arcata, CA 95521 Phone: [REDACTED] Facsimile: [REDACTED] Email: [REDACTED]</p>
<p>Emergency Contact:</p> <p>Attn: Ardeshir Arian Phone: [REDACTED] Email: [REDACTED]</p>	<p>Emergency Contact:</p> <p>Attn: Jocelyn Gwynn Phone: [REDACTED] Email: [REDACTED]</p>

APPROVAL DRAFT

EXHIBIT O: STORAGE CAPACITY TESTS AND ROUND-TRIP EFFICIENCY MEASUREMENTS

Storage Capacity Test Notice and Frequency

A. Commercial Operation Date Storage Capacity Test. Upon no less than ten (10) Business Days prior Notice to Buyer, Seller shall schedule and complete a Storage Capacity Test prior to the Commercial Operation Date. Such initial Storage Capacity Test shall be performed in accordance with this Exhibit O and shall establish the initial Contracted Storage Capacity and the initial Actual Round-Trip Efficiency hereunder based on the actual capacity and capabilities of the Storage Facility determined during such Commercial Operation Date Storage Capacity Test.

B. Subsequent Storage Capacity Tests. Following the Commercial Operation Date, but not more than twice per Contract Year, upon no less than ten (10) Business Days prior Notice to Seller, Buyer shall have the right to require Seller to schedule and complete a Storage Capacity Test. In addition, Buyer shall have the right to require a retest of the Storage Capacity Test at any time upon no less than five (5) Business Days prior written Notice to Seller if Buyer provides data with such Notice reasonably indicating that the Storage Capacity has varied materially from the results of the most recent Storage Capacity Test. Seller shall have the right to run a retest of any Storage Capacity Test upon five (5) Business Days' prior written Notice to Buyer (or any shorter period reasonably acceptable to Buyer consistent with Prudent Operating Practice).

C. Test Results and Re-Setting of Storage Capacity and Actual Round-Trip Efficiency. No later than five (5) days following any Storage Capacity Test, Seller shall submit a testing report detailing results and findings of the test. The report shall include meter readings and plant log sheets verifying the operating conditions and output of the Storage Facility. In accordance with Section 4.9(c) of the Agreement and Part II(I) below, the actual capacity determined pursuant to a Storage Capacity Test shall become the new Contracted Storage Capacity and Actual Round-Trip Efficiency Rate at the beginning of the day following the completion of the test for calculating the Storage Rate and all other purposes under this Agreement, except that if the actual capacity determined pursuant to a Storage Capacity Test exceeds the Guaranteed Storage Capacity, then the new Contracted Storage Capacity shall be equal to the Guaranteed Storage Capacity.

Storage Capacity Test Procedures

PART I. General.

Each Storage Capacity Test (including the initial Storage Capacity Test and all re-performances thereof) shall be conducted in accordance with Prudent Operating Practices and the provisions of this Exhibit O. For ease of reference, a Storage Capacity Test is sometimes referred to in this Exhibit O as a "**SCT**". Buyer or its representative may be present for the SCT and may, for informational purposes only, use its own metering equipment (at Buyer's sole cost).

PART II. Requirements applicable to all storage capacity tests and round-trip efficiency measurements.

A. Test Elements. Each SCT shall include the following test elements:

- Electrical output at Maximum Discharging Capacity (as defined in Exhibit A) at the Storage Facility Meter and concurrently at the Facility Meter (MW);
- Electrical input at Maximum Charging Capacity (as defined in Exhibit A) at the Storage Facility Meter (MW);
- Amount of time between the Storage Facility's electrical output going from 0 to Maximum Discharging Capacity;
- Amount of time between the Storage Facility's electrical input going from 0 to Maximum Charging Capacity;
- Amount of energy required to go from 0% State of Charge to 100% State of Charge charging at a rate equal to the Maximum Charging Capacity.

B. Parameters. During each SCT, the following parameters shall be measured and recorded simultaneously for the Storage Facility, at ten (10) minute intervals:

- (1) Time;
- (2) Net electrical energy output to the Storage Facility Meters (kWh) (i.e., to each measurement device making up the Storage Facility Meter);
- (3) Net electrical energy input from the Storage Facility Meters (kWh) (i.e., from each measurement device making up the Storage Facility Meter);
- (4) Stored Energy Level (MWh).

C. Site Conditions. During each SCT, 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 Storage Facility; and
- (3) Ambient air Temperature (°F).

D. Test Showing. Each SCT must demonstrate that the Storage Facility:

- (1) successfully started;

- (2) operated for at least four (4) consecutive hours at Maximum Discharging Capacity;
- (3) operated for at least four (4) consecutive hours at Maximum Charging Capacity;
- (4) has a Storage Capacity of an amount that is, at least, equal to the Maximum Stored Energy Level (as defined in Exhibit A); and
- (5) is able to deliver Discharging Energy to the Delivery Point as measured by the Facility Meter for four (4) consecutive hours at a rate equal to the Maximum Discharging Capacity.

E. Test Conditions.

- (i) General. At all times during a SCT, the Storage Facility shall be operated in compliance with Prudent Operating Practices and all operating protocols recommended, required or established by the manufacturer for operation at Maximum Discharging Capacity and Maximum Charging Capacity (as each is defined in Exhibit A).
- (ii) Abnormal Conditions. If abnormal operating conditions that prevent the recordation of any required parameter occur during a SCT [(including a level of irradiance that does not permit the Generating Facility to produce sufficient Charging Energy)] [*For PV technologies only*], Seller may postpone or reschedule all or part of such SCT in accordance with Part II.F below.
- (iii) Instrumentation and Metering. Seller shall provide all instrumentation, metering and data collection equipment required to perform the SCT. The instrumentation, metering and data collection equipment electrical meters shall be calibrated in accordance with Prudent Operating Practice.

F. Incomplete Test. If any SCT is not completed in accordance herewith, Buyer may in its sole discretion: (i) accept the results up to the time the SCT stopped; (ii) require that the portion of the SCT not completed, be completed within a reasonable specified time period; or (iii) require that the SCT be entirely repeated. Notwithstanding the above, if Seller is unable to complete a SCT due to a Force Majeure Event or the actions or inactions of Buyer or the CAISO or the PTO or the Transmission Provider, Seller shall be permitted to reconduct such SCT on dates and at times reasonably acceptable to the Parties.

G. Final Report. Within fifteen (15) Business Days after the completion of any SCT, Seller shall prepare and submit to Buyer a written report of the results of the SCT, which report shall include:

- (1) a record of the personnel present during the SCT that served in an operating, testing, monitoring or other such participatory role;

- (2) the measured data for each parameter set forth in Part II.A through C, including copies of the raw data taken during the test;
- (3) the level of Storage Contract Capacity, Charging Capacity, Discharging Capacity and Stored Energy Level determined by the SCT, including supporting calculations; and
- (4) Seller's statement of either Seller's acceptance of the SCT or Seller's rejection of the SCT 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 SCT results or Buyer's rejection of the SCT and reason(s) therefor.

If either Party rejects the results of any SCT, such SCT shall be repeated in accordance with Part II.F.

- H. Supplementary Storage 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 Storage Capacity Tests based on the then current design of the Facility ("**Supplementary Storage 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 Storage Capacity Test Protocol. The initial Supplementary Storage Capacity Test Protocol (and each update thereto), once approved by Buyer, shall be deemed an amendment to this Exhibit O.
- I. Adjustment to Storage Contract Capacity and Actual Round-Trip Efficiency.
- (a) The total amount of Discharged Energy delivered to the Delivery Point (expressed in MWh AC) during each of the first four hours of discharge shall be divided by four hours to determine the Contracted Storage Capacity, which shall be expressed in MW AC, and shall be the new Contracted Storage Capacity in accordance with Section 4.9(c) of the Agreement.
 - (b) The total amount of Discharging Energy above divided by the total amount of Charging Energy, and expressed as a percentage, shall be recorded as the new Actual Round-Trip Efficiency, and shall be used for the calculation of the Efficiency Rate Adjustment in Exhibit C until updated pursuant to a subsequent Capacity Test.

EXHIBIT P: STORAGE AVAILABILITY

Monthly Storage Availability

(a) Calculation of Monthly Storage Availability. Seller shall calculate the “Monthly Storage Availability” in a given month using the formula set forth below:

$$\text{Monthly Storage Availability (\%)} = \frac{[\text{MNTHHRS}_m - \text{UNAVAILHRS}_m]}{\text{MNTHHRS}_m}$$

where:

m = relevant month “ m ” in which availability is calculated;

MNTHHRS_m is the total number of hours for the month;

UNAVAILHRS_m , is the total number of hours in the month during which the Storage Facility was unavailable to deliver Storage Product for any reason other than the occurrence of any of the following (each, an “Excused Event”): a Force Majeure Event, Buyer Bid Curtailment, Buyer Curtailment Orders, Buyer Default, Curtailment Orders, System Emergencies, or the Operating Restrictions in Exhibit Q. To be clear, hours of unavailability caused by any Excused Event will not be included in UNAVAILHRS_m for such month. Any other event that results in unavailability of the Storage Facility for less than a full hour will count as an equivalent percentage of the applicable hour(s) for this calculation.

If the Storage 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 Storage Facility is available for that hour or part of an hour by 5:00 a.m. of the morning Buyer schedules or bids the Storage Facility in the Day-Ahead Market, the Storage Facility will be deemed to be available to the extent set forth in the revised Notice.

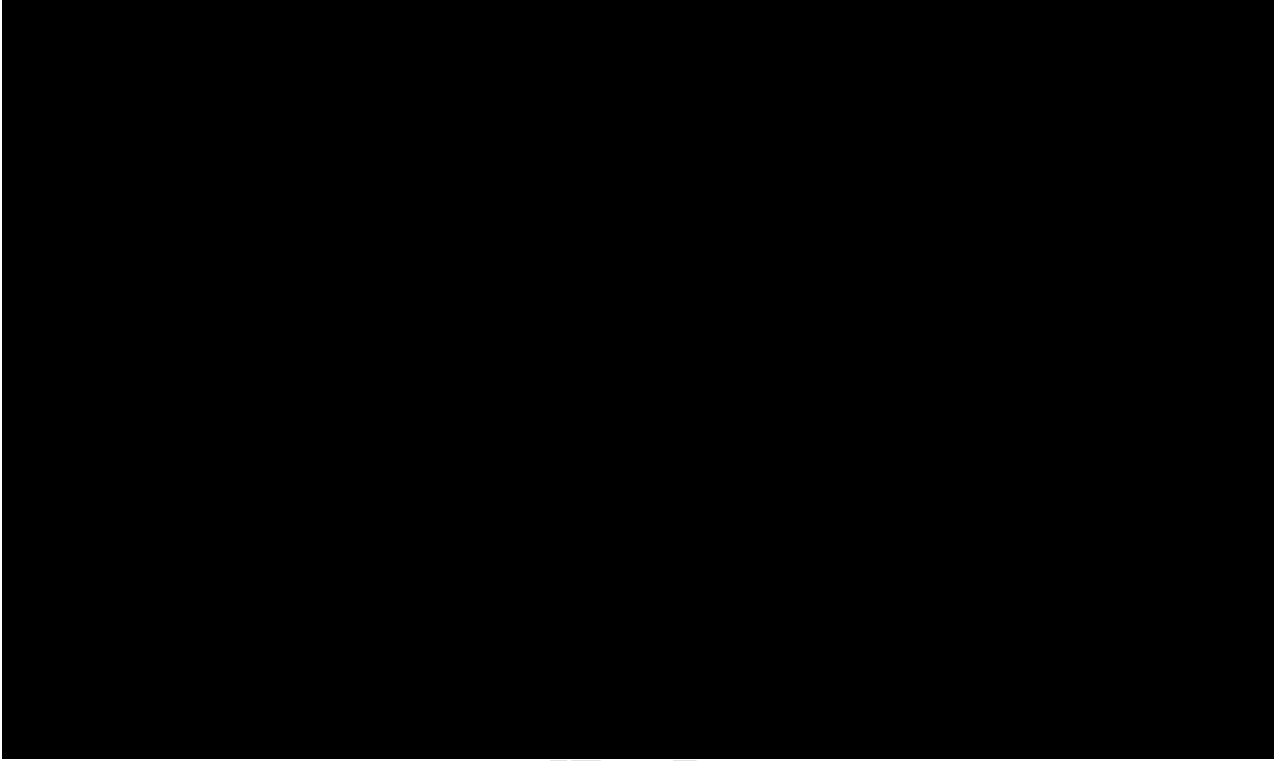
If the Storage Facility or any component thereof was previously deemed unavailable for an hour or part of an hour and Seller provides a revised Notice indicating the Storage Facility is available for that hour or part of an hour at least sixty (60) minutes prior to the time the Buyer is required to schedule or bid the Storage Facility in the Real-Time Market, and the Storage Facility is dispatched in the Real-Time Market, the Storage Facility will be deemed to be available to the extent set forth in the revised Notice.

EXHIBIT Q: OPERATING RESTRICTIONS

The Parties will develop and finalize the Operating Restrictions prior to the Commercial Operation Date, provided that the Operating Restrictions (i) will, at a minimum, include the rules, requirements and procedures set forth in this Exhibit Q, (ii) will include protocols and parameters for Seller's operation of the Storage Facility in the absence of Charging Notices, Discharging Notices or other similar instructions from Buyer relating to the use of the Storage Facility, and (iii) may include Storage Facility Scheduling, Operating Restrictions and Communications Protocols.

1. Buyer shall not issue a Discharging Notice for more than the Storage Contract Capacity at any time during the Contract Term.
2. Buyer shall not issue a Discharging Notice instructing to discharge more Discharging Energy than the Stored Energy Level at the time of the Discharging Notice.
3. Total Discharging Energy for any single day (00:00 to 23:59) shall not exceed ■ MWh, calculated as the sum of the difference in Stored Energy Level between the start and end of a Discharging Notice for all Discharging Notices within that single day.
4. Total Discharging Energy may not exceed the Maximum Discharging Energy amounts as stated in MWh set forth on the Cover Sheet.
5. State of Charge may not remain above 75% for more than 24 consecutive hours without a Discharging Notice that returns the State of Charge to 5%.
6. During operation, the Stored Energy Level shall always be in the range of ■% to ■% and the annual average State of Charge shall not exceed ■% during the Contract Term.
7. Advance notification required for a Buyer Bid Curtailment or Buyer Curtailment Order: 30 minutes prior to the beginning of the applicable Buyer Curtailment Period, unless the curtailment is effectuated through CAISO Automated Dispatch System (ADS), in which case the advanced notification required will match that provided by the CAISO ADS.
8. Minimum Buyer Curtailment Period: 30 minutes (i.e., six (6) consecutive Settlement Intervals).
9. Maximum ramp rate for Buyer Curtailment Periods: ten percent (10%) of the Installed Capacity per minute.
10. Notwithstanding the aggregate of the Guaranteed Generation Capacity and the Guaranteed Installed Storage Capacity, the Facility cannot in any event deliver more than an aggregate of 4 MW AC to the Delivery Point at any point in time.

EXHIBIT R: METERING DIAGRAM



APPROVAL

EXHIBIT S: CONTRIBUTION TO MID-TERM RELIABILITY PROCUREMENT

This contract adds incremental capacity that fulfills the CPUC’s mid-term reliability procurement order established in D.21-06-035. Details on the designed capability of these incremental resources in satisfying requirements for D.21-06-035 are stated below.

Installed Generation Annual P50 Energy (Excluding 5:00 – 10:00 p.m. PT): ___MWh

Installed Generation Annual P50 Energy (5:00 – 10:00 p.m. PT): ___MWh

Installed Generation Capacity: ___ MW

Installed Storage Capacity: ___ MW

Installed Storage Capacity Duration: 4-hours (___ MWh)

Actual Round-Trip Efficiency of storage: ___%

APPROVAL DRAFT



REDWOOD COAST Energy Authority

STAFF REPORT Agenda Item # 9.2

AGENDA DATE:	April 22, 2024
TO:	Board of Directors
PREPARED BY:	Juliette Bohn, Infrastructure Programs Manager
SUBJECT:	Regional Resilience Grant Program

BACKGROUND

In September 2023 RCEA staff applied for the California Office of Planning and Research Regional Resilience Grant Program (RRGP). The primary focus of the RCEA proposal titled **“Energy-Resilient Fire Services in High-Threat Communities”** is to construct resilient energy systems (solar panels + battery energy storage) at fire stations that serve high-fire risk areas in remote communities in Humboldt County. In December 2023, RCEA was awarded \$3,000,000 in RRGP funds.

Fire stations are essential to resilience planning as they are the first to respond when disasters strike and address many routine non-fire medical emergencies on a day-to-day basis. When regional fire stations operate during power outages, vulnerable populations such as the elderly, disabled, and community members with medical needs are protected. Further, many fire stations have co-located community spaces that provide staging for food and water distribution following disasters. Fire station “areas of responsibility” go well beyond the communities in which they are based and will therefore enhance emergency response coverage across the most remote, vulnerable portions of the County.

The RCEA project offers many benefits beyond establishing energy resilient critical facilities. During “blue-sky” (non-emergency) operations these facilities will be able to reduce grid energy consumption and peak energy use, reducing fire station electricity bills. The local grid itself will be strengthened by having power generation at the grid edges and this project will help local fire districts comply with pending legislation AB 944 which would require 96 hours of off-grid run-time at all fire stations by January 2026.

Greenhouse gas emissions will be reduced from offset grid energy use and reduced fossil fuel generator use. Additional benefits include reduced noise from generators, improved air quality, and enhanced public safety. Finally, first responder experience working with renewable power systems will enhance skills and knowledge to safely respond to structure fires at buildings with renewable power systems installed as is becoming more common.

This project also includes funding for regional prescribed fire trainings conducted by the UC Cooperative Extension in collaboration with the Humboldt County Prescribed Burn Association

and the Briceland Fire Department. This coalition has conducted prescribed fire trainings throughout the County for years under a grant that recently expired. These trainings are well attended, and the Tribal-led Fire Behavior course included in the trainings is in high demand.

This project is based on the formation of a regional partnership with 16 fire stations in high-fire risk communities at the electric grid edge. Fire Station project partners include:

1. Yurok Tribe Fire Department
2. Hoopa Tribe Volunteer Fire Department
3. Karuk Department of Natural Resources
4. Blue Lake Volunteer Fire Department
5. Telegraph Ridge Volunteer Fire Company
6. Honeydew Volunteer Fire Department
7. Fruitland Ridge Volunteer Fire Company
8. Orick Volunteer Fire Department
9. Orleans Volunteer Fire Department
10. Petrolia Volunteer Fire Department
11. Salmon Creek Volunteer Fire Company
12. Bridgeville Fire Protection District
13. Briceland Volunteer Fire Department
14. Whitethorn Fire Protection District
15. Willow Creek Volunteer Fire Department
16. Westhaven Volunteer Fire Department

RCEA will serve as project lead and will collaborate with the fire station partners to permit, design, and install resilient energy systems. Regional fire station partners will be involved at every stage of the process, from initial system sizing and location to the final design review, permitting, commissioning, and operations. The fire stations will own and operate the renewable energy system equipment.

SUMMARY

To move forward with the CA Office of Planning & Research RRGp grant as awarded, RCEA needs to sign the Grant Agreement. Also, a pre-requisite of the RRGp Grant Agreement is that RCEA and project partners sign a Partnership Agreement that defines the roles and responsibilities of all parties. RCEA staff have developed the Partnership Agreement language per the grant requirements and have circulated the document to partners for signature.

Although the Grant award was delayed, there was no change to the 2.5-year required timeline, so staff is seeking prompt approval of the Grant Agreement to avoid further delays.

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

The Energy-Resilient Fire Services in High-Threat Communities project fulfills the following RePower goals:

- Goal # - 1.2.1 Develop Emergency Response Capabilities
- Goal # - 1.4.8 Develop Programs that Foster Social Equity.

- Goal # - 2.1.1 Support Member Agency and Local Government Energy Management.
- Goal # - 2.1.4 Perform Energy Assessments
- Goal # - 2.1.5 Integrate Distributed Energy Resources.
- Goal # - 2.1.7 Support and Deploy Microgrids.
- Goal # - 2.4.1 Support Customer Installation of Distributed Generation.
- Goal # - 4.1.1 Maximize the Use of Local Renewable Energy to the Extent Technically and Economically Feasible and Prudent.

EQUITY IMPACTS

The Energy-Resilient Fire Services in High-Threat Communities 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.

d) For energy projects in which RCEA takes an active role in inception, development, ownership and/or operation, staff will work with private partners to collaborate and inclusively engage with local communities throughout the development process, rather than a “decide-announce-defend” approach.

FINANCIAL IMPACT

The \$3M RRGF grant includes funds for administrative work, one half-time Project Manager, one half-time Technician, and one quarter time Specialist during the 2.5-year schedule. The remaining grant funds will be used to pay for renewable power systems equipment at the remote fire stations including hiring a qualified contractor(s) to design, permit, and install the systems, and to fund prescribed burn training. This grant did not require any match funds. Roughly one-third of the funds are included in the FY 2024-2025 RCEA draft budget.

Although this project directly addresses resilience strategies in our RePower plan, it will slightly reduce CCE energy sales at participating sites. However, there are also potential revenue benefits such as cost reductions related to reduced peak load power purchasing on the spot market (e.g., power is more expensive when purchased the day-of versus through long-term

contracts). Staff plans to seek future funds to collect and analyze data at these types of sites so we can forecast the overall financial impact of local distributed energy resource projects.

STAFF RECOMMENDATION

Authorize RCEA Interim Executive Director to execute the California Office of Planning and Research Regional Resilience Grant Program Grant Agreement once finalized and reviewed by General Counsel.

Authorize RCEA Interim Executive Director to execute Partnership Agreement(s) with the RRGP fire station project partners.

ATTACHMENTS

1. Regional Resilience Grant Program Grant Agreement between RCEA and the CA Office of Planning and Research
2. Partnership Agreement(s) between RCEA and Regional Partners

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Exhibit A: SCOPE OF WORK

1. Purpose of the Agreement

The purpose of this agreement, which includes Standard Agreement form 213 (STD 213), and all exhibits and attachments (collectively referred to as “Grant Agreement”) is to memorialize the terms and conditions related to the Office of Planning and Research’s (OPR) award of grant funds to the Redwood Coast Energy Authority (“the Grantee”).

This Grant Agreement is authorized by the State’s 2021-2022 Budget (Senate Bill (SB) 170 (Skinner, Chapter 240, Statutes of 2021), which appropriated funding for the Regional Resilience Grant Program (RRGP). The RRGP provides funding to public entities, California Native American tribes, Community-Based Organizations, and academic institutions that form regional partnerships to plan and implement projects that advance climate resilience and respond to the greatest climate risks in their regions.

The RRGP is administered by OPR. The Grant Agreement will be executed between the Grantee and the OPR, which collectively are referred to as “Parties.” “Co-applicants” identified in the RRGP Application are referred to as “Partners” in this Agreement but are not parties to it. (See [Exhibit A, Section 6G](#)) for requirements regarding partnership agreements for Grantees and Partners.)

2. The Project is Defined by the Application and Award Letter

OPR released the final RRGP Guidelines for this Grant Agreement on June 13, 2023 (hereafter, “the Grant Guidelines” or “the Guidelines”) ([Exhibit E](#)). In accordance with the Guidelines, Grantee submitted its application (“Application”) ([Exhibit G](#)) by August 29, 2023. OPR awarded a grant to fund the project described in the Application, subject to any conditions contained within the Award Letter ([Exhibit F](#)). This project, described in the Application and Award Letter, will be referred to as the “Project” throughout this Grant Agreement.

The Guidelines, the Application, and the Award Letter are hereby incorporated into this Agreement.

3. Grant Term

The term of this Grant Agreement will commence on the date that all parties have signed the Grant Agreement on page one of the Standard Agreement (STD 213) and will conclude upon completion of the Project and payment of the last invoice, unless otherwise terminated pursuant to this Agreement (hereafter referred to as “Grant Term”).

All work outlined in the Project must be completed within thirty months of executing the Grant Agreement.

All grant funds must be expended by September 30, 2026.

4. Authorized Signatories

The OPR Director or designee is authorized to sign this Grant Agreement and related documents on behalf of the OPR.

Grantee’s Authorized Signatory or designee is authorized to sign this Grant Agreement and grant-related documents as shown in the Authorized Signatory Form ([Attachment 1](#)).

Grantee must keep Authorized Signatory Forms up to date. Within seven (7) working days of any change to the authorized signatory or to the delegated authorized signatory, Grantee shall notify OPR in writing of the change. The written notice shall be sent as an electronic mail (email) attachment to be filed with the Grant Agreement.

5. Party Representatives

The Party Representatives are the primary contacts for the OPR and Grantee. The Party Representatives during the Grant Term are:

OPR

Name	Title	Phone Number	Email
Dolores Barajas	Grant Manager	(559) 720-4439	dolores.barajas@opr.ca.gov

Grantee

Name	Title	Phone Number	Email

OPR and Grantee must keep the Party Representative(s) up to date. Any changes to the Party Representatives by either Grantee or OPR shall be made by providing notice within seven (7) working days of the change to the other party.

The written notice shall be sent as an electronic mail (email) attachment to be filed with the Grant Agreement.

6. Grantee Responsibilities

OPR will notify the Grantee when work may proceed. Grantee is responsible for:

- A. Using grant funds only as set forth in the Project and within the specified timelines set forth in this Grant Agreement.
- B. Completing work on time and within budget. This includes meeting all milestones and deliverables, as described in and in accordance with the Work Plan ([Attachment 2](#)), unless otherwise agreed to by all parties through the amendment process described in [Exhibit B, Section 8](#).
- C. Submitting invoices for reimbursement pursuant to [Exhibit B, Section 2](#) and using the Invoice template ([Attachment 5](#)).
- D. Meeting all reporting requirements as set forth in [Exhibit A, Section 8](#).
- E. Complying with all applicable statutes, rules, and regulations.
- F. Maintaining an accounting system that accurately reflects all fiscal transactions and provides accounting information, retaining all records and required documents as specified in [Exhibit C, Section 4](#), and providing all required documents during an audit, as specified in [Exhibit C, Section 5](#).
- G. Entering into a partnership agreement with Co-Applicant(s), if any, and ensuring that the agreement is maintained throughout the Grant Term. The partnership agreement must: 1) outline the respective obligations of the Grantee and its Partners throughout the Grant Term to implement the Project, 2) include commitments from the Grantee and the Partners that they will implement their respective obligations, 3) require co-applicants to provide copies of all documentation of actions taken related to the Project to the Lead Applicant for retention in compliance with the requirements specified in [Exhibit C, Sections 4 and 5](#), and 4) include information about how the partners will make decisions and resolve disputes.
- H. Any other obligations set forth in this Grant Agreement.

7. Document Submission

A. Electronic Mail

When this Grant Agreement requires Grantee to give invoices, reports, or other documents to the OPR, Grantee must use the OPR-provided online submission platform and email unless this Grant Agreement specifically requires that the document be sent by mail.

All emails must contain the Grant Agreement number and Grantee's name in the subject line.

8. Reporting Requirements

A. Check-Ins

- i. Grantee must participate in regular check-in meetings with RRGP staff and report on Project progress toward meeting High Level Activities identified in the Work Plan along with any Performance Metrics and Timeliness related to that progress. The Grantee's check-in meeting schedule will align with the

invoicing frequency set forth in Exhibit B, Section 2. The Grantee must participate in no fewer than two check-in meetings per year.

B. Progress Reports

- i. Grantee will submit progress reports to accompany all invoices submitted pursuant to [Exhibit B, Section 2](#). The progress reports must contain documentation of the work performed and should discuss how that work relates to specific deliverables outlined in the Work Plan ([Attachment 2](#)) and the Budget Detail Worksheet ([Attachment 4](#)). Grantees may use the space in the “Progress Report” heading of the invoice template ([Attachment 5](#)) to submit their progress reports.
- ii. Grantee will submit a mid-term progress report to OPR half-way through the Grant Term at a date to be included in the Work Plan ([Attachment 2](#)). The mid-term progress report will track the work completed during the first half of the Grant Term and should include the following information:
 - a. Outline of all activities taken pursuant to the Work Plan ([Attachment 2](#)) and the outcomes of each activity.
 - b. Meetings and actions taken by the Grantee.
 - c. An accounting of the expenditures made by the Grantee
 - d. Feedback on the implementation process for RRGP program staff including barriers, challenges, and opportunities.
- iii. When the Project is completed, Grantee must submit a Final Report. To complete and submit the Final Report:
 - a. Submit the Final Report with the last invoice. If Grantee does not submit the Final Report with the last invoice, then the last invoice will be considered incomplete and returned following the process specified in [Exhibit D, Section 5A](#).
 - b. Use the Final Report Template, which is attached as [Attachment 3](#).
 - c. Sign the Final Report. Make sure the Final Report is signed by the person authorized to sign on the most current Authorized Signatory Form ([Attachment 1](#)).
 - d. Include details in the Final Report. Put enough detail in the Final Report to show that Grantee completed the Project and fulfilled the terms of the Grant Agreement and that both the last invoice and the five percent (5%) retention should be paid for completing the Project.

9. No Work Outside the Project Area

- A. The “Project Area” shall be defined as the area boundary for the Project, as identified in Attachment 7.
- B. No work outside the Project Area will be reimbursable through this agreement. OPR disclaims any representations, express or implied, that any work outside the Project Area that was not approved as part of the Application is or will be funded by the RRGP. Grantee waives any claims against OPR related to such work.

10. Conditions for Beginning Work

A. Readiness Requirements

- a. Conditions for beginning work apply to all implementation projects. Grantee must ensure that the Project meets all readiness requirements prior to expending any direct project costs ("Direct Costs"). Direct Costs are defined as costs directly tied to implementing the Project.
- b. Pre-implementation, project management and associated indirect costs ("Indirect Costs") can be spent prior to achieving readiness. Indirect Costs are defined as general expenses of doing business. These costs are not directly tied to the grant but are necessary for the organization's general operation. Examples of indirect costs may include but are not limited to: personnel costs for administrative, supervisory, legal, executive staff or support units like clerical support, housekeeping, etc.
- c. Readiness requirements include:
 - i. CEQA compliance documentation as set forth below in subsection D of this section.
 - ii. Any applicable special readiness requirements as set forth below in subsection C of this section.
 - iii. A demonstration of site control. For Projects where the Grantee or one of its partners does not own the site, the Grantee must provide evidence of a legally binding commitment of the site owner(s) to transfer ownership or allow the Grantee and/or its partners to access the site as needed for the purposes of implementing the Project.
 - iv. Documentation of all permits required to implement the Project. A list of all permits required to implement the Project must be included in the Work Plan included with this Agreement in Attachment 2.
 - v. Documentation of any other pre- implementation requirements identified in the Work Plan (Attachment 2).
- d. Grantee must demonstrate readiness within the first 6 months of the Grant Term. Readiness will be assessed and approved independently for each project.
- e. OPR has sole discretion to determine when the Grantee has demonstrated readiness for the Project. The Grantee and its partners may only expend Direct Costs on the Project once Grantee receives written notice from OPR.
- f. OPR will provide written notice regarding the readiness status of each Project in a Readiness Memo. The Readiness Memo will be updated as the Grantee submits additional readiness documentation.

B. Failure to meet Readiness Requirements

- a. If Grantee fails to meet all required readiness requirements within the first year of the Grant Term will be deemed infeasible and ineligible for reimbursement, unless OPR gives written approval to extend the timeline to meet the readiness requirements.

- b. Grantee may petition OPR for approval to extend the deadline to meet readiness requirements by submitting a written petition to OPR no later than one month prior to the readiness deadline. The written petition shall include information detailing the actions the Grantee and its partners have taken up to this point to attempt to meet the readiness deadline, the reason(s) that it is not feasible for the Grantee and its partners to meet the readiness deadline, and how much additional time is needed for the Grantee to fulfill all remaining readiness requirements.
 - c. If the Project is deemed infeasible and ineligible for reimbursement, the funds awarded to the Grantee for the Project cannot be allocated to new projects.
- C. Special Readiness Requirements
- D. CEQA Readiness Requirements
- a. Grantee is responsible for complying with all applicable laws and regulations for the Project, including the California Environmental Quality Act (CEQA) (PRC § 21000 et seq.) if applicable. Documentation of CEQA compliance must be provided to OPR to establish readiness prior to Project implementation.
 - b. The following documentation is acceptable to demonstrate CEQA compliance:
 - i. Documentation for projects to which CEQA does not apply
 - 1. A signed letter or similar document from the head of the administrative approving entity (e.g., Planning Director) of the lead agency stating that CEQA does not apply to the Project and the basis for that determination.
 - ii. Documentation for projects that are categorically or statutorily exempt
 - 1. A CEQA Notice of Exemption (NOE) that has been approved by the appropriate body pursuant to their obligations under CEQA; or
 - 2. Other documentation confirming that the project is exempt from CEQA, including but not limited to:
 - a. A resolution adopted by the legislative body of the lead agency (e.g., City Council, Board of Supervisors) confirming a project's exemption. If a resolution or similar mechanism is not available or does not exist, meeting minutes documenting the legislative body's consideration and approval of the project's CEQA compliance may be submitted.
 - b. A signed letter or similar document from the head of an administrative approving entity (e.g., Planning Director) of the lead agency.
 - iii. Documentation for all other projects subject to CEQA
 - 1. A file-stamped Notice of Determination
- E. Although not required to establish readiness for Project implementation, Grantee must inform OPR if any legal claims are filed challenging any of the approvals for

the Project, including CEQA approvals, within 3 business days of service of the complaint.

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Exhibit B: Budget Detail and Payment Provisions

1. Fiscal Administration and Payment

- A. The Grantee is responsible for maintaining records that fully disclose its activities to implement the Project. Adequate documentation for each reimbursable transaction shall be maintained to permit the determination, through an audit if requested by the OPR, of the accuracy of the records and the eligibility of the expenditures charged to RRGF grant funds. If the eligibility of the expenditure cannot be determined because records or documentation are inadequate, the expenditure may be disallowed.
- B. To receive payments of grant funds, Grantee must submit to OPR the documentation listed in [Exhibit B, Section 2](#). Advance payments are not permitted under this Grant Agreement.
- C. Upon receipt and approval of an itemized invoice and required documentation, OPR agrees to reimburse Grantee for actual costs incurred for work performed, in accordance with the rates specified in the Budget Detail Worksheet ([Attachment 4](#)).
- D. OPR will withhold five percent (5%) of each invoice, to be paid once all terms of the Grant Agreement have been satisfied.
- E. Payment shall be made within forty-five (45) days of receipt and approval of an invoice. Failure to comply with requirements may result in non-payment or delayed payment.
- F. For additional payment principles, see [Exhibit B, Section 5](#).

2. How to Submit Invoices

- A. Grantee must submit the invoices to the online submission platform, once available. OPR will notify Grantee once the submission platform is available.
- B. Until the submission platform is available, Grantee must email the Invoice (PDF) to AccountsPayable@OPR.CA.GOV and copy the Grant Manager identified by OPR in [Exhibit A, Section 5](#) on the email as well. The email must include the Grant Agreement number and Grantee's name in the subject line. Grantee shall submit invoices at least quarterly but no more frequently than monthly to the Grant Manager unless specified otherwise. A request for payment shall consist of:
 - i. The Invoice ([Attachment 5](#)) on official letterhead and signed by the Authorized Signatory or authorized designee specified in this Agreement ([Exhibit A, Section 3](#)), certifying the expenditures are for actual expenses for the tasks performed under this Grant Agreement.
 - ii. Each cost category and task must correspond to a cost category and task identified in the Budget Detail Worksheet ([Attachment 4](#)).
 - iii. Supporting documentation for all itemized costs. Documentation may include but is not limited to: copies of purchase orders, receipts, subcontractor invoices, and timesheets. These items must contain sufficient information to establish that the specific service was rendered, or purchase was made.
 - a. Supporting documentation should be clearly labeled by task.

- b. Records documenting time spent performing the work shall identify the individual, the date on which the work was performed, the specific grant-related activities or objectives to which the individual's time was devoted, the hourly rate, and the amount of time spent.
- iv. The Progress Report as specified in [Exhibit A, Section 8A](#). Grantees may use the Progress Report space included in the Invoice form ([Attachment 5](#)). The work documented in the progress report should refer to specific deliverables outlined in the Work Plan ([Attachment 2](#)) and the Budget Detail Worksheet ([Attachment 4](#)). The Progress Report should be supported by evidence of the specific deliverables completed. Deliverables can include tasks or subtasks outlined in the Work Plan.
- C. Supporting documentation (e.g., timesheets, activity logs, cancelled checks) for matching funds does not need to be submitted to OPR but should be retained by Grantee in the event of an audit ([Exhibit C, Section 5](#)).
- D. At any time, OPR may request hard copies of invoices, reports, supporting documentation, and evidence of progress.

3. Invoice Dispute

In the event of an invoice dispute, see [Exhibit D, Section 5](#).

4. Budget Contingency Clause

- A. If the Budget Act of the current year and/or any subsequent years covered under this Grant Agreement does not appropriate sufficient funds for the program, this Grant Agreement shall have no further force nor effect. In this event, OPR shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Grant Agreement, and Grantee shall not be obligated to perform any provisions of this Grant Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, OPR shall have the option to either cancel this Grant Agreement or offer an amendment to reflect the reduced amount. In the event that OPR cancels the Grant Agreement, OPR shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Grant Agreement, and Grantee shall not be obligated to perform any provisions of this Grant Agreement.

5. Payment Provisions

- A. All costs to be reimbursed must be consistent with the Guidelines and the Project ([Exhibit E](#)).
- B. Partners must invoice Grantee before Grantee submits an invoice to OPR. All payments will be issued to the Grantee, who will be responsible for disbursing payment to Partners. All invoices submitted by Partners to the Grantee must be contain sufficient information for Grantee to be able to invoice OPR in accordance with Exhibit B, Sections 1 and 2.
- C. All costs to be reimbursed must be reasonable, as defined below:
 - i. A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In

determining reasonableness of a given cost, consideration must be given to:

- i. Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the entity or the proper and efficient performance of this Agreement.
 - ii. The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; federal, state, local, tribal, and other laws and regulations; and terms and conditions of this Agreement.
 - iii. Market prices for comparable goods or services for the geographic area.
 - iv. Whether the Grantee or Partner acted with prudence in the circumstances considering their responsibilities to their employees, the public at large, and the state.
 - v. Whether the cost significantly deviates from the acquiring entity's established practices and policies regarding the incurrence of costs.
- ii. OPR has the sole discretion to determine if a cost is reasonable. Any costs that do not meet the requirements above may not be reimbursed by the State. The Grantee may file a Dispute to contest OPR's determination as set forth at Exhibit D, Section 5.
- D. Indirect Costs exceeding twenty percent (20%) of the total grant award are not eligible for reimbursement, as defined in the Guidelines.
- E. OPR will reimburse Grantee only for actual expenses incurred during the term of this Grant Agreement, as specified in the Budget Detail Worksheet ([Attachment 4](#)).

6. Travel Reimbursement

Travel expenses directly related to the performance of this Grant Agreement will be subject to the State of California travel reimbursement rates in effect during the Grant Term.

- A. OPR will only reimburse for actual expenditures incurred for in-state travel with the exception of incidental costs, which are not reimbursable.
- B. Grantee shall maintain, and submit upon request, detailed travel records and supporting documents (e.g., travel request and approval forms, expense claims, invoices, and receipts for lodging and transportation) showing the date and purpose of the grant-related travel, destination, and, in the case of travel by automobile, the number of miles driven.
- C. Grantee shall ensure travel costs are included in the Budget Detail Worksheet ([Attachment 4](#)) and are tied to tasks and deliverables in the Work Plan ([Attachment 2](#)).
- D. Grantee and any person traveling pursuant to this Grant Agreement indemnifies and holds harmless OPR and the State of California for any liabilities resulting from such travel.

7. Work Plan and Budget Modifications

- A. Grantee must keep the Work Plan ([Attachment 2](#)) and Budget Detail Worksheet ([Attachment 4](#)) up to date as specified in this Section and [Exhibit B, Section 8](#).
- B. Changes of up to twenty percent (20%) of the cost of tasks outlined in the Budget Detail Worksheet ([Attachment 4](#)) shall be made by providing a written request to OPR before submission of the affected invoice and shall be effective upon written approval from the Grant Manager. Total costs cannot exceed the maximum grant fund amount set forth in this Agreement. Once effective, the change shall be deemed incorporated into the Grant Agreement.
- C. Moderate changes to deliverable due dates and minor changes to subtask descriptions in the Work Plan ([Attachment 2](#)) shall be made by providing a written request to OPR before submission of the affected invoice and shall be effective upon written approval from the Grant Manager. Once effective, the change shall be deemed incorporated into the Grant Agreement.
- D. Material changes to the Work and Budget shall follow the amendment process, specified in [Exhibit B Section 8](#). Material changes include:
 - i. Cost changes of more than twenty percent (20%) between tasks in the Budget Detail Worksheet
 - ii. Elimination or alteration of tasks or deliverables
 - iii. Significant changes to deliverable due dates
 - iv. Change in Partners, see [Exhibit A, Section 1](#)
 - v. Other changes deemed material by the Grant Manager

8. Amendments

- A. This section applies to all amendments to this Grant Agreement, except for the following:
 - i. Changes to the Authorized Signatory Form ([Attachment 1](#)). For changes to the Authorized Signatory Form see [Exhibit A, Section 3](#).
 - ii. Changes to Party Representatives as set forth in [Exhibit A, Section 4](#).
 - iii. Non-Material changes to the Work Plan and Budget Detail Worksheet as set forth in [Exhibit B, Section 7](#).
- B. For all other amendments, Grantee must request and obtain prior written approval before any amendment to this Grant Agreement is valid.
- C. Request for amendments must:
 - i. Be prepared, in writing, on official letterhead and signed by the Authorized Signatory or designee for Grantee.
 - ii. Be submitted to the Grant Manager at least two (2) months prior to when the amendment is needed.
 - iii. Include the Grant Agreement number, a detailed explanation of the proposed amendment, reason for the proposed amendment, and the effect of not approving the request.

- iv. Include a copy of the document(s) requested for amendment that shows the requested changes.
- D. The Grant Manager will make reasonable efforts to respond in writing within fifteen (15) working days from receipt of request to approve or deny the request for amendment, including the reason for the decision.
- E. The Grant Manager will make reasonable efforts to process amendments within thirty (30) days of the approval date. The amendment will not be in effect until both Parties' Authorized Signatories or designees have signed the Grant Agreement amendment.

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Exhibit C, General Terms and Conditions

1. Approval

This Grant Agreement is of no force or effect until signed by both Parties. Grantee may not commence performance until such approval has been obtained.

2. Amendment

No change to this Grant Agreement shall be valid unless made in accordance with [Exhibit B, Section 7](#). No oral understanding or change not incorporated in this Grant Agreement is binding on any of the Parties.

3. Assignment

This Grant Agreement is not assignable by Grantee, either in whole or in part, without the consent of OPR in the form of an amendment.

4. Records Retention

- A. Grantee shall establish an official file containing adequate documentation of all actions taken with respect to the Project, including copies of the Grant Agreement, changes, amendments, letters, email correspondence, invoices, financial records, and reports and other documentation for a minimum of four (4) years following the final payment of funds or until completion of any action and resolution of all issues which may arise as a result of an audit, whichever is later. Grantee further agrees to require co-applicants (see [Exhibit A, Section 6G](#) for partnership agreement requirements) and subcontractors to provide copies of all documentation of actions taken related to the Project to the Grantee for retention in compliance with this section.
- B. Grantee shall adequately protect all records, physical and electronic, from loss, damage, or destruction during the four (4) year retention period.
- C. Grantee must establish a separate ledger account for receipts and expenditures of grant funds and maintain expenditure details in accordance with the Work Plan ([Attachment 2](#)) and Budget Detail Worksheet ([Attachment 4](#)). Separate bank accounts are not required. Grantee must maintain financial records of expenditures in accordance with generally accepted accounting principles.
- D. Grantee must maintain documentation of its normal procurement policies and procedures.

5. Audit and Accounting

- A. Grant funded projects are subject to audit by the State of California during the grant term and for up to four (4) years following the termination of the Grant Agreement. Grantee agrees that OPR, the Department of Finance, the Bureau of State Audits, or their designated representative(s) shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Grant Agreement. The audit may consist of examining and auditing pertinent books, documents, papers, and records including financial transactions and supporting documents, general accounting systems, internal controls, management practices, policies, and procedures pertaining to the performance of this Grant Agreement. Grantee shall be given advance notice when the grant-funded Project is selected for an audit or review by OPR, the

Department of Finance, the Bureau of State Audits, or their designated representative(s). Grantee agrees to allow the auditor(s) access to such records during normal business hours, excluding State of California holidays, and to allow interviews of any employees who might reasonably have information related to such records.

- B. Grantee further agrees to comply with Government Code section 8546.7 in its interactions with co-applicants and subgrantees and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code section 10115.10.
- C. Partners and subcontractors of the Grantee who are paid with grant funds under the terms of this Grant Agreement shall be responsible for maintaining accounting records as specified above. Grantee shall include a term in all contracts to that effect.

6. Indemnification

Grantee agrees to indemnify, defend, and hold harmless the State of California, its officers, agents, and employees from any and all claims and losses accruing or resulting to any and all Grantees, partners, subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Grant Agreement, and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by Grantee in the performance of this Grant Agreement.

7. Disputes

Grantee shall continue with the responsibilities under this Grant Agreement during any dispute.

8. Independent Grantee

Grantee, and the agents and employees of Grantee, in the performance of this Grant Agreement, shall act in an independent capacity and not as officers, employees, or agents of OPR.

9. Non-Discrimination Clause

During the performance of this Grant Agreement, Grantee and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, color, ancestry, national origin, religion, creed, age (over 40), mental disability, physical disability, sex, gender (including pregnancy, childbirth, breastfeeding, or related medical conditions), sexual orientation, gender identity, gender expression, medical condition, genetic information, marital status, and military and veteran status. Grantee and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code, §§ 12990, subds. (a)-(f) et seq.) and the applicable regulations promulgated thereunder (Cal. Code Regs., tit. 2§, § 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Grant

Agreement by reference and made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Grant Agreement.

Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Grant Agreement.

10. Timeliness

Time is of the essence in this Grant Agreement. OPR and Grantee will work collaboratively to ensure this Grant Agreement and the Project are administered in a timely fashion.

11. Governing Law

This Grant Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

12. Unenforceable Provision

If any provision of this Grant Agreement is unenforceable or held to be unenforceable, then the Parties agree that all other provisions of this Grant Agreement have force and effect and shall not be affected thereby.

13. Revenue

All revenue generated as a part of the Project by Grantee, their partners or subcontractors must be used to further the Project to the extent reasonably possible. Grantee must keep records of revenue expenditures for audit purposes.

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Exhibit D, Special Terms and Conditions

1. Compliance with Laws and Regulations

By signing this Grant Agreement, Grantee certifies that it shall comply fully with all applicable federal, state, and local laws, ordinances, regulations, and permits and shall secure any new permits required by authorities having jurisdiction over the Project(s), and maintain all presently required permits.

Grantee is responsible for complying with all applicable requirements, if any, of the California Environmental Quality Act (CEQA) (Pub. Resources Code, §§ 21000 et seq.). OPR's selection of a Project for a planning grant does not foreclose appropriate consideration of alternatives or mitigation measures that would reduce or eliminate adverse environmental effects of any project during the CEQA review process. Nor does it foreclose the possibility that the project may be denied due to its significant environmental effects, if any. No work that is subject to CEQA may proceed until clearance is given by all lead and responsible agencies.

2. Subcontractors and Partners

OPR's contractual relationship is with Grantee, and not any of its Partners or subcontractors. Grantee is entitled to make use of its own staff, Partners, and subcontractors, as identified in the Budget Detail Worksheet ([Attachment 4](#)), and will comply with its own competitive bidding and sole sourcing requirements for subcontracts that arise out of or in connection with this Grant Agreement. Grantee shall manage, monitor, and accept responsibility for the performance of its own staff, Partners, and subcontractors, and will conduct Project activities and services consistent with professional standards for the industry and type of work being performed under this Grant Agreement.

Nothing contained in this Grant Agreement or otherwise shall create any contractual relationship between OPR and any Partners or subcontractors, and no subcontract shall relieve Grantee of its responsibilities and obligations hereunder. Grantee agrees to be as fully responsible to OPR for the acts and omissions of Partners and subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Grantee. Grantee's obligation to pay Partners and subcontractors is an independent obligation from OPR's obligation to make payments to Grantee. As a result, OPR shall have no obligation to pay or to enforce the payment of any moneys to any Partner or subcontractor.

3. No Third-Party Beneficiaries

This Grant Agreement is not intended for the benefit of any person or entity other than the Parties, and no one other than the Parties themselves may enforce any of the rights or obligations created by this Grant Agreement.

4. Project Monitoring and Oversight

A. Project monitoring and oversight is essential to ensure the Project stays within scope and is completed on schedule and within budget in accordance with this Grant Agreement. It is the responsibility of the Grantee to monitor the Project to ensure that it is completed in accordance with this Grant Agreement.

- B. Grantee agrees that OPR has the right to visit the site of the Project described in the Application (Attachment INSERT) and the Project Area (Attachment INSERT).
- C. Grantee agrees that OPR has the right to conduct a final inspection of completed Projects, as determined by OPR. For any construction projects which require certification by the appropriate registered professional (such as a California Registered Civil Engineer or Geologist) that the Project has been completed in accordance with any final plans and specifications, Grantee must notify the OPR Grant Manager of the inspection date at least (10) working days prior to the inspection in order to provide OPR the opportunity to participate.
- D. The OPR Grant Manager has the right to request phone calls or in-person meetings with the Grantee's Party Representatives to discuss the progress of the Project. Grantee must work with the OPR Grant Manager to accommodate monitoring requests.

5. Dispute Resolution

A. Invoice Disputes

- i. In the event of an invoice dispute, the Grant Manager will notify Grantee by phone and follow up in writing using the Invoice Dispute Notification Template ([Attachment 6](#)) within ten (10) working days of receipt of the disputed invoice.
- ii. During the dispute, both parties shall deal in good faith to resolve the dispute. Grantee shall continue to meet its responsibilities and obligations under the terms of this Grant Agreement.
- iii. If Grantee contests the decision made by the Grant Manager, Grantee shall submit a written "Notice of Dispute" on official letterhead, according to Subsection C below.

B. General Disputes

- i. In the event of a dispute unrelated to the dispute of an invoice, Grantee shall first attempt to resolve the dispute with the Grant Manager.
- ii. Both parties shall deal in good faith and attempt to resolve the dispute informally.
- iii. Grantee shall continue to meet its responsibilities and obligations under the terms of this Grant Agreement during a dispute.
- iv. If Grantee contests the decision made by the Grant Manager, Grantee shall submit a written "Notice of Dispute" on official letterhead, according to Subsection C below.

C. Contesting a Dispute Decision

- i. If Grantee contests a decision made by the Grant Manager, Grantee may submit a written "Notice of Dispute" on official letterhead. The "Notice of Dispute" shall include:
 - The Grant Agreement number
 - A complete description of the basis for the dispute

- Legal authority or pertinent facts, supporting arguments and documentation
- Action requested for resolution

The “Notice of Dispute” shall be sent to the following address, with copies sent via email to the OPR contacts in [Exhibit A, Section 4](#):

Governor’s Office of Planning and Research
RRGP
Attn: RRGF Program Manager
1400 Tenth Street
Sacramento, CA 95814

- ii. Within 30 days after receipt of the “Notice of Dispute,” the OPR RRGF Program Manager shall review the dispute and submit a written decision to Grantee, which shall include:
 - The decision made
 - An explanation for the decision
- iii. The written dispute decision of the OPR RRGF Program Manager is considered final and cannot be disputed further by the Grantee.

6. Termination

- A. Completion of Project. This Grant Agreement shall terminate upon completion of the Project and payment of the last invoice.
- B. Early Termination. Either Party may terminate this Grant Agreement upon thirty (30) days advance written notice by certified mail to the other Party. The notice shall specify the reason for early termination and may permit Grantee or OPR to rectify any deficiency(ies) prior to the early termination date.
 - i. Conditions of early termination:
 - a. Upon any termination, Grantee must deliver all invoices, reports, and other deliverables required by this Grant Agreement up to the time of termination. Grantee must deliver all materials within sixty (60) calendar days of the termination date.
 - b. Upon receipt of notice from OPR of Termination for Convenience, or upon sending the notice of early termination to OPR, Grantee shall immediately take action to ensure neither it nor any Partner or Subcontractor incur any additional obligations, costs or expenses, except as may be reasonably necessary to terminate its activities.
 - c. OPR will examine the extent of Grantee compliance for work partially completed and reasonably determine costs eligible for reimbursement based on final invoices submitted and compliance with this Grant Agreement.
 - ii. The rights and remedies of OPR and Grantee provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Grant Agreement.

7. Waiver of Rights

- A. Grantee waives any and all rights to any type of express or implied indemnity or right of contribution from OPR, its officers, agents, or employees for any liability arising from, growing out of, or in any way connected with this Grant Agreement.
- B. Grantee waives all claims and recourses against OPR, including the right to contribution for loss or damage to persons or property arising from, growing out of, or in any way connected with or incident to this Grant Agreement, except claims arising from the gross negligence of OPR, its officers, agents, and employees.
- C. None of the provisions of this Grant Agreement shall be deemed waived unless expressly waived in writing.

8. Insurance Requirements

- A. A Grantee that is a governmental organization may provide evidence of sufficient self-insurance to satisfy the insurance requirements below.
- B. If Grantee is not a governmental organization or is a governmental organization that is unable to provide evidence of sufficient self-insurance, then the following are the insurance requirements:
- C. Grantee must ensure the following insurance policies are obtained and kept in force for the term of this Grant Agreement, with no lapses in coverage, that cover any acts or omissions of Grantee or its employees engaged in carrying out any tasks specified in this Grant Agreement:
 - i. Workers' Compensation Insurance in an amount of not less than the statutory requirement of the State of California (Labor Code, § 3700 et seq.).
 - ii. Commercial general liability insurance in an amount of not less than \$1,000,000 per occurrence for bodily injury and property damage combined.
 - iii. Motor vehicle liability with limits not less than \$1,000,000 per accident for bodily injury and property damage combined. Such insurance shall cover liability arising out of a motor vehicle including owned or hired, and non-owned motor vehicles.
- D. Insurance policies must name the State of California, its officers, agents, employees, and servants as additional insured parties for the commercial general liability and automobile liability insurance, but only with respect to work performed under this Grant Agreement.
- E. Grantee is responsible for guaranteeing that a copy of each Certificate of Insurance is submitted OPR within sixty (60) calendar days of the Grant Agreement signature. The grant number must be included on each submitted Certificate of Insurance.
- F. Grantee must notify OPR prior to any insurance policy cancellation or substantial change of policy, including lapse of coverage, change in coverage amount, or change in carrier. Grantee shall submit proof of new or updated policy based on insurance requirements within thirty (30) days of policy cancellation or substantial policy change. Failure to provide proof of insurance may result in termination of this Grant Agreement.

9. Stop Work

If it is determined, at the sole discretion of OPR, that Grantee is not meeting the terms and conditions of this Grant Agreement, immediately upon receiving a written notice through certified mail from OPR to stop work, Grantee shall cease all work under this Grant Agreement. OPR has the sole discretion to determine that Grantee meets the terms and conditions of this Grant Agreement after a stop work order, and to send a written notice to Grantee to resume work under this Grant Agreement.

10. Remedies of Nonperformance

Grantee's failure to comply with any of the terms and conditions of this Agreement shall constitute a breach of this Agreement. OPR will give written notice to the Grantee to cure the breach or violation within a period of not less than 15 days.

In addition to the other remedies that may be available to OPR in law or equity for breach of this Agreement, OPR may at its discretion exercise the following remedies:

- A. Undertake the dispute resolution process set forth at [Exhibit D, Section 5](#);
- B. Issue a stop work order pursuant to [Exhibit D, Section 9](#);
- C. Disqualify the Grantee from applying for future RRGP funds or other OPR administered grant programs;
- D. Revoke existing RRGP grant funds to the Grantee;
- E. Require the repayment of RRGP grant funds disbursed and expended under this Agreement;
- F. Seek a court order for specific performance of the obligation defaulted upon, or the appointment of a receiver to complete the obligations in accordance with the RRGP Guidelines and this Agreement;
- G. Other remedies available by law, or by and through this Agreement. All remedies available to OPR are cumulative and not exclusive.

11. Publicity

Grantee agrees that it will acknowledge OPR in all publications, websites, signage, invitations, and other media-related and public-outreach products related to the RRGP. OPR staff will provide OPR logo files and guidance on their usage directly to Grantee. Grantee agrees to adhere to the Communications Kit provided by OPR ([Exhibit H](#)). If Grantee is planning an event or announcement, needs sample materials, or needs assistance or advice, Grantee shall contact the Grant Manager.

- A. Long-Form Materials: Long-form written materials, such as reports, must include the following standard language about OPR, RRGP, and the Integrated Climate Adaptation and Resiliency Program (ICARP):

As communities in California experience more frequent, prolonged, and severe impacts from climate change, communities and governments at all scales are developing strategies and implementing actions to build a climate-resilient future. However, many jurisdictions, especially under-resourced communities in California, lack the capacity, tools, guidance, and resources to effectively prepare for climate impacts.

The RRGP addresses this capacity gap by providing funding to help fill planning needs, providing communities with the resources to identify climate resilience

priorities, and supporting the development of climate resilience projects across the state. The RRGP enables communities to climate risk and adaptation considerations into planning activities and prepare for climate readiness and resilience in the long term.

- The RRGP is an initiative of the Integrated Climate Adaptation and Resiliency Program (ICARP) housed within the Governor's Office of Planning and Research. ICARP advances statewide climate adaptation and resilience by coordinating investments, partnerships and climate science to ensure people, natural systems, and the built environment are protected, prepared, and thrive in the face of climate change.
- Through direct and equity-focused investments and resources, ICARP helps build climate adapted and equitable communities in California, with a focus on solutions that both address the impacts of climate change and reduce greenhouse gas emissions. ICARP works to advance these priorities across all levels of government by developing actionable science and research; providing guidance, tools, and technical assistance; and administering climate resilience-focused grant programs.

Learn more: <https://opr.ca.gov/climate/icarp/>

- B. Press Releases, Flyers, and Visual Materials: Any informational materials that do not qualify as long-form, but that include at least a paragraph of text, such as press releases, media advisories, short case studies, flyers, etc., must include either of the following messages:

Long version:

"[Project Name] is supported by the Regional Resilience Grant Program at the Governor's Office of Planning and Research (OPR). The Regional Resilience Grant Program is an initiative of OPR's Integrated Climate Adaptation and Resiliency Program (ICARP). ICARP advances climate adaptation and resilience in California by coordinating investments, partnerships and climate science to ensure people, natural systems, and the built environment are protected, prepared, and thrive in the face of climate change.

Short version:

"[Project Name] is supported by the Regional Resilience Grant Program implemented by the Governor's Office of Planning and Research."

Grantee may at times produce promotional materials that are primarily visual in nature, such as banners, signage, certain flyers, and sharable images for social media. In such cases, when including the above boilerplate language acknowledging ICARP and OPR support is not practical, Grantee should instead include the official OPR logo, preceded by the words "Funded by."

- C. Media Inquiries: Grantee must provide to OPR the name, phone number, and email address of Grantee's point of contact for all press inquiries and communications needs related to the Project. Grantees must also distribute a

press release after grant decisions are presented during ICARP Technical Advisory Council (TAC) Meetings, and may be requested to present before the TAC and release communications materials for other major milestones throughout the lifecycle of the grant. All press releases must be approved by the OPR Communications and External Affairs prior to distribution and OPR must be alerted to all press events related to the grant.

- D. Communications Materials and Photos: Grantee shall share between 8-12 high-resolution, color photos with OPR during the Grant Term. These photos should include pictures of people involved with the Project, the Project area, and/or activities conducted during the Grant Term. OPR reserves the right to use these photos across its communications platforms.
- E. Social Media: Grantee is encouraged to use social media to share and inform the public of activities under this Grant Agreement. LinkedIn: @Governor's Office of Planning and Research (OPR) @CalOPR and #ICARP #climateadaptation #climateresilience #RRGP should be tagged on all posts related to the RRGP grant. Use of the hashtags #CAresilience and #ICARP and related variations is also encouraged.

12. Drug-Free Workplace Certification

In signing this Grant Agreement, Grantee certifies that it will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- A. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- B. Establish a Drug-Free Awareness Program to inform employees about:
 - i. The dangers of drug abuse in the workplace.
 - ii. The person's or organization's policy of maintaining a drug-free workplace.
 - iii. Any available counseling, rehabilitation, and employee assistance programs.
 - iv. Penalties that may be imposed upon employees for drug abuse violations.
- C. Every employee who works on this Grant Agreement will:
 - i. Receive a copy of the company's drug-free workplace policy statement.
 - ii. Agree to abide by the terms of the company's statement as a condition of employment on this Grant Agreement.

Failure to comply with these requirements may result in suspension of payments under this Grant Agreement or termination of this Grant Agreement or both, and Grantee may be ineligible for award of any future State of California agreements if OPR determines that any of the following has occurred: Grantee has made false certification, or violated the certification by failing to carry out the requirements as noted above (Gov. Code, § 8350 et seq.).

13. Americans with Disabilities Act

Grantee will comply with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA (42 U.S.C. 12101 et seq.).

14. Air/Water Pollution Violation Certification

Under State of California laws, Grantee shall not be: (1) in violation of any order or resolution not subject to review promulgated by the California Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

15. Payee Data Record Form - STD 204

This form must be completed by all Grantees that are not another state agency or other governmental entity.

16. Equipment

- A. The cost to lease equipment to use in the grant project area may be charged to the grant. Cost of leased equipment charged to the grant must be substantiated with receipts identifying equipment was leased, lease rate and total cost.
- B. Use of equipment owned by the Grantee but not purchased with grant funds, may be charged to the grant at a rate set by the California Department of Transportation Labor Surcharge and Equipment Rental Rate Guide. Use of Grantee equipment must be substantiated with an equipment usage log that identifies the equipment used, rate, and total rental cost.
- C. Purchase of equipment using grant funds is allowable only with prior approval by the OPR Grant Manager. The Grantee must provide to OPR a cost-benefit analysis to justify the cost of purchasing equipment as opposed to leasing the same equipment.
 - i. The cost of equipment purchased shall be substantiated by purchase receipt.
 - ii. Any equipment purchased with grant funds with OPR approval that is reimbursable as a Direct Cost of the Project must be solely owned on the title by the Grantee or Partner.
 - iii. Each grant-funded piece of equipment must be dedicated to the same use described in proportion in scope as in the Grant Agreement, unless OPR otherwise approves in writing, for the useful life of the equipment.
 - iv. If the owner of the grant-funded equipment determines that it no longer has need for the grant-funded equipment before the end of the equipment's useful life, the owner shall donate the grant-funded equipment to a public entity or nonprofit organization that will use the grant-funded equipment for purposes that are similar to the purpose intended in the Grant Agreement or to a public entity or nonprofit that serves the project area.

- v. For the duration of the useful life of each grant-funded piece of equipment, the grantee shall maintain a record identifying each piece of grant-funded equipment, the expected useful life of each item, and the ultimate disposition (disposal or donation). The requirements of this section will survive termination of this agreement.
- D. Grantee will assume all risk including cost for maintenance, repair, loss, destruction, and damage to all equipment until disposition of equipment. OPR may, at its discretion, repair any damage or replace any lost or stolen items and deduct the cost thereof from Grantee's invoice to the State, or require Grantee to repair or replace any damaged, lost, or stolen equipment to the satisfaction of OPR with no expense to the State.
- E. In the event of theft, a report must be filed immediately with the California Highway Patrol (State Administrative Manual § 8643 [Lost, Stolen, or Destroyed Property]).
- F. Grantee must maintain an inventory record for grant-funded equipment purchased or built with funds provided under this Grant Agreement. In addition, items of grant-funded equipment or supplies that are prone to theft, loss, and misuse and may contain sensitive data (e.g., computers, printers, smartphones, tablets, cameras, GPS devices, etc.) must be inventoried. This equipment inventory record must be updated within mid-term reports and reports accompanying quarterly invoices, and upon request [reference reporting requirements section].

17. Infrastructure

- A. Grantee, Partner, or Subcontractor, as applicable, must ensure all necessary rights of way, property ownership, or leases have been secured prior to construction. Purchases of all real property required for the Project must be free and clear of liens, conflicting easements, obstructions, and encumbrances. Any property acquisition by Grantee must not involve eminent domain proceedings or threat of eminent domain proceedings. Grantee must record deed restrictions on Project property, as applicable.
- B. For any rights of way, real and personal property, leases, improvements, and infrastructure funded as a reimbursable direct cost of the Project, the Grantee, Partner, or public agency, as approved in writing by the OPR Grant Manager, must be the sole owner of the title or leasehold. Each site acquired or improved upon with funding provided under this Grant Agreement must remain permanently dedicated to the described use in the same proportion and scope as was in the Grant Agreement, unless OPR agrees otherwise in writing. If the ownership or use of the property changes to a use not in accordance with the Grant Agreement, Grantee may be required to reimburse the State in a manner determined by OPR.
- C. Grantee, Partner, or Subcontractor, as applicable, is obligated to continue operation and maintenance of the physical aspects of the Project for its full useful life, which, for the purpose of this Grant Agreement, includes any extensions of that life achievable by reconstruction, rehabilitation or enhancements, in accordance with the described use in the same proportion and scope as in the Grant Agreement, unless OPR agrees in writing. Grantee

may be excused from its obligations for operation and maintenance of the Project site only upon written approval from OPR. The Project and its facilities must be maintained, supervised, and inspected by adequate and well-trained staff and/or professionals and technicians as the project reasonably requires.

18. Debt Security

Grantee will not use or allow the use of any portion of real property purchased solely with RRGF grant funds as security for any debt.

19. Force Majeure

Neither the State nor Grantee will be responsible hereunder for any delay, default, or nonperformance of this Grant Agreement, to the extent that such delay, default, or nonperformance is caused by an act of God, weather, accident, enemy or hostile governmental action, civil commotion, strikes, lockouts, labor disputes, fire or other casualty, or other contingencies unforeseen by the State or Grantee, its Partners, Subcontractors, or vendors, and beyond the reasonable control of such party.

20. Expatriate Corporations

Grantee hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Sections 10286 and 10286.1, and is eligible to contract with the State of California.

21. Corporation Qualified to do Business in California

When work under this Grant Agreement is to be performed in California by a corporation, the corporation must be in good standing and currently qualified to do business in the state. "Doing business" is defined in Revenue and Taxation Code Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

22. Self-Dealing and Arm's Length Transactions

All expenditures for which reimbursement pursuant to this Grant Agreement is sought must be the result of arm's-length transactions and not the result of, or motivated by, self-dealing on the part of Grantee or any employee or agent of Grantee.

23. Relocation

If a project is subject to State Relocation Law and a relocation plan is required by State Relocation Law (Gov. Code, § 7260 et seq.) and Section 6038 of the Relocation Assistance and Real Property Guidelines (25 Cal. Code of Regulations, div. 1, ch. 6, § 6000 et seq.) for the Project Area, Grantee must provide a copy of the relocation plan.

24. Child Support Compliance Act

Grantee recognizes the importance of child and family support obligations and must fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information

and compliance with earnings assignment orders, as provided in Family Code Section 5200 et seq.; and

Grantee, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

25. Environmental Justice

In the performance of this Grant Agreement, Grantee must conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of California, consistent with Government Code section 65040.12, subdivision (e).

26. Union Organizing

By signing this Grant Agreement, Grantee hereby acknowledges the applicability of Government Code Sections 16645, 16645.2, 16645.8, 16646, 16647, and 16648 to this Grant Agreement and hereby certifies that:

- A. No grant funds disbursed by this Grant Agreement will be used to assist, promote, or deter union organizing by employees performing work under this Grant Agreement.
- B. If Grantee makes expenditures to assist, promote, or deter union organizing, Grantee must maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee must provide those records to the Attorney General upon request.

27. Prevailing Wages and Labor Compliance

Grantee certifies that it will comply with all prevailing wage requirements under California law, pursuant to Section 1720 et seq. of the California Labor Code. The California Labor Code requires payment of locally prevailing wages to workers and laborers on state government contracts in excess of \$1,000 for public works projects. A “public work” is the construction, alteration, demolition, installation, repair, or maintenance work done under contract and paid for in whole or in part out of public funds. The definition applies to private contracts when certain conditions exist. Grantee can identify additional stipulations and exceptions under Cal. Labor Code § 1720 et seq.

- A. Grantee must ensure the following on “public work” activities under this Grant Agreement:
 - i. Prevailing wages are paid;
 - ii. The project budget and invoices for labor reflects these prevailing wage requirements, or if exempt, provide the applicable exemption to SGC with the project budget; and

- iii. The project complies with all other requirements of prevailing wage law including but not limited to keeping accurate payroll records and complying with all working hour requirements and apprenticeship obligations.
- B. Grantee must ensure that its Partners and Subcontractors, if any, also comply with prevailing wage requirements. Grantee must ensure that all agreements with its Partners and Subcontractors to perform work related to the TCC Project contain the above terms regarding payment of prevailing wages on public works projects.
- C. The Department of Industrial Relations (DIR) is the primary resource for consultation on the requirements of California prevailing wage law.
- i. Grantee can identify the rates for prevailing wage on the DIR website at <http://www.dir.ca.gov>. Grantee may contact DIR for a list of covered trades and the applicable prevailing wage.
 - ii. If Grantee is unsure whether the TCC Project or individual projects receiving this award is a “public work” as defined in the California Labor Code, it may wish to seek a timely determination from the DIR or an appropriate court.
 - iii. If Grantee has questions about this contractual requirement, recordkeeping, apprenticeship, or other significant requirements of California prevailing wage law, it is recommended Grantee consult DIR and/or a qualified labor attorney before accepting this grant award.

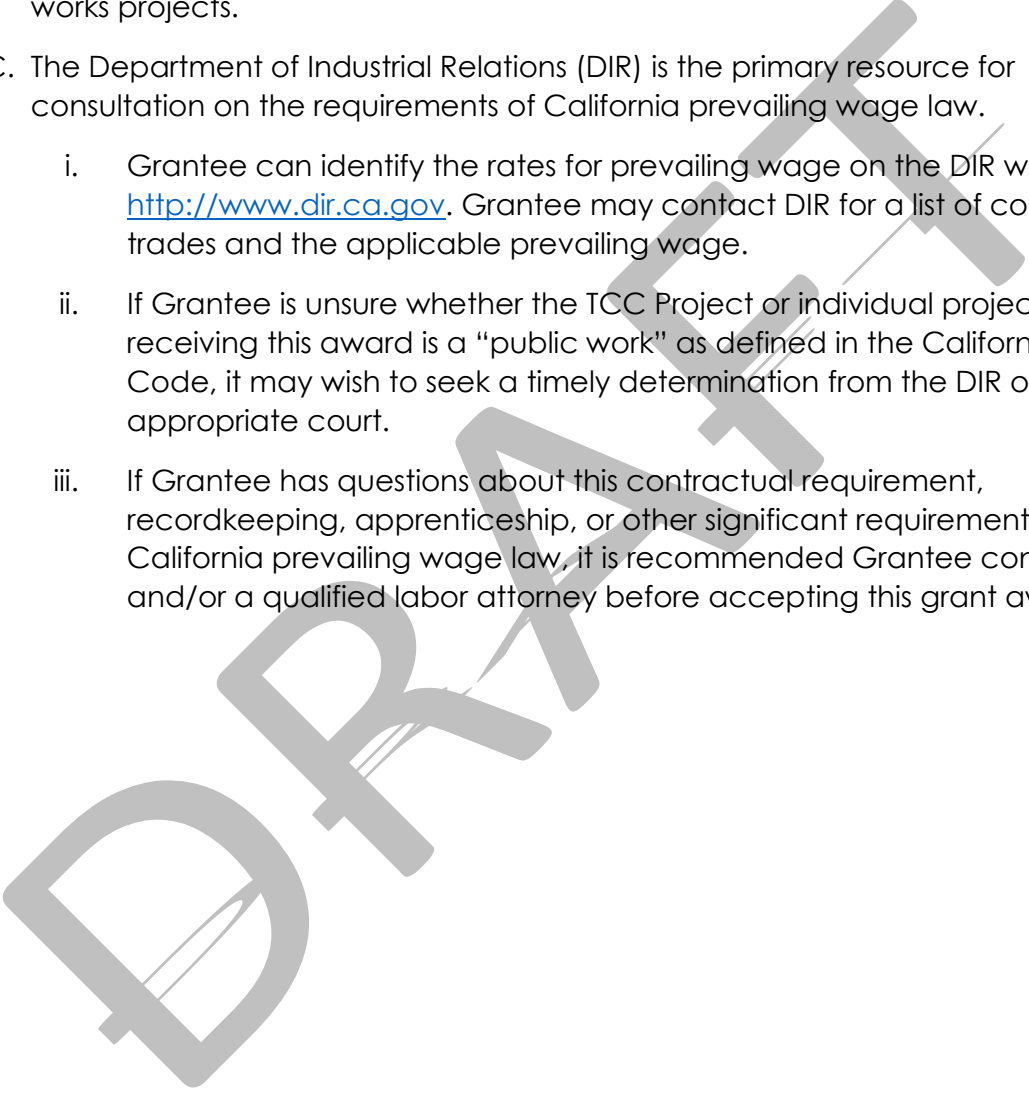


Exhibit E, [RRGP Guidelines](#)

DRAFT

Exhibit F, Award Letter

[Insert award letter here.]

DRAFT

Exhibit G, Grant Application

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Exhibit H, RRGF Communications Kit

Welcome to the California Office of Planning & Research Awardee Community!

Dear Regional Resilience Grant Program Grantee,

Congratulations on your successful award from the Regional Resilience Grant Program! Your dedication and hard work have paid off, and we are thrilled to be partnering with you on your important project.

At the Governor's Office of Planning and Research (OPR), we recognize the significance of your work in advancing climate resilience and adaptation. Your project holds great potential to deliver substantial environmental, health, and climate benefits to your community, and we are committed to supporting you every step of the way.

To assist you in effectively communicating and sharing the impact of your project, OPR's Communications and External Affairs team has prepared this Communications Toolkit. It serves as a comprehensive set of communications and branding guidelines specific to the Regional Resilience Grant Program, as well as a range of resources and best practices to enhance your outreach across various media channels.

We believe that your project deserves recognition not only within your community but also as a model for others facing similar challenges. The tools and guidance provided in this kit will help you effectively share your accomplishments, engage stakeholders, and build awareness about the importance of climate adaptation and resilience planning.

As you plan events, announcements, or any communication activities related to your grant, please refer to this toolkit and adhere to the guidelines provided. Should you require sample materials, event support, or expert advice, our Deputy Director of Communications and External Affairs, Emily Breslin, is available to assist you. You can reach Emily at emily.breslin@opr.ca.gov.

We appreciate the inspiring work you are doing to implement innovative and effective climate adaptation strategies. Together, we can make a substantial difference in building resilient communities and securing a sustainable future for all. We value our partnership and look forward to supporting you every step of the way.

Best regards,

The Governor's Office of Planning and Research Team

We are promoting the final 16 grantees on all of our channels through a [press release](#) and [social media](#) and we welcome you to do the same. Below is some suggested language, but please feel very free to modify any of it as you see fit:

[Organization Name] is pleased to announce that [Project Name] has been selected as a recipient of the Round 1 Regional Resilience Grant Program, provided by the Governor's Office of Planning and Research (OPR). This new grant program supports planning and implementation projects that strengthen climate change resilience at a regional scale. We're thrilled to announce our project is one of sixteen awarded in this first round!

With the support of the Regional Resilience Grant Program, [Project Name] will be able to [briefly describe the project's goals and objectives]. This funding will enable us to [insert deliverables etc... implement innovative strategies, leverage partnerships, and incorporate cutting-edge climate science to enhance our resilience and adaptation measures].

Find more information about the Regional Resilience Grant Program and the Integrated Climate Adaptation and Resiliency Program ICARP [here](#) and read more about our other projects in today's press announcement, [here](#).

We look forward to working with the Governor's Office of Planning and Research (OPR) and want to congratulate all the recipients of the Regional Resilience Grant Program. Together, we will build a more resilient California for All.

*LinkedIn: @Governor's Office of Planning and Research (OPR) @CalOPR and #ICARP
#climateadaptation #climateresilience #RRGP #CAresilience*

Publicity Requirements & Guidelines for RRGP Awardees

RRGP awardees should acknowledge OPR in all publications, websites, signage, invitations, and other media-related and public-outreach products related to the RRGP. OPR staff will provide OPR logo files and guidance on their usage directly to Grantee.

When using OPR's logo, use the color version only when the logo appears on a white background; on backgrounds of any other color, please use the white version of the logo.

LONG-FORM MATERIALS

Long-form written materials, such as reports, must include the following standard language about OPR, RRGP, and the Integrated Climate Adaptation and Resiliency Program (ICARP):

As communities in California experience more frequent, prolonged, and severe impacts from climate change, communities and governments at all scales are developing strategies and implementing actions to build a climate- resilient future. However, many jurisdictions, especially under-resourced communities in California, lack the capacity, tools, guidance, and resources to effectively prepare for and build resilience to climate impacts.

The RRGP addresses this capacity gap by providing funding to help fill regional-scale planning and implementation needs, providing communities with the resources to identify climate resilience priorities, and implementing regional climate resilience projects across the state. The RRGP supports multi-jurisdictional partnerships to work together to address the most significant climate change risks in their region, especially in communities that are most vulnerable to climate change impacts.

The RRGP is an initiative of the Integrated Climate Adaptation and Resiliency Program (ICARP) housed within the Governor's Office of Planning and Research. ICARP advances statewide climate adaptation and resilience by coordinating investments, partnerships and climate science to ensure people, natural systems, and the built environment are protected, prepared, and thrive in the face of climate change.

Through direct and equity-focused investments and resources, ICARP helps build climate adapted and equitable communities in California, with a focus on solutions that both address the impacts of climate change and reduce greenhouse gas emissions. ICARP works to advance these priorities across all levels of government by developing actionable science and research; providing guidance, tools, and technical assistance; and administering climate resilience-focused grant programs.

Learn more: <https://opr.ca.gov/climate/icarp/>

PRESS RELEASES, FLYERS, AND VISUAL MATERIALS

Any informational materials that do not qualify as long-form, but that include at least a paragraph of text, such as press releases, media advisories, short case studies, flyers, etc., must include either of the following messages:

Long version:

“[Project Name] is supported by the Regional Resilience Grant Program at the Governor’s Office of Planning and Research (OPR). The Regional Resilience Grant Program is an initiative of OPR’s Integrated Climate Adaptation and Resiliency Program (ICARP). ICARP advances climate adaptation and resilience in California by coordinating investments, partnerships and climate science to

ensure people, natural systems, and the built environment are protected, prepared, and thrive in the face of climate change.

Short version:

"[Project Name] is supported by the Regional Resilience Grant Program implemented by the Governor's Office of Planning and Research."

Mostly visual:

Grantee may at times produce promotional materials that are primarily visual in nature, such as banners, signage, certain flyers, and sharable images for social media. In such cases, when including the above boilerplate language acknowledging ICARP and OPR support is not practical, Grantee should instead include the official OPR logo, preceded by the words "Funded by."

DRAFT

MEDIA INQUIRIES

Grantee must provide to OPR the name, phone number, and email address of Grantee's point of contact for all press inquiries and communications needs related to the Project. Grantees must also distribute a press release after grant decisions are presented during ICARP Technical Advisory Council (TAC) Meetings, and may be requested to present before the TAC and release communications materials for other major milestones throughout the lifecycle of the grant. All press releases must be approved by the OPR Communications and External Affairs prior to distribution and OPR must be alerted to all press events related to the grant.

COMMUNICATIONS MATERIALS & PHOTOS

Grantee shall share between 8-12 high-resolution, color photos with OPR during the Grant Term. These photos should include pictures of people involved with the Project, the Project area, and/or activities conducted during the Grant Term. OPR reserves the right to use these photos across its communications platforms.

SOCIAL MEDIA

Grantee is encouraged to use social media to share and inform the public of activities under this Grant Agreement. LinkedIn: @Governor's Office of Planning and Research (OPR) @CalOPR and #ICARP #climateadaptation #climateresilience #RRGP should be tagged on all posts related to the RRGP grant. Use of the hashtags #CAresilience and #ICARP and related variations is also encouraged.

Spread the Word

Here are a few effective ways to raise awareness around your important work. In every case, we recommend a clear, concise writing style that avoids technical terms and is easy for most readers to access. Be sure all of your communications comply with the Publicity Requirements and Guidelines on pages 2-10 of this kit.

Create a Website

One of the best ways to share the latest information about the progress of your RRGP project is to compile everything the public needs to know into well-organized website. Your website should be simple and inviting, with sections explaining who you are, what the RRGP program is, and why the project is important. Keeping the website updated with your latest accomplishments and steps taken to achieve your goals will keep members of your community enthusiastic and engaged. You can choose from dozens of inexpensive website templates, such as Wix, Square Space, and WordPress.

Press Releases & Media Advisories

If you're interested in getting mentioned by your local news outlets (newspapers, web-based news, radio, television), you've got to alert reporters, editors, hosts, news desks, and producers in your local media market. Here are a couple ways to get their attention (in both cases, include a contact name, title, phone number, and email at the top):

Press release

This is a narrative piece that tells the reader a story. Your best bet is to write it in the style of a story you'd read in the newspaper. Start with the most important part so that the reader knows immediately what you want to tell them about. From there, add details to flesh out the story (the amount of the grant, the number of supporting community groups, total emissions reductions, etc.), along with quotes from people who are engaged with your project – for example, representatives from partner organizations, residents who engaged in project design, and OPR's Executive Director. Some media outlets might publish your press release as is! Others will follow up with questions or to interview someone.

Media advisory

This is a short piece you send to reporters, editors, hosts, news desks, and producers when you want to invite them to attend and cover an event, such as a groundbreaking, ribbon-cutting, dedication, etc. Make sure you answer the most important questions (who/what/when/where/why/how) and emphasize what makes your story worthy of media attention—as well as what photo opportunities will be available at the event.

Social Media

Numerous social media platforms support digital storytelling and promotion. Use your existing platforms to talk about your RRG project. We also encourage you to follow OPR on Twitter and LinkedIn so we can watch for and share your updates about your RRG project. Please see our social media section of this kit for more details.

Blog Post

If you or any of your partners currently has an active blog, we encourage you to write a post highlighting the progress or impact of your RRG project. For example, ask a project partner to write a guest blog or sit with you for a Q&A to highlight some of the specific benefits of their programs, who is receiving those benefits, and how the community has been involved. After you've posted your blog, you can share it on your social media platforms!

Newsletter

If you or any of your RRG partners have a newsletter or listserv, please share your award announcement and other important milestones through that platform. Encourage community leaders and/or elected officials who work with you frequently to announce RRG milestones through their newsletters or listservs as well. Please contact us at OPR so we can share your important RRG milestones through our newsletter as well!

Op-Ed or Letter to the Editor

Consider writing an op-ed or letter to the editor of your local newspaper to raise awareness of your new RRGP award and the benefits it will bring to your community. A good approach is to acknowledge the various stakeholders involved in the planning process, name the specific benefits this project will bring to members of your community, and emphasize the place-based, community-driven approach to this project using RRGP's model. An op-ed is typically around 600 words (it depends on the outlet) and you submit it to the Op-Ed Editor; it is best to reach out to this editor with an outline for your piece and ask if they're interested in running a developed piece from you. A letter-to-the-editor is short – usually under 200 words – and you just submit it directly to the letters section of the outlet.

Events

Events with community members, leaders, and elected officials can be a draw for the press, as well as for local residents, and are a great way to build excitement about your RRGP project.

Host Community Events

Organizing a fun kick-off meeting and other community events for stakeholders and the general public is a great way to raise awareness about your RRGP award and get more people involved in the planning process. These kinds of events can help make sure everyone is on the same page and united in your mission, as well as enthusiastic about the tangible benefits your project will create.

Remember

The OPR team is here to help! We love to work with awardees to brainstorm communication strategies. We can provide quotes from OPR leadership for your press releases and make leadership available for media interviews. We can coach you on how to pitch media, help you identify reporters, and help secure participation by State officials in your event. Contact OPR's Deputy Director of External Affairs, Emily Breslin, for support: emilly.breslin@opr.ca.gov.

Social Media

Social media offers an array of powerful, free platforms that enable you to communicate about your RRGP project to potentially large audiences.

Follow us

The California Office of Planning & Research (**@Cal_OPR**) posts frequently on Twitter about the State's efforts to improve our environment and communities. OPR is also active [on LinkedIn](#). We encourage you and your RRGP partners to follow our accounts to stay up to date on the latest news on our policies and programs. If we tweet about the RRGP, or about anything else relevant or interesting to you, please 'like' and retweet us—sometimes it can even save you the trouble of crafting your own tweet.

Tag us

We love seeing grantees' progress from vision to reality. Please post updates and photos of project events or outcomes on social media, and make sure to tag us so that we can like, comment, and retweet to share your hard work with all of California.

Tag Your Partners

Remember to include co-applicants and other key stakeholders and champions in social media posts about your RRGP award. Tagging partners gives them the recognition they deserve while increasing the audience for your post.

Use Hashtags

Hashtags can be a very effective way to increase a post's visibility and response rate. It is best to use a few relevant hashtags, like #climateadaptation #climateresilience #CAresilience and #OPR.

Take Pictures

A social post with a great image attached is bound to get more traction than one without an image. Throughout every stage of the RRGP process, be sure to encourage your team to bring their phones or even a nice camera and take a picture of their colleagues or work environment. Having a photobank of pictures can work wonders on your social media accounts, especially because you'll have the freedom to choose the highest quality or most interesting photos. Please see the Photo Tips section of this kit for more information.

Shorten the Message

Given the character limit for tweets, you will need to pick and choose what information to include. Incorporate hashtags and tagging partners into your sentences, (see the sample posts below). Use commonly known abbreviations and conjunctions.

Amplify the Voices of Community Members

Reach out to partners and community members for their videos, quotes, and pictures that share how your RRGP project will affect their lives. These stories can increase your social media audience's enthusiasm for your project. Retweeting posts that residents and stakeholders create is another way to demonstrate RRGP's impact.

Post Often

Interact with your audience as much as possible on all platforms. It is ideal to post between a few times a week and once or twice a day on social media. Brainstorm with your staff to come up with creative ways to keep the public informed and interested in your work. Then create a schedule and remain consistent.

More Social Media Tips

Encourage audience engagement by posting questions.

- Use URL shortening tools from sites like bitly.com and tinyurl.com.
- Don't be afraid to use emojis.
- Encourage your colleagues and RRGP partners to participate in social media conversations.
- Be visual! Use infographics instead of text when possible.
- Observe copyright laws.

Sample Posts





WattsRising @WattsRising · Feb 20

DYK Over 21% of #Watts residents ages 16+ are not in the labor force compared with CA? The #TCC Grant projects will allocate 30% of all new hires for #Watts residents by providing job training & educational programs for adults & youth. @MayorOfLA @JoeBuscaino @CalSGC



Photo Tips

Consider pointers in this section when using photography to tell your project's story.

Quality

Use the highest quality camera you can access. Good news: many modern smartphones are usually sufficient, as long as your subject is in focus, well-lit, and the phone is turned sideways (landscape orientation—use this orientation for videos, too!). Photos on social media don't have to be as high quality as photos on your website or newsletter.

Everyone's a Photographer

Encourage your staff and partners to take photos whenever they have the chance, and to send them all to your organization's communications team. Designating someone who owns a nice camera to take photographs during events is always a good practice.

Don't Have a Great Photo?

Services like Flickr, Pixabay, and Upsplash offer countless high-quality photos that you can download and use for free.

Content

When possible, photos should be bright and colorful, without being too 'noisy,' blurry, or filtered. Candid photos of people working or interacting tend to be more unique and eye-catching than people smiling at the camera. Highlight interesting aspects of your project so your photo stands out.

Remember

The picture is what draws people in to read the caption and learn about your work. Don't underestimate its importance!

STAY IN TOUCH!

Feel free to contact OPR's Deputy Director of External Affairs, Emily Breslin, if you have questions or need support on any of your communications efforts at Emily.breslin@opr.ca.gov.

OPR'S NEWSLETTER AND RRGF LISTSERV

OPR Newsletter Sign Up: <https://opr.ca.gov/e-lists.html>

RRGF Listserv: <https://lp.constantcontactpages.com/su/36xr3ct/RRGF>

Follow us on social media and check our website regularly for new announcements and updates!

TWITTER

twitter.com/Cal_OPR

LINKEDIN

linkedin.com/company/governor-s-office-of-planning-and-research/

WEBSITE

opr.ca.gov

DRAFT

Attachment 1: Authorized Signatory Form

I hereby verify that I am an authorized Grantee representative and signatory and, as such, can sign and/or delegate authorization to sign and bind Grantee as it relates to the above-referenced Grant Agreement and grant related documents.

Grantee Authorized Signatory:

Name: _____
(Type or Print Name)

Title: _____

Signature: _____

Date: _____

Delegated Authorized Signatories:

1. **Name:** _____
(Type or Print Name)

Title: _____

Signature: _____

Date: _____

Document(s) Authorized to sign:

- All Grant Related Documents **or** Grant Agreement
- Grant Amendments Budget Amendments Reports
- Invoices Other _____

2. **Name:** _____
(Type or Print Name)

Title: _____

Signature: _____

Date: _____

Document(s) Authorized to sign:

- All Grant Related Documents **or** Grant Agreement
- Grant Amendments Budget Amendments Reports
- Invoices Other _____

Attachment 2: Work Plan

Project Name: Energy-Resilient Fire Services in High-Threat Communities

The primary focus of the RCEA “**Energy-Resilient Fire Services in High-Threat Communities**” project is to construct resilient energy systems (solar panels + battery energy storage) at fire stations that serve high-fire risk areas in remote communities in Humboldt County. This project addresses the region’s greatest climate risks related to wildfire, flooding, extreme heat events, rising temperatures, and landslides by adding energy resilience infrastructure to fire stations in remote, vulnerable, high fire risk areas. By installing renewable energy and energy storage systems at these locations, first responders will be better able to provide immediate local fire response – addressing smaller fires to prevent or slow their development. First responders will also be able to provide rescue services and medical services when flood waters rise, landslides close roads, and remote communities are cut off from outside assistance.

Fire stations are essential to resilience planning as they are the first to respond when disasters strike, and address many routine non-fire medical emergencies on a day-to-day basis. When regional fire stations operate during power outages, vulnerable populations such as the elderly, disabled, and community members with medical needs are protected. Further, many fire stations have co-located community spaces that provide staging for food and water distribution following disasters. Fire station “areas of responsibility” go well beyond the communities in which they are based and will therefore enhance emergency response coverage across the most remote, vulnerable portions of the County.

The RCEA project offers many benefits beyond establishing energy resilient critical facilities. During “blue-sky” (non-emergency) operations these facilities will be able to reduce grid energy consumption and peak energy use reducing fire station electricity bills. The local grid itself will be strengthened by having power generation at the grid edges and this project will help local fire districts comply with pending legislation AB 944 which would require 96 hours of off-grid run-time at all fire stations by January 2026.

Greenhouse gas emissions will be reduced from offset grid energy use and reduced fossil fuel generator use. Additional benefits include reduced noise from generators, improved air quality, and enhanced public safety. Finally, first responder experience working with renewable power systems will enhance skills and knowledge to safely respond to structure fires at buildings with renewable power systems installed – as is becoming more common.

This project also includes funding for regional prescribed fire trainings conducted by the UC Cooperative Extension in collaboration with the Humboldt County Prescribed Burn Association and the Briceland Fire Department. This coalition has conducted prescribed fire trainings throughout the County for years under a grant that recently expired. These trainings are well attended, and the Tribal-led Fire Behavior course included in the trainings is in high demand.

This project is based on the formation of a regional partnership with 16 fire stations in high-fire risk communities at the electric grid edge. Fire Station project partners include:

1. Yurok Tribe Fire Department
2. Hoopa Tribe Volunteer Fire Department
3. Karuk Department of Natural Resources
4. Blue Lake Volunteer Fire Department
5. Telegraph Ridge Volunteer Fire Company
6. Honeydew Volunteer Fire Department
7. Fruitland Ridge Volunteer Fire Company
8. Orick Volunteer Fire Department
9. Orleans Volunteer Fire Department
10. Petrolia Volunteer Fire Department
11. Salmon Creek Volunteer Fire Company
12. Bridgeville Fire Protection District
13. Briceland Volunteer Fire Department
14. Whitethorn Fire Protection District
15. Willow Creek Volunteer Fire Department
16. Westhaven Volunteer Fire Department

RCEA will serve as project lead and will collaborate with the fire station partners to permit, design, and install resilient energy systems. Regional fire station partners will be involved at every stage of the process, from initial system sizing and location to the final design review, permitting, commissioning, and operations. The fire stations will own and operate the renewable energy system equipment.

High Level Activities	Performance Measures [Any appropriate deliverables, metrics, milestones]	Timeline [Start and End Date]
TASK 1: Finalize Scope for Project Portfolio		
Subtask A: Collect site data and determine project feasibility	Final Project Portfolio	Q2 2024 – Q3 2024
Subtask B: Prepare prospective design for all feasible projects	Prospective designs for projects	Q3 2024 – Q1 2025
TASK 2: Conduct Design-Build Request for Proposals (RFP) process		
Subtask A: RCEA Staff develops and releases RFP	RFP packet and responsive bids	Q2 2024 – Q3 2024
Subtask B: Award Design-Build contract(s)	Construction Contract	Q3 2024

TASK 3: Finalize Construction Designs		
Subtask A: Complete 80% designs	80% designs	Q4 2024 – Q2 2025
Subtask B: Receive 100% designs	100% designs	Q4 2024 – Q2 2025
TASK 4: Construct Resilient Energy Systems		
Subtask A: Construct resilient energy systems	Permit and interconnection applications submitted, construction schedule, system commissioning	Q1 2025 – Q2 2026
TASK 5: Conduct Operations and Maintenance Training		
Subtask A: Operations and Maintenance Training	Log of trained personnel and training materials	Q2 2025 – Q2 2026
TASK 6: Support Prescribed Fire Trainings		
Subtask A: Support Prescribed Fire Trainings	Record of Training events	Q2 2024 – Q2 2026
TASK 7: Participate in ICARP Peer-to-Peer Learning		
Subtask A: Participate in quarterly virtual peer-to-peer meetings	Log of Peer-to-Peer meetings	Q2 2024 – Q2 2026
TASK 8: Track Progress and Evaluate Grant Outcomes		
Subtask A: Track progress and evaluate grant outcomes	Grant reports / accounting records	Q2 2024 – Q2 2026
The Parties may make minor changes to the timeline and deliverables due without the requirement of an amendment. See Exhibit B, Sections 7 and 8 .		

Attachment 3: Final Report

Regional Resilience Grant Program
Final Report: FY 22-23
Grantee:
Grant Number:
Project Name:

Project Summary

1. Provide a brief summary of the challenges facing the Planning Area and the work completed under this grant.

Barriers and Accomplishments

2. Describe and explain any differences between the planned results, as listed in the Work Plan, and the actual results. Describe any barriers that impeded the progress of the grant, any corrective actions taken, and the outcomes. Discuss how these lessons learned can be useful for other communities.
3. Describe any notable outcomes, findings, or conclusions. Report on successful strategies used to achieve results and how these lessons learned can be useful to other communities.
4. Include a list of other sources of funding that were secured, directly or indirectly, through this Project.

Future Implementation

5. Describe how plans or processes developed under this grant will be implemented over the next three to five years. Explain:
 - a. How they will further your organization's sustainability goals and strategies.
 - b. How they will advance the State's planning priorities and RRGP objectives.
 - c. How the work completed under this grant will assist in applying for future funding that aligns with the RRGP's objectives.

Feedback

6. Based on your experiences with this grant program, please provide feedback about how the OPR can improve future grant programs.

Attachments

7. Attach any relevant documents to this report, including final deliverables. If the documents cannot be sent electronically, notify the Grant Manager.

Case Study

8. Grantee(s) will produce a project case study documenting key project information, data, lessons learned, and effective practices gathered through this project. To facilitate knowledge exchange and advance community planning and capacity, at the end of the Grant Term applicants are responsible for submitting a narrative case study to OPR to reflect on and share project outcomes and lessons learned, how the project responds to climate change impacts, and any resources that helped along the way. Case studies will be reviewed and curated for possible inclusion in the [Adaptation Clearinghouse](#) to help support a community of practice across the state. (See [Appendix E: Work Plan](#) for more information). Grantees will receive technical assistance for support in developing case studies. (See [Program Technical Assistance](#) for more info)

Instructions:

- a. Write the case study in a narrative form using the below section headers, format and font for organization.
- b. The case study should be between 800-1000 words in total length.
- c. Provide responses for each header section – please don't combine or modify these. However, don't feel obliged to provide answers to all sub-bullets under each section header - only provide information for those that apply.
- d. Provide 1-3 graphics (photos, tables and charts, figures, etc. are welcome). Provide links as needed. Send these as separate jpg or png image files (high resolution preferred).
- e. To see examples of published Case Studies, visit: <https://resilientca.org/case-studies/>.

CERTIFICATION: I certify that this Final Report is accurate and that this project complies with the Agreement. I further certify that any expenditure discussed in this report is allowed under the Agreement and that all funds were expended for the purposes of this Project.

Name: _____
(Type or Print Name)

Title: _____

Signature: _____

Date: _____

Attachment 4, Budget Detail Worksheet

Project Name:

High Level Activities	Budget Total
TASK 1: Finalize Scope for Project Portfolio	\$98,687
TASK 2: Conduct Design-Build Request for Proposals (RFP) process	\$24,770
TASK 3: Finalize Construction Designs	\$387,673
TASK 4: Construct Resilient Energy Systems	\$2,072,588
TASK 5: Conduct Operations and Maintenance Training	\$175,420
TASK 6: Support Prescribed Fire Trainings	\$67,160
TASK 7: Participate in ICARP Peer-to-Peer Learning	\$15,861
TASK 8: Track Progress and Evaluate Grant Outcomes	\$15,861
Grant Administration	\$140,204
Printed Outreach Materials	\$1,776
The Parties may make minor changes to the timeline and deliverables due without the requirement of an amendment. See Exhibit B, Sections 7 and 8 .	

Attachment 5, Invoice

[TO BE PRINTED ON GRANTEE LETTERHEAD]

REGIONAL RESILIENCE GRANT PROGRAM FY 22-23
PLANNING GRANT INVOICE

Governor's Office of Planning and Research

Date: _____

Email required invoice documents to: [Department Grant Manager Name]

Invoice Number:	
Grantee Name:	Grant Number:
Project Name:	
Invoice Quarter:	(Start Date) (End Date)

Invoice Summary:

Task	Grant Funds Spent
Task 1:	
Task 2:	
Task 3:	
Task 4:	
SUBTOTAL for this Quarter	
<i>Less 5% Retention</i>	
TOTAL reimbursement requested this Quarter	

Invoice Detail:

Task	Cost Description	Amount	Supporting Documentation/ Page #
1			
	Subtotal		
2			

		Subtotal	
3			
		Subtotal	
Travel			
		Subtotal	
Equipment			
		Subtotal	
Indirect			
		Subtotal	
		SUBTOTAL FOR THIS QUARTER	

Progress Report:

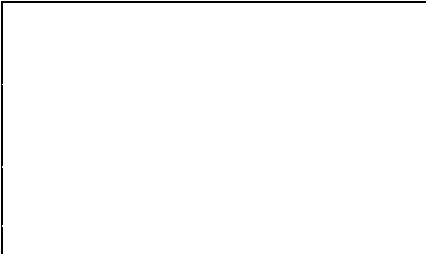
Work Plan Task #	Description of Work Performed
	<i>Please refer to specific deliverables in the Budget and Work Plan.</i>

CERTIFICATION: By my signature below, I certify that I have full authority to execute this payment request on behalf of Grantee. I declare under penalty of perjury, under the laws of the State of California, that this invoice for reimbursement, and any accompanying supporting documents, are true and correct to the best of my knowledge, and all disbursements have been made for the purposes and conditions as outlined in the Grant Agreement.

Print Name:	Print Title:
Signature:	Date:

Attachment 6, Invoice Dispute Notification

INVOICE DISPUTE NOTIFICATION

GRANTEE ADDRESS		INVOICE DATE
		INVOICE NUMBER
		INVOICE AMOUNT \$
		DATE INVOICE RECEIVED
		GRANT AGREEMENT NUMBER

The invoice referenced above is disputed for the following reasons:

- | | |
|--|--|
| <input type="checkbox"/> Request reimbursement for expenses not in the Budget Detail | <input type="checkbox"/> Invoiced for indirect cost reimbursement above 10% cap |
| <input type="checkbox"/> Invoiced for incidental costs or travel costs outside of CA | <input type="checkbox"/> Work performed prior to the Grant start or end date |
| <input type="checkbox"/> Insufficient evidence of progress made or task completion | <input type="checkbox"/> Invoice submitted without using required templates |
| <input type="checkbox"/> Insufficient supporting document for reimbursement | <input type="checkbox"/> Progress Report or Final Report not included with invoice |
| <input type="checkbox"/> Request reimbursement through another funding source | <input type="checkbox"/> Other not listed above: |

Comments:


THIS NOTIFICATION IS A FOLLOW UP TO A PHONE CONVERSATION WITH THE GRANTEE OR DESIGNEE WHOSE NAME APPEARS BELOW.

NAME	DATE OF CONVERSATION
------	----------------------

IF YOU HAVE ANY QUESTIONS REGARDING THIS DISPUTE, CONTACT:

NAME	TELEPHONE NUMBER (include Area Code)
------	--------------------------------------

RETURN A COPY OF THIS NOTIFICATION WITH THE CORRECTED INVOICE TO:

STATE OF CALIFORNIA USE ONLY	
DATE DISPUTE RESOLVED	INITIALS
RESOLUTION	
	

Attachment 7, Map of Project Boundary

DRAFT

**PARTNERSHIP AGREEMENT FOR THE COLLABORATIVE STAKEHOLDER STRUCTURE
FOR THE
ENERGY RESILIENT FIRE SERVICES IN HIGH-THREAT COMMUNITIES PROJECT**

This Partnership Agreement for the Collaborative Stakeholder Structure for the Energy Resilient Fire Services in High-Threat Communities Project (“Agreement”) is made and entered into this ___ day of _____, 2024, by and between the Redwood Coast Energy Authority (“RCEA”) and the Yurok Tribe Volunteer Fire Department, Hoopa Tribe Volunteer Fire Department, Karuk Department of Natural Resources, Blue Lake Volunteer Fire Department, Telegraph Ridge Volunteer Fire Company, Honeydew Volunteer Fire Department, Fruitland Ridge Volunteer Fire Company, Orick Volunteer Fire Department, Orleans Volunteer Fire Department, Petrolia Volunteer Fire Department, Salmon Creek Volunteer Fire Company, Bridgeville Fire Protection District, Briceland Volunteer Fire Department, Whitethorn Fire Protection District, Willow Creek Volunteer Fire Department, Westhaven Volunteer Fire Department (each a “Fire Station Partner” and collectively the “Fire Station Partners” or “Co-Applicants”). RCEA and the Fire Station Partners are collectively referred to as the “Parties.”

1. Background and Recitals

- A. The Integrated Climate Adaptation and Resiliency Program (ICARP), housed in the Governor’s Office of Planning and Research (OPR), funds regional climate resilience efforts, including identifying climate resilience priorities, building capacity, and implementing projects, that respond to a region’s greatest climate risks. Such efforts are funded through the Regional Resilience Grant Program (“RRGP”).
- B. RCEA is the recipient of a RRGP, Round 1, grant award (“RRGP Grant”) to fund the Energy-Resilient Fire Services in High-Threat Communities project based on the RCEA application submitted on August 29, 2023 (“Proposal”). The Proposal was submitted in collaboration with the 16 Co-Applicants, who consist of independent fire stations located in remote communities with high to very-high fire hazard severity zones in Humboldt County. In addition, the Proposal was submitted in collaboration with two technical advisory partners, the Schatz Energy Research Center (SERC) and University of California Cooperative Extension. RCEA will subcontract with the advisory partners.
- C. The Proposal envisions the installation of a resilient energy system at each fire station as depicted in Attachment A: Project Location Map (“Project Area”). Each energy system will be uniquely sized to provide full station power including 24 hours of battery energy storage, and will be owned and operated by the respective Fire Station Partner. The full scope of the Energy-Resilient Fire Services in High-Threat Communities project (“Project”) is contained in more detail in the Proposal, which is incorporated into this Agreement as if stated herein.
- D. The Parties developed the Project with an understanding of the RRGP requirements. RCEA is prepared to lead the Project, and each Fire Station Partner is prepared to participate in the Project, for the term of the RRGP Grant.

- E. RCEA, as lead-applicant for the RRGP Grant, will be responsible for using the RRGP Grant funds to fund Project activities. Through this Agreement, the Fire Station Partners commit to working with RCEA to implement the Project.
- F. Fire Station Partners are organizations eligible to participate in the program and fully support the objectives, goals, strategies, and projects identified within the Project, and the Fire Station Partners each agree to support the Project in a manner consistent with the RRGP Grant Proposal and pursuant to the terms of this Agreement.
- G. OPR requires this Agreement to set forth the Parties' respective obligations and commitments required to implement the Project including but not limited to: 1) outlining the respective obligations of RCEA as the Grantee and the Fire Station Partners throughout the term of the RRGP term to implement the Project, 2) obtaining commitments from the Parties that they will implement their respective obligations, 3) obligating the Co-applicants to provide copies of all documentation of actions taken related to the Project to RCEA for retention in compliance with specified RRGP requirements, and 4) contain information about how the Parties will make decisions and resolve disputes.
- H. This Partnership Agreement is entered into pursuant to requirements of the RRGP and the Proposal. In addition to containing the material terms necessary to satisfy these requirements, this Agreement memorializes basic terms for planning and implementation of the scope of work included in the Project Proposal.

2. Proposal Overview

The Energy-Resilient Fire Services in High-Threat Communities Project will construct “resilient energy systems” (e.g., solar panels + battery bank) at fire stations that serve high-fire risk areas in remote, vulnerable locations in Humboldt County. As fire stations are the first line of defense for fires, natural disasters, and medical emergencies adding resilient energy system infrastructure to these facilities ensures that critical services will be available during and after disruptions.

By installing solar energy and battery storage systems at the Partner fire stations, first responders will be better able to provide immediate local fire response as well as rescue and medical services when flood waters rise, landslides close roads, and remote communities are cut off from outside assistance. As these remote fire stations have a large “Area of Responsibility”, installation of solar energy + battery storage systems at these locations increases the overall resilience of Humboldt County.

By leading the Energy Resilient Fire Services in High-Threat Communities Project, RCEA furthers its mission to promote the generation and use of renewable energy and -advances its efforts to move Humboldt County toward a more energy secure future.

The benefits of this project include:

- Increases regional energy resilience at critical facilities in remote, high fire-risk locations.
- Reduces air pollution including greenhouse gas emissions and criteria pollutants associated with electric power generation.

- Supports regional fire station roles in protecting public health and public safety.
- Increases regional capacity to operate and maintain renewable energy systems – including emergency response capacity involving fires at structures that have installed solar electric systems.
- Reduces energy bills at critical facilities.
- Strengthens community partnerships and the ability to address regional climate threats.
- Protects vulnerable community members such as the elderly, disabled, and medical customers during power outages.
- Provides power to a centralized location for the purpose of distributing food/water and other life-sustaining supplies following disasters.
- Provides power to a centralized location for the purpose of charging medical equipment during disasters or planned power outages.
- Provides continuous power for fire stations with cooling / clean air rooms used to assist community members during high heat events and times of poor air quality.
- Reduces electricity bills so that fire station funds can be used for other climate adaptation efforts.
- Facilitates capacity building through prescriptive fire trainings.

3. Roles and Responsibilities

3.1 *Lead Applicant*

A. General. As the Lead Applicant, RCEA commits to fulfill those duties and responsibilities corresponding to the Lead Applicant role under the Energy Resilient Fire Services in High-Threat Communities Project for the term of the RRGF Grant, and to take all reasonable actions necessary to effectuate the requirements of the RRGF Grant in accordance with the State of California requirements. RCEA is fully committed to the activities and deliverables of the RRGF Proposal, the requirements of the RRGF Grant, and the stipulations of this Agreement, more specifically:

- 1) To collaboratively plan and implement a Project completion schedule.
- 2) To work collaboratively in all aspects of Project implementation.
- 3) To leverage available funds as appropriate to maximize Project benefits.

B. Primary Roles and Responsibilities.

- 1) All Phases: Throughout the term of the RRGF Grant, RCEA shall:
 - a) Coordinate all components of the RRGF Proposal.
 - b) Oversee and coordinate the Project.
 - c) Submit all invoices and associated summary reports and annual reports to the RRGF staff.
 - d) Participate in regular check-in meetings with RRGF staff.
 - e) Provide sufficient and adequate RCEA staff support to oversee the Project during the entirety of the RRGF Grant term.

- f) Collaborate with the Fire Station Co-Applicants to permit, design, and install resilient energy systems sized to provide full station power including 24 hours of battery energy storage..
 - g) Provide technical assistance to each Co-Applicant on an individual basis.
 - h) Finalize resilience project portfolio, including conducting site visits to gather data, look for energy efficiency opportunities and conduct prospective renewable energy + storage designs.
- 2) Development Phase: During the initial planning, design, permitting, and development phase of the fire station energy systems, RCEA shall:
- a) Solicit and hire solar system design-build contractors for each Project site.
 - b) Work with selected contractors to finalize site-specific energy system construction designs.
 - c) Specify solar and battery storage equipment manufacturers to ensure continuity for operations and maintenance over time.
 - d) Support interconnection and construction activities as needed.
 - e) Work with the selected solar energy system design-build contractors to purchase renewable energy system components to be installed at the Co-Applicant sites.
 - i. This includes solar panels, batteries, an inverter and all other balance-of-system components.
 - ii. This does not include an equipment shed if space is unavailable inside the building to store batteries and electrical equipment.
 - iii. This does not include purchase of pole mounting systems to support solar panels or installation of pole mounting systems.
 - f) Work with the Co-Applicants and contractor(s) to ensure successful resilient energy system installation, commissioning and training.
 - g) Confirm that renewable power system performs as expected.
 - h) Provide general operations and maintenance training to Co-Applicant staff.
 - i) Collate operating manuals, equipment specifications and warranty information for all installed equipment to ensure continuous system operations.
- 3) Operational Phase: During the operational phase of a fire station energy system, RCEA shall:
- a) Conduct RRGP Grant Project close-out activities.
 - b) RCEA shall have no responsibility for operations or maintenance of the renewable power systems including replacement of key components that may be required over the expected renewable power system life (25 years).
 - c) RCEA shall have no financial responsibility for the removal and/or modification of the renewable power system after the 25-year life of the system has elapsed.

3.2 Co-Applicants

- A. General. Each Co-applicant is responsible for implementing specific strategies applicable to its fire station, and must have the staff capacity, expertise, and organizational/project management abilities to deliver on their commitments within the scope of their specific project.

- B. Co-Applicants named. The Co-applicants include the following 16 regional fire stations. RCEA will work with each Co-applicant independently for the term of the RRGP Grant. This Agreement pertains to the following Fire Station Co-applicant(s):
 - 1) Yurok Tribe Fire Department (a Department of the Yurok Tribe)
 - 2) Hoopa Tribe Volunteer Fire Department (a Department of the Hoopa Tribe)
 - 3) Karuk Department of Natural Resources (a Department of the Karuk Tribe)
 - 4) Blue Lake Volunteer Fire Department
 - 5) Telegraph Ridge Volunteer Fire Company
 - 6) Honeydew Volunteer Fire Department
 - 7) Fruitland Ridge Volunteer Fire Company
 - 8) Orick Volunteer Fire Department
 - 9) Orleans Volunteer Fire Department
 - 10) Petrolia Volunteer Fire Department
 - 11) Salmon Creek Volunteer Fire Company
 - 12) Bridgeville Fire Protection District
 - 13) Brice Land Volunteer Fire Department
 - 14) Whitethorn Fire Protection District
 - 15) Willow Creek Volunteer Fire Department
 - 16) Westhaven Volunteer Fire Department

- C. Primary Roles and Responsibilities.
 - 1) Development Phase: During the initial planning, design, permitting, and development phase of a fire station specific energy system, each of the Fire Station Co-Applicants shall:
 - a) Assist with identification of possible solar and battery equipment installation locations.
 - b) Provide building roof space that is structurally capable of supporting an appropriately designed array of solar panels.
 - i. If a fire station facility rooftop cannot accommodate solar panels due to structural limitations or excessive shading, the Fire Station shall purchase and install a ground mounted pole (including payment of any permitting costs) that can support the solar panel array. RCEA will endeavor to work within the available RRGP budget to apply RRGP Grants funds toward the cost of a pole mount if possible; provided however, RCEA is not responsible to pay budget overruns.
 - c) Provide weatherproof space for a battery bank + inverter equipment; preferably in a temperature-controlled area.

- d) Participate in system construction sequencing and commissioning to ensure that any planned power outages during system installation are scheduled for times when operational impacts can be minimized.
 - e) Provide necessary documentation to authorize RCEA and/or the contractor to submit the necessary interconnection applications for local grid interconnection.
 - f) Remove or trim any trees that will cause shading on the solar panels.
 - g) With advance notice, allow RCEA and solar system contractors access to the fire station building and installed renewable energy system equipment for project development purposes.
 - h) Commit staff time to operations and maintenance training.
- 2) Operational Phase: During the operational phase of a fire station specific energy system, each of the Fire Station Co-Applicants shall:
- a) Own, operate, and maintain the installed solar energy and battery storage equipment.
 - b) Replace resilient energy system components over time as needed.
 - c) System components that may need replacement during the expected life of the project (25 years) include the batteries and the inverter.
 - d) Maintain internet access onsite required for warranties on renewable energy system components and integration with the electricity grid.
 - e) With advance notice, provide access to solar generation and storage systems post-installation for warranty service as needed for lifetime of the system or duration of equipment / installer warranties.
 - f) Designate personnel for accessing monitoring data for installed renewable energy systems.
 - g) Co-Applicants are responsible for final system decommissioning at the end of useful life.
- 3) All Phases: Throughout the duration of the RRGP Grant term, each of the Fire Station Co-Applicants shall:
- a) Commit adequate and sufficient staff time and resources to be able to work with RCEA throughout the duration of the site-specific Project design, installation, training, and Project close-out.
 - b) Meet with RCEA staff for scheduled site visits and promptly answer operational questions.
 - c) Respond to RCEA requests for information in a timely manner.
 - d) Provide readily available data which may include electricity consumption data, as-built engineering plans for fire station buildings including electrical systems, and geotechnical reports if necessary.
 - e) Collaborate with RCEA to assess fire station energy efficiency opportunities.
 - f) Participate in data gathering necessary to fulfill RCEA RRGP reporting requirements throughout the duration of the grant.
 - g) Participate in grant close-out activities, if needed.

4. RRGP Collaborative Stakeholder Structure

4.1 *General.*

The Collaborative Stakeholder Structure is organized around the leadership of RCEA. Each of the Co-applicants represents a fire station that is distant and separate from the other Co-applicant fire stations. Therefore, the collaboration for this Project is between RCEA and each of the Co-Applicants separate from the others. RCEA will collaborate with each Fire Station Partner to permit, design, and install the energy system appropriate for that fire station location. Each Fire Station Partner will be involved at every stage of the process, from initial system sizing and location determination to the final design review, permitting, commissioning, and operations. Each Fire Station Partner will own and operate the equipment installed at the respective Fire Station site.

The Tribal Co-applicants are inherently self-governing, and this sovereignty is strengthened through the increased self-reliance of the Tribal fire stations. The other Co-Applicants have some degree of self-governance but can also be tied to the governance of their over-arching jurisdiction. RCEA will work with the Co-applicants in accordance with their respective organizational structures.

In the event a Co-applicant chooses to withdraw from the Project, the budget allocated to the withdrawing Co-applicant's part of the Project will be reallocated to the remainder of the Project, in a manner that RCEA determines best meets the overall Project objectives.

4.2 *Tribal Sovereignty*

Nothing in this Agreement shall be construed as a waiver of the sovereign immunity of the Yurok, Hoopa, or Karuk Tribes, or of the officers, employees, or agents thereof. Notwithstanding the above, RCEA reserves the right to seek equitable relief, including injunctive or declaratory, concerning its obligations arising under the RRGP Grant. Any such action shall be brought in Humboldt County Superior Court, under the laws of California.

4.3 *Confidentiality*

- A. Confidential Information. From time to time, the Parties may have need to exchange confidential information in furtherance of the purposes of this Agreement ("Confidential Information"). Such information may include, but is not limited to, matters regarding certain operations, critical infrastructure, draft project budgets, conceptual designs, engineering plans, and construction plans. 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.
- B. 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 §§ 7920.000–7931.000).

- 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 California Public Records Act. 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 subsection 3 above 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.

C. 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;
- 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;
- 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;
- 4) Is independently developed by a Party without violating any of its obligations under this Agreement or any other agreement between the Parties;
- 5) Is permitted to be disclosed by a formal written agreement executed by and between the receiving Party(ies) and the disclosing Party;
- 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.

4.4 Meetings.

RCEA will lead all meetings with Fire Station Partners. RCEA will hold a kick-off meeting with each Fire Station Partner to establish a timeline for the initial site visit and other RRGP Grant activities. Meetings after this point will occur on as-needed basis. These meetings are not open to the public. RRGP Project updates will periodically be provided to the RCEA Board of Directors which meets the fourth Thursday of each month. Agendas and meeting minutes are posted on RCEA's website and are publicly available.

4.5 Documentation.

Co-applicants will be required to provide RCEA with copies of all documentation of actions taken related to the Project including copies of the Partnership Agreement, changes or amendments to the agreement, letters and email correspondence with RCEA or the contractors hired to install the solar + storage equipment, invoices, reports and other documentation for a minimum of four (4) years following the final payment of funds or until completion of any action and resolution of all issues which may arise as a result of an audit, whichever is later.

4.6 Decision-Making and Dispute Resolution.

RCEA will work directly with each Fire Station Partner to make decisions regarding the design, system size, battery storage capacity, and location of the solar + storage systems and the balance-of-system equipment installed at their sites. As RCEA is bound by the RRGP Grant funding available, RCEA retains the right to scale the solar + storage energy systems to fit within the RRGP available budget. Disputes will be handled through direct communication with RCEA and any unresolved disputes at the staff level will be brought to the respective organizations' management or legal teams if required. If the Parties are unable to resolve their dispute after 30 days of negotiation, the Parties shall mediate their dispute through the use of a mutually acceptable neutral third-party. Notwithstanding the foregoing, RCEA retains the right to seek equitable relief, including injunctive or declaratory relief, in regard to its obligations under the RRGP Grant. Venue for any such action shall be in Humboldt County Superior Court, and the rights and obligations of the Parties shall be interpreted in accordance with the laws of California.

5. Legal and Financial Considerations

RCEA will maintain legal, fiscal and fiduciary responsibilities, including managing RRGP Grant funds in accordance with OPR regulations, policies and guidelines. RCEA is responsible for the development and submission of all reports to RRGP staff and additional funding agencies, bookkeeping, accounting, and grant compliance services.

5.1 Term and Termination

- A. Effective Date. This Agreement shall be effective between RCEA and any one Fire Station Partner upon the last date of execution by duly authorized representatives of RCEA and that Fire Station Partner.
- B. Term. This Agreement shall commence on the Effective Date and, unless terminated earlier under the terms of this Agreement, shall terminate on the last day of the RRGP

Grant Agreement. The RRGP Grant Agreement concludes upon completion of the Project and payment of the last invoice, unless otherwise terminated earlier.

- C. Termination by a Party. Prior to the purchase of equipment and the commencement of construction at a given site, any Fire Station Partner may terminate its participation in this Agreement upon express written notice to RCEA. 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. Funds allocated for the terminating Party's specific Project shall be reallocated by RCEA (with advance approval from OPR staff) as needed to support the remaining Project partner renewable energy system equipment purchases.
- D. Termination based on Funding Availability. This Agreement shall terminate upon the notification by the OPR of funding unavailability.

5.2 Conflict of Interest.

RCEA adheres to a conflict-of-interest policy that prohibits any official, employee, consultant, or contractor from having a personal financial interest in the Project. RCEA will strictly enforce this policy.

5.3 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.

5.4 Third-Party Claims

RCEA and each Co-Applicant shall have equal standing and collective accountability for implementing grant program requirements within the Collaborative Stakeholder Structure. The RCEA does not assume liability for any third-party claims for damages arising out of this Agreement and each Co-Applicant does not assume liability to OPR for damages arising out of this Agreement.

6. Amendment

This Agreement may be revised during Post-Award Consultation with RRGP staff or upon written agreement of the Parties in order to comply with all administrative, statutory, and RRGP requirements. This Agreement may not be modified or amended otherwise 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.

7. Equal Opportunity

RCEA and Co-Applicants are committed to equal employment opportunity and to ensuring that all employees have a work environment that is free of conduct that could be considered discriminatory or harassing based on an employee's protected status. RCEA and Co-Applicants will not allow anyone, including any supervisor, co-worker, vendor, client, or customer, to unlawfully harass or discriminate against employees or applicants for employment. RCEA will take prompt and effective remedial action upon discovery of such conduct.

8. Order of Precedence

To the extent any term of this Agreement is found to be in conflict with any provision of the RRGP Grant, such term of this Agreement shall be superseded by such provision and thereby have no legal effect upon the Parties.

IN WITNESS, WHEREOF, the parties hereto have executed this Agreement on the dates listed below, effective as hereinabove defined.

(Signatures on following pages)

Redwood Coast Energy Authority

Name: _____

Title: _____

Date: _____

Yurok Tribe

Name: _____

Title: _____

Date: _____

Hoopa Valley Tribe

Name: _____

Title: _____

Date: _____

Karuk Tribe

Name: _____

Title: _____

Date: _____

Blue Lake Volunteer Fire Department

Name: _____

Title: _____

Date: _____

Telegraph Ridge Volunteer Fire Company

Name: _____

Title: _____

Date: _____

Honeydew Volunteer Fire Department

Name: _____

Title: _____

Date: _____

Fruitland Ridge Volunteer Fire Company

Name: _____

Title: _____

Date: _____

Orick Volunteer Fire Department

Name: _____

Title: _____

Date: _____

Orleans Volunteer Fire Department

Name: _____

Title: _____

Date: _____

Petrolia Volunteer Fire Department

Name: _____

Title: _____

Date: _____

Salmon Creek Volunteer Fire Company

Name: _____

Title: _____

Date: _____

Bridgeville Fire Protection District

Name: _____

Title: _____

Date: _____

Briceland Volunteer Fire Department

Name: _____

Title: _____

Date: _____

Whitehorn Fire Protection District

Name: _____

Title: _____

Date: _____

Willow Creek Volunteer Fire Department

Name: _____

Title: _____

Date: _____

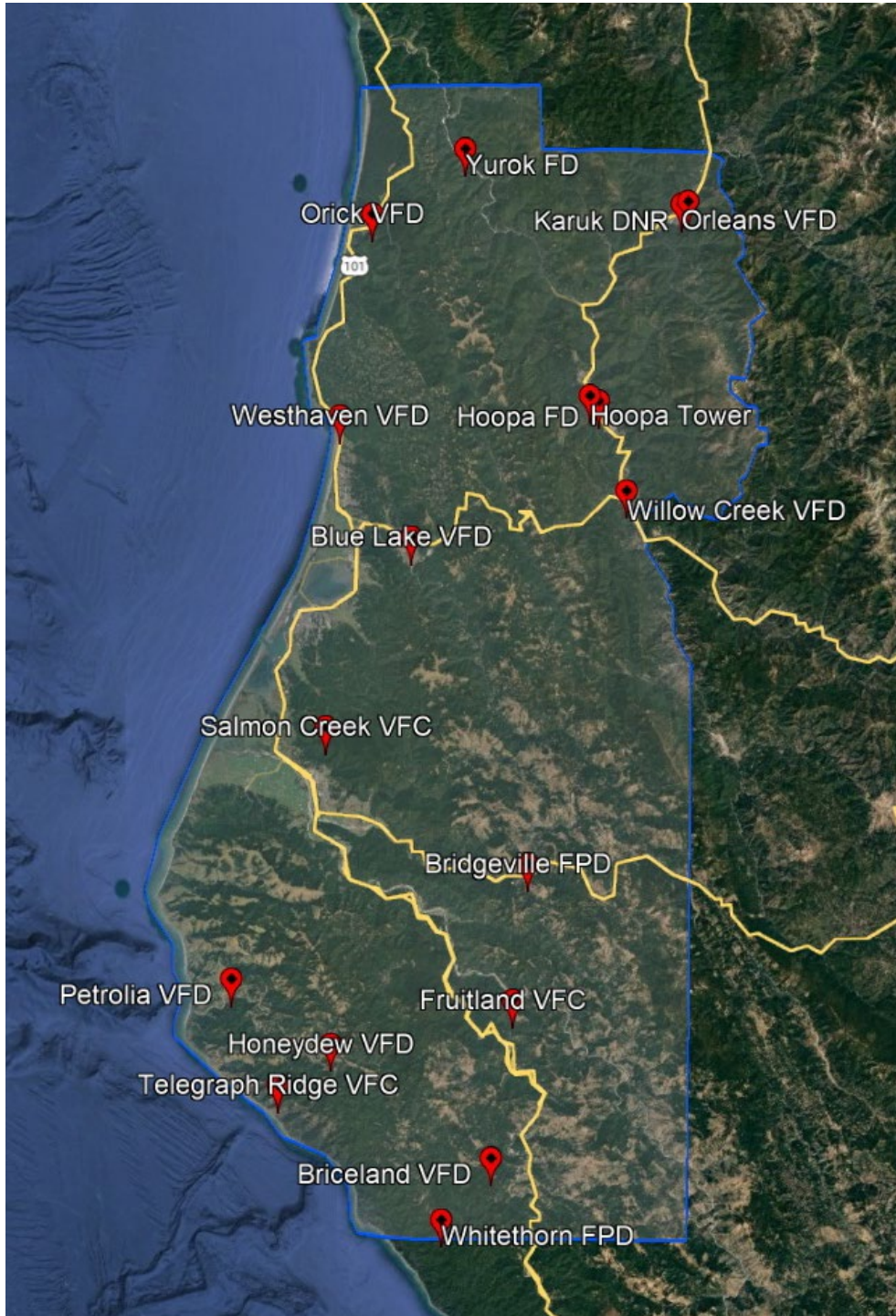
Westhaven Volunteer Fire Department

Name: _____

Title: _____

Date: _____

ATTACHMENT A: PROJECT LOCATION MAP





REDWOOD COAST
EnergyAuthority

STAFF REPORT
Agenda Item # 10.1

AGENDA DATE:	April 22, 2024
TO:	Board of Directors
FROM:	Eileen Verbeck, Interim Executive Director
SUBJECT:	Interim Executive Director's Report

SUMMARY

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

RECOMMENDED ACTION

None. (Information only.)

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