



**REGULAR MEETING of the Board of Directors of the
Clean Power Alliance of Southern California
Thursday, May 6, 2021
2:00 p.m.**

SPECIAL NOTICE: Pursuant to Paragraph 11 of Executive Order N-29-20, executed by the Governor of California on March 17, 2020, and as a response to mitigating the spread of COVID-19, the Board of Directors will conduct this meeting remotely.

[Click here to view a Live Stream of the Meeting on YouTube](#)

*There may be a streaming delay of up to 60 seconds. This is a view-only live stream.

To Listen to the Meeting:

<https://zoom.us/j/91632451863>

or

Dial: (669) 900-9128 Meeting ID: 916 3245 1863

PUBLIC COMMENT: Members of the public may submit their comments by one of the following options:

- **Email Public Comment:** Members of the public are encouraged to submit written comments on any agenda item to clerk@cleanpoweralliance.org up to four hours before the meeting. Written public comments will be announced at the meeting and become part of the meeting record. Public comments received in writing will not be read aloud at the meeting.
- **Provide Public Comment During the Meeting:** Please notify staff via email at clerk@cleanpoweralliance.org at the beginning of the meeting but no later than immediately before the agenda item is called.
 - You will be asked for your name and phone number (or other identifying information) similar to filling out a speaker card so that you can be called on when it is your turn to speak.
 - You will be called upon during the comment section for the agenda item on which you wish to speak on. When it is your turn to speak, a staff member will unmute your phone or computer audio.
 - You will be able to speak to the Board for the allotted amount of time. Please be advised that all public comments must otherwise comply with our Public Comment Policy.
 - Once you have spoken, or the allotted time has run out, you will be muted during the meeting.

If unable to connect by Zoom or phone and you wish to make a comment, you may submit written comments during the meeting via email to: clerk@cleanpoweralliance.org.

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.”

Meetings are accessible to people with disabilities. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact the Clerk of the Board at least two (2) working days before the meeting at clerk@cleanpoweralliance.org or (213) 713-5995. Notification in advance of the meeting will enable us to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it.

PUBLIC COMMENT POLICY: *The General Public Comment item is reserved for persons wishing to address the Board on any Clean Power Alliance-related matters not on today's agenda. Public comments on matters on today's Consent Agenda and Regular Agenda shall be heard at the time the matter is called. Comments on items on the Consent Agenda are consolidated into one public comment period. As with all public comment, members of the public who wish to address the Board are requested to complete a speaker's slip and provide it to Clean Power Alliance staff at the beginning of the meeting but no later than immediately prior to the time an agenda item is called.*

Each speaker is limited to two (2) minutes (in whole minute increments) per agenda item with a cumulative total of five 5 minutes to be allocated between the General Public Comment, the entire Consent Agenda, or individual items in the Regular Agenda. Please refer to [Policy No. 8 – Public Comment](#) for additional information.

CALL TO ORDER AND ROLL CALL

GENERAL PUBLIC COMMENT

CONSENT AGENDA

1. [Approve Minutes from April 1, 2021 Board of Directors Meeting](#)
2. [Approve Positions on SB 757, AB 585, and SB 533 in the 2021/2022 Legislative Session](#)
3. [Approve Two California Electric Vehicle Infrastructure Project \(CALeVIP\) Agreements with the Center for Sustainable Energy for Program Implementation Services in Los Angeles County and Ventura County, with an Initial Financial Contribution of \\$1,640,000 for Both Agreements and Authorize the Executive Director to Execute the Agreements](#)
4. [Receive and File Community Advisory Committee Report](#)

REGULAR AGENDA

Action Items

5. [Approve a 15-year Renewable Power Purchase Agreement with OrHeber 2, LLC, and Authorize the Executive Director to Execute the Agreement](#)
6. [Approve FY 2021/2022 Rate Setting Approach](#)
7. [Approve FY 2020/2021 Budget Amendment](#)

Information Item:

8. [Presentation on 2021/2022 Budget Priorities](#)

MANAGEMENT REPORT

COMMITTEE CHAIR UPDATES

Director Lindsey Horvath, Chair, Legislative & Regulatory Committee

Director Julian Gold, Chair, Finance Committee

Director Kevin McKeown, Chair, Energy Planning & Resources Committee

BOARD MEMBER COMMENTS

REPORT FROM THE CHAIR

ADJOURN – NEXT REGULAR MEETING JUNE 3, 2021

Public Records: *Public records that relate to any item on the open session agenda for a regular Board Meeting are available for public inspection. Those records that are distributed less than 72 hours prior to the meeting are available for public inspection at the same time they are distributed to all, or a majority of, the members of the Board. Those documents are available for inspection online at www.cleanpoweralliance.org/agendas.*

MINUTES

REGULAR MEETING of the Board of Directors of the
Clean Power Alliance of Southern California
Thursday, April 1, 2021 2:00 p.m.

The Board of Directors conducted this meeting in accordance with California Governor Newsom’s Executive Order N-29-20 and COVID-19 pandemic protocols.

CALL TO ORDER & ROLL CALL

Chair Diana Mahmud called the meeting to order at 2:00 p.m. and Clerk of the Board Gabriela Monzon conducted roll call.

Roll Call				
1	Agoura Hills	Deborah Klein Lopez	Director	Remote
2	Alhambra	Jeff Maloney	Director	Remote
3	Arcadia	Sho Tay	Director	Remote
4	Beverly Hills	Julian Gold	Director	Remote
5	Calabasas	Mary Sue Maurer John Bingham	Director Alternate	Remote
6	Camarillo	Susan Santangelo	Director	Remote
7	Carson	Jawane Hilton	Director	Remote
8	Claremont	Corey Calaycay	Director	Remote
9	Culver City	Daniel Lee Joe Susca	Director Alternate	Remote
10	Downey	Sean Ashton	Director	Remote
11	Hawaiian Gardens	Ramie Torres	Alternate	Remote
12	Hawthorne	Alex Monteiro	Director	Remote
13	Los Angeles County	Sheila Kuehl	Vice Chair	Remote
14	Malibu	Mikke Pierson	Director	Remote
15	Manhattan Beach	Hildy Stern	Director	Remote
16	Moorpark	Janice Parvin	Director	Remote
17	Ojai	Betsy Stix	Director	Remote
18	Oxnard			Absent
19	Paramount	Vilma Cuellar Stallings	Director	Remote
20	Redondo Beach	Christian Horvath	Director	Remote

21	Rolling Hills Estates	Steve Zuckerman	Director	Remote
22	Santa Monica	Kevin McKeown	Director	Remote
23	Sierra Madre	James Carlson	Alternate	Remote
24	Simi Valley	Ruth Luevanos	Director	Remote
25	South Pasadena	Diana Mahmud	Chair	Remote
26	Temple City	Fernando Vizcarra	Director	Remote
27	Thousand Oaks	Bob Engler	Director	Remote
28	Ventura City	Joe Yahner	Alternate	Remote
29	Ventura County	Linda Parks	Vice Chair	Remote
30	West Hollywood	Lindsey Horvath	Director	Remote
31	Westlake Village	Phillippe Eskandar	Alternate	Remote
32	Whittier	Vicki Smith	Alternate	Remote

All votes are unanimous unless otherwise stated.

GENERAL PUBLIC COMMENT

No public comments were received.

CONSENT AGENDA

1. Approve Minutes from March 4, 2021 Board of Directors Meeting
3. Adopt Resolution No. 21-04-013 Authorizing and Approving Entry into An Amended and Restated Revolving Credit Agreement and Specified Related Agreements (“Amended Agreements”) with River City Bank, and Delegating Authority to CPA Authorized Representatives to Execute and Deliver the Amended Agreements
5. Receive and File Community Advisory Committee Report

Items 2 and 4 were removed from the consent agenda for separate consideration, as requested by Vice Chair Parks and Director Hilton, respectively.

Motion: Director McKeown, Santa Monica
Second: Director Calaycay, Claremont
Vote: Items 1, 3, and 5 were approved by roll call vote.

2. Approve Support Position for Senate Bill 45 (Portantino) in the 2021/2022 Legislative Session

Vice Chair Parks announced that Ventura County has not taken a position on the bill and as such will abstain from the vote.

Motion: Director Ashton, Downey

Second: Vice Chair Kuehl, Los Angeles County
Vote: Item 2 was approved by a roll call vote, with abstentions from Vice Chair Parks and Director Eskandar.

4. Approve Amended and Restated Billing and Data Manager Agreement with Calpine Energy Solutions, LLC (“Calpine Agreement”) and Amended and Restated Distributed Energy Resources (DER) Service Agreement Attached as Exhibit D to Calpine Agreement

Ted Bardacke, Executive Director, provided a summary of the item. Calpine Energy Solutions has served as CPA’s billing, data, and customer management services provider, including services relating to meter information and call center management; and is currently the dominant provider in the billing and data manager market. The recommended staff action amends the scope and extends the contract with Calpine effective April 1, 2021 for three additional years to 2025, with an optional fourth year. The amendment includes a commitment from CPA to release a Request for Proposals (RFP) at the end of the contract and yields approximately \$1.3 million in near-term cost savings.

Director Hilton noted some concern for the process and the lack of an RFP to award a contract. Additionally, Director Hilton hoped to see a deadline for the building of data management capabilities for CPA and the future use of an RFP to award these services. In response to Director Hilton’s comments, Mr. Bardacke stated that about 40 call center employees are from the International Brotherhood of Electrical Workers (IBEW); explained that staff’s review of the RFP process at other Community Choice Aggregations (CCA’s) indicated that the RFP process has not necessarily resulted in better contract terms. Staff believes that market maturation is essential to resulting in favorable RFPs and building in-house data management capabilities is a multi-year process. Mr. Bardacke indicated that the contract provides a hard deadline for Calpine’s assistance in building CPA’s data management warehouse and committed to competitively solicit at the end of the contract term.

Vice Chair Kuehl added that the contract terms are favorable to CPA and allows for the much-needed market maturation to occur. Director Ashton commented that a policy establishing adequate guidelines for awarding contracts without the use of an RFP might be prudent. Director Luevanos agreed that a policy establishing the use of RFPs would be useful; and asked about the anticipated timeline for market maturation. Mr. Bardacke clarified that call center services are a function that is generally cost-effective for an organization to outsource. Billing is a specialized function and California’s market may mature if more providers from Texas, which has a mature retail energy market, decide to complete in California; data management is a good candidate for in-sourcing particularly if coordination of data transfers from Southern California Edison (SCE) directly to CPA can be improved.

Motion: Director Hilton, Carson moved to approve with condition that staff solicit at the end of the contract term
Second: Director Luevanos, Simi Valley
Vote: Items 4 was approved by a roll call vote.

REGULAR AGENDA

6. Adopt Energy Portfolio Content Changes for CPA's Three Rate Products in Calendar Years 2021 and 2022

Ted Bardacke and Natasha Keefer, Director of Power Planning & Procurement, provided an overview of the item. Mr. Bardacke discussed fiscal year (FY) 2020/2021 revenue requirements, noting that there are several market dynamics placing upward pressure on revenue, compounded by an unfavorable competitive position with regard to SCE rates. Effective February 1, SCE delivery charges and the Power Charge Indifference Adjustment (PCIA) fee increased sharply, while SCE generation rates remained flat; with another rate change expected in summer 2021 that will maintain the PCIA flat but will increase generation by approximately 1.5% to 3%, and delivery rates likely more than 10%. The Board took immediate actions to reduce operating expenses, including modification to the Calpine contract, renewal of CPA's bank loan agreement, and changing the distribution method of some customer mailers. Overall market dynamics are not favorable to CPA, due to residual concerns from the Texas energy crisis and 2020's summer heat events, in addition to upward pressure due to increases in resource adequacy (RA), bad debt expense, and congestion revenue rights (CRR) markets. Ms. Keefer explained that RA costs have sharply increased by 72% in 2021, due to tight supply exacerbated by more restrictive regulations which will present challenges through 2026, as new resources are not expected to outpace retiring facilities. The Energy Risk Management Policy (ERMP) has reduced CPA's exposure to extreme price volatility; however, CPA is not perfectly hedged due to load and resource variability, resulting in some exposure to spot market prices during peak hours. Elevated Q3 prices do not currently persist beyond 2021 however. Ms. Keefer discussed cost reduction opportunities to CPA's power content, that would yield a cost savings of \$16.7 million in FY 2021/22, lowering the overall FY 21/22 revenue requirement shortfall to approximately \$87 million. For the Lean Power product, currently targeting 40% renewables and made up primarily of PCC2 resources, staff recommended to change the target to 40% carbon-free energy which would result in savings of about \$7.7 million in FY 2021/2022. Additionally, Ms. Keefer reviewed the staff recommendation to shift the Clean Power product content from 50% renewables target to 50% clean energy target, with 40% renewables and 10% carbon-free, which would result in FY 21/22 savings of about \$9.0 million. Staff did not recommend changes to the 100% Green Power product because it adheres to a "gold standard" 100% PCC1 renewable portfolio and changing to PCC2 will result in minimal cost savings. Lastly, the proposed changes to the 2021 and 2022 product content maintain CPA's overall portfolio above the California renewable portfolio standards (RPS) mandate but remain below the 2020 Integrated Resources Plan (IRP) targets. CPA will address longer-term product content strategy in Fall 2021 and will need to revise its product content beginning in 2023 to remain on track to meet 2030 emissions targets. Ms. Keefer reviewed the long-term outlook on costs, highlighting that although CPA has an exposure to high RA prices and volatile market prices, executing long-term fixed-priced contracts will stabilize an increasing portion of its procurement costs over time. Lastly, Ms. Keefer reviewed

next steps, noting staff will begin procurement activity to implement power content changes and strategize on customer communications and marketing.

In response to Committee Member Zuckerman's questions, Ms. Keefer clarified that in a low rainfall year, reliance on hydropower can be disadvantageous, however, CPA does have guaranteed minimum deliveries from suppliers and are able to impose penalties if suppliers are unable to deliver. Director Maloney asked how the passage of Senate Bill (SB) 612 will affect the long-term outlook and how long-term contracts affect CPA's flexibility in negotiating contracts to address market dynamics in the future. Vice Chair Parks asked how the establishment of financial reserves can help address volatility. Mr. Bardacke explained that SB 612 would give CPA access to a portion of SCE's RA portfolio that can eventually reduce RA costs, but if passed, will not impact procurement until 2023. Ms. Keefer clarified that long-term contracts could help CPA maintain stable rates for customers, but CPA will never meet 100% of its load with long-term contracts to maintain some flexibility. Lastly, Mr. Bardacke explained that having healthy reserves can help deal with market fluctuations; and building reserves help lower costs in general because counterparties may charge CPA less if it has achieved an investment grade credit rating.

Motion: Vice Chair Parks, Ventura County
Second: Director Horvath, Redondo Beach
Vote: Item 6 was approved by a roll call vote.

7. Cost of Service Analysis and 2021 Rate Setting Approach Options

Ted Bardacke provided a summary of the item, highlighting that changing CPA's product content reduced the \$104 million shortfall to \$87 million, that will need to be addressed through rates. Mr. Bardacke added that SCE set its rates based on a forecast that took place in the Fall of 2020, which may drive SCE to raise rates in the first quarter of 2022 to make up the difference; CPA must set rates to cover its current cost forecast. Mr. Bardacke discussed a graphic representation of the rate setting timing affected by market fluctuations; continued to explain that CPA's initial cost of service (COS) analysis compares 2021-2022 FY forecasted costs and revenues by individual rate family and product and establishes specific assumptions as a baseline, including a \$30 million contribution to reserves, no contingency in the budget and no use of the fiscal stabilization fund. Mr. Bardacke reviewed the COS observations by product and rate group; discussed expected comparisons of rates as of summer 2021; and introduced three different rate options that recover CPA's revenue target and impact customer class and rate products differently. In all the presented scenarios, the 2017 vintage subset customers' rates are adjusted to cover COS. Mr. Bardacke reviewed scenario one in detail, Average Percentage Change (APC), noting that the increase is spread equally across most products and customer groups, and is the simplest approach to communicate to customers. Scenario one may be the lowest opt-out risk but puts pressure on the 100% Green rate premium. Scenario one also includes a CARE subsidy - scenario 1a - where all CARE customer rates are held at current levels. Scenario two involves a COS-informed approach in which each product

covers its cost of service overall. Although it addresses imbalance between products, the rate increase is uneven, raising Lean and Clean rates more. Scenario three takes a residential subsidy approach where non-residential customers subsidize residential rates. Domestic rates are held at current levels and all other rates are increased by the same percentage to reach revenue requirement. The residential subsidy approach limits impact to CPA's residential and CARE customers; but could result in significant opt outs as it increases premiums for all non-residential customers. Mr. Bardacke discussed customer communications strategy, noting that CPA wants to be transparent throughout the process by providing advanced notice of rate changes. Lastly, Mr. Bardacke indicated that Board feedback will guide staff in refining the analysis and scenarios; staff will continue the development and implementation of customer communications strategy; and ultimately aim to adopt final rates and the FY 2021/22 budget in June.

Director Gold commented that the significant increase in transmission should be embedded into the scenarios and modeling forecasts to better understand what the rate payers' bills will look like; and expressed preference for an eventual transition into a COS rate setting approach but said that the APC approach may work temporarily. Director Horvath, Redondo Beach, echoed preference for a COS approach, added that transparency will be key in communicating rate changes to customers, and expressed gratitude to staff for not advocating for the scenario in which small businesses may be disproportionately affected. Vice Chair Parks noted support for minimal impact to CARE customers, but also cautioned to avoid negatively impacting communities at the 100% Green default rate and balancing increases for businesses and residential customers alike. Director Zuckerman agreed that an arbitrary APC approach is not a good approach; a more informed approach reflecting COS is appropriate; and the Clean power rate should be much closer to the cost-of-services. In response to Director Santangelo's question regarding opt-downs, Mr. Bardacke explained that staff is working on modeling opt-out and opt-down scenarios, but those models may not necessarily show a significant difference between rate products. Director Santangelo expressed preference for the COS-informed approach and added that customer communication needs to be robust and ensure customers understand all benefits that CPA provides to them. Director Monteiro noted some preference for the APC approach but hoped that it would be temporary, to not disproportionately affect one set of customers over another. Vice Chair Kuehl echoed support for an APC approach, which would be simpler than explaining a COS approach to customers; and asked if there was an anticipated risk to opt-outs in the scenario. Mr. Bardacke clarified that opt-out risk is more prevalent in scenario three. Director McKeown embraced the concept of protecting CARE customers but did not favor the scenario three's concept of burdening small businesses; in the long-term, the COS approach better aligns to CPA's mission to increase delivery of renewable electricity, however, it may need adjustment to find a middle-ground approach. Director Lee commented that financial modeling for opt-outs and opt-downs can provide insight into customer messaging, with strong follow-up and targeted messaging to small business customers. Mr. Bardacke explained that behavioral trends indicate that once customers decide to opt-out or opt-down, they stick to their decisions; and talking points will include messaging to address opt-outs and opt-downs.

Director Lopez expressed concern with the APC approach in that it will place every rate product out of range and could discourage cities from defaulting to the 100% Green rate product; supported a combination of the APC and the COS scenarios that considers 100% Green customers concerns; and opposed a scenario that places burden on struggling businesses. Director Carlson commented that Sierra Madre does not support the residential subsidy approach (scenario three) and supports the COS approach. Director Parvin expressed support for scenario 1a APC that subsidizes CARE customers and cautioned that other approaches may bring high opt-out rates in Moorpark. Director Maurer expressed concern for the significant deviation from the previously presented rates, noting that in Calabasas, which recently defaulted to 100% Green, the situation will place tremendous pressure on city staff to distribute accurate information to customers; requested that staff consider maintaining the 100% Green rate within the previously stated 7-9% range. Director Stern, Manhattan Beach, echoed concern for the increase of 100% Green and suggested that staff consider a scenario with a one percent increase to 100% Green; and noted some support for the COS approach but emphasized that communication regarding the temporary rate increase is important to highlight for customers. Mr. Bardacke said SCE's ERRA rate change in the first quarter of 2022 will cause comparisons to look different again in nine months and CPA may need to adjust then.

Director Maloney suggested that the long-term goal for CPA is to make the 100% Green rate the most attractive product for member agencies, however, this increase can jeopardize Alhambra's path towards that and increase opt-outs; expressed support for a COS approach that will be easiest to communicate to customers; and noted a middle-ground approach where the biggest customer base is not negatively impacted, but also considers 100% Green customers' concerns would be ideal. Mr. Bardacke elaborated on scenario 1a, which accommodates protection of CARE customers but also for 100% Green customers. Director Engler noted that Thousand Oaks has a high percentage of customers who have opted-down or opted-out from the default 100% Green rate and the increasing pressure would discourage more customers from staying at the default; and stated preference for a long-term goal of achieving COS in rate tiers and supports a middle-ground approach that can eventually lead all cities to 100% Green energy. Director Gold inquired as to the possibility of implementing a temporary surcharge instead of rate increases. Mr. Bardacke noted that staff discussed a reliability surcharge, however, in terms of customer communication, that would present a challenge. Mr. Bardacke stated that cost-of-service in conjunction with an equal increase across the board would require heavy customer communication. Director Zuckerman asked is SCE is transitioning customers to time-of-use (TOU) rates and how that obviates the need for the rate structure; asked about CPA's plans to transition to TOU as well; and suggested that scenario two, the COS approach, can be modified to allow for each rate class to contribute to the CARE subsidy so it is equal across all customers. Mr. Bardacke stated that CPA residential customers will be defaulted into TOU rates in February 2022 and it remains to be seen how customers will respond. Director Gold provided clarification as to the surcharge concept, noting that the surcharge in the short-term can be communicated as a single-time event that can be removed as the market stabilizes.

Alternate Director Ellison, City of Ojai, offered support for the COS approach allowing CPA to bring greater parity among the three rate products to address the bill premium that 100% Green power customers pay, who are closer to meeting their cost of service; and noted that after approval of the power content changes, 100% Green customers are relied upon more heavily for CPA to meet the state's RPS requirements.

Chair Mahmud commented that since the Board's approval of rate targets, renewable energy costs have gone down, which impacted how much of an increase customers will see on their bills. Chair Mahmud thanked the Board for their comments and said scenarios 1 and 1a had potential but also there should be an eventual transition to the COS approach, which aligns to CPA's mission to provide renewable energy to residents and businesses at an affordable rate to the maximum extent possible. Chair Mahmud cautioned against double digit differences between SCE's and CPA's rates; and acknowledge that cities which have recently transitioned to the 100% Green rate will understandably share significant concern for the rate increase.

Mr. Bardacke thanked the Board for their feedback and noted that there is a strong preference for CARE customer protection and staff has a better understanding of what each of the cities' concerns are and how to address them in the next round of scenario development. .

MANAGEMENT REPORT

Mr. Bardacke thanked member agencies that submitted support letters for SB 612; reminded Board members that April 1 marks the transition of SCE's new billing system platform and that CPA staff is continuing the rollout of customer programs.

COMMITTEE CHAIR UPDATES

Director McKeown reported progress on the 2020 Clean Energy RFO and announced that the number of communities that are part of a CCA program has exceeded 200, with most of the recent additions in Northern California; but as the largest CCA, CPA can persevere through difficult times.

Director Horvath shared that the Legislative and Regulatory Committee had a productive discussion on CPA's virtual lobby day results and its continued work on important legislation that will impact CPA's work.

BOARD MEMBER COMMENTS

None.

REPORT FROM THE CHAIR

Board Chair Mahmud thanked Board members that participated in CPA's virtual lobby day; noted that several Senate and Assembly members representing CPA jurisdictions are specifically listed as co-authors of SB 612; and invited Board members to visit the California Independent System Operator (CAISO) website for background information on energy prices and provides insight into the complexity of staff's work in forecasting.

ADJOURN

Chair Mahmud adjourned the meeting at 5:01 p.m.

Staff Report – Agenda Item 2

To: Clean Power Alliance (CPA) Board of Directors

From: Gina Goodhill, Policy Director

Approved By: Ted Bardacke, Executive Director

Subject: Approve Positions on Three Bills in the 2021/2022 Legislative Session

Date: May 6, 2021

RECOMMENDATION

Approve positions on SB 757, AB 585, and SB 533 as recommended by the Legislative & Regulatory Committee, and direct staff to communicate those positions to the Governor, State Legislators, and other interested stakeholders.

DISCUSSION

[SB 757 \(Limon\)](#): Recommended Position: Support

This bill would provide additional protections for consumers installing home solar system by including solar in the definition of home improvements, thereby requiring customers to receive the same protections that they would from a home improvement contractor.

Rooftop solar is a key part of California's energy goals, and another form of choice for CPA customers. Unfortunately, according to the author, some Californians have been misled by solar installers who misrepresent their services; the Contractors State License Board reports that it received 1,067 complaints about solar installations between July 2019-June 2020. These instances of fraud most commonly impact low-income consumers, non-native English speakers, and seniors.

SB 757 increases consumer protections for solar customers by allowing them to receive the same protections that they would under a home improvement contract, including the

right to have contract cancellation, down payment security, the name of the company that employs the salesperson, and other protections. This bill is supported by a diverse set of stakeholders, including the California Solar and Storage Association. This bill is aligned with CPA's 2021 Legislative & Regulatory Platform, specifically sections 3a, 3e, and 4b.

[AB 585 \(L. Rivas\)](#): Recommended Position: Support

This bill would establish the Extreme Heat and Community Resilience Program within the Office of Planning and Research (OPR), to coordinate the state's efforts to address extreme heat and facilitate the implementation of local, regional, and state planning efforts.

Previous legislation authorized the state to create climate response plans that would help local governments predict, anticipate, and prepare for extreme heat storms. This bill establishes the Extreme Heat and Community Resilience Fund in the State Treasury and would require OPR to manage a competitive grant program for extreme heat and community resilience projects. Qualifying projects include the construction or retrofit of facilities that will serve as community resiliency centers, similar to the work CPA is already doing to provide back-up power to critical facilities through its PowerReady program. Local and regional public agencies and joint powers authorities would both be eligible to receive these grants. The program would be funded through bonds or other special funds. This bill is aligned with CPA's 2021 Legislative & Regulatory Platform, specifically sections 1e, 3a, and 4b.

[SB 533 \(Stern\)](#): Recommended Position: Support if Amended

This bill proposes several measures to minimize public safety power shutoffs (PSPS), including requiring an electrical corporation to ensure its electrical transmission and distribution system achieves the highest level of safety, reliability, and resiliency by modernizing, upgrading, and hardening its electrical lines and equipment through a number of different possible methods, including the installation of one or more microgrids. The bill also requires the state to create a database of critical circuits and infrastructure to help prioritize locations for microgrid development in Tier 2 and 3 high fire threat

districts. The bill directs an electrical corporation to coordinate with the local government or CCA within its service territory to identify critical circuits and microgrid projects, but only if requested by the local government or CCA.

CPA supports the goals outlined in this bill and suggests amending the bill to require coordination with an applicable CCA, rather than to suggest coordination. Further, CPA suggests amendments to clarify that if an electrical corporation decides that one or more microgrids are required in the service territory of a CCA, the CCA shall be given the option to provide the generation portion of the microgrid system. The bill should also clarify that the CCA will continue to be the only load serving entity to charge a generation rate for the customers within its service territory, even if an IOU operates a microgrid in a CCA territory. Staff has been in communication with the author's office, and they are amenable to these changes. This bill and the amendments that CPA is suggesting are aligned with CPA's 2021 Legislative & Regulatory Platform, specifically sections 1b and 1f.

ATTACHMENT

- 1) [2021 Legislative & Regulatory Platform \(for reference\)](#)



2021 Legislative and Regulatory Policy Platform

Overview and Purpose

The Clean Power Alliance (CPA) Legislative and Regulatory Policy Platform (Platform) serves as a guide to the CPA Board of Directors and CPA staff in their advocacy efforts and engagement on policy matters of interest to CPA. The Platform allows both Board members and staff to pursue actions at the local, regional, state and federal legislative and regulatory levels in a consistent manner and with the understanding that they are pursuing actions in the best interest of the organization and its mission, its member agencies, and its customers. The Platform also enables the organization to move swiftly to respond to events in Sacramento (Legislative / Executive) and San Francisco (California Public Utilities Commission) and provides guidance to the Executive Director on the support or oppose positions that should be taken on legislative and regulatory matters that come before the California Community Choice Association (CalCCA) Board of Directors.

All CPA positions on individual bills are presented to the Board for approval, except during times of urgency as provided under the protocols approved by the CPA Board of Directors on June 7, 2018, that allow the Chair, Vice-Chairs, Legislative & Regulatory Committee Chair, and Executive Director to act on behalf of the organization in urgent advocacy matters.

Policy Principles

The Legislative and Regulatory Policy Platform is centered around four basic principles:

1. Protecting CPA's local control and autonomy by its members, especially with regards to finances, power procurement, reliability, and local customer programs.
2. Ensuring equal treatment of unbundled and bundled customers by the CPUC and other state agencies.

3. Supporting recognition that electricity is an essential service, and that CPA should have the ability to set electric rates and offer programmatic services that are affordable and inclusive for all.
4. Pursuing environmental initiatives that exceed prescriptive State mandates, promote the growth in renewable energy capacity at the local level, encourage clean energy adoption by CPA customers, and reduce fossil fuel dependency.

Policy Platform

1) Local Control, Finance, and Power Procurement

CPA will pursue legislative and regulatory activity that:

- a. Supports the authority of CPA and its Board to retain local control over its activities;
- b. Supports the protection of CPA's procurement autonomy;
- c. Supports the ability of CPA to maintain control over its financial decisions;
- d. Supports the ability of CPA to expand its service offerings and activities in response to a changing energy landscape;
- e. Supports the ability of CPA to access state incentives for its customers and member agencies; and
- f. Supports the ability of CPA to enhance reliability through accelerating the deployment of energy storage resources, fully valuing behind the meter energy resources, and expanding the use of demand response.

2) Equitable Treatment of CPA Customers

CPA will pursue legislative and regulatory activity that:

- a. Supports the equal treatment of unbundled and bundled customers by the CPUC and the legislature; and
- b. Supports the development of a State regulatory environment that is empowering for community energy providers.

3) Ratepayer Advocacy and Social Justice

CPA will pursue legislative and regulatory activity that:

- a. Supports the protection of all ratepayers, particularly low-income customers, disadvantaged communities, and other vulnerable populations in CPA service territory;
- b. Supports supplier diversity in CPA's contracting activities and through women-owned, minority-owned, disabled-veteran-owned, and lesbian, gay, bisexual, and/or transgender owned business enterprises;
- c. Supports workforce development with a focus on new stable, well-paying local jobs, and participation in a just transition to a low-carbon economy;
- d. Supports the ability for CPA to set appropriate benchmarks for performance measurement using accepted industry standards; and
- e. Supports increased access to clean energy technologies, clean energy and contracting jobs, and clean energy opportunities for low-income people and communities of color in CPA service territory.

4) Environmental Leadership

CPA will pursue legislative and regulatory activity that:

- a. Supports the ability of CPA and its members to meet and exceed State goals for greenhouse gas emissions reductions (e.g. encouraging movement towards 100% renewable energy), climate action planning, and fossil fuel independence;
- b. Supports the ability for CPA to promote growth in renewable energy capacity, resiliency and electrification at the local level, in a way that is equitable for all customers;
- c. Supports the ability for CPA to promote electrification of the transportation sector, and to help implement Executive Order N-79-20 that bans the sale of new internal combustion engines in light duty vehicles by 2035; and
- d. Supports the ability for CPA to promote electrification and the reduction of natural gas usage in the building sector.

Staff Report – Agenda Item 3

To: Clean Power Alliance (CPA) Board of Directors

From: Jack Clark, Director of Customer Programs

Approved By: Ted Bardacke, Executive Director

Subject: Agreements with Center for Sustainable Energy for Program Implementation Services on the CALeVIP

Date: May 6, 2021

RECOMMENDATION

Approve and authorize the Executive Director to execute two agreements, one for Los Angeles County and the other for Ventura County, between CPA and Center for Sustainable Energy (CSE) for CSE to provide Program Implementation Services for the California Electric Vehicle Infrastructure Project (CALeVIP) with an initial financial contribution of \$1,640,000 for both agreements.

BACKGROUND

The State of California has set aggressive electric vehicle (EV) goals, including reaching 5 million EVs on the road by 2030 and 250,000 EV charging stations by 2025. Southern California faces a growing challenge in that regional EV adoption is outpacing the availability of infrastructure for EV drivers. CALeVIP was launched to spur the rapid deployment of publicly accessible Level 2 EV Chargers (L2) and Level 3 Direct Current Fast Chargers (DCFC) through targeted incentive projects based on regional needs. The State of California has allocated \$58 million in current funding for the CALeVIP program and up to \$200 million in future funding, with the expectation of awarding a total of \$20 million to \$30 million annually for three to four regional initiatives.

In August 2018, four Southern California counties (Los Angeles, Orange, Riverside, San Bernardino) created the Southern California Incentive Project (SCIP) and were awarded

\$29 million in incentives for DCFC projects with no local funding partners. More than half of the incentives have been paid out and the rest have been reserved. Almost \$20 million in applications in excess of available funds have been submitted for the SCIP program.

CALeVIP has begun to prioritize contributions from local partners in its decision to award new regional initiatives or to increase funding to existing initiatives. To date, typical local funding partners have been CCAs and local air districts.

On January 9, 2020, the Board approved CPA's letter of intent to participate in the proposed CALeVIP South-Central Coast Incentive Project (SCCIP) to support the installation of electric vehicle chargers in Ventura County with an initial financial contribution of \$570,000 in 2021 and the potential for additional funding between 2021-2023. The Ventura County Air Pollution Control District is also a funder of this project.

On August 19, 2020, the Executive Committee approved CPA's letter of intent to commit \$1,070,000 of 2021/22 funds to support the installation of electric vehicles chargers in Los Angeles County via CALeVIP's Southern California Incentive Project Level 2 (SCIPL2) with the potential for additional funding between 2022-2023.

In October 2020, the CEC selected both the SCCIP (Ventura County) and SCIPL2 (Los Angeles County) for funding. The total amount allocated by the CEC to the four county SCIPL2 project is \$22 million; it is estimated that roughly half will be allocated to LA County. CEC funding, including CPA contributions, for Los Angeles County is estimated at \$12 million and for Ventura County (including other funding partner contributions) is \$4.77 million. As a result, CPA funds will initially be leveraged on a 11:1 basis in Los Angeles County and an 8:1 basis in Ventura County.

DISCUSSION

Incentive Levels, Eligibility, and Administration

Both projects are incentive programs for publicly accessible electric vehicle chargers, typically installed in places like shopping centers, workplaces, apartment complexes, and

gas stations. Most incentives go to operators of charging infrastructure networks (i.e. EVgo, ChargePoint, Greenlots, etc.), who work with property owners to site and install them.

Rebate Amounts

DCFC Power Level	General Market Rebate	Disadvantaged Community/ Low-Income Rebate
50 kW - 99.99 kW	Up to \$30,000; or 75% of the total project cost, whichever is less	Up to \$40,000; or 75% of the total project cost, whichever is less
100 kW+	Up to \$60,000; or 75% of the total project cost, whichever is less	Up to \$80,000; or 75% of the total project cost, whichever is less

Level 2 Chargers	Amount per Connector
Base Rebate	Up to \$3,500 per connector, or 75% of project costs, whichever is less
Disadvantaged Community (DAC) or Low-Income Community (LIC)	Additional \$500
Multi-unit dwelling (MUD) site	Additional \$2,000

In addition to higher incentive levels for chargers located in DACs, 50% of project funds are also set aside for DACs.

CEC and local partner funds are pooled and administered by the non-profit Center for Sustainable Energy (CSE), a non-profit that administers many energy incentive programs, including the state's electric vehicle rebate program and nine other regional electric vehicle incentive projects. CSE utilizes the established CALeVIP online platform and process for public and private sector entities to apply for incentives/rebates to install

publicly accessible EV chargers. CSE provides marketing and technical assistance to applicants and handles disbursement of incentive payments.

CPA's participation and contribution in the SC IPL2 will be directed solely to its Los Angeles County service territory and customers. CPA's participation and contribution in SCCIP, which provides incentive funding for Ventura, Santa Barbara, and San Luis Obispo Counties, will be directed solely to its Ventura County service territory and customers. CPA customers will be automatically opted-in to CPA's electric vehicle demand response program, with an option to opt-out upon request.

Proposed Agreement for Proposed Program Implementation Services

Staff is seeking approval to authorize the Executive Director to execute two Program Implementation Service agreements on the California Electric Vehicle Infrastructure Project with the Center for Sustainable Energy. As CPA's Program Implementer, CSE will provide full implementation of the two regional CALeVIP Projects, provide marketing, education, and outreach and incentive processing.

CPA will work to enhance CSE's marketing efforts through the use of a customized program marketing and media kit. Detailed marketing actions include updated program content for CPA's program website landing page, email distribution content, social media content, CALeVIP branded images for cobranding with CPA, development of FAQ documents, and a resource repository for all developed content and resources. CPA will further utilize its existing network of stakeholders, partner advocates, and associations to disseminate up to date program information. Marketing examples provided in Attachments 3 and 4 demonstrate cobranding program messaging utilized by other CCA's in regional CALeVIP projects.

The Scope of Work contemplated in these agreements is organized into four main tasks:

- Incentive Project Design: This task consists of research, analysis, and a targeted incentive design package.

- Development and configuration of incentive processing website: The goal of this task is to design, develop, configure, and launch a robust, user-friendly project website.
- Electric vehicle charger incentive project marketing, education, and outreach: The goal of this task is to market the SCCIP or SCIPL2 to relevant target audiences, and to provide basic support to applicants to file applications and pursue their EV charging installation projects.
- EV charger incentive project administration.

FISCAL IMPACT

The cost of the contracts will be incorporated into the FY 2021/22 budget and includes both administration fees and incentives. Incentives are budgeted for at the time they are expected to be paid out, while administrative costs are budgeted to be paid out following specific contract deliverables.

CPA may consider additional investments in the SCCIP and SCIPL2 projects in future years. This consideration would be based on a successful first year of implementation, positive feedback from participating customers, and continued interest from additional customers. The CEC's continued gap analysis on the projected number of required electric vehicle chargers in CPA's service territory will also help to inform CPA's decision on future investments. Any recommended future investments by staff will be brought to the Board for approval.

ATTACHMENTS

- 1) [SCCIP Program Implementation Service Agreement with the Center for Sustainable Energy](#)
- 2) [SCIP2 Program Implementation Service Agreement with the Center for Sustainable Energy](#)
- 3) [CALeVIP PSV Postcard Example](#)
- 4) [CALeVIP SBBJ Marketing Example](#)

INCENTIVE PROGRAM IMPLEMENTATION SERVICES AGREEMENT

This Incentive Program Implementation Services Agreement (including Appendix I (*Scope of Work*), this “**Agreement**”) is entered into as of May 6, 2021 (“**Effective Date**”) by and between Center for Sustainable Energy, a California nonprofit public benefit corporation recognized as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code of the United States (“**CSE**”) and Clean Power Alliance, a joint powers authority organized under the laws of California (“**CPA**”). CPA and CSE may be individually referred to herein as “**Party**” or collectively as “**Parties.**”

RECITALS

WHEREAS the California Energy Commission (“**CEC**”) approved funding for and designated CSE to design and implement up to \$200 million in electric vehicle charger incentive projects throughout California (“**CALeVIP Funding**”) and CSE has accepted the CALeVIP Funding under the terms and conditions of that certain Grant Agreement (ARV-16-017) effective as of June 27, 2017 (the “**Grant Agreement**”).

WHEREAS CEC has authorized CSE to deploy a portion of CALeVIP Funding (the “**CEC Funds**”), of \$2,750,000, towards an incentive program in the Ventura County area of CPA’s service territory (the “**South Central Coast Incentive Project**” or “**SCCIP**”).

WHEREAS CPA provides locally-controlled, carbon-free electricity to residents and businesses for 32 member agencies in Los Angeles and Ventura Counties.

WHEREAS CPA desires to promote more rapid deployment of public and private infrastructure that will accelerate adoption of electric vehicles in its service territory, CPA will dedicate up to five hundred thirty three thousand dollars (\$533,000.00) to the SCCIP. Funding (the “**CPA Funds**”) will be identified and allocated by CPA’s Board of Directors (“**Board**”). Monies are intended to be used to fund incentive payments that will be paid to public and private property owners and business owners that install electric vehicle chargers that meet specific standards in CPA’s service territory, all in connection with the incentive payment project to be developed and administered under this Agreement for the SCCIP. CPA Funding is contingent on SCCIP receipt of CEC Funding no later than at the start of the Project launch.

WHEREAS CPA desires to hire CSE to develop and administer the SCCIP in consideration of payment of a fee in accordance with the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual terms and conditions, promises, covenants, and payments contained in this Agreement, together with all exhibits, CSE and CPA agree as follows:

1. EXHIBITS AND ATTACHMENTS

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A – Scope of Work
Exhibit B – Payment Terms
Exhibit C – Pillar Requirements
Exhibit D – SCCIP Rebate Amounts

Should a conflict arise between language in the body of this Agreement and any exhibit or attachment to this Agreement, the language in the body of this Agreement controls, followed by Exhibit A, B, C, and D in that order.

2. SERVICES TO BE PERFORMED BY CSE

In consideration of the payments set forth in this Agreement and in Exhibit C, Contractor shall perform services for CPA in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A (“**Services**”), Exhibit C, and Exhibit D, and provide any deliverables specified therein (“**Deliverables**”).

3. COMPENSATION

CPA agrees to compensate CSE as specified in Exhibit B:

In consideration of the Services provided by Contractor in accordance with all terms, conditions and specifications set forth in this Agreement and Exhibits A, C, and D, CPA shall make payment to Contractor in the manner specified in Exhibit B

All payments must be made in U.S. dollars.

4. TERM

Subject to compliance with all terms and conditions of this Agreement, the term of this Agreement is effective from the Effective Date until December 31, 2024 (“**Term**”).

5. TERMINATION

- 5.1. **Termination for Convenience.** CPA may terminate the Agreement in accordance with this paragraph whenever CPA determines that termination is in CPA’s best interests. A termination for convenience, in part or in whole, shall take effect by CPA delivering to Contractor, at least one hundred twenty (120) calendar days prior to the effective date of the termination or prior to a Notice of Termination specifying the extent to which performance of the Services under the Agreement is terminated.

If the termination for convenience is partial, CSE may submit to CPA a request in writing for equitable adjustment of price or prices specified in the Agreement

relating to the portion of this Agreement which is not terminated. CPA may, but shall not be required to, agree on any such equitable adjustment provided that any funds previously reserved for existing applications and owing to customers shall continue to be incurred by CPA. Nothing contained herein shall limit the right of CPA and CSE to agree upon amount or amounts to be paid to CSE for completing the continued portion of the Agreement when the Agreement does not contain an established price for the continued portion. Nothing contained herein shall limit CPA's rights and remedies at law.

- 5.2. **Termination for Material Breach.** If either party material breaches of this Agreement, fails to provide in any manner the Services required under this Agreement (excluding a failure to pay), otherwise fails to comply with the terms of this Agreement, or violates any ordinance, policy, regulation, or law, including but not limited to CPA Board-enacted policies, which applies to its performance under this Agreement, the other Party may terminate this Agreement by giving ninety (90) days written notice thereof; *provided that* such termination shall not be effective if the breach of which the breaching Party has been notified has been cured prior to the expiration of said 90 days.
- 5.3. **Termination for Breach of Payment Obligations.** Notwithstanding anything to the contrary in this Agreement, if CPA fails to pay the Implementation Fee as specified in Exhibit B when each payment is due, CSE may terminate this Agreement by giving fifteen (15) calendar days' written notice of such non-payment; *provided that* such termination shall not be effective if CPA remits all outstanding amounts of the Implementation Fee to CSE prior to the expiration of said fifteen-day period, less any amounts due from CSE, any offsets, or disputed amounts.
- 5.4. **Termination for Insolvency.** Either Party may immediately terminate this Agreement upon written notice if the other Party (a) is adjudicated bankrupt or becomes insolvent, winds up or liquidates its business voluntarily or otherwise, (b) commences a voluntary case under any state or federal bankruptcy laws (as now or hereafter in effect), or (c) acquiesces to, or fails to have dismissed, within 30 days, any petition filed against it in any involuntary case under such bankruptcy laws.
- 5.5. **Reserved Funds.** In the event of termination for convenience, any CPA Funds previously reserved for existing applications shall continue to be incurred by CPA.
- 5.6. **Effect of Termination.** Upon the effective date of expiration or termination of this Agreement: (i) CSE may immediately cease providing Services except for those services that survive termination as discussed in Section 5.6 or if a termination is to a part of the Agreement, case providing the Services that have been terminated; (ii) any and all payment obligations of CPA under this Agreement will become due immediately except any equitable adjustment pursuant to Paragraph 5.1 and any amounts that survive the termination or expiration; (iii) promptly transfer title and deliver to CPA all finished or unfinished Deliverables, work product, or documents specified in Exhibit A, any or any other work in progress pursuant to this

Agreement; and (iv) each Party will promptly either return or destroy (as directed by the other Party) all Confidential Information of the other Party in its possession as well as any other materials or information of the other Party in its possession.

- 5.7. **Survival.** Upon the expiration or termination of this Agreement, except for this section 5 and Sections 7, 8, 11, 12, 13, 15.2, 15.4, 15.6, 15.7, 15.9, 15.11, and 15.13 this Agreement shall be of no further force and effect, and following such expiration or termination no Party shall have any liability under this Agreement to the other Party, except that each Party shall remain liable for any breaches of this Agreement that occurred prior to its expiration or termination.

6. STANDARD OF PERFORMANCE

CSE shall use commercially reasonable efforts to provide the Services in accordance with the standards, practices and procedures established by CSE for its own operations, unless otherwise expressly provided in this Agreement. CSE shall comply with all laws, regulations, rules, policies, and orders applicable to CSE regarding the Services provided hereunder.

7. INTELLECTUAL PROPERTY RIGHTS.

- 7.1 **Licensed Services and Deliverables.** CPA shall have a limited, non-exclusive, non-sublicensable and non-transferable right during the Term to access and use the Services and Deliverables within the Territory, subject to the terms and conditions of this Agreement. The Services and Deliverables may be used by CPA only in connection with the SCCIP. CPA shall have no right to copy, in whole or in part, the Services and CPA shall not permit a third party to modify, adapt, translate, reverse engineer, decompile, disassemble, sublicense, redistribute, resell, rent, lease, remove any copyright or other proprietary notice from, or create derivative works based on the Services, or extract any component thereof for use with any other systems, applications, data or materials, or use or reproduce any part of the Services and Deliverables. CPA agrees that its access to and use of any software components, data, applications and/or related materials owned and controlled by third parties that interoperate with or are otherwise made available in connection with the Services (collectively, “**Third Party Materials**”) may be subject to separate terms and conditions as may be imposed from time to time by the third party involved; however, CSE is not aware of any software components, data, applications and/or related materials to which separate terms and conditions would be imposed on CPA. CSE agrees to provide CPA of advance notice of any such terms and conditions and collaborate with CPA for CPA to secure any rights if terms and conditions are imposed.
- 7.2 **Ownership of Services and Deliverables.** CPA shall promptly provide CSE with all CPA trademarks, trade names, service marks, logos, names, and distinctive identification (collectively, “**CPA Trademarks**”), information, materials, data, images and content required to perform the Services (collectively, “**CPA Materials**”) and information and data regarding CPA’s customers (“**CPA Data**”). CPA hereby grants to CSE a non-exclusive, non-sublicensable, , and non-

transferable right and license to use the CPA Materials, CPA Data, and CPA Trademarks as provided by CPA to CSE hereunder solely in connection with the development and creation of the Deliverables and performance of the Services. CSE's non-exclusive, non-sublicensable, and non-transferable right to use CPA Data includes CSE's right (i) to disclose such data to CEC as required under the Grant Agreement, and (ii) to disclose such data solely in aggregate or other de-identified form in connection with its business, including for benchmarking purposes and providing market reports and studies to third parties; provided that nothing contained herein authorizes CSE to disclose or otherwise reveal any Confidential Information contained in CPA Data. All goodwill resulting from CSE's use of the CPA Trademarks, CPA Data, or CPA Materials shall inure to the benefit of CPA. CPA owns all right, title, and interest in and to all CPA Materials, CPA Trademarks, CPA Product, and CPA Data, except for the limited rights and licenses granted to CSE under this Agreement. Upon the expiration of this Agreement, or in the event of termination, all CPA Materials, CPA Trademarks, CPA Product, and CPA Data, in whatever form and in any state of completion, shall remain the property of CPA and shall be promptly returned to CPA. Upon termination, Contractor may make and retain a copy of such CPA Materials, CPA Data, or CPA Product if required by law or pursuant to the Contractor's reasonable document retention or destruction policies.

8. DATA SECURITY. CSE shall implement commercially reasonable technological, physical and administrative safeguards designed to protect CPA Data from unauthorized access, use or disclosure. Such safeguards shall include measures designed to prevent access, use, modification or disclosure of CPA Data by CSE personnel except (a) as authorized by this Agreement, including, without limitation, as required by applicable law, or (c) as otherwise authorized by CPA in writing.

9. LIMITED WARRANTY. CSE warrants to CPA that the Services will be performed in a professional and workmanlike manner and in accordance with the specifications provided in the Scope of Work in all material respects. In the event of a breach of the warranty set forth in this Section 9, CSE agrees, as CSE's sole and exclusive obligation and CPA's sole and exclusive remedy, to use commercially reasonable efforts to re-perform the defective Services or to modify or correct the defective Deliverable, as applicable, at its sole costs and expense.

10. REPRESENTATIONS AND WARRANTIES.

10.1. **Mutual Representations and Warranties.** Each Party represents and warrants to the other Party that (a) it has the right, power and authority to enter into this Agreement and to perform the acts and grant such rights required of it under this Agreement, (b) the execution, delivery and performance of this Agreement by such Party has been duly authorized by all necessary organizational governance action and violates no applicable law to which it is subject; (c) the execution of this Agreement and performance of its obligations under this Agreement do not and shall violate no other agreement to which it is a party and (d) this Agreement constitutes the legal, valid and binding obligation of such Party when executed and delivered by each Party.

- 10.2. **CPA Materials and Trademarks.** CPA represents and warrants that (a) it owns the CPA Materials and CPA Trademarks and/or controls all necessary rights and licenses required for CSE's use of the CPA Materials and CPA Trademarks as set forth in this Agreement, (b) the CPA Materials and CPA Trademarks, and CSE's use thereof as contemplated hereunder, shall violate no applicable laws or misappropriate, violate or infringe upon the intellectual property, privacy, publicity or other proprietary rights of any third party, and (c) the CPA Materials shall not contain any content that is false, misleading, defamatory or obscene.
- 10.3. **No Other Warranties.** EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES AND THE PARTIES HEREBY DISCLAIM ANY REPRESENTATIONS, WARRANTIES OR GUARANTEES REGARDING ANY SERVICES (INCLUDING THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ANY PARTICULAR RESULT WILL BE OBTAIN BY USE OF THE SERVICES), DELIVERABLES, INFORMATION, CONTENT, PRODUCTS OR MATERIALS FURNISHED HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.

11. INDEMNIFICATION; LIMITATION OF LIABILITY.

- 11.1. **Mutual Indemnification.** Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold the other Party (the "**Indemnified Party**"), harmless, at the Indemnifying Party's own cost and expense, from and against any and all liabilities, losses, damages, injuries, judgments, amounts paid in settlement, costs and expenses, including reasonable attorneys' fees and costs, arising out of or related to any third party claim resulting from any material breach of any of the Indemnifying Party's representations or warranties specifically set forth in Article 5 of this Agreement. The Indemnifying Party shall solely conduct the defense of any such claim and all negotiations for its settlement; *provided that* (a) no settlement shall be agreed to without the Indemnified Party's prior written approval, and (b) the Indemnified Party may participate, at its own expense, in the defense and/or settlement of any such claim to protect its own interests.
- 11.2. CSE agrees to indemnify, defend, and hold harmless CPA, its employees, officers, and agents, from and against, and shall assume full responsibility for payment of all wages, state or federal payroll, social security, income or self-employment taxes, with respect to CSE's performance of this Agreement. CSE further agrees to indemnify, and hold harmless CPA from and against any and all third- party claims, liabilities, penalties, forfeitures, suits, costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees), which CPA may hereafter incur, become responsible for, or pay out, as a result of death or bodily injuries to any person, destruction or physical damage to tangible property, or any violation of governmental laws, regulations or orders, to the extent caused by CSE's negligent acts, errors or omissions, or the negligent acts, errors or omissions of CSE's employees, agents, or subcontractors while in the performance

of the terms and conditions of the Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of CPA, elected and appointed officers, employees, agents and volunteers.

- 11.3. **Infringement Indemnification.** CSE shall defend and hold CPA harmless from liability to third parties resulting from any claim that the Services infringe the United States patent or copyright of any third party, and will indemnify CPA from any damages, reasonable attorney fees and costs finally awarded against CPA as a result of such claim provided CSE is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement. Any settlement of such claim must be preapproved in writing by CPA. The foregoing obligations do not apply regarding portions or components of the Service (i) not supplied by CSE, (ii) made in whole or in part in accordance with CPA specifications, (iii) that are modified after delivery by CSE, (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, or, (v) where CPA continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement. If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by CSE to be infringing, CSE may, at its option and expense (a) replace or modify the Service to be non-infringing; *provided that* such modification or replacement contains substantially similar features and functionality, (b) obtain for CPA a license to continue using the Service, or (c) if neither of the foregoing is commercially practicable, terminate this Agreement and CPA's rights hereunder and provide CPA a refund of any prepaid, unused fees for the applicable Services.
- 11.4. **Limitations of Liability.** EXCEPT IN CONNECTION WITH A PARTY'S INDEMNIFICATION OBLIGATIONS IN ARTICLE 6, OR A PARTY'S GROSS NEGLIGENCE OR FRAUD, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR LOST PROFITS IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION OR THE BASIS OF THE CLAIM OR WHETHER OR NOT THE APPLICABLE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL CSE'S or CPA'S TOTAL, AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, WARRANTY, TORT OR OTHERWISE) EXCEED THE TOTAL FEES PAID BY CPA HEREUNDER DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE INCIDENT GIVING RISE TO SUCH CLAIM, EXCLUDING AMOUNTS PAID BY CPA TO CSE FOR PRODUCTS AND SERVICES PROVIDED BY THIRD PARTY SERVICE PROVIDERS UNDER THE SCOPE OF WORK FOR PRODUCTS, WHICH AMOUNTS ARE PAID OR PAYABLE BY CSE TO SUCH THIRD PARTY SERVICE PROVIDERS FOR SUCH PRODUCTS OR SERVICES.

12. CONFIDENTIAL INFORMATION.

- 12.1. **Handling of Confidential Information.** Subject to Section 9.1, each Party (each a “**Receiving Party**”) agrees not to disclose to third parties Confidential Information received from the other Party (“**Disclosing Party**”) and to not use such Confidential Information for its own benefit or the benefit of any other party, except in furtherance of the CC Incentive Program or the SCCIP. “**Confidential Information**” means information related to the business of the other Party, including without limitation, the terms and conditions of this Agreement, all business plans, technical information or data, product ideas, methodologies, algorithms and analytical routines, software, and all personnel, customer, suppliers, contracts and sale, financial and other information, ideas, materials or other subject matter of such Party, whether disclosed orally, in writing or otherwise, that is provided by Disclosing Party to the Receiving Party clearly marked as “Confidential” or a clear mark that would reasonably be understood to be considered confidential under the circumstances. The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as “Confidential” that clearly contain information that is not Confidential Information.
- 12.2. **Non-Disclosure.** Neither Party shall disclose Confidential Information of the other Party to any person, firm or enterprise, unless authorized by the other Party in writing, except that each Party may disclose such Confidential Information (a) to its employees, agents, sub-contractors, advisors and consultants with a legitimate need to know the same, (b) to CEC and CPA who may be under no obligation to maintain confidentiality of Confidential Information and (c) pursuant to applicable law, rule or regulation or compulsion of proper judicial or other legal process. Each Party also agrees not to publish or otherwise divulge such information, in whole or in part, in any manner or form, nor to authorize or permit any person who is employed by a Party to do so, and shall take reasonable measures to restrict access to such information while in such Party’s possession, to those employees needing such information to perform the work described herein, *i.e.*, on a “need to know” basis. Each Party agrees to immediately notify the other Party in writing if such Party determines or has reason to suspect a breach of this requirement has occurred.
- 12.3. **Grant Agreement.** Nothing in this Article 7 shall prohibit CSE from complying with its obligations under the Grant Agreement.
- 12.4. **Return or Destruction of Confidential Information.** Upon termination or expiration of this Agreement, upon request of the Disclosing Party to such effect, the Receiving Party shall return to the Disclosing Party or confidentially destroy (and certify such confidential destruction in a form reasonably acceptable to the Disclosing Party) all Confidential Information of such Disclosing Party, all documents and media containing such Confidential Information and any copies or extracts thereof. Upon written request by the Disclosing Party, the Receiving Party shall promptly cease, and shall cause its recipients to cease, use of such Confidential

Information and any information or materials that contain, incorporate or are derived from such Confidential Information.

- 12.5. **Exceptions.** Information shall not be Confidential Information if it is: (w) already known free of restriction at the time it is obtained by the Receiving Party, (x) subsequently learned by the Receiving Party from a third party without breach of this Agreement, (y) is or becomes publicly available through no fault, default or breach of or by the Receiving Party or (z) is independently developed by the Receiving Party without reference to or use of any Confidential Information of the Disclosing Party.
- 12.6. **Remedies.** Each party (as Receiving Party) acknowledges that the Disclosing Party considers its Confidential Information to contain trade secrets of the Disclosing Party or information exempt from disclosure and that any unauthorized use or disclosure of such information would cause the Disclosing Party irreparable harm for which remedies at law would be inadequate. Accordingly, each party (as Receiving Party) agrees that the Disclosing Party will be entitled, in addition to any other remedies available to it at law or in equity, to seek the issuance of injunctive relief, without bond, enjoining any breach or threatened breach of the Receiving Party's obligations hereunder regarding the Confidential Information of the Disclosing Party, and such further relief as any court of competent jurisdiction may deem just and proper.
- 12.7. **California Public Records Act.** The Parties acknowledge and agree that the Agreement including but not limited to any communication or information exchanged between the Parties, any Deliverable, or work product are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).
- 12.8. **Third Party Request for Confidential Information.** Upon request or demand of any third person or entity not a Party hereto pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("Requested Confidential Information"), CPA will as soon as practical notify CSE in writing via email that such request has been made. CPA will be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release to the third party of the Confidential Information designated by CSE. If CSE takes no such action after receiving the foregoing notice from CPA, CPA shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If CSE does take or attempt to take action to prevent disclosure, CSE agrees to indemnify and hold harmless CPA, its officers, directors, employees and agents ("CPA Indemnified Parties"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of CPA's directors, officers, employees, contractors, or agents for CSE's attempt to prevent disclosure or CPA's refusal to disclose any Confidential Information.

13. GOVERNING LAW; DISPUTE RESOLUTION.

- 13.1. **Governing Law.** This Agreement shall be construed and enforced under the substantive laws of the State of California.
- 13.2. **Disputes.** In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, the Parties shall use their best efforts to settle such dispute, claim, question, or disagreement. To this effect, the Parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If the Parties do not reach such solution within sixty (60) days, upon notice by either Party to the other, such dispute, claim, question, or disagreement shall be submitted to binding arbitration under Section 9.C below

14. INSURANCE

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to CPA within 10 business days after the Agreement is fully executed. CPA shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page. The certificate(s) of insurance and required endorsement shall be furnished to CPA prior to commencement of work and maintained throughout the Term and any Renewal Term. Each certificate shall provide for thirty (30) days advance written notice to CPA of any cancellation or reduction in coverage. Said policies shall remain in force through the life of this Agreement and shall be payable on a per occurrence basis only, except those required by paragraph (d) below which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation on CSE's obligation under paragraph 6 of this Agreement to indemnify, defend, and hold CPA harmless from any and all liabilities arising from the CSE's negligence, recklessness or willful misconduct in the performance of this Agreement. CPA agrees to timely notify the CSE of any negligence claim.

Failure to provide and maintain the insurance required by this Agreement will constitute a material breach of the Agreement. In addition to any other available remedies, CPA may suspend payment to the CSE for any services provided during any time that insurance was not in effect and until such time as the CSE provides adequate evidence that CSE has obtained the required coverage.

14.1 General Liability

CSE shall maintain a commercial general liability insurance policy in an amount of no less than one million (\$1,000,000.00) with a two million dollar (\$2,000,000.00) aggregate limit. CPA shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page.

14.2 Auto Liability

Where the services to be provided under this Agreement involve or require the use of any type of

vehicle by CSE in order to perform said services, CSE shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars combined single limit (\$1,000,000.00).

14.3 Workers' Compensation

The CSE acknowledges the State of California requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code. If CSE has employees, a copy of the certificate evidencing such insurance or a copy of the Certificate of Consent to Self-Insure shall be provided to CPA prior to commencement of work.

14.4 Professional Liability Insurance

Coverages required by this paragraph may be provided on a claims-made basis with a "Retroactive Date" either prior to the date of the Agreement or the beginning of the contract work. If the policy is on a claims-made basis, coverage must extend to a minimum of twelve (12) months beyond completion of contract work. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "retroactive date" prior to the Agreement effective date, the CSE must purchase "extended reporting" coverage for a minimum of twelve (12) months after completion of contract work. CSE shall maintain a policy limit of not less than \$1,000,000.00 per incident. If the deductible or self-insured retention amount exceeds \$100,000.00, CPA may ask for evidence that CSE has segregated amounts in a special insurance reserve fund or CSE's general insurance reserves are adequate to provide the necessary coverage and CPA may conclusively rely thereon.

CSE shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Agreement. CSE shall monitor the safety of the job site(s) during the project to comply with all applicable federal, state, and local laws, and to follow safe work practices.

15 GENERAL

15.1 Assignment. Neither Party may assign or transfer this Agreement, or any rights or obligations hereunder, to any other Party without the other Party's prior written consent and any attempt to do so shall be void *ab initio*; *provided that* without the consent of the other Party, a Party may make an assignment of this Agreement through merger, consolidation or sale of all or substantially all of such Party's assets.

15.2 Delegation. Notwithstanding Section 11.A above, CPA agrees that CSE may assign, subcontract or otherwise delegate any of its functions or duties to be performed hereunder to another qualified person or CPA, *provided that* such assignment, subcontract or delegation will not relieve CSE of its obligations under this Agreement. CSE shall provide notice of any such assignment, subcontract or other delegation.

15.3 Non-Discriminatory Employment. CSE and/or any permitted subcontractor, shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age, protected veteran status, or condition of disability. CSE and/or any permitted subcontractor understands and agrees that CSE and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all federal, state and local statutes, regulations and ordinances.

15.4 Retention of Records and Audit Provision. CSE and any subcontractors authorized by the terms of this Agreement shall keep and maintain on a current basis full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to this Agreement. Such records shall include, but not be limited to, documents supporting all income and all expenditures. CPA shall have the right, during regular business hours, to review and audit all records relating to this Agreement during the Agreement period and for at least five (5) years from the date of the completion or termination of this Agreement. Any review or audit may be conducted on CSE's premises or, at CPA's option, CSE shall provide all records within a maximum of fifteen (15) days upon receipt of written notice from CPA. CSE shall refund any monies erroneously charged. CSE shall have an opportunity to review and respond to or refute any report or summary of audit findings, and shall promptly refund any overpayments made by CPA based on undisputed audit findings.

15.5 Conflict of Interest

No CPA employee whose position with the CPA enables such employee to influence the award of this Agreement or any competing Agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by the contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of CSE who may financially benefit from the performance of work hereunder shall in any way participate in the CPA's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the CPA's approval or ongoing evaluation of such work.

CSE shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. CSE warrants that it is not now aware of any facts that create a conflict of interest. If CSE hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to CPA. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this paragraph shall be a material breach of this Agreement.

15.6 Publicity

CSE shall provide CPA prior notice of any press release or any public statement regarding the Agreement, Services contemplated by this Agreement, or any other related transaction that is planned to be released and shall collaborate with CPA on the content of any such public statement.

15.7 Compliance with Applicable Laws

CSE shall comply with any and all applicable federal, state, and local laws, including any policies or resolutions adopted by CPA affecting Services and Deliverables covered by this Agreement.

15.8 Nondiscriminatory Employment

CSE and/or any permitted subcontractor, shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age, protected veteran status, or condition of disability. Contractor and/or any permitted subcontractor understands and agrees that Contractor and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all federal, state and local statutes, regulations, ordinances, policies, or resolutions.

15.9 No Recourse against Constituent Members

CPA 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 the Joint Powers Agreement and is a public entity separate from its constitute members. CPA shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. CSE shall have no rights and shall not make any claims, take any actions or assert any remedies against any of CPA's constituent members in connection with this Agreement.

15.10 Independent Contractor

CSE acknowledges that CSE, its officers, employees, or agents will not be deemed to be an employee of CPA for any purpose whatsoever, including, but not limited to: (i) eligibility for inclusion in any retirement or pension plan that may be provided to employees of CSE; (ii) sick pay; (iii) paid non-working holidays; (iv) paid vacations or personal leave days; (v) participation in any plan or program offering life, accident, or health insurance for employees of CSE; (vi) participation in any medical reimbursement plan; or (vii) any other fringe benefit plan that may be provided for employees of CSE.

CSE declares that CSE will comply with all federal, state, and local laws regarding registrations, authorizations, reports, business permits, and licenses that may be required to carry out the work to be performed under this Agreement. CSE agrees

to provide CPA with copies of any registrations or filings made in connection with the work to be performed under this Agreement.

- 15.11 Notices.** All notices and other communications required or permitted under this Agreement shall be in writing and delivered personally, mailed via an nationally recognized overnight courier or sent via email correspondence (with confirmation of receipt), to the applicable Party at the addresses set forth below, unless, by notice, a Party changes or supplements the addressee and addresses for giving notice. All notices shall be deemed given on the date personally delivered, when placed in the mail as specified or upon confirmation of email receipt.

If to CSE:

Center for Sustainable Energy
3980 Sherman Street, Suite 170
San Diego, CA 92110
Attention: Notice Officer
E-mail: legal@energycenter.org

With a copy to (which shall not constitute notice):

Raghav Murali, General Counsel; raghav.murali@energycenter.org

If to CPA:

Ted Bardacke, Executive Director
801 S. Grand Avenue, Suite 400
Los Angeles, CA 90017
(213) 269-5890
Email: tbardacke@cleanpoweralliance.org

With a copy to (which shall not constitute notice):

Nancy Whang, General Counsel
801 S. Grand Avenue, Suite 400
Los Angeles, CA 90017
Email: nwhang@cleanpoweralliance.org

Jack Clark, Director of Customer Programs
801 S. Grand Avenue, Suite 400
Los Angeles, CA 90017
Email: jclark@cleanpoweralliance.org

- 15.12 Force Majeure.** Notwithstanding anything to the contrary herein, except regarding a Party's payment obligations, neither Party shall be in breach of this Agreement or incur any liability to the other in connection with any failure to perform any of its obligations hereunder to the extent that performance of such obligations is prevented or materially hindered by reason of strikes, lockouts, restrictive

governmental or judicial orders or decrees, riots, insurrection, war, acts of God or any other reason or event reasonably beyond such Party's control.

- 15.13 Miscellaneous.** If any part of this Agreement is held invalid, illegal or unenforceable, the remaining provisions shall be unimpaired. No amendment, modification, course of conduct or supplement to this Agreement shall be binding upon the Parties unless made in writing and duly signed by both Parties. No waiver, failure or delay in enforcing any provision, exercising any option or requiring any performance may be construed to be a continuing waiver or a waiver of that or any other provision in the future. The terms "include," "includes," and "including," whether or not capitalized, mean "include, but are not limited to," "includes, but is not limited to," and "including, but not limited to," respectively and are to be construed as inclusive, not exclusive. Captions of the Articles, Sections and sub-sections of this Agreement are intended solely for convenience and no provision is to be construed by reference to the caption of any Article, Section, or sub-section. Except as expressly stated herein, the Parties' respective rights and remedies as stated herein are cumulative and not to the exclusion of each other or of any other rights or remedies a Party may have hereunder or at law or in equity; a Party may decline to exercise any one or more of its rights and remedies as it may deem fit, without jeopardizing any other rights and remedies it may have hereunder or at law or in equity. This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or CPA not a party to this Agreement.
- 15.14 Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but which taken together shall constitute one and the same instrument. A facsimile or other reproduction of this Agreement may be executed by one or more parties hereto, and an executed copy of this Agreement may be delivered by one or more parties hereto by facsimile or similar electronic transmission device under which the signature of or on behalf of such party can be seen, and such execution and delivery shall be considered valid, binding and effective for all purposes.
- 15.15 Entire Agreement.** This Agreement (which includes Appendix I) and any other exhibits or schedules attached hereto, constitutes the entire agreement between the Parties regarding the subject matter hereof and supersedes any prior or inconsistent agreements, negotiations, representations and promises, written or oral.

[signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**CENTER FOR SUSTAINABLE
ENERGY**

CPA

By: _____

By: _____

Name: _____
[Type or Print]

Name: Theodore Bardacke _____
[Type or Print]

Title: _____

Title: Executive Director _____

Exhibit A**SCOPE OF WORK****0. TASK 1: INCENTIVE PROJECT DESIGN**

- a. The goal of this task is to work with CPA to design a targeted incentive project in Ventura County.
- b. Center for Sustainable Energy incentive design work will consist of:
 - i. Research and analyze EV charger incentive project opportunities along the following parameters:
 1. Market opportunities to incentivize the deployment of EV chargers;
 2. Expected or potential demand for EV chargers;
 3. Currently available EV charger incentives relevant to proposed project;
 4. Attainable Policy objectives (e.g., disadvantaged communities);
 5. Budget constraints and opportunities;
 6. Funding source requirements;
 7. Definition of applicant eligible for incentive payment funded by the *CPA*
 8. Other relevant project design variables that are developed in the course of the design sessions and included by amendment in this section 1.b.i.
 - ii. Create a targeted incentive design package, contingent upon consultation and approval of Project Partners:
 1. Allocation of incentives by geographic location (by jurisdiction) for each funding partner;
 2. Eligible sites definition (e.g., destination, workplace, multi-unit dwellings, corridors, disadvantaged communities);
 3. Eligible applicant definition by funder;
 4. Minimum technical requirements for eligible EV charging equipment;
 5. Amount of incentive by type of EV charger;
 6. Funding source(s) utilized for each type of incentive;
 7. Total amount of incentive funding allocated to the project;

8. Incentive structure (e.g., incentive payment system disbursing incentives after chargers are installed, or other appropriate incentive);
9. SCCIP goals;
10. Anticipated SCCIP and SCCIP roll-out and administration schedule;
11. Definition of charger data to be collected and methodology for collecting the data;
12. Application support services consisting of CSE staffed help desk to respond via phone and email to applicant eligibility and application process questions;
13. Application documentation requirements;
14. Internal processes and controls, processes and procedures to do the following: receive, handle, and account for and manage incentive funding, including funding from multiple sources; receive and evaluate incentive requests; effect payment for valid incentive payment requests; and provide monthly fiscal accounting and reporting to the CPA.
15. Any chargers installed using funding from CPA in the Project will be required to enroll in any future demand response, grid optimization, and/or load shaping programs implemented by CPA. CSE shall provide CPA with standard applicant and application information necessary for CPA to enroll said chargers in noted programs. CPA shall provide mechanisms to opt-out from any such program. CPA shall coordinate directly with any affected applicants to acquire any information, outside of standard application information, necessary to enroll the chargers in noted programs. Such programs will aim to curtail energy usage for each charging port during times of high grid demand such as daily demand peaks and critical grid events, as determined by CPA. These curtailments will be designed to minimally impact EV drivers that are charging during these times whenever possible. Any future program will, by design, not incur any additional costs or expenses to the Customer.

0. Task 1 Deliverables:

- a. Final Incentive Design Package to capture the following:
 - i. A brief description on the results for each item in Task 1.b
 - ii. A funding distribution table outlining allocations by funder, jurisdiction, and technology type
- b. Project Implementation Manual, consisting of
 1. Eligibility requirements

- a. Equipment categories
 - b. Equipment Eligibility Criteria
 - c. Eligible costs
 - d. Eligible Sites
 - e. Incentive Payment amounts
 - f. Maximum incentive payment limits per *Entity (including CPA)*
2. Applicant Duties
- a. Applicant Requirements
 - b. Research Participation
 - c. Application Process
 - d. Installation and operation requirements
 - e. Installation data
 - f. Usage data
- 1. TASK 2: DEVELOPMENT AND CONFIGURATION OF INCENTIVE PROCESSING WEBSITE**
- a. The goal of this task is to design, develop, configure and launch a robust, user-friendly project website.
 - b. The SCCIP Landing Page will include:
 - i. A funding visualization, including the amount of funding available and remaining amounts for each technology, within each County.
 - ii. Instructions, forms and FAQs to parties interested in participating in the SCCIPs.
 - iii. Technology requirements, funding amounts for each specific technology and description of eligible locations.
 - iv. Description of eligible costs under the SCCIP.
 - v. Application process description and diagram.
 - vi. Attribution of the SCCIP to *CPA* and *CEC*.
 - c. The online application will include:

- i. The ability for interested parties to indicate if they are customers of the CPA
 - ii. The ability for interested parties to submit required documents to participate in SCCIPs, including application forms, payment requests, and appropriate documentation.
 - d. The user and application dashboards will include:
 - i. The capability for incentive participants to access, in real time, the status of incentive applications and payments.
 - ii. The capability for incentive participants to designate collaborators on their application for purposes of authorizing others to track and submit information on their behalf.
- 2. Task 2 Deliverables:**
 - a. SCCIP Landing Page design and content
 - b. Online application form and process
 - c. User and application dashboards
- 3. TASK 3: EV CHARGER INCENTIVE PROJECT MARKETING, EDUCATION & OUTREACH**
 - a. The goal of this task is to market the SCCIP to relevant target audiences, and to provide basic support to applicants to file applications and pursue their EV charging installation projects. To accomplish this CSE will:
 - i. Develop an Integrated Communications Plan for the SCCIP The plan will identify the goals of the marketing and outreach effort, target audience(s), methods/tactics/channels to be used, and will include a schedule to coordinate the marketing activities. The plan will include specific focus on Disadvantaged Communities (DAC)/Low Income Communities (LIC). The exact audiences (e.g. workplaces, multi-unit dwellings, affordable housing, and destination locations) to target will be included with methods/tactics and channels to reach them.
 - ii. Develop marketing and outreach materials to reflect the communication plan developed in 3.1(a). Marketing and outreach material development will be coordinated with the *CPA*.
 - iii. Develop a marketing budget (which is included in the seven (7) percent administration cost) covering both labor and other direct costs (e.g. digital ads, travel, etc.) necessary for executing on the communication plan developed in Section 5.a.i.

- iv. Develop FAQs and other similar EV charging information resources for applicant use in pursuing EV charging installation projects.
- v. Provide email and phone support of basic inquiries that applicants have on EV chargers and EV charging installation. Basic inquiry support will consist of:
 - 1. Reference to and provision of CSE curated ‘EV charging 101’ resources on:
 - a. EV charger capabilities;
 - b. EV charger network characteristics and capabilities;
 - c. Ballpark EV charger load considerations;
 - d. Typical EV charger installation requirements and best practices;
 - e. Typical utility connection requirements; and
 - f. Similar common EV charger basic information.
 - 2. Availability of CSE staff typically providing EV Expert services to field incoming inquiries.
- vi. Provide regular reports (as part of the Monthly Progress Reports) detailing marketing activities against Key Performance Indicators (KPIs).
- vii. Provide log of basic EV charging installation project inquiries.

4. Task 3 Deliverables:

- a. Integrated Communications Plan
- b. Marketing / Outreach materials
- c. Marketing Budget
- d. Regular marketing reporting on Key Performance Indicators

5. TASK 4: EV CHARGER INCENTIVE PROJECT ADMINISTRATION

- a. The goal of this task is to administer the SCCIP and CPA Incentive created in Tasks 1-3. Center for Sustainable Energy will:
 - i. Receive, evaluate, and process incentive payment requests.
 - 1. For all incentive payment applicants, the process will include:

- a. Requirement that applicant indicate if they have filed for bankruptcy within the last five years and, if so, to provide relevant details certifying under penalty of perjury that the information provided is accurate and complete.
 - i. If bankruptcy is identified and has occurred within 5 years of the date of the Application, CSE shall inform CPA of any such applications and shall refrain from issuance any incentive payment unless and until such payment is authorized in writing by CPA.
 - b. Requirement that applicant indicate if they have any threatened or pending legal actions by or against them, loan defaults, or unpaid judgments against them.
 - i. If any threatened or pending legal actions, loan defaults, or unpaid judgements are identified, CSE shall inform CPA of any such applications and shall refrain from issuance any incentive payment unless and until such payment is authorized in writing by CPA.
 - c. Tracking and timely reporting in writing to CPA of any:
 - i. complaints about the SCCIP
 - ii. programmatic issues arising in the operation of the SCCIP
 - iii. knowledge of any threatened or actual legal actions involving any SCCIP or incentive applicants, applications, payments (e.g., alleged false information provided in an incentive application or threatened or actual lawsuits over the SCCIP)
 - iv. As needed, CSE shall provide CPA personnel or other personnel as directed by CPA with all project documents, files and records requested in support of the Commission investigating and resolving any such issues.
 - d. Prohibition against applicant submission of materials marked as confidential without prior written approval and instructions from the CPA. CPA is a public agency, and as such is subject to the Public Records Act. CSE shall not agree to keep any incentive application information confidential.
 - e. Fair and impartial program administration, including provision of information in a public manner that avoids giving advantage to any applicant or group of applicants.
2. For each incentive applicant that is a business, prior to the issuance of an incentive payment the evaluation will include:

- a. confirmation that the applicant is currently licensed to do business in California; and
- b. confirmation of “active” status for businesses required to register with the California Secretary of State;
- c. Coordination with Clean Power Alliance to validate each installation site as a Clean Power Alliance customer.

6. Task 4 Deliverables: Processed applications

7. TASK 5: DATA COLLECTION

- a. The goal of this task is to collect data on the project applications, implementation and charger utilization. CSE will:
 - ii. Collect, analyze and compile data on the SCCIP, which may include without limitation:
 - a. All application information including associated supporting documents, equipment installed, and project cost detail;
 - b. Type of organizations receiving incentive payments;
 - c. Timelines to complete each incentive payment project;
 - d. Time frames associated with EV charger installations;
 - e. Ongoing access to EV charger utilization.

8. Task 5 Deliverables:

- a. Data Collection Report
 - i. Dashboard displaying application and installation cycle times, updated weekly.

9. TASK 6: ADMINISTRATION

- a. **Monthly progress reports** The goal of this task is to provide the reporting that will allow monthly verification that satisfactory and continued progress is made towards achieving the objectives of this Agreement on time and within budget.
- b. **Deliverables:** The monthly reporting will consist of:
 - i. Summary of activity during the reporting period for the purpose of determining whether invoices are consistent with the work performed
 - ii. Summary of activities planned for the next reporting period.

- iii. KPI reports for marketing activities (Section 5.a.vi.)
- iv. Complaints, programmatic issues and actual or threatened litigation regarding applicants or the SCCIP (as identified in Section 7.a.i.1)

c. Annual and Final Report

- i. CSE will prepare annual reports and final report for CPA. The document will be of a professional standard appropriate for review by elected officials, CPA Board members and members of the public.

10. Task 6 Deliverable: A Final Report that shall include:

- a. Data about the EV chargers and applicants participating in the program during implementation of the SCCIP.
- b. Survey of all hosts to assess their satisfaction with the program and recommendations for improvement.
- c. Assessment of the program including impact of the program on increasing baseline public charging that would have occurred without the program.
- d. Calculations of GHG emission reductions and other environmental benefits from installation and usage of EV charging infrastructure.
- e. Recommendations for future program including operational improvements and considerations associated with the changing EV market.
- f. Other elements as mutually determined and codified by an amendment revising Exhibit A (Scope of Work).

11. PROJECT REPRESENTATIVES

- a. CSE’s Project Representative shall be Peter Colwell.
- b. CPA’s Project Representative shall be Jack Clark.

12. ACCOUNT AND FUNDS MANAGEMENT

- a. CSE shall deposit and maintain separate accounts for CEC Funds (defined in recitals) available for funding incentive payments (“**CEC Account**”) and CPA’s Funds (defined below) available for funding incentive payments (the “**CPA Account**”, and the CEC Account and CPA Account are collectively, “**Incentive Funds Accounts**”).
- b. Except for the Implementation Fee, CSE shall utilize the funds in the CPA Account (“**CPA Funds**”) solely for the payment of eligible incentive payment claims submitted by CPA customers and in accordance with other requirements applicable to the CPA Incentive Program. The requirements for a person or business to be deemed to be a

CPA customer shall be set forth in the Project design that will be established pursuant to Section 1.b.i.7 of the Scope of Work.

- c. CSE shall inform CPA within five business days after the end of each calendar month the amount of Funds in the CPA Account and the CEC Account.
- d. CSE shall coordinate with CPA and CEC so as to maintain balances in the Incentive Funds Accounts that reflect the contribution percentages agreed to by CEC and CPA. Accordingly, on an as needed basis, CSE shall provide to CPA a written request for funding from CPA committed funds (a “**Funding Request**”) to the CPA Account, and CPA shall endeavor to promptly, but no later than 30 days after receipt of a Funding Request, send funds to the CPA Account in the amount requested in the Funding Request; *provided that* CPA is under no obligation to fund amounts that would result in funding to the CPA Account an aggregate amount greater than the agreed to monies intended to be used to fund incentive payments..
- e. If an incentive payment applicant meets the eligibility requirements of the SCCIP and the eligibility requirements of the SCCIP, CSE shall draw ratably in proportion to the amounts available at such time in each of the CPA Account and the CEC Account to fund the incentive payment owing to such incentive payment applicant.
- f. If an incentive payment applicant meets the eligibility requirements of the CEC incentive program, but not the eligibility requirements of the SCCIP, CSE shall draw from the CEC Account to fund the incentive payment owing to such incentive payment applicant.

13. Territory

The Services and Deliverables will be provided and accessible solely within the Entities territory in the State of California and other areas in the State of California where CPA has legal authorization to serve its customers (the “**Territory**”).

Exhibit B

Payment Terms

Payment of Administration Fee. The Administration Funds shall be \$37,000 in total, and shall be paid by CPA to CSE as follows.

1. 50% of the Administration Fee (\$18,500) paid after deliverables described in Tasks 1 through 3 of Exhibit A are provided, which is expected to coincide with launch of SCCIP (July/2021);
2. 20% of the Administration Fee (\$7,400) paid after processing of applications resulting in at least 75% of total SCCIP incentive funds reserved;
3. 20% of the Administration Fee (\$7,400) paid after at least 40% of total SCCIP incentive funds are paid out;
4. 10% of the Administration Fee (\$3,700) paid after all SCCIP incentive funds are paid out and Final Report (Task 6) is provided.

Payment of Incentive Funds. The Incentive Funds shall be \$533,000 in total, and shall be paid by CPA to CSE as follows.

1. Up to \$339,950 of incentive funds shall be made available to SCCIP applicants at launch (July/2021), and will be payable to CSE following Invoicing for Payment of Incentive Funds and at the time applications reach Documents Received (i.e. point in application process where applicants provide required documents for final CSE review immediately preceding incentive approval and payment) stage in the amounts of the applications at that stage.
2. Up to \$193,050 of incentive funds shall be made available to SCCIP applicants approximately one year after initial launch, and will be payable to CSE following Invoicing for Payment of Incentive Funds and at the time applications reach Documents Received stage in the amounts of the applications at that stage.

Invoicing

Invoicing for Administration Fees: CSE will prepare and deliver to Entity an invoice for the payment of Administration Funds. Each invoice will be accompanied by a brief report supporting the associated deliverables or thresholds for payment have been met. Entity payment is required Net 30 of the date CPA receives the invoice.

Invoicing for Payment of Incentive Funds: CSE will prepare and deliver to Entity an invoice for the payment of Incentive Funds no more frequently than monthly and at each point noted above in this exhibit. Each invoice will be accompanied by documentation satisfactory to CPA demonstrating that the associated threshold for payment has been met. Entity payment is required

Net 30 of the date CPA receives the invoice. CSE shall keep the funds in an interest-bearing account. The interest earned shall accrue for the benefit of CPA and only be used for this Agreement upon approval of the Entity.

EXHIBIT C

SCCIP Pillar Requirements

2020 CALeVIP Pillar Requirements

The California Electric Vehicle Infrastructure Project (CALeVIP) is the California Energy Commission's (CEC) statewide project for public EV infrastructure incentives. The following sections summarize the process, technology, rebate and site eligibility requirements for South Central Coast Incentive Project. These requirements have been developed based on best practices and input from project stakeholders. These requirements are critical for establishing a regional incentive project and cannot be modified.

Process Requirements

- Applications must be submitted online
- Applications approved on first-come first-served basis once all required application documents are submitted
- Applications are not competitively scored or reviewed against one-or-another
- CALeVIP uses EVI-Pro to determine funding levels for each technology within each county and Energy Commission funding will not be negotiable

CALeVIP Technology Requirements

- Level 1 Chargers: Not Eligible
- Level 2 Chargers:
 - Include a J-1772 connector
 - Capable of at least 6.2kW
 - Networked with a minimum 2-year networking agreement
 - Must be new (not refurbished, not previously installed and removed)
 - Must be able to revert to an open standard protocol
 - Must be Energy Star Certified
 - Must be listed by a Nationally Recognized Testing Laboratory
 - Must accept at least two payment methods (if payment is required)
 - Acceptable payment methods may include (but are not limited to) mobile app-based payment, a toll-free phone number, near-field communications (NFC) or onsite card reader
 - Level 2 chargers “installed” on and after July 1, 2023 must comply with SB 454 updated payment requirements.
- Direct Current Fast Charger (DCFC):
 - Charger must have both a CHAdeMO and Combined Charging System (CCS) connector
 - Capable of at least 50kW
 - Networked with a minimum 5-year networking agreement

- Must be new (not refurbished, not previously installed and removed)
- Must be able to revert to an open standard protocol
- Must be listed by a Nationally Recognized Testing Laboratory
- Must accept at least two payment methods (if payment is required)
 - Acceptable payment methods may include (but are not limited to) mobile app-based payment, a toll-free phone number, near-field communications (NFC) or onsite card reader
 - DC fast chargers “installed” on and after January 1, 2022 must comply with SB 454 updated payment requirements

CALeVIP Rebates

- **Level 2 Chargers:**
 - An “up-to” incentive amount per connector or percentage of project costs, whichever is less
 - Sites deemed in a designated DAC or low-income community are allotted an incentive adder, increasing the “up-to” dollar amount per connector
 - One site per application
 - New or replacement chargers are eligible
 - Each application may apply for up to ten (10) rebate limit for Level 2 chargers
 - Additional chargers may be installed but will not receive rebate funding from CALeVIP
 - A maximum of four (4) Level 2 charger rebates may be applied for as part of a combination DC Fast Charger and Level 2 application for the same site
- **DC Fast Chargers:**
 - New or replacement chargers are eligible
 - Incentives provided as an “up-to” dollar amount or percentage of total project cost, whichever is less
 - Sites deemed in a designated DAC or low-income community are allotted an incentive adder, increasing the “up-to” dollar amount per connector
 - Each application can apply for an “up to” a designated quantity of DC fast chargers
 - (Maximum quantity to be determined by Energy Commission and Partners in project design)
 - Additional chargers may be installed but will not receive rebate funding from CALeVIP.

CALeVIP Site Eligibility

- **Both Technologies**
 - Eligible sites are county wide and not geo-specific/eligible
- **Level 2 Chargers**

- Must be available to the public 24 hours a day year round
 - Car-sharing/e-mobility service installations are eligible
 - Must be shared use (cannot be dedicated to a single driver)
 - Sites serving single-family residences or dedicated drivers/users are not eligible to receive CALeVIP funds
 - Local and state contracting licensing requirements are applicable
 - Applications going from Initial Verification to Funds Reserved on or after September 1, 2021 are required to use EVITP certified electricians consistent with the specifications in AB 841
 - Must not be located behind a gate or have restrictions for public use and access
 - Projects must pay contractors Prevailing Wage
 - May serve public or private sites
 - May serve light-duty fleets
 - Medium-duty vehicles can also use, as long as the chargers are primarily being used for the site's light-duty fleet and medium-duty vehicles are secondary
- **DC Fast Chargers**
 - Must be available to the public 24 hours a day year round
 - Local and state contracting licensing requirements are applicable
 - Applications going from Initial Verification to Funds Reserved on or after September 1, 2021 are required to use EVITP certified electricians consistent with the specifications in AB 841
 - Projects must pay contractors Prevailing Wage.
 - Must not be located behind a gate or have restrictions for public use and access
 - Must be a site type that is listed as Eligible for DCFC or Combo installations

Exhibit D

SCCIP Rebate Amounts

DCFC Power Level	General Market Rebate	Disadvantaged Community/Low-Income Rebate
50 kW - 99.99 kW	Up to \$30,000; or 75% of the total project cost, whichever is less	Up to \$40,000; or 75% of the total project cost, whichever is less
100 kW+	Up to \$60,000; or 75% of the total project cost, whichever is less	Up to \$80,000; or 75% of the total project cost, whichever is less

Eligible Rebates for Level 2 Chargers	Amount per Connector
Base Rebate	Up to \$3,500 per connector, or 75% of project costs, whichever is less
Disadvantaged Community (DAC) or Low-Income Community (LIC)	Additional \$500
Multi-unit dwelling (MUD) site	Additional \$2,000

Minimum Investment in Disadvantaged / Low-Income Communities

A minimum of 50% of available incentive funds will be committed to Disadvantaged and Low Income Communities in the South Central Coast incentive project. CEC and project partners may consider adjustments to the DAC/LIC minimum investment, if when incentive project closeout begins and after full marketing efforts (including to DAC/LIC audiences) insufficient demand has materialized to meet the DAC/LIC minimum investment.

INCENTIVE PROGRAM IMPLEMENTATION SERVICES AGREEMENT

This Incentive Program Implementation Services Agreement (including Appendix I (*Scope of Work*), this “**Agreement**”) is entered into as of May 6, 2021 (“**Effective Date**”) by and between Center for Sustainable Energy, a California nonprofit public benefit corporation recognized as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code of the United States (“**CSE**”) and Clean Power Alliance, a joint powers authority organized under the laws of California (“**CPA**”). CPA and CSE may be individually referred to herein as “**Party**” or collectively as “**Parties.**”

RECITALS

WHEREAS the California Energy Commission (“**CEC**”) approved funding for and designated CSE to design and implement up to \$200 million in electric vehicle charger incentive projects throughout California (“**CALeVIP Funding**”) and CSE has accepted the CALeVIP Funding under the terms and conditions of that certain Grant Agreement (ARV-16-017) effective as of June 27, 2017 (the “**Grant Agreement**”).

WHEREAS CEC has authorized CSE to deploy a portion of CALeVIP Funding (the “**CEC Funds**”), of \$22,000,000, towards an incentive program in the four county (Los Angeles, Orange, Riverside, and San Bernardino) Southern California of CPA’s Los Angeles County service territory (the “**Southern California Level 2 Incentive Project**” or “**SCIPL2**”).

WHEREAS CPA provides locally-controlled, carbon-free electricity to residents and businesses for 32 member agencies in Los Angeles and Ventura Counties.

WHEREAS CPA desires to promote more rapid deployment of public and private infrastructure that will accelerate adoption of electric vehicles in its service territory, CPA will dedicate up to one million dollars (\$1,000,000) to the SCIPL2. Funding (the “**CPA Funds**”) will be identified and allocated by CPA’s Board of Directors (“**Board**”). Monies are intended to be used to fund incentive payments that will be paid to public and private property owners and business owners that install electric vehicle chargers that meet specific standards in CPA’s service territory, all in connection with the incentive payment project to be developed and administered under this Agreement for the SCIPL2. CPA Funding is contingent on SCIPL2 receipt of CEC Funding in the amount of \$22,000,000 no later than at the start of the Project launch.

WHEREAS CPA desires to hire CSE to develop and administer the SCIPL2 in consideration of payment of a fee in accordance with the terms and conditions set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual terms and conditions, promises, covenants, and payments contained in this Agreement, together with all exhibits, CSE and CPA agree as follows:

1. EXHIBITS AND ATTACHMENTS

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A – Scope of Work
- Exhibit B – Payment Terms
- Exhibit C – Pillar Requirements
- Exhibit D – SCIPL2 Rebate Amounts

Should a conflict arise between language in the body of this Agreement and any exhibit or attachment to this Agreement, the language in the body of this Agreement controls, followed by Exhibit A, B, C, and D in that order.

2. SERVICES TO BE PERFORMED BY CSE

In consideration of the payments set forth in this Agreement and in Exhibit C, Contractor shall perform services for CPA in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A (“**Services**”), Exhibit C, and Exhibit D, and provide any deliverables specified therein (“**Deliverables**”).

3. COMPENSATION

CPA agrees to compensate CSE as specified in Exhibit B:

In consideration of the Services provided by Contractor in accordance with all terms, conditions and specifications set forth in this Agreement and Exhibits A, C, and D, CPA shall make payment to Contractor in the manner specified in Exhibit B

All payments must be made in U.S. dollars.

4. TERM

Subject to compliance with all terms and conditions of this Agreement, the term of this Agreement is effective from the Effective Date until December 31, 2024 (“**Term**”).

5. TERMINATION

- 5.1. **Termination for Convenience.** CPA may terminate the Agreement in accordance with this paragraph whenever CPA determines that termination is in CPA’s best interests. A termination for convenience, in part or in whole, shall take effect by CPA delivering to Contractor, at least one hundred twenty (120) calendar days prior to the effective date of the termination or prior to a Notice of Termination specifying the extent to which performance of the Services under the Agreement is terminated.

If the termination for convenience is partial, CSE may submit to CPA a request in writing for equitable adjustment of price or prices specified in the Agreement relating to the portion of this Agreement which is not terminated. CPA may, but shall not be required to, agree on any such equitable adjustment provided that any

funds previously reserved for existing applications and owing to customers shall continue to be incurred by CPA. Nothing contained herein shall limit the right of CPA and CSE to agree upon amount or amounts to be paid to CSE for completing the continued portion of the Agreement when the Agreement does not contain an established price for the continued portion. Nothing contained herein shall limit CPA's rights and remedies at law.

- 5.2. **Termination for Material Breach.** If either party material breaches of this Agreement, fails to provide in any manner the Services required under this Agreement (excluding a failure to pay), otherwise fails to comply with the terms of this Agreement, or violates any ordinance, policy, regulation, or law, including but not limited to CPA Board-enacted policies, which applies to its performance under this Agreement, the other Party may terminate this Agreement by giving ninety (90) days written notice thereof; *provided that* such termination shall not be effective if the breach of which the breaching Party has been notified has been cured prior to the expiration of said 90 days.
- 5.3. **Termination for Breach of Payment Obligations.** Notwithstanding anything to the contrary in this Agreement, if CPA fails to pay the Implementation Fee as specified in Exhibit B when each payment is due, CSE may terminate this Agreement by giving fifteen (15) calendar days' written notice of such non-payment; *provided that* such termination shall not be effective if CPA remits all outstanding amounts of the Implementation Fee to CSE prior to the expiration of said fifteen-day period, less any amounts due from CSE, any offsets, or disputed amounts.
- 5.4. **Termination for Insolvency.** Either Party may immediately terminate this Agreement upon written notice if the other Party (a) is adjudicated bankrupt or becomes insolvent, winds up or liquidates its business voluntarily or otherwise, (b) commences a voluntary case under any state or federal bankruptcy laws (as now or hereafter in effect), or (c) acquiesces to, or fails to have dismissed, within 30 days, any petition filed against it in any involuntary case under such bankruptcy laws.
- 5.5. **Reserved Funds.** In the event of termination for convenience, any CPA Funds previously reserved for existing applications shall continue to be incurred by CPA.
- 5.6. **Effect of Termination.** Upon the effective date of expiration or termination of this Agreement: (i) CSE may immediately cease providing Services except for those services that survive termination as discussed in Section 5.6 or if a termination is to a part of the Agreement, cease providing the Services that have been terminated; (ii) any and all payment obligations of CPA under this Agreement will become due immediately except any equitable adjustment pursuant to Paragraph 5.1 and any amounts that survive the termination or expiration; (iii) promptly transfer title and deliver to CPA all finished or unfinished Deliverables, work product, or documents specified in Exhibit A, any or any other work in progress pursuant to this Agreement; and (iv) each Party will promptly either return or destroy (as directed

by the other Party) all Confidential Information of the other Party in its possession as well as any other materials or information of the other Party in its possession.

- 5.7. **Survival.** Upon the expiration or termination of this Agreement, except for this section 5 and Sections 7, 8, 11, 12, 13, 15.2, 15.4, 15.6, 15.7, 15.9, 15.11, and 15.13 this Agreement shall be of no further force and effect, and following such expiration or termination no Party shall have any liability under this Agreement to the other Party, except that each Party shall remain liable for any breaches of this Agreement that occurred prior to its expiration or termination.

6. STANDARD OF PERFORMANCE

CSE shall use commercially reasonable efforts to provide the Services in accordance with the standards, practices and procedures established by CSE for its own operations, unless otherwise expressly provided in this Agreement. CSE shall comply with all laws, regulations, rules, policies, and orders applicable to CSE regarding the Services provided hereunder.

7. INTELLECTUAL PROPERTY RIGHTS.

- 7.1 **Licensed Services and Deliverables.** CPA shall have a limited, non-exclusive, non-sublicensable and non-transferable right during the Term to access and use the Services and Deliverables within the Territory, subject to the terms and conditions of this Agreement. The Services and Deliverables may be used by CPA only in connection with the SCIPL2. CPA shall have no right to copy, in whole or in part, the Services and CPA shall not permit a third party to modify, adapt, translate, reverse engineer, decompile, disassemble, sublicense, redistribute, resell, rent, lease, remove any copyright or other proprietary notice from, or create derivative works based on the Services, or extract any component thereof for use with any other systems, applications, data or materials, or use or reproduce any part of the Services and Deliverables. CPA agrees that its access to and use of any software components, data, applications and/or related materials owned and controlled by third parties that interoperate with or are otherwise made available in connection with the Services (collectively, “**Third Party Materials**”) may be subject to separate terms and conditions as may be imposed from time to time by the third party involved; however, CSE is not aware of any software components, data, applications and/or related materials to which separate terms and conditions would be imposed on CPA. CSE agrees to provide CPA of advance notice of any such terms and conditions and collaborate with CPA for CPA to secure any rights if terms and conditions are imposed.

- 7.2 **Ownership of Services and Deliverables.** CPA shall promptly provide CSE with all CPA trademarks, trade names, service marks, logos, names, and distinctive identification (collectively, “**CPA Trademarks**”), information, materials, data, images and content required to perform the Services (collectively, “**CPA Materials**”) and information and data regarding CPA’s customers (“**CPA Data**”). CPA hereby grants to CSE a non-exclusive, non-sublicensable, , and non-transferable right and license to use the CPA Materials, CPA Data, and CPA

Trademarks as provided by CPA to CSE hereunder solely in connection with the development and creation of the Deliverables and performance of the Services. CSE's non-exclusive, non-sublicensable, and non-transferable right to use CPA Data includes CSE's right (i) to disclose such data to CEC as required under the Grant Agreement, and (ii) to disclose such data solely in aggregate or other de-identified form in connection with its business, including for benchmarking purposes and providing market reports and studies to third parties; provided that nothing contained herein authorizes CSE to disclose or otherwise reveal any Confidential Information contained in CPA Data. All goodwill resulting from CSE's use of the CPA Trademarks, CPA Data, or CPA Materials shall inure to the benefit of CPA. CPA owns all right, title, and interest in and to all CPA Materials, CPA Trademarks, CPA Product, and CPA Data, except for the limited rights and licenses granted to CSE under this Agreement. Upon the expiration of this Agreement, or in the event of termination, all CPA Materials, CPA Trademarks, CPA Product, and CPA Data, in whatever form and in any state of completion, shall remain the property of CPA and shall be promptly returned to CPA. Upon termination, Contractor may make and retain a copy of such CPA Materials, CPA Data, or CPA Product if required by law or pursuant to the Contractor's reasonable document retention or destruction policies.

8. DATA SECURITY. CSE shall implement commercially reasonable technological, physical and administrative safeguards designed to protect CPA Data from unauthorized access, use or disclosure. Such safeguards shall include measures designed to prevent access, use, modification or disclosure of CPA Data by CSE personnel except (a) as authorized by this Agreement, including, without limitation, as required by applicable law, or (c) as otherwise authorized by CPA in writing.

9. LIMITED WARRANTY. CSE warrants to CPA that the Services will be performed in a professional and workmanlike manner and in accordance with the specifications provided in the Scope of Work in all material respects. In the event of a breach of the warranty set forth in this Section 9, CSE agrees, as CSE's sole and exclusive obligation and CPA's sole and exclusive remedy, to use commercially reasonable efforts to re-perform the defective Services or to modify or correct the defective Deliverable, as applicable, at its sole costs and expense.

10. REPRESENTATIONS AND WARRANTIES.

10.1. **Mutual Representations and Warranties.** Each Party represents and warrants to the other Party that (a) it has the right, power and authority to enter into this Agreement and to perform the acts and grant such rights required of it under this Agreement, (b) the execution, delivery and performance of this Agreement by such Party has been duly authorized by all necessary organizational governance action and violates no applicable law to which it is subject; (c) the execution of this Agreement and performance of its obligations under this Agreement do not and shall violate no other agreement to which it is a party and (d) this Agreement constitutes the legal, valid and binding obligation of such Party when executed and delivered by each Party.

- 10.2. **CPA Materials and Trademarks.** CPA represents and warrants that (a) it owns the CPA Materials and CPA Trademarks and/or controls all necessary rights and licenses required for CSE's use of the CPA Materials and CPA Trademarks as set forth in this Agreement, (b) the CPA Materials and CPA Trademarks, and CSE's use thereof as contemplated hereunder, shall violate no applicable laws or misappropriate, violate or infringe upon the intellectual property, privacy, publicity or other proprietary rights of any third party, and (c) the CPA Materials shall not contain any content that is false, misleading, defamatory or obscene.
- 10.3. **No Other Warranties.** EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES AND THE PARTIES HEREBY DISCLAIM ANY REPRESENTATIONS, WARRANTIES OR GUARANTEES REGARDING ANY SERVICES (INCLUDING THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ANY PARTICULAR RESULT WILL BE OBTAIN BY USE OF THE SERVICES), DELIVERABLES, INFORMATION, CONTENT, PRODUCTS OR MATERIALS FURNISHED HEREUNDER, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.

11. INDEMNIFICATION; LIMITATION OF LIABILITY.

- 11.1. **Mutual Indemnification.** Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold the other Party (the "**Indemnified Party**"), harmless, at the Indemnifying Party's own cost and expense, from and against any and all liabilities, losses, damages, injuries, judgments, amounts paid in settlement, costs and expenses, including reasonable attorneys' fees and costs, arising out of or related to any third party claim resulting from any material breach of any of the Indemnifying Party's representations or warranties specifically set forth in Article 5 of this Agreement. The Indemnifying Party shall solely conduct the defense of any such claim and all negotiations for its settlement; *provided that* (a) no settlement shall be agreed to without the Indemnified Party's prior written approval, and (b) the Indemnified Party may participate, at its own expense, in the defense and/or settlement of any such claim to protect its own interests.
- 11.2. CSE agrees to indemnify, defend, and hold harmless CPA, its employees, officers, and agents, from and against, and shall assume full responsibility for payment of all wages, state or federal payroll, social security, income or self-employment taxes, with respect to CSE's performance of this Agreement. CSE further agrees to indemnify, and hold harmless CPA from and against any and all third- party claims, liabilities, penalties, forfeitures, suits, costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees), which CPA may hereafter incur, become responsible for, or pay out, as a result of death or bodily injuries to any person, destruction or physical damage to tangible property, or any violation of governmental laws, regulations or orders, to the extent caused by CSE's negligent acts, errors or omissions, or the negligent acts, errors or omissions of CSE's employees, agents, or subcontractors while in the performance

of the terms and conditions of the Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of CPA, elected and appointed officers, employees, agents and volunteers.

- 11.3. **Infringement Indemnification.** CSE shall defend and hold CPA harmless from liability to third parties resulting from any claim that the Services infringe the United States patent or copyright of any third party, and will indemnify CPA from any damages, reasonable attorney fees and costs finally awarded against CPA as a result of such claim provided CSE is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement. Any settlement of such claim must be preapproved in writing by CPA. The foregoing obligations do not apply regarding portions or components of the Service (i) not supplied by CSE, (ii) made in whole or in part in accordance with CPA specifications, (iii) that are modified after delivery by CSE, (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, or, (v) where CPA continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement. If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by CSE to be infringing, CSE may, at its option and expense (a) replace or modify the Service to be non-infringing; *provided that* such modification or replacement contains substantially similar features and functionality, (b) obtain for CPA a license to continue using the Service, or (c) if neither of the foregoing is commercially practicable, terminate this Agreement and CPA's rights hereunder and provide CPA a refund of any prepaid, unused fees for the applicable Services.
- 11.4. **Limitations of Liability.** EXCEPT IN CONNECTION WITH A PARTY'S INDEMNIFICATION OBLIGATIONS, OR A PARTY'S GROSS NEGLIGENCE OR FRAUD, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR LOST PROFITS IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION OR THE BASIS OF THE CLAIM OR WHETHER OR NOT THE APPLICABLE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL CSE'S or CPA'S TOTAL, AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, WARRANTY, TORT OR OTHERWISE) EXCEED THE TOTAL FEES PAID BY CPA HEREUNDER DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE INCIDENT GIVING RISE TO SUCH CLAIM, EXCLUDING AMOUNTS PAID BY CPA TO CSE FOR PRODUCTS AND SERVICES PROVIDED BY THIRD PARTY SERVICE PROVIDERS UNDER THE SCOPE OF WORK FOR PRODUCTS, WHICH AMOUNTS ARE PAID OR PAYABLE BY CSE TO SUCH THIRD PARTY SERVICE PROVIDERS FOR SUCH PRODUCTS OR SERVICES.

12. CONFIDENTIAL INFORMATION.

- 12.1. **Handling of Confidential Information.** Subject to Section 9.1, each Party (each a “**Receiving Party**”) agrees not to disclose to third parties Confidential Information received from the other Party (“**Disclosing Party**”) and to not use such Confidential Information for its own benefit or the benefit of any other party, except in furtherance of the CC Incentive Program or the SCIPL2. “**Confidential Information**” means information related to the business of the other Party, including without limitation, the terms and conditions of this Agreement, all business plans, technical information or data, product ideas, methodologies, algorithms and analytical routines, software, and all personnel, customer, suppliers, contracts and sale, financial and other information, ideas, materials or other subject matter of such Party, whether disclosed orally, in writing or otherwise, that is provided by Disclosing Party to the Receiving Party clearly marked as “Confidential” or a clear mark that would reasonably be understood to be considered confidential under the circumstances. The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as “Confidential” that clearly contain information that is not Confidential Information.
- 12.2. **Non-Disclosure.** Neither Party shall disclose Confidential Information of the other Party to any person, firm or enterprise, unless authorized by the other Party in writing, except that each Party may disclose such Confidential Information (a) to its employees, agents, sub-contractors, advisors and consultants with a legitimate need to know the same, (b) to CEC and CPA who may be under no obligation to maintain confidentiality of Confidential Information and (c) pursuant to applicable law, rule or regulation or compulsion of proper judicial or other legal process. Each Party also agrees not to publish or otherwise divulge such information, in whole or in part, in any manner or form, nor to authorize or permit any person who is employed by a Party to do so, and shall take reasonable measures to restrict access to such information while in such Party’s possession, to those employees needing such information to perform the work described herein, *i.e.*, on a “need to know” basis. Each Party agrees to immediately notify the other Party in writing if such Party determines or has reason to suspect a breach of this requirement has occurred.
- 12.3. **Grant Agreement.** Nothing in this Article 7 shall prohibit CSE from complying with its obligations under the Grant Agreement.
- 12.4. **Return or Destruction of Confidential Information.** Upon termination or expiration of this Agreement, upon request of the Disclosing Party to such effect, the Receiving Party shall return to the Disclosing Party or confidentially destroy (and certify such confidential destruction in a form reasonably acceptable to the Disclosing Party) all Confidential Information of such Disclosing Party, all documents and media containing such Confidential Information and any copies or extracts thereof. Upon written request by the Disclosing Party, the Receiving Party shall promptly cease, and shall cause its recipients to cease, use of such Confidential

Information and any information or materials that contain, incorporate or are derived from such Confidential Information.

- 12.5. **Exceptions.** Information shall not be Confidential Information if it is: (w) already known free of restriction at the time it is obtained by the Receiving Party, (x) subsequently learned by the Receiving Party from a third party without breach of this Agreement, (y) is or becomes publicly available through no fault, default or breach of or by the Receiving Party or (z) is independently developed by the Receiving Party without reference to or use of any Confidential Information of the Disclosing Party.
- 12.6. **Remedies.** Each party (as Receiving Party) acknowledges that the Disclosing Party considers its Confidential Information to contain trade secrets of the Disclosing Party or information exempt from disclosure and that any unauthorized use or disclosure of such information would cause the Disclosing Party irreparable harm for which remedies at law would be inadequate. Accordingly, each party (as Receiving Party) agrees that the Disclosing Party will be entitled, in addition to any other remedies available to it at law or in equity, to seek the issuance of injunctive relief, without bond, enjoining any breach or threatened breach of the Receiving Party's obligations hereunder regarding the Confidential Information of the Disclosing Party, and such further relief as any court of competent jurisdiction may deem just and proper.
- 12.7. **California Public Records Act.** The Parties acknowledge and agree that the Agreement including but not limited to any communication or information exchanged between the Parties, any Deliverable, or work product are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).
- 12.8. **Third Party Request for Confidential Information.** Upon request or demand of any third person or entity not a Party hereto pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information ("Requested Confidential Information"), CPA will as soon as practical notify CSE in writing via email that such request has been made. CPA will be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release to the third party of the Confidential Information designated by CSE. If CSE takes no such action after receiving the foregoing notice from CPA, CPA shall, at its discretion, be permitted to comply with the third party's request or demand and is not required to defend against it. If CSE does take or attempt to take action to prevent disclosure, CSE agrees to indemnify and hold harmless CPA, its officers, directors, employees and agents ("CPA Indemnified Parties"), from any claims, liability, award of attorneys' fees, or damages, and to defend any action, claim or lawsuit brought against any of CPA's directors, officers, employees, contractors, or agents for CSE's attempt to prevent disclosure or CPA's refusal to disclose any Confidential Information.

13. GOVERNING LAW; DISPUTE RESOLUTION.

- 13.1. **Governing Law.** This Agreement shall be construed and enforced under the substantive laws of the State of California.
- 13.2. **Disputes.** In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, the Parties shall use their best efforts to settle such dispute, claim, question, or disagreement. To this effect, the Parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If the Parties do not reach such solution within sixty (60) days, upon notice by either Party to the other, such dispute, claim, question, or disagreement shall be submitted to binding arbitration under Section 9.C below

14. INSURANCE

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to CPA within 10 business days after the Agreement is fully executed. CPA shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page. The certificate(s) of insurance and required endorsement shall be furnished to CPA prior to commencement of work and maintained throughout the Term and any Renewal Term. Each certificate shall provide for thirty (30) days advance written notice to CPA of any cancellation or reduction in coverage. Said policies shall remain in force through the life of this Agreement and shall be payable on a per occurrence basis only, except those required by paragraph (d) below which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation on CSE's obligation under paragraph 6 of this Agreement to indemnify, defend, and hold CPA harmless from any and all liabilities arising from the CSE's negligence, recklessness or willful misconduct in the performance of this Agreement. CPA agrees to timely notify the CSE of any negligence claim.

Failure to provide and maintain the insurance required by this Agreement will constitute a material breach of the Agreement. In addition to any other available remedies, CPA may suspend payment to the CSE for any services provided during any time that insurance was not in effect and until such time as the CSE provides adequate evidence that CSE has obtained the required coverage.

14.1 General Liability

CSE shall maintain a commercial general liability insurance policy in an amount of no less than one million (\$1,000,000.00) with a two million dollar (\$2,000,000.00) aggregate limit. CPA shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page.

14.2 Auto Liability

Where the services to be provided under this Agreement involve or require the use of any type of

vehicle by CSE in order to perform said services, CSE shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars combined single limit (\$1,000,000.00).

14.3 Workers' Compensation

The CSE acknowledges the State of California requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code. If CSE has employees, a copy of the certificate evidencing such insurance or a copy of the Certificate of Consent to Self-Insure shall be provided to CPA prior to commencement of work.

14.4 Professional Liability Insurance

Coverages required by this paragraph may be provided on a claims-made basis with a "Retroactive Date" either prior to the date of the Agreement or the beginning of the contract work. If the policy is on a claims-made basis, coverage must extend to a minimum of twelve (12) months beyond completion of contract work. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "retroactive date" prior to the Agreement effective date, the CSE must purchase "extended reporting" coverage for a minimum of twelve (12) months after completion of contract work. CSE shall maintain a policy limit of not less than \$1,000,000.00 per incident. If the deductible or self-insured retention amount exceeds \$100,000.00, CPA may ask for evidence that CSE has segregated amounts in a special insurance reserve fund or CSE's general insurance reserves are adequate to provide the necessary coverage and CPA may conclusively rely thereon.

CSE shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Agreement. CSE shall monitor the safety of the job site(s) during the project to comply with all applicable federal, state, and local laws, and to follow safe work practices.

15 GENERAL

15.1 Assignment. Neither Party may assign or transfer this Agreement, or any rights or obligations hereunder, to any other Party without the other Party's prior written consent and any attempt to do so shall be void *ab initio*; *provided that* without the consent of the other Party, a Party may make an assignment of this Agreement through merger, consolidation or sale of all or substantially all of such Party's assets.

15.2 Delegation. Notwithstanding Section 11.A above, CPA agrees that CSE may assign, subcontract or otherwise delegate any of its functions or duties to be performed hereunder to another qualified person or CPA, *provided that* such assignment, subcontract or delegation will not relieve CSE of its obligations under this Agreement. CSE shall provide notice of any such assignment, subcontract or other delegation.

15.3 Non-Discriminatory Employment. CSE and/or any permitted subcontractor, shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age, protected veteran status, or condition of disability. CSE and/or any permitted subcontractor understands and agrees that CSE and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all federal, state and local statutes, regulations and ordinances.

15.4 Retention of Records and Audit Provision. CSE and any subcontractors authorized by the terms of this Agreement shall keep and maintain on a current basis full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to this Agreement. Such records shall include, but not be limited to, documents supporting all income and all expenditures. CPA shall have the right, during regular business hours, to review and audit all records relating to this Agreement during the Agreement period and for at least five (5) years from the date of the completion or termination of this Agreement. Any review or audit may be conducted on CSE's premises or, at CPA's option, CSE shall provide all records within a maximum of fifteen (15) days upon receipt of written notice from CPA. CSE shall refund any monies erroneously charged. CSE shall have an opportunity to review and respond to or refute any report or summary of audit findings, and shall promptly refund any overpayments made by CPA based on undisputed audit findings.

15.5 Conflict of Interest

No CPA employee whose position with the CPA enables such employee to influence the award of this Agreement or any competing Agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by the contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of CSE who may financially benefit from the performance of work hereunder shall in any way participate in the CPA's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the CPA's approval or ongoing evaluation of such work.

CSE shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. CSE warrants that it is not now aware of any facts that create a conflict of interest. If CSE hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to CPA. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this paragraph shall be a material breach of this Agreement.

15.6 Publicity

CSE shall provide CPA prior notice of any press release or any public statement regarding the Agreement, Services contemplated by this Agreement, or any other related transaction that is planned to be released and shall collaborate with CPA on the content of any such public statement.

15.7 Compliance with Applicable Laws

CSE shall comply with any and all applicable federal, state, and local laws, including any policies or resolutions adopted by CPA affecting Services and Deliverables covered by this Agreement.

15.8 Nondiscriminatory Employment

CSE and/or any permitted subcontractor, shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age, protected veteran status, or condition of disability. Contractor and/or any permitted subcontractor understands and agrees that Contractor and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all federal, state and local statutes, regulations, ordinances, policies, or resolutions.

15.9 No Recourse against Constituent Members

CPA 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 the Joint Powers Agreement and is a public entity separate from its constitute members. CPA shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. CSE shall have no rights and shall not make any claims, take any actions or assert any remedies against any of CPA's constituent members in connection with this Agreement.

15.10 Independent Contractor

CSE acknowledges that CSE, its officers, employees, or agents will not be deemed to be an employee of CPA for any purpose whatsoever, including, but not limited to: (i) eligibility for inclusion in any retirement or pension plan that may be provided to employees of CSE; (ii) sick pay; (iii) paid non-working holidays; (iv) paid vacations or personal leave days; (v) participation in any plan or program offering life, accident, or health insurance for employees of CSE; (vi) participation in any medical reimbursement plan; or (vii) any other fringe benefit plan that may be provided for employees of CSE.

CSE declares that CSE will comply with all federal, state, and local laws regarding registrations, authorizations, reports, business permits, and licenses that may be required to carry out the work to be performed under this Agreement. CSE agrees

to provide CPA with copies of any registrations or filings made in connection with the work to be performed under this Agreement.

- 15.11 Notices.** All notices and other communications required or permitted under this Agreement shall be in writing and delivered personally, mailed via an nationally recognized overnight courier or sent via email correspondence (with confirmation of receipt), to the applicable Party at the addresses set forth below, unless, by notice, a Party changes or supplements the addressee and addresses for giving notice. All notices shall be deemed given on the date personally delivered, when placed in the mail as specified or upon confirmation of email receipt.

If to CSE:

Center for Sustainable Energy
3980 Sherman Street, Suite 170
San Diego, CA 92110
Attention: Notice Officer
E-mail: legal@energycenter.org

With a copy to (which shall not constitute notice):

Raghav Murali, General Counsel; raghav.murali@energycenter.org

If to CPA:

Ted Bardacke, Executive Director
801 S. Grand Avenue, Suite 400
Los Angeles, CA 90017
(213) 269-5890
Email: tbardacke@cleanpoweralliance.org

With a copy to (which shall not constitute notice):

Nancy Whang, General Counsel
801 S. Grand Avenue, Suite 400
Los Angeles, CA 90017
Email: nwhang@cleanpoweralliance.org

Jack Clark, Director of Customer Programs
801 S. Grand Avenue, Suite 400
Los Angeles, CA 90017
Email: jclark@cleanpoweralliance.org

- 15.12 Force Majeure.** Notwithstanding anything to the contrary herein, except regarding a Party's payment obligations, neither Party shall be in breach of this Agreement or incur any liability to the other in connection with any failure to perform any of its obligations hereunder to the extent that performance of such obligations is prevented or materially hindered by reason of strikes, lockouts, restrictive

governmental or judicial orders or decrees, riots, insurrection, war, acts of God or any other reason or event reasonably beyond such Party's control.

15.13 Miscellaneous. If any part of this Agreement is held invalid, illegal or unenforceable, the remaining provisions shall be unimpaired. No amendment, modification, course of conduct or supplement to this Agreement shall be binding upon the Parties unless made in writing and duly signed by both Parties. No waiver, failure or delay in enforcing any provision, exercising any option or requiring any performance may be construed to be a continuing waiver or a waiver of that or any other provision in the future. The terms "include," "includes," and "including," whether or not capitalized, mean "include, but are not limited to," "includes, but is not limited to," and "including, but not limited to," respectively and are to be construed as inclusive, not exclusive. Captions of the Articles, Sections and sub-sections of this Agreement are intended solely for convenience and no provision is to be construed by reference to the caption of any Article, Section, or sub-section. Except as expressly stated herein, the Parties' respective rights and remedies as stated herein are cumulative and not to the exclusion of each other or of any other rights or remedies a Party may have hereunder or at law or in equity; a Party may decline to exercise any one or more of its rights and remedies as it may deem fit, without jeopardizing any other rights and remedies it may have hereunder or at law or in equity. This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person or CPA not a party to this Agreement.

15.14 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which taken together shall constitute one and the same instrument. A facsimile or other reproduction of this Agreement may be executed by one or more parties hereto, and an executed copy of this Agreement may be delivered by one or more parties hereto by facsimile or similar electronic transmission device under which the signature of or on behalf of such party can be seen, and such execution and delivery shall be considered valid, binding and effective for all purposes.

15.15 Entire Agreement. This Agreement (which includes Appendix I) and any other exhibits or schedules attached hereto, constitutes the entire agreement between the Parties regarding the subject matter hereof and supersedes any prior or inconsistent agreements, negotiations, representations and promises, written or oral.

[signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**CENTER FOR SUSTAINABLE
ENERGY**

CPA

By: _____

By: _____

Name: _____
[Type or Print]

Name: Theodore Bardacke _____
[Type or Print]

Title: _____

Title: Executive Director _____

Exhibit A**SCOPE OF WORK****0. TASK 1: INCENTIVE PROJECT DESIGN**

- a. The goal of this task is to work with CPA to design a targeted incentive project in Los Angeles County.
- b. Center for Sustainable Energy incentive design work will consist of:
 - i. Research and analyze EV charger incentive project opportunities along the following parameters:
 1. Market opportunities to incentivize the deployment of EV chargers;
 2. Expected or potential demand for EV chargers;
 3. Currently available EV charger incentives relevant to proposed project;
 4. Attainable Policy objectives (e.g., disadvantaged communities);
 5. Budget constraints and opportunities;
 6. Funding source requirements;
 7. Definition of applicant eligible for incentive payment funded by the CPA
 8. Other relevant project design variables that are developed in the course of the design sessions and included by amendment in this section 1.b.i.
 - ii. Create a targeted incentive design package, contingent upon consultation and approval of Project Partners:
 1. Allocation of incentives by geographic location (by jurisdiction) for each funding partner;
 2. Eligible sites definition (e.g., destination, workplace, multi-unit dwellings, corridors, disadvantaged communities);
 3. Eligible applicant definition by funder;
 4. Minimum technical requirements for eligible EV charging equipment;
 5. Amount of incentive by type of EV charger;
 6. Funding source(s) utilized for each type of incentive;
 7. Total amount of incentive funding allocated to the project;

8. Incentive structure (e.g., incentive payment system disbursing incentives after chargers are installed, or other appropriate incentive);
9. SCIPL2 goals;
10. Anticipated SCIPL2 and SCIPL2 roll-out and administration schedule;
11. Definition of charger data to be collected and methodology for collecting the data;
12. Application support services consisting of CSE staffed help desk to respond via phone and email to applicant eligibility and application process questions;
13. Application documentation requirements;
14. Internal processes and controls, processes and procedures to do the following: receive, handle, and account for and manage incentive funding, including funding from multiple sources; receive and evaluate incentive requests; effect payment for valid incentive payment requests; and provide monthly fiscal accounting and reporting to the CPA.
15. Any chargers installed using funding from CPA in the Project will be required to enroll in any future demand response, grid optimization, and/or load shaping programs implemented by CPA. CSE shall provide CPA with standard applicant and application information necessary for CPA to enroll said chargers in noted programs. CPA shall provide mechanisms to opt-out from any such program. CPA shall coordinate directly with any affected applicants to acquire any information, outside of standard application information, necessary to enroll the chargers in noted programs. Such programs will aim to curtail energy usage for each charging port during times of high grid demand such as daily demand peaks and critical grid events, as determined by CPA. These curtailments will be designed to minimally impact EV drivers that are charging during these times whenever possible. Any future program will, by design, not incur any additional costs or expenses to the Customer.

0. Task 1 Deliverables:

- a. Final Incentive Design Package to capture the following:
 - i. A brief description on the results for each item in Task 1.b
 - ii. A funding distribution table outlining allocations by funder, jurisdiction, and technology type
- b. Project Implementation Manual, consisting of
 1. Eligibility requirements

- a. Equipment categories
 - b. Equipment Eligibility Criteria
 - c. Eligible costs
 - d. Eligible Sites
 - e. Incentive Payment amounts
 - f. Maximum incentive payment limits per *Entity (including CPA)*
2. Applicant Duties
- a. Applicant Requirements
 - b. Research Participation
 - c. Application Process
 - d. Installation and operation requirements
 - e. Installation data
 - f. Usage data
- 1. TASK 2: DEVELOPMENT AND CONFIGURATION OF INCENTIVE PROCESSING WEBSITE**
- a. The goal of this task is to design, develop, configure and launch a robust, user-friendly project website.
 - b. The SCIPL2 Landing Page will include:
 - i. A funding visualization, including the amount of funding available and remaining amounts for each technology, within each County.
 - ii. Instructions, forms and FAQs to parties interested in participating in the SCIPL2s.
 - iii. Technology requirements, funding amounts for each specific technology and description of eligible locations.
 - iv. Description of eligible costs under the SCIPL2.
 - v. Application process description and diagram.
 - vi. Attribution of the SCIPL2 to *CPA* and *CEC*.
 - c. The online application will include:

- i. The ability for interested parties to indicate if they are customers of the CPA
 - ii. The ability for interested parties to submit required documents to participate in SCIPL2s, including application forms, payment requests, and appropriate documentation.
 - d. The user and application dashboards will include:
 - i. The capability for incentive participants to access, in real time, the status of incentive applications and payments.
 - ii. The capability for incentive participants to designate collaborators on their application for purposes of authorizing others to track and submit information on their behalf.
- 2. Task 2 Deliverables:**
 - a. SCIPL2 Landing Page design and content
 - b. Online application form and process
 - c. User and application dashboards
- 3. TASK 3: EV CHARGER INCENTIVE PROJECT MARKETING, EDUCATION & OUTREACH**
 - a. The goal of this task is to market the SCIPL2 to relevant target audiences, and to provide basic support to applicants to file applications and pursue their EV charging installation projects. To accomplish this CSE will:
 - i. Develop an Integrated Communications Plan for the SCIPL2 The plan will identify the goals of the marketing and outreach effort, target audience(s), methods/tactics/channels to be used, and will include a schedule to coordinate the marketing activities. The plan will include specific focus on Disadvantaged Communities (DAC)/Low Income Communities (LIC). The exact audiences (e.g. workplaces, multi-unit dwellings, affordable housing, and destination locations) to target will be included with methods/tactics and channels to reach them.
 - ii. Develop marketing and outreach materials to reflect the communication plan developed in 3.1(a). Marketing and outreach material development will be coordinated with the *CPA*.
 - iii. Develop a marketing budget (which is included in the seven (7) percent administration cost) covering both labor and other direct costs (e.g. digital ads, travel, etc.) necessary for executing on the communication plan developed in Section 5.a.i.

- iv. Develop FAQs and other similar EV charging information resources for applicant use in pursuing EV charging installation projects.
- v. Provide email and phone support of basic inquiries that applicants have on EV chargers and EV charging installation. Basic inquiry support will consist of:
 - 1. Reference to and provision of CSE curated ‘EV charging 101’ resources on:
 - a. EV charger capabilities;
 - b. EV charger network characteristics and capabilities;
 - c. Ballpark EV charger load considerations;
 - d. Typical EV charger installation requirements and best practices;
 - e. Typical utility connection requirements; and
 - f. Similar common EV charger basic information.
 - 2. Availability of CSE staff typically providing EV Expert services to field incoming inquiries.
- vi. Provide regular reports (as part of the Monthly Progress Reports) detailing marketing activities against Key Performance Indicators (KPIs).
- vii. Provide log of basic EV charging installation project inquiries.

4. Task 3 Deliverables:

- a. Integrated Communications Plan
- b. Marketing / Outreach materials
- c. Marketing Budget
- d. Regular marketing reporting on Key Performance Indicators

5. TASK 4: EV CHARGER INCENTIVE PROJECT ADMINISTRATION

- a. The goal of this task is to administer the SC IPL2 and CPA Incentive created in Tasks 1-3. Center for Sustainable Energy will:
 - i. Receive, evaluate, and process incentive payment requests.
 - 1. For all incentive payment applicants, the process will include:

- a. Requirement that applicant indicate if they have filed for bankruptcy within the last five years and, if so, to provide relevant details certifying under penalty of perjury that the information provided is accurate and complete.
 - i. If bankruptcy is identified and has occurred within 5 years of the date of the Application, CSE shall inform CPA of any such applications and shall refrain from issuance any incentive payment unless and until such payment is authorized in writing by CPA.
 - b. Requirement that applicant indicate if they have any threatened or pending legal actions by or against them, loan defaults, or unpaid judgments against them.
 - i. If any threatened or pending legal actions, loan defaults, or unpaid judgements are identified, CSE shall inform CPA of any such applications and shall refrain from issuance any incentive payment unless and until such payment is authorized in writing by CPA.
 - c. Tracking and timely reporting in writing to CPA of any:
 - i. complaints about the SCIPL2
 - ii. programmatic issues arising in the operation of the SCIPL2
 - iii. knowledge of any threatened or actual legal actions involving any SCIPL2 or incentive applicants, applications, payments (e.g., alleged false information provided in an incentive application or threatened or actual lawsuits over the SCIPL2)
 - iv. As needed, CSE shall provide CPA personnel or other personnel as directed by CPA with all project documents, files and records requested in support of the Commission investigating and resolving any such issues.
 - d. Prohibition against applicant submission of materials marked as confidential without prior written approval and instructions from the CPA. CPA is a public agency, and as such is subject to the Public Records Act. CSE shall not agree to keep any incentive application information confidential.
 - e. Fair and impartial program administration, including provision of information in a public manner that avoids giving advantage to any applicant or group of applicants.
2. For each incentive applicant that is a business, prior to the issuance of an incentive payment the evaluation will include:

- a. confirmation that the applicant is currently licensed to do business in California; and
- b. confirmation of “active” status for businesses required to register with the California Secretary of State;
- c. Coordination with Clean Power Alliance to validate each installation site as a Clean Power Alliance customer.

6. Task 4 Deliverables: Processed applications

7. TASK 5: DATA COLLECTION

- a. The goal of this task is to collect data on the project applications, implementation and charger utilization. CSE will:
 - ii. Collect, analyze and compile data on the SCIPL2, which may include without limitation:
 - a. All application information including associated supporting documents, equipment installed, and project cost detail;
 - b. Type of organizations receiving incentive payments;
 - c. Timelines to complete each incentive payment project;
 - d. Time frames associated with EV charger installations;
 - e. Ongoing access to EV charger utilization.

8. Task 5 Deliverables:

- a. Data Collection Report
 - i. Dashboard displaying application and installation cycle times, updated weekly.

9. TASK 6: ADMINISTRATION

- a. **Monthly progress reports** The goal of this task is to provide the reporting that will allow monthly verification that satisfactory and continued progress is made towards achieving the objectives of this Agreement on time and within budget.
- b. **Deliverables:** The monthly reporting will consist of:
 - i. Summary of activity during the reporting period for the purpose of determining whether invoices are consistent with the work performed
 - ii. Summary of activities planned for the next reporting period.

- iii. KPI reports for marketing activities (Section 5.a.vi.)
- iv. Complaints, programmatic issues and actual or threatened litigation regarding applicants or the SCIPL2 (as identified in Section 7.a.i.1)

c. Annual and Final Report

- i. CSE will prepare annual reports and final report for CPA. The document will be of a professional standard appropriate for review by elected officials, CPA Board members and members of the public.

10. Task 6 Deliverable: A Final Report that shall include:

- a. Data about the EV chargers and applicants participating in the program during implementation of the SCIPL2.
- b. Survey of all hosts to assess their satisfaction with the program and recommendations for improvement.
- c. Assessment of the program including impact of the program on increasing baseline public charging that would have occurred without the program.
- d. Calculations of GHG emission reductions and other environmental benefits from installation and usage of EV charging infrastructure.
- e. Recommendations for future program including operational improvements and considerations associated with the changing EV market.
- f. Other elements as mutually determined and codified by an amendment revising Exhibit A (Scope of Work).

11. PROJECT REPRESENTATIVES

- a. CSE's Project Representative shall be Peter Colwell.
- b. CPA's Project Representative shall be Jack Clark.

12. ACCOUNT AND FUNDS MANAGEMENT

- a. CSE shall deposit and maintain separate accounts for CEC Funds (defined in recitals) available for funding incentive payments ("**CEC Account**") and CPA's Funds (defined below) available for funding incentive payments (the "**CPA Account**", and the CEC Account and CPA Account are collectively, "**Incentive Funds Accounts**").
- b. Except for the Implementation Fee, CSE shall utilize the funds in the CPA Account ("**CPA Funds**") solely for the payment of eligible incentive payment claims submitted by CPA customers and in accordance with other requirements applicable to the CPA Incentive Program. The requirements for a person or business to be deemed to be a

CPA customer shall be set forth in the Project design that will be established pursuant to Section 1.b.i.7 of the Scope of Work.

- c. CSE shall inform CPA within five business days after the end of each calendar month the amount of Funds in the CPA Account and the CEC Account.
- d. CSE shall coordinate with CPA and CEC so as to maintain balances in the Incentive Funds Accounts that reflect the contribution percentages agreed to by CEC and CPA. Accordingly, on an as needed basis, CSE shall provide to CPA a written request for funding from CPA committed funds (a “**Funding Request**”) to the CPA Account, and CPA shall endeavor to promptly, but no later than 30 days after receipt of a Funding Request, send funds to the CPA Account in the amount requested in the Funding Request; *provided that* CPA is under no obligation to fund amounts that would result in funding to the CPA Account an aggregate amount greater than the agreed to monies intended to be used to fund incentive payments..
- e. If an incentive payment applicant meets the eligibility requirements of the SC IPL2 and the eligibility requirements of the SC IPL2, CSE shall draw ratably in proportion to the amounts available at such time in each of the CPA Account and the CEC Account to fund the incentive payment owing to such incentive payment applicant.
- f. If an incentive payment applicant meets the eligibility requirements of the CEC incentive program, but not the eligibility requirements of the SC IPL2, CSE shall draw from the CEC Account to fund the incentive payment owing to such incentive payment applicant.

13. Territory

The Services and Deliverables will be provided and accessible solely within the Entities territory in the State of California and other areas in the State of California where CPA has legal authorization to serve its customers (the “**Territory**”).

Exhibit B

Payment Terms

Payment of Administration Fee. The Administration Funds shall be \$70,000 in total, and shall be paid by CPA to CSE as follows.

1. 50% of the Administration Fee (\$35,000) paid after deliverables described in Tasks 1 through 3 of Exhibit A are provided, which is expected to coincide with launch of SCIPL2 (1st Quarter 2022);
2. 20% of the Administration Fee (\$14,000) paid after processing of applications resulting in at least 75% of total SCIPL2 incentive funds reserved;
3. 20% of the Administration Fee (\$14,000) paid after at least 40% of total SCIPL2 incentive funds are paid out;
4. 10% of the Administration Fee (\$7,000) paid after all SCIPL2 incentive funds are paid out and Final Report (Task 6) is provided.

Payment of Incentive Funds. The Incentive Funds shall be \$1,000,000 in total, and shall be paid by CPA to CSE as follows.

1. Up to \$680,000 of incentive funds shall be made available to SCIPL2 applicants at launch (1st Quarter 2022), and will be payable to CSE following Invoicing for Payment of Incentive Funds and at the time applications reach Documents Received (i.e. point in application process where applicants provide required documents for final CSE review immediately preceding incentive approval and payment) stage in the amounts of the applications at that stage.
2. Up to \$320,000 of incentive funds shall be made available to SCIPL2 applicants approximately one year after initial launch, and will be payable to CSE following Invoicing for Payment of Incentive Funds and at the time applications reach Documents Received stage in the amounts of the applications at that stage.

Invoicing

Invoicing for Administration Fees: CSE will prepare and deliver to Entity an invoice for the payment of Administration Funds. Each invoice will be accompanied by a brief report supporting the associated deliverables or thresholds for payment have been met. Entity payment is required Net 30 of the date CPA receives the invoice.

Invoicing for Payment of Incentive Funds: CSE will prepare and deliver to Entity an invoice for the payment of Incentive Funds no more frequently than monthly and at each point noted above in this exhibit. Each invoice will be accompanied by documentation satisfactory to CPA demonstrating that the associated threshold for payment has been met. Entity payment is required

Net 30 of the date CPA receives the invoice. CSE shall keep the funds in an interest-bearing account. The interest earned shall accrue for the benefit of CPA and only be used for this Agreement upon approval of the Entity.

EXHIBIT C

SCIPL2 Pillar Requirements

2020 CALeVIP Pillar Requirements

The California Electric Vehicle Infrastructure Project (CALeVIP) is the California Energy Commission's (CEC) statewide project for public EV infrastructure incentives. The following sections summarize the process, technology, rebate and site eligibility requirements for Southern California Level 2 Incentive Project. These requirements have been developed based on best practices and input from project stakeholders. These requirements are critical for establishing a regional incentive project and cannot be modified.

Process Requirements

- Applications must be submitted online
- Applications approved on first-come first-served basis once all required application documents are submitted
- Applications are not competitively scored or reviewed against one-or-another
- CALeVIP uses EVI-Pro2 to determine funding levels for each technology within each county and Energy Commission funding will not be negotiable

CALeVIP Technology Requirements

- Level 1 Chargers: Not Eligible
- Level 2 Chargers:
 - Include a J-1772 connector
 - Capable of at least 6.2kW
 - Networked with a minimum 2-year networking agreement
 - Must be new (not refurbished, not previously installed and removed)
 - Must be able to revert to an open standard protocol
 - Must be Energy Star Certified
 - Must be listed by a Nationally Recognized Testing Laboratory
 - Must accept at least two payment methods (if payment is required)
 - Acceptable payment methods may include (but are not limited to) mobile app-based payment, a toll-free phone number, near-field communications (NFC) or onsite card reader
 - Level 2 chargers “installed” on and after July 1, 2023 must comply with SB 454 updated payment requirements.

CALeVIP Rebates

- Level 2 Chargers:

- An “up-to” incentive amount per connector or percentage of project costs, whichever is less
- Sites deemed in a designated DAC or low-income community are allotted an incentive adder, increasing the “up-to” dollar amount per connector
- One site per application
- New or replacement chargers are eligible
- Each application may apply for up to ten (10) rebate limit for Level 2 chargers
 - Additional chargers may be installed but will not receive rebate funding from CALeVIP

CALeVIP Site Eligibility

- **Level 2 Chargers**

- Eligible sites are to be within the four counties (Los Angeles, Orange, Riverside and San Bernardino) comprising the project area and not geo-specific/eligible
- Must be available to the public 24 hours a day year round
- Car-sharing/e-mobility service installations are eligible
- Must be shared use (cannot be dedicated to a single driver)
 - Sites serving single-family residences or dedicated drivers/users are not eligible to receive CALeVIP funds
- Local and state contracting licensing requirements are applicable
- All applications are required to use EVITP certified electricians consistent with the specifications in AB 841
- Must not be located behind a gate or have restrictions for public use and access
- Projects must pay contractors Prevailing Wage
- May serve public or private sites
- May serve light-duty fleets
- Medium-duty vehicles can also use, as long as the chargers are primarily being used for the site’s light-duty fleet and medium-duty vehicles are secondary

Exhibit D**SCIPL2 Rebate Amounts**

Eligible Rebates for Level 2 Chargers	Amount per Connector
Base Rebate	Up to \$3,500 per connector, or 75% of project costs, whichever is less
Disadvantaged Community (DAC) or Low-Income Community (LIC)	Additional \$500
Multi-unit dwelling (MUD) site	Additional \$2,000

Minimum Investment in Disadvantaged / Low-Income Communities

A minimum of 50% of available incentive funds will be committed to Disadvantaged and Low Income Communities in the South Central Coast incentive project. CEC and project partners may consider adjustments to the DAC/LIC minimum investment, if when incentive project closeout begins and after full marketing efforts (including to DAC/LIC audiences) insufficient demand has materialized to meet the DAC/LIC minimum investment.

Provide electric vehicle charging options at your property in San José



Charge Up Your Property

Take advantage of significant rebates and free technical assistance to install EV chargers at your property.

With more electric vehicles (EVs) on the road than ever before, demand for accessible chargers in San José is increasing. You can be a part of the solution and **attract customers or residents** with EV charging options.



Visit **CALeVIP.org/PSV-assistance**
to learn more and request free technical assistance

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Center for Sustainable Energy
3980 Sherman Street, Suite 170
San Diego, CA 92110

This December, the California Electric Vehicle Infrastructure Project (**CALeVIP**), in partnership with San José Clean Energy, is offering rebates up to \$6,000 per connector for Level 2 chargers through the **Peninsula-Silicon Valley Incentive Project**. This opportunity will make electric vehicle (EV) charger installations easier and more affordable for businesses, multifamily residences and local government facilities in San José.

If you would like to begin a project but aren't sure where to start, the CALeVIP team is here to help.

Multifamily properties and properties located in disadvantaged and low income communities of San José are also eligible for **increased rebates and complimentary technical assistance** from CALeVIP to help plan EV charging projects.

Visit **CALeVIP.org/PSV-assistance**
to learn more and request free technical assistance.
Go to **CALeVIP.org/PSV-project** for rebate amounts
and to learn how to apply.

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Save on **EV Chargers** *for Your Business*



Starting December 16, businesses in San José can apply for significant rebates on EV charging stations.

- Level 2 up to **\$6,000** per connector
- DCFC up to **\$80,000** per charger

Technical assistance is available for properties in low-income and disadvantaged communities, as well as multifamily residences.

CALeVIP.org/PSV

Staff Report – Agenda Item 4

To: Clean Power Alliance (CPA) Board of Directors
From: Christian Cruz, Community Outreach Manager
Approved By: Ted Bardacke, Executive Director
Subject: Community Advisory Committee (CAC) Report
Date: May 6, 2021

RECOMMENDATION

Receive and file.

APRIL MEETING REPORT

At the April, meeting the CAC received a presentation on the 2021 rate setting approach options, the Fiscal Year 2021/2021 budget priorities, and elected a new Los Angeles County Vice Chair.

Election of Vice Chair Officer Position

At the March 18, 2021 CAC meeting, Vice Chair Simmons announced the nomination period for one Vice Chair officer representing the Los Angeles County subregion. The nomination period closed on Friday, March 26, 2021. During the nomination period, the following nomination was received:

- Kristie Hernandez, Unincorporated Los Angeles County

CAC Member Hernandez was elected unanimously. Committee Member Hernandez has led a life in public service with a passion for government relations, legislative affairs, policy advocacy and community engagement. Her professional experience extends into every level of government - local, state, federal and the executive branch – as well as the non-profit, educational and corporate sectors. She currently is employed as Senior Government and Community Relations Specialist for Boeing.

2021 Rate Setting Options

In June 2021, electricity rates for FY 2021/22 will be presented to the CPA Board or consideration in conjunction with the proposed FY 2021/22 budget.

CPA staff requested feedback from the CAC on the same possible rate setting options that it had presented to the Executive Committee the day before. The options presented were:

- 1) Average Percentage Change (APC) with CARE Subsidy
- 2) Cost of Service with CARE Subsidy + 100% green target
- 3) Hybrid – Different Approaches at Different Times

Feedback from the CAC included the following:

- Strong support for low-income customer protection
- Some support for Option 2, on the grounds that it sent customers a price signal that renewable energy is coming down in cost compared to fossil fuels and that the leadership of the cities that defaulted into 100% Green should be supported.
- Other CAC members expressed support for an approach that was more targeted towards “ability to pay”, or income-based with higher income areas bearing more of the brunt of rate increases.
- Regardless of the approach, the CAC recommended a robust customer education campaign about rates and how Cost of Service works, the impacts of climate change on the energy sector, and how CPA customers can save money by switching to Time of Use rates and modifying their energy use patterns.

Fiscal Year 2021/2022 Budget Priorities

At the June Board of Directors meeting, the Board will review and consider adoption of the FY 2021/2022 budget. Staff presented the key budget priorities for the upcoming fiscal year, including: containing operating expenses at current levels, properly resourcing the management of energy costs and risk, continuing to reduce consultant costs by investing in staff and technology, and using operational cost savings to increase spending on customer programs and communications, particularly where there is potential for return on investment.

The CAC encouraged staff to look into strategic partnerships to advance branding. Additionally, as part of communications and outreach, the CAC encouraged staff to target specific customers that have voiced concern about CPA and assist them as much as possible to abate their concerns, as well as highlight customers who have shown leadership in moving up to 100% green.

ATTACHMENT

- 1) [CAC Meeting Attendance](#)

Community Advisory Committee Attendance										
2021										
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct
East Ventura/West LA County										
Angus Simmons (Vice Chair)	✓	✓	✓	✓						
Jennifer Burke	✓	✓	✓	A						
Debbie West			✓	✓						
San Gabriel Valley										
Richard Tom	✓	✓	✓	✓						
Kim Luu		✓		✓						
West/Unincorporated Ventura County										
Lucas Zucker	A	A	A							
Vern Novstrup			✓	✓						
South Bay										
David Lesser	✓	✓	✓	✓						
Emmitt Hayes	✓	✓	✓	✓						
Gateway Cities										
Jaime Lopez	✓	✓	A	✓						
Genaro Bugarin	✓	✓	✓	✓						
Westside										
Cris Gutierrez	✓	✓	✓	✓						
David Haake (Chair)	✓	✓	A	✓						
Unincorporated LA County										
Neil Fromer	✓	✓	✓	✓						
Kristie Hernandez	✓	✓	✓	✓						

Major Action Items and Presentations

January

- Executive Director Update
- Power Share Program Update
- Reserve Policy Amendment

February

- Executive Director Update
- CALeVIP update
- 2021 Legislative Priorities Preview

March

- Vice Chair Nominations
- 2021 Energy Portfolio Mix and Rate Scenarios
- 2021 CPA Lobby Day Update

April

- Vice Chair Election
- 2021 Rate Setting Options
- FY 2021/2022 Budget Priorities

Staff Report – Agenda Item 5

To: Clean Power Alliance (CPA) Board of Directors
From: Natasha Keefer, Director of Power Planning & Procurement
Approved By: Ted Bardacke, Executive Director
Subject: Renewable Power Purchase Agreement with OrHeber 2, LLC
Date: May 6, 2021

RECOMMENDATION

Approve a 15-year Renewable Power Purchase Agreement with OrHeber 2, LLC (Heber South) for long-term renewable energy and authorize the Executive Director to execute the agreement.

BACKGROUND

2020 Clean Energy RFO

CPA launched the 2020 Clean Energy RFO targeting procurement of 1.5-2 million MWh of annual renewable energy via long-term contracts, which provide better value to CPA than short-term contracts, ensure compliance with long-term contracting mandates, and expand the amount of renewable energy serving California.

CPA received a robust response to the RFO from 105 conforming renewable, renewable plus storage, and standalone storage projects. On January 14, 2021, a review team consisting of two Board members from the Energy Committee as well as senior staff consisting of the Executive Director, Chief Operating Officer, and Director of Power Planning and Procurement met to analyze the submitted projects. These review team members evaluated confidential terms and conditions, including pricing, and selected a shortlist of projects to be recommended to the Energy Planning and Resources Committee (Energy Committee). On January 27, 2021, the Energy Committee reviewed

and approved the recommended shortlist, authorizing staff to proceed with renewable power purchase agreement (PPA) negotiations.

From the Energy Committee approved shortlist, CPA entered into exclusive negotiations for 8 renewable or renewable plus storage projects for contracts 10 years in length or longer. Per CPA's Energy Risk Management Policy, any power purchase transactions greater than 5 years require approval by the Board.

CPA retained Todd Larsen with Clean Energy Counsel to represent CPA and its interests in the negotiation of this agreement. Mr. Larsen's work was overseen by the General Counsel.

Project Overview

Heber South is a 14 MW existing geothermal facility located in Imperial Valley, CA with a contract start date of January 1, 2022. The project has a firm transmission agreement with Imperial Irrigation District to deliver the power to California Independent System Operator (CAISO). The Heber South project delivers power to the CAISO system at the Coachella Valley substation as imported power. Site control and permitting has been fully secured for the entirety of the proposed delivery term.

CPA pays for the output of the geothermal generation of the project at a fixed-price rate per MWh with no escalation for the full term of the contract (15 years). CPA is entitled to all product attributes from the facility, including energy and renewable energy credits (RECs). While Resource Adequacy is not a direct product from this PPA, CPA expects to count some or all of the energy from Heber South as Import RA, which will support CPA's RA compliance obligations.

Developer

Ormat Technologies, Inc. ("Ormat") is a leading geothermal company, having engineered, manufactured and constructed power plants totaling over 3,000 MW of gross capacity. Ormat currently owns a generating portfolio of 917 MW, spread globally in the United

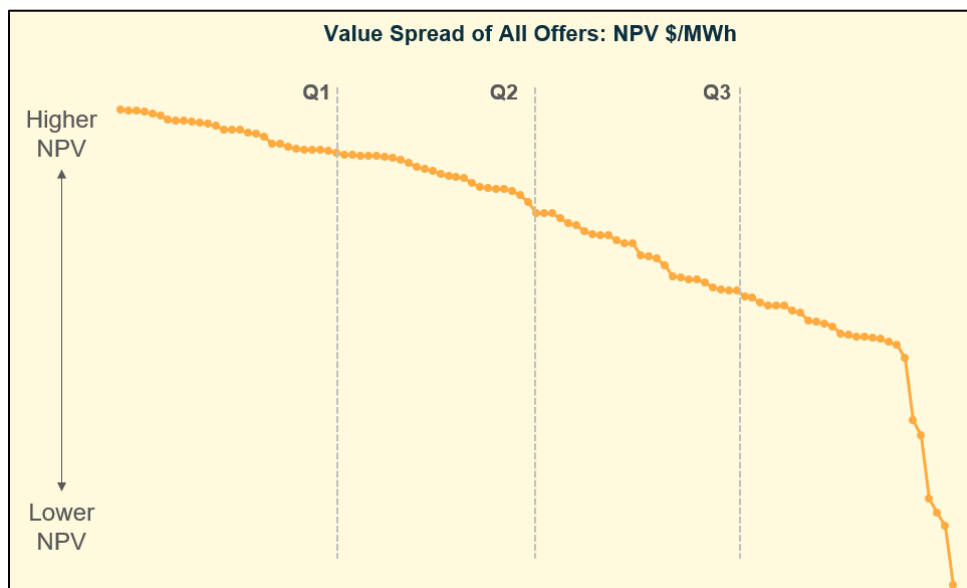
States (California, Nevada, Oregon, Idaho and Hawaii), Guatemala, Guadeloupe, Kenya and Indonesia. Ormat has executed PPAs with various California off-takers including Silicon Valley Clean Energy (SVCE) and Central Coast Community Energy (3CE), and Southern California Public Power Authority (SCPPA).

Evaluation Criteria

CPA ranks projects for economic value based on the net present value (NPV) to CPA and on a High, Medium, Neutral, and Low scale in five other evaluation criteria categories (Development Score, Workforce Development, Environmental Stewardship, Benefits to Disadvantaged Communities, and Project Location). Below is the ranking assigned to this project in each of those categories.

Value

The value for this offer falls within second quartile (Q2) of offer submissions ranked on value in the 2020 Clean Energy RFO (see chart below). Although the project ranked lower on value than other offers, the project was selected due to its high scores on other evaluation criteria. Geothermal provides important technology diversity to the CPA portfolio and offers a consistent, baseload generation profile throughout all hours of the day, including hours when solar is not generating.



Due to the limited availability of geothermal in the state, a publicly available benchmark for Geothermal pricing does not exist.

Development Score

The project ranks High as it is an existing project and online, and therefore not subject to development or construction risks.

Workforce Development

The project ranks Medium. Heber South is an existing project, so no construction jobs will be created. However, the project will support 10 permanent jobs as a result of its ongoing operation via a PPA with CPA.

Environmental Stewardship

The project ranks High as the Heber South is an existing project, the land footprint is already developed, and the continued use via the PPA with CPA constitutes repurposing of already developed land.

Benefits to Disadvantaged Communities

The project ranks High as it is located within a Disadvantaged Community (DAC) and will provide workforce opportunities and community benefits to this region.

Project Location

The project ranks Medium as it is located within California but not within Los Angeles or Ventura County.

Rationale

The projects selected in the 2020 Clean Energy RFO help CPA meet its customers' large renewable energy demand, while maintaining competitiveness. The Board of Directors has already approved 12 long-term renewable contracts, which make up approximately 33.2% of CPA's overall load once they come online, as shown in the table below:

Long-Term Renewable Contracts Contributing to CPA's Load¹:

Project	Renewable MWs	Status	Commercial Operation Date	Term (Years)	County	Approximate % of Load Served
Voyager Wind	21.6	Online	12/28/2018	15	Kern, CA	0.6%
Kaweah Hydro	20.1	Online	6/16/2020	10	Tulare, CA	0.3%
Isabella Hydro	12.0	Online	12/8/2020	10	Kern, CA	0.4%
Mohave (White Hills) Wind	300.0	Online	12/16/2020	20	Mohave, AZ	7.1%
Golden Fields Solar	40.0	Online	12/22/2020	15	Kern, CA	1.0%
Arlington Solar + Storage	233.0	Contracted	12/31/2021	15	Riverside, CA	6.0%
High Desert Solar + Storage	100.0	Contracted	8/1/2021	15	San Bernardino, CA	2.6%
Azalea Solar + Storage	60.0	Contracted	12/31/2022	15	Kern, CA	1.6%
Rexford Solar + Storage	300.0	Contracted	10/1/2023	15	Kern, CA	7.2%
Daggett Solar + Storage	123.0	Contracted	3/31/2023	15	San Bernardino, CA	3.2%
Chalan Solar + Storage	64.9	Contracted	12/31/2023	15	Kern, CA	1.6%
Estrella Solar + Storage	56.0	Contracted	12/31/2022	15	Los Angeles, CA	1.5%
Heber South Geothermal	14.0	Proposed	1/1/2022	15	Imperial, CA	1.0%
Total Contracted	1,344.5					34.3%

The Heber South project will add another 14 MW of renewable generating resources, covering approximately 1% of CPA's overall demand.

In addition, this contract will enable CPA to reach its regulatory obligations under SB 100 and SB 350, which requires that 65% of Renewables Portfolio Standard (RPS)-compliance related renewable energy supply be sourced from long-term contracts beginning in the 2021-2024 compliance period. As shown in the table below, even with the proposed Heber South contract, CPA must secure additional long-term energy contracts to meet its state mandate.

¹ CPA's executed Luna Storage and Sanborn Storage projects are not included in this list because these are standalone storage resources with no generating component.

**RPS Under SB 100 and SB 350 Long-term (LT) Contracting Requirement per
Compliance Period:**

		2021-2024	2025-2027	2028-2030
1	State Mandated RPS per Compliance Period - % of Retail Sales	40%	49%	57%
2	State Mandated % of Mandated RPS (Row #1) to be Contracted Under RPS LT Contracts	65%	65%	65%
3	CPA's LT RPS Mandate = Row #2 * Row #1	25.9%	32.1%	36.8%
4	RPS Achieved by CPA with Existing LT Contracts	20.7%	32.8%	32.1%
5	Open Position relative to State Mandate (Row 3,4) +Above/ (-) Short	-5.2%	0.7%	-4.8%
6	RPS Achieved by CPA with Existing LT Contracts + Heber South (Proposed)	21.5%	33.8%	33.1%
7	Open Position relative to State Mandate (Row 3,6) +Above/ (-) Short with Heber South	-4.5%	1.7%	-3.8%

ENVIRONMENTAL REVIEW

Because Heber South is an existing project, Ormat does not have any additional CEQA review obligations. In addition, CPA would have no role, jurisdiction, or authority whatsoever with respect to CEQA review or project approval, if such review or approval were required.

ATTACHMENTS

- 1) [Heber South Power Purchase Agreement Presentation](#)
- 2) [Renewable Power Purchase Agreement with Heber South²](#)

² Consistent with industry practice, portions of the agreement have been redacted to protect market sensitive information.



Item 5

Renewable Power Purchase Agreement with Heber South

Thursday, May 6, 2021

Summary

- Action Requested
- Background on CPA's 2020 Clean Energy Request for Offers (RFO) and Portfolio Considerations
- Project Summary

Action Requested

- CPA is seeking Board approval for the Heber South long-term renewable energy contract from CPA's 2020 Clean Energy RFO:

Project	Technology	Installed Capacity	Contract Start Date	Process
Heber South	Geothermal	14 MW	1/1/2022	2020 Clean Energy RFO

Background on CPA's 2020 Clean Energy RFO and Portfolio Considerations

Background on 2020 Clean Energy RFO

- Targets securing 1.5-2 million MWh of annual renewable energy via long-term contracts
- Helps CPA meet its customers' large renewable energy demand while capturing better value compared to short-term renewable energy contracts
- Near-term online date projects enable CPA to meet its regulatory obligations under SB 100 and SB 350 long-term renewable energy contracting requirements¹
- Supports CPA load requirements with a diverse portfolio of cost effective and clean technologies, including non-solar resources
- RFO shortlisted projects were approved by the Energy Committee

(1) SB350 requires that 65% of Renewables Portfolio Standard (RPS)-compliance related renewable energy supply be sourced via from long-term contracts beginning in the 2021-2024 compliance period

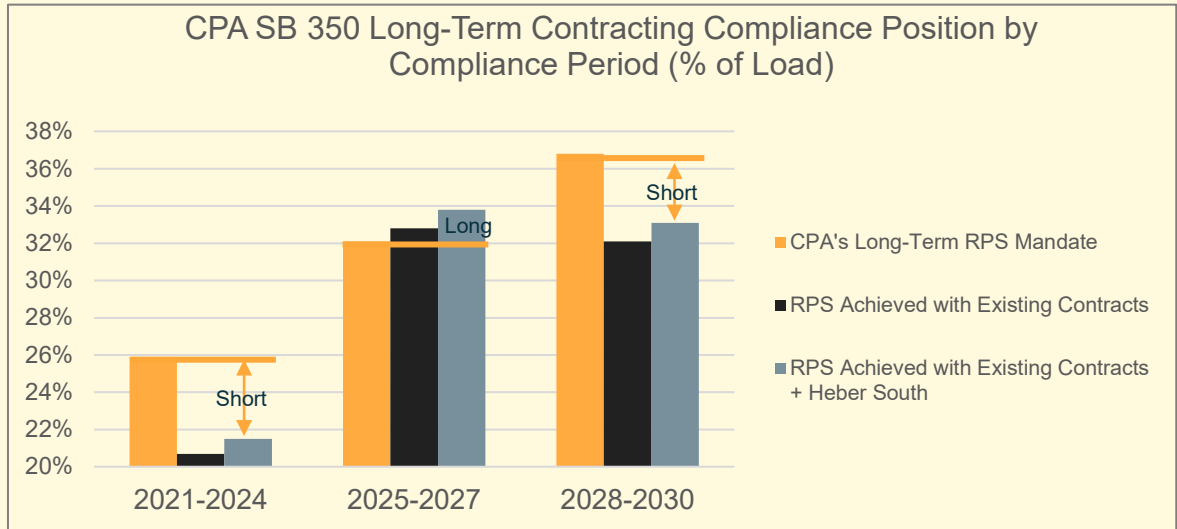
Renewable Energy Position

- CPA’s Board has approved 12 long-term renewable energy contracts to date
- If contracted, the Heber South project would represent approx. 1% of CPA’s load and one of CPA’s few non-solar resources

Project	Renewable MWs	Status	Commercial Operation Date	Term (Years)	County	Approximate % of Load Served
Voyager Wind	21.6	Online	12/28/2018	15	Kern, CA	0.6%
Kaweah Hydro	20.1	Online	6/16/2020	10	Tulare, CA	0.3%
Isabella Hydro	12.0	Online	12/8/2020	10	Kern, CA	0.4%
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Heber South Geothermal	14.0	Proposed	1/1/2022	15	Imperial, CA	1.0%
Total Contracted	1,344.5					34.2%

Compliance Position

- RPS Under SB 100 and SB 350 Long-term Contracting Requirement per Compliance Period¹:



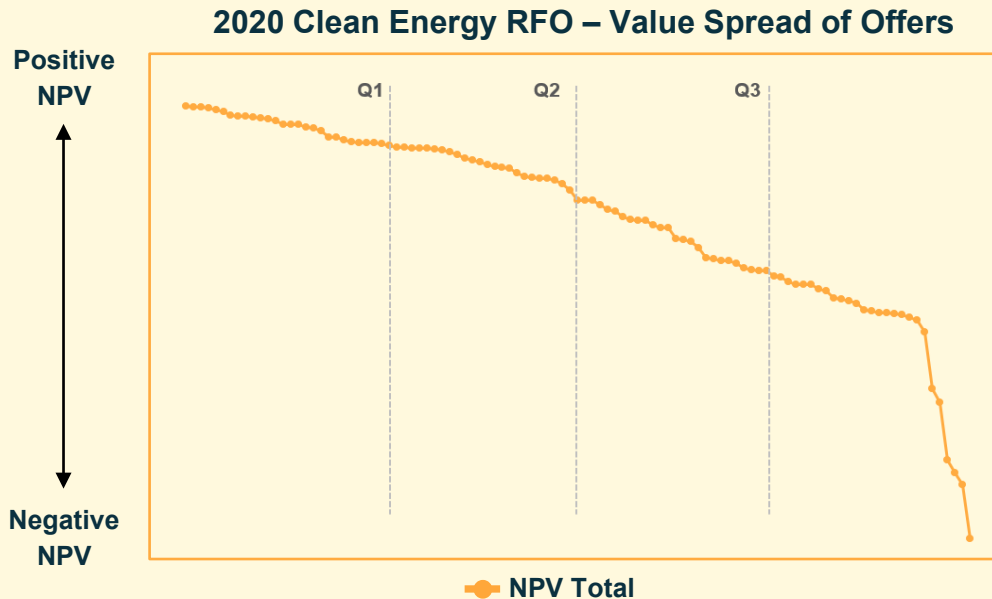
- The Heber South contract will help CPA make progress towards compliance, but CPA will still have a short position for the 2021-2024 compliance period

(1) Note that RPS percentages by compliance period differ from the table on Slide 6 due to timing of when projects come online and changes to load from year to year.

Project Summary

2020 Clean Energy RFO Valuation Results

- Shortlisting in the 2020 Clean Energy RFO focused on first quartile projects, with additional projects in the second quartile added based on other portfolio considerations (resource diversification, online date)



Heber South Geothermal Project

Project Overview

- 14 MW geothermal facility
- Located in Imperial Valley
- Existing project with a January 1, 2022 contract start date
- Developer: Ormat

Rationale

- High evaluation criteria scores
- Early online date to meet SB350 compliance
- Technology diversity (baseload renewable generation)

Evaluation Summary

Criteria	Rank
Value	2 nd quartile
Development Score	High
Workforce Development	Medium
Environmental Stewardship	High
Benefits to DACs	High
Project Location	Medium

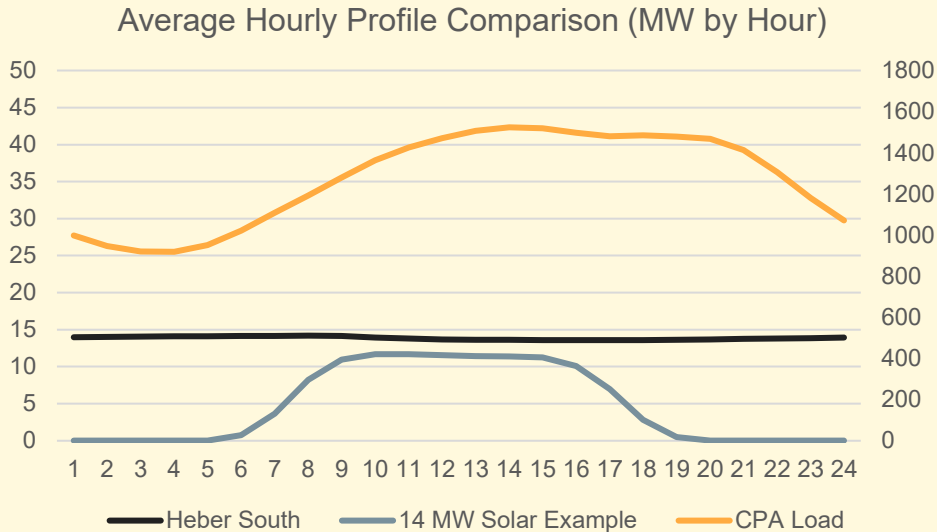
Heber South Geothermal Project

- Completed and online in 2008



Heber South Geothermal Project (cont.)

- As a baseload geothermal resource, Heber South will provide important portfolio diversification benefits to CPA, whose portfolio is largely solar, by providing renewable energy during non-solar hours



Summary

- The Heber South power purchase agreement is the first of several long-term contracts to be considered by the Board from the 2020 Clean Energy RFO
 - Additional contracts will be brought to the Board throughout the spring and summer
- Heber South will provide CPA with a cost effective, baseload renewable supply resource
- As an existing resource with a near-term online date (Jan. 1, 2022), Heber South will support CPA's compliance obligations
- **Action Requested:** CPA is seeking Board approval for the 14 MW Heber South long-term renewable energy contract

RENEWABLE POWER PURCHASE AGREEMENT

COVER SHEET

Seller: OrHeber 2, LLC

Buyer: Clean Power Alliance of Southern California, a California joint powers authority

Description of Facility: A 14 MW binary geothermal power plant

Guaranteed Commencement Date: January 1, 2022

Delivery Term: Fifteen (15) Contract Years

Delivery Term Expected Energy:

Contract Year	Expected Energy (MWh)
1	116,508
2	████████
3	████████
4	████████
5	████████
6	████████
7	████████
8	████████
9	████████
10	████████
11	████████
12	████████
13	████████
14	████████
15	████████

Installed Capacity: 14 MW of total Facility capacity

Contract Price: The Renewable Rate shall be:

Contract Year	Contract Price (\$/MWh)
1 – 15	\$ [REDACTED] /MWh (flat) with no escalation

Product:

- Energy
- Green Attributes (if Renewable Energy Credit, please check the applicable box below):
 - Portfolio Content Category 1
 - Portfolio Content Category 2
 - Portfolio Content Category 3
- Capacity Attributes
 - Full Capacity Deliverability Status

Scheduling Coordinator: Seller

Performance Security: \$60/kW of Installed Capacity

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Exhibits:

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Exhibit D	[Intentionally Omitted]
Exhibit E	[Intentionally Omitted]
Exhibit F	Average Expected Energy
Exhibit G	Guaranteed Energy Production Damages Calculation
Exhibit H	[Intentionally Omitted]
Exhibit I	[Intentionally Omitted]
Exhibit J	[Intentionally Omitted]
Exhibit K	Form of Letter of Credit
Exhibit L	Form of Assignment Agreement
Exhibit M	[Intentionally Omitted]
Exhibit N	Notices
Exhibit O	Form of Consent to Collateral Assignment

RENEWABLE POWER PURCHASE AGREEMENT

This Renewable 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 owns and operates 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 3.13.

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

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

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

“**Approved Meter**” means a CAISO or Transmission Provider approved revenue quality meter or meters, CAISO or Transmission Provider 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 delivered to the Delivery Point.

“Assignment Agreement” has the meaning set forth in Section 14.5.

“Availability Incentive Payments” has the meaning set forth in the CAISO Tariff.

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

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

“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 Assignee” has the meaning set forth in Section 14.5.

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

“Buyer’s Indemnified Parties” has the meaning set forth in Section 18.2.

“Buyer’s WREGIS Account” has the meaning set forth in Section 4.8(a).

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

“CAISO Costs” means the debits, costs, penalties and interest that are directly assigned by the CAISO to the CAISO Resource ID for the Facility for, or attributable to, Scheduling or deliveries from the Facility under this Agreement in each applicable Settlement Interval.

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

“CAISO Operating Instruction” means an “Operating Instruction” defined in the CAISO Tariff.

“CAISO Revenues” means the credits and other payments incurred or received by Seller, as the Facility’s Scheduling Coordinator, as a result of Scheduled Energy or Facility Energy delivered by Seller to any CAISO-administered market, including costs and revenues associated with CAISO dispatches, for each applicable Settlement Interval.

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

“California Renewables Portfolio Standard” or **“RPS”** means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 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, sold or conveyed under CAISO or CPUC 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 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.

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

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

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

“Commencement Date” has the meaning set forth in Section 2.2.

“Commencement Delay Damages” means an amount equal to (a) the Performance Security amount required hereunder, divided by (b) ninety (90).

“Commencement of Operations” has the meaning set forth in Exhibit B.

“Compliance Actions” has the meaning set forth in Section 3.13.

“Compliance Expenditure Cap” has the meaning set forth in Section 3.13.

“**Confidential Information**” has the meaning set forth in Section 17.1.

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

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

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

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

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

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

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

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

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

“**Curtailed Energy**” means the amount of energy expressed in MWh that the Facility would have produced and delivered to the Delivery Point, but that is not produced by the Facility and delivered to the Delivery Point during a Curtailment Period, which amount shall be equal to the result of the equation provided by Seller to reasonably calculate the potential generation of the Facility as a function of Available Capacity, weather and other pertinent data for the period of time during the Curtailment Period less the amount of Facility Energy during the Curtailment Period; *provided*, if the Facility Energy is greater than the calculation of potential generation, then the Curtailed Energy shall be zero (0).

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

(a) CAISO orders, directs, alerts, or provides notice to a Party, including a CAISO Operating Order, that requires the Seller to curtail deliveries of Facility Energy for the following reasons: (i) any System Emergency, or (ii) any warning of an anticipated System Emergency, or warning of an imminent condition or situation, which jeopardizes CAISO’s electric system integrity or the integrity of other systems to which CAISO is connected, or (iii) in response to an Energy oversupply or potential Energy oversupply, and Seller or the SC for the Facility submitted

a Self-Schedule (as defined in the CAISO Tariff) for the MWhs curtailed corresponding to the MWhs in Seller's energy forecast for the Facility during the relevant time period;

(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 current Settlement Intervals, during which Seller reduces generation from the Facility pursuant to a Curtailment Order; *provided*, the Curtailment Period shall be inclusive of the time required for the Facility to ramp down and ramp up.

"Customer Market Results Interface" has the meaning set forth in the CAISO Tariff.

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

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

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

"Deficient Month" has the meaning set forth in Section 4.8(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 Commencement 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.

"Disclosing Party" has the meaning set forth in Section 18.2.

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

"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.

“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 Facility, measured in kilowatt-hours or multiple units thereof. Energy shall include any other electrical energy products that may be developed or evolve from time to time during the Contract Term, including reactive power.

“Energy Replacement Damages” has the meaning set forth in Section 4.7.

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

“Excess MWh” has the meaning set forth in Section 3.3(a)(ii).

“Expected Commencement 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 Facility during each Contract Year in the quantity specified on the Cover Sheet.

“Facility” means the geothermal generating facilities 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 Facility Energy to the Delivery Point.

“Facility Energy” means the Energy during any Settlement Interval or Settlement Period, net of Electrical Losses and Station Use, as measured by the Facility Meter.

“Facility Meter” means the Approved Meter that will measure all Facility Energy. Without limiting Seller’s obligation to deliver Facility Energy to the Delivery Point, the Facility Meter will be located, and Facility Energy will be measured, at the high voltage side of the main step-up transformer and will be subject to adjustment to measure Facility Energy at the Delivery Point in accordance with CAISO meter requirements and Prudent Operating Practices to account for Electrical Losses.

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

“Fifteen Minute Market” or **“FMM”** has the meaning set forth in the CAISO Tariff.

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

“Forced Facility Outage” means an unexpected failure of one or more components of the Facility that prevents Seller from generating 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 4.8(a).

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

“Future Environmental Attributes” shall mean any and all Green Attributes that become recognized under applicable Law after the Effective Date (and not before the Effective Date), notwithstanding the last sentence of the definition of “Green Attributes” herein.

“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., SP-15), all of which should be calculated for the remaining Contract Term, and include the value of Green Attributes and Capacity Attributes.

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

“Green Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled (including 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)), 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; and (3) the reporting rights to such avoided emissions, such as Green Tag Reporting Rights. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) 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 and 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, or (iii) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits. Green Attributes under the preceding definition are limited to Green Attributes that exist under applicable Law as of the Effective Date.

“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.

“Green Tags” means a unit accumulated on a MWh basis where one (1) represents the Green Attributes associated with one (1) MWh of Facility Energy.

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

“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 15.1.

“Indemnifying Party” has the meaning set forth in Section 15.1.

“Installed Capacity” means the actual generating capacity of the Generating Facility, as measured in MW AC at the Delivery Point, that Seller certifies is installed pursuant to this Agreement, in the amount set forth on the Cover Sheet.

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

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

“Interconnection 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.

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

“IP Indemnity Claim” has the meaning set forth in Section 16.1(b).

“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 June 27, 2017, as amended from time to time, under which Buyer is organized as a Joint Powers Authority in accordance with the Joint Powers Act.

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

terms of direct current.

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

“**Lender**” means, collectively, any Person (i) providing senior or subordinated construction, interim, back leverage or long-term debt, credit support, 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 A- with an outlook designation of “stable” from S&P or A3 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 Resources**” 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., SP-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.

“**Major Maintenance**” means planned maintenance for the purpose of achieving a major overhaul or material maintenance that impacts the output of the Facility for seven (7) or more consecutive days.

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

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

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

“**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, or electronic messaging (e-mail).

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

“**Performance Measurement Period**” means each two (2) consecutive Contract Years commencing with the first Contract Year so that the first Performance Measurement Period shall include Contract Years 1 and 2. Performance Measurement Periods shall overlap, so that if the first Performance Measurement Period is comprised of Contract Years 1 and 2, the second Performance Measurement Period shall be comprised of Contract Years 2 and 3, the third Performance Measurement Period shall be comprised of Contract Years 3 and 4, and so on.

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

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

(a) A tangible net worth of not less than one hundred fifty million dollars (\$150,000,000) or a Credit Rating of at least BBB- from S&P, BBB- from Fitch, or Baa3 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 a period during which the Facility is either in whole or in part not capable of providing service due to planned maintenance, including any Major Maintenance, that has been scheduled in advance in accordance with Section 4.6(a).

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

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

“Portfolio 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.

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

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

“Product” has the meaning on the Cover Sheet.

“Prudent Operating Practice” means (a) the applicable practices, methods and acts required by or consistent with applicable Laws and reliability criteria, and otherwise engaged in or approved by a significant portion of the electric industry during the relevant time period with respect to grid-interconnected, utility-scale geothermal generating facilities 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 in the Western United States. Prudent Operating Practice shall include compliance with applicable Laws, applicable reliability criteria, and the applicable criteria, rules and standards promulgated in the National Electric Safety Code and the National Electrical Code, as they may be amended or superseded from time to time, including the criteria, rules and standards of any successor organizations.

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

“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 3.9(b).

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

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

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

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

“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, Future Environmental Attribute, or Capacity Attribute.

“Replacement Energy” has the meaning set forth in Exhibit G.

“Replacement Green Attributes” has the meaning set forth in Exhibit G.

“Replacement Product” has the meaning set forth in Exhibit G.

“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, and located within SP-15 TAC Area and, to the extent that the Facility would have qualified as a Local Capacity Area Resource for such month, described as a Local Capacity Area Resource.

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

“Requested Party’s Indemnified Parties” has the meaning set forth in Section 18.2.

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

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

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

“Resource Adequacy Rulings” means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024 and any other existing or subsequent ruling or decision, or any other resource adequacy laws, rules or regulations enacted, adopted or promulgated by any applicable Governmental Authority, however described, as such decisions, rulings, Laws, rules or regulations may be amended or modified from time-to-time throughout the Contract Term.

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

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

“Scheduled Energy” means the Facility Energy scheduled by Seller that clears under the applicable CAISO market based on the final Day-Ahead Schedule (as defined in the CAISO Tariff), 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.

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

“Seller’s WREGIS Account” has the meaning set forth in Section 4.8(a).

“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.

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

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

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

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

“SP-15” means the Existing Zone Generation Trading Hub for Existing Zone region SP15 as set forth in the CAISO Tariff.

“Station Use” means the Energy produced 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.

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

“Tax” or **“Taxes”** means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term,

including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

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

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

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

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

“**Transmission System Outage**” means an outage on the Transmission System, other than a System Emergency, that prevents Buyer or the CAISO (as applicable) from receiving System Energy onto the Transmission System.

“**Ultimate Parent**” means Ormat Technologies Inc, a Delaware corporation.

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

“**WECC**” means the Western Electricity Coordinating Council or its successor.

“**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 4.8(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:

(b) 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;

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

(d) 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;

(e) 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;

(f) 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;

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

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

(i) 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;

(j) 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;

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

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

(m) 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

(n) 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 (“**Contract Term**”); *provided*, 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 to Buyer’s reasonable satisfaction each of the following conditions, and the Commencement Date shall be the date of the last of the following items to occur:

- (a) Seller has completed the CAISO new resource implementation process and is able to deliver the Product to Buyer in accordance with this Agreement and the CAISO Tariff;
- (b) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8; and
- (c) Seller has paid Buyer for all amounts due and owing under this Agreement, if any, including Commencement Delay Damages.

1.2 **Progress Reports.** Within fifteen (15) days after the close of each calendar month from the first calendar month from the Effective Date until the Commencement Date, Seller shall provide to Buyer a progress report describing Seller’s progress toward completing the condition precedent set forth in Section 2.2(a). Seller shall take commercially reasonable efforts to achieve the condition set forth in Section 2.2(a) by no later than December 1, 2021; *provided*, if Seller does not timely achieve the condition set forth in Section 2.2(a), Seller shall provide Buyer with a reasonably detailed plan for how Seller shall achieve the condition by no later than the Guaranteed Commencement Date.

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 shall purchase all the Product produced by or associated with the Facility at the Contract Price, 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*, no

such resale or use shall relieve Buyer of any of its obligations under this Agreement. Subject to Buyer's obligation to purchase Capacity Attributes in accordance with this Section 3.1, Buyer has no obligation to pay Seller for 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 and receive from Seller, all Green Attributes attributable to the Facility Energy generated by the Facility.

3.3 **Compensation.**

(a) During the Delivery Term, Buyer shall pay Seller the following amounts for each MWh of Facility Energy during a Contract Year:

(i) For each MWh of Facility Energy in each Settlement Interval up to one hundred fifteen percent (115%) of the amount of Expected Energy for such Contract Year, the difference of (A) the Contract Price, minus (B) the Day-Ahead Market LMP applicable to the Settlement Point for such Settlement Interval (even if such Day-Ahead Market LMP is less than \$0.00/MWh); and

(ii) For each MWh of Facility Energy in each Settlement Interval in excess of one hundred fifteen percent (115%) of the Expected Energy for such Contract Year ("**Excess MWh**"), zero dollars per MWh (\$0/MWh).

(b) During the Delivery Term, Seller shall receive no compensation from Buyer for Curtailed Energy or Facility Energy that is delivered in violation of a Curtailment Order.

3.4 **[Intentionally Omitted]**

3.5 **Ownership of Renewable Energy Incentives.** Seller shall have all right, 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.

3.6 **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 3.6(a), and Sections 3.6(b) and 3.13, 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 or the operation of the Facility unless the Parties have agreed on all necessary terms and conditions relating to such alteration or change in operation and Buyer has agreed to reimburse Seller for all costs, losses, and liabilities associated with such alteration or change in operation.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.6(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, as set forth above; *provided*, that the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

3.7 **[Intentionally Omitted]**

3.8 **Capacity Attributes.** Upon Buyer's request, Seller shall reasonably cooperate and assist Buyer in its efforts to obtain Capacity Attributes from the Facility. Seller shall not be required to bear any additional third-party costs to enable Buyer to obtain Capacity Attributes.

3.9 **[Intentionally Omitted].**

3.10 **CEC Certification and Verification.** Subject to Section 3.13, Seller shall take all necessary steps including, but not limited to, making or supporting timely filings with the CEC to 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).

3.11 **Eligibility.** Subject to Section 3.13, 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's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in Law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in Law. The term "commercially reasonable efforts" as used in this Section 3.11 means efforts consistent with and subject to Section 3.13.

3.12 **California Renewables Portfolio Standard.** Subject to Section 3.13, Seller shall also take all other actions necessary to ensure that the Energy produced from the Facility is tracked for purposes of satisfying the California Renewables Portfolio Standard requirements, as may be amended or supplemented by the CPUC or CEC from time to time.

3.13 **Compliance Expenditure Cap.** If a change in Law occurring after the Effective Date has increased Seller's cost to comply with Seller's obligations under this Agreement that are made subject to this Section 3.13, including with respect to obtaining, maintaining, conveying or

effectuating Buyer's use of Green Attributes and Capacity Attributes (as applicable), then the Parties agree that the maximum aggregate amount of costs and expenses Seller shall be required to bear during the Delivery Term to comply with all of such obligations shall be capped at Twenty-Five Thousand Dollars (\$25,000) per MW of Installed Capacity ("**Compliance Expenditure Cap**").

(a) Any actions required for Seller to comply with its obligations set forth in the first paragraph above, the cost of which will be included in the Compliance Expenditure Cap, shall be referred to collectively as the "**Compliance Actions**."

(b) If Seller reasonably anticipates the need to incur out-of-pocket expenses in excess of the Compliance Expenditure Cap in order to take any Compliance Action Seller shall provide Notice to Buyer of such anticipated out-of-pocket expenses.

(c) Buyer will have sixty (60) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.13 within sixty (60) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligation to take, and no liability for any failure to take, such Compliance Actions until such time as Buyer agrees to pay such Accepted Compliance Costs.

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

3.14 **Project 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 shall discuss in good faith potential reconfiguration of the Facility or Interconnection Facilities; *provided*, neither Party shall be obligated to agree to any changes under this Agreement, or to incur any expense in connection with such changes, except under terms mutually acceptable to both Parties as set forth in a written agreement.

ARTICLE 4 OBLIGATIONS AND DELIVERIES

4.1 **Delivery**.

(a) **Energy**. Subject to the provisions of this Agreement, commencing on the Commencement Date and 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; *provided*, upon a request by Buyer, Seller shall use commercially reasonable efforts to arrange to deliver the Product to an alternate delivery point requested by Buyer, including efforts to re-direct transmission, provided that Buyer agrees to reimburse Seller for any incremental out-of-pocket costs to Seller to do so and the Settlement Point specified in Exhibit A is revised to match the alternate delivery point. Seller shall be responsible for paying or satisfying when due any costs or charges imposed in connection with the delivery of Facility Energy to the Delivery Point, including without limitation, any operation and maintenance charges imposed by the Transmission Provider directly relating to the Facility's operations. Buyer shall be responsible for all costs, charges and penalties, if any, imposed in connection with the delivery of Facility Energy at and after the Delivery Point, including without limitation transmission costs and transmission line losses and imbalance charges. The Facility Energy will be scheduled with the CAISO by Seller (or Seller's designated Scheduling Coordinator).

(b) Green Attributes. All Green Attributes associated with the Facility Energy during the Delivery Term are exclusively dedicated to and will be conveyed to 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 Scheduling Coordinator Responsibilities.

(a) Seller to be Scheduling Coordinator. During the Delivery Term, Seller shall act as Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO to Schedule and deliver the Product to the Delivery Point on behalf of Buyer. Each Party shall perform all scheduling and transmission activities in compliance with (i) the CAISO Tariff, (ii) WECC scheduling practices, and (iii) Prudent Operating Practice. The Parties agree to communicate and cooperate as necessary in order to address any scheduling or settlement issues as they may arise, and to work together in good faith to resolve them in a manner consistent with the terms of the Agreement.

(b) CAISO Market Participation. During the Delivery Term, Seller, as the party responsible for all Scheduling Coordinator activities with respect to the Facility, shall submit bids into the Day-Ahead Market and the Real-Time Market.

(c) CAISO Costs and CAISO Revenues. As the Scheduling Coordinator for the Facility, Seller shall be responsible for all CAISO Costs and shall be entitled to all CAISO Revenues; *provided*, any net costs or charges assessed by the CAISO which are due to Buyer's

failure to perform its obligations shall be Buyer's responsibility. The Parties agree that any Availability Incentive Payments are for the benefit of Seller and for Seller's account and that any Non-Availability Charges or other CAISO charges associated with the Facility not providing sufficient Resource Adequacy capacity are the responsibility of Seller and for Seller's account. In addition, if during the Delivery Term the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, the cost of such sanctions or penalties arising from the scheduling, outage reporting, or generator operation of the Facility shall be Seller's responsibility.

(d) Future Changes to Scheduling Protocols. During the Delivery Term, the Parties agree to discuss in good faith requested changes by either Party to the CAISO scheduling procedures set forth in this Agreement, including the possibility of incorporating Inter-SC Trades in the Day-Ahead Market.

(e) Customer Market Results Interface Access. Seller shall provide to Buyer read-only access to Seller's (or its SC's) Customer Market Results Interface for the Facility.

(f) RA Substitution. In the event that the CAISO Tariff requires Seller (or its SC) to provide substitute Resource Adequacy Benefits (including due to outages of the Facility), Seller shall use commercially efforts to make such substitution, which will be at no additional cost to Buyer, and Seller shall be liable for any costs or penalties for failing to do so; *provided*, Buyer shall indemnify and hold Seller harmless against any costs (including the cost of substitute Resource Adequacy Benefits) or liabilities associated with Buyer's failure to provide the necessary import allocation rights. In the event that, as a result of a change in Law, Buyer is (or, in order to maintain the balance of benefits and burdens contemplated hereunder, should be) responsible for taking or refraining from taking certain actions in order to facilitate the provision of Resource Adequacy Benefits hereunder and Seller's substitute Resource Adequacy requirement occurs as a result of a failure by Buyer to take or refrain from taking such action, Buyer shall indemnify and hold Seller harmless against any costs (including the cost of substitute Resource Adequacy Benefits) or liabilities associated with Buyer's failure to take or refrain from taking such action.

4.4 **Forecasting**. Seller shall provide the Facility Energy forecasts described below. Seller's Facility Energy forecasts shall include availability for the Facility. Seller shall use commercially reasonable efforts to forecast the Facility Energy of the Facility accurately and to transmit such information in a format reasonably acceptable to Buyer (or Buyer's designee).

(a) Annual Forecast of Facility 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 a non-binding forecast of each month's average-day expected Facility Energy, by hour, for the following calendar year in a form reasonably acceptable to Buyer.

(b) Monthly Forecast of Facility Energy. No less than ten (10) Business Days before the beginning of each month of the Delivery Term, Seller shall provide to Buyer and Buyer's designee (if applicable) a non-binding forecast of the hourly Facility Energy for each day of the following month in a form reasonably acceptable to Buyer.

(c) [Intentionally Omitted]

(d) Real-Time Forecast Updates. Seller shall notify Buyer if there are change(s) of one (1) MW / (1) MWh or more, as applicable, in the Available Generating Capacity or the hourly expected Energy, in any case whether due to Forced Facility Outage, Transmission System Outage, Force Majeure or other cause, including (as appropriate) information regarding the beginning date and time of any event resulting in the change in Available Generating Capacity, the expected end date and time of any such event, and any other information required by the CAISO or reasonably requested by Buyer.

(e) CAISO Tariff Requirements. Seller shall comply with all applicable obligations under the CAISO Tariff that may be applicable to the Facility (if any), including, as applicable, providing appropriate operational data and meteorological data, and will fully cooperate with Buyer and CAISO, in providing all data, information, and authorizations required thereunder.

4.5 Dispatch Down/Curtailment.

(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 Curtailment Order.

(b) [Intentionally Omitted]

(c) Failure to Comply. If Seller fails to comply with a Curtailment Order, then, between Buyer and Seller, Seller shall bear any penalties assessed by the CAISO or other charges assessed by the CAISO resulting from Seller's failure to comply with the Curtailment Order.

(d) Seller Equipment Required for Operating 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 to and follow operating instructions from the CAISO or Transmission Provider, including an electronic signal conveying real time and intra-day instructions, to operate the Facility as directed by Buyer from time to time in accordance with this Agreement and/or a Governmental Authority, including to implement a Curtailment Order in accordance with the methodologies applicable to the Facility and used to transmit such instructions. If at any time during the Delivery Term Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with methodologies applicable to the Facility and directed by Buyer, Seller shall take the steps necessary to become compliant as soon as commercially reasonably possible. Seller shall be liable pursuant to Section 4.5(c) for failure to comply with a Curtailment Order, during the time that Seller's facilities, communications links or other equipment, protocols or practices are not in compliance with applicable methodologies. A Curtailment Order communication via such systems and facilities shall have the same force and effect on Seller as any other form of communication.

4.6 Reduction in Energy Delivery Obligation. Without limiting Section 3.1 or Exhibit G:

(a) Facility Maintenance.

(i) Seller shall provide to Buyer written schedules for Planned Outages for each Contract Year no later than thirty (30) days prior to the first day of the applicable Contract Year. Buyer may provide comments no later than ten (10) days after receiving any such schedule, and Seller shall in good faith take into account any such comments. Seller shall deliver to Buyer the final updated schedule of Planned Outages no later than ten (10) days after receiving Buyer's comments. Seller shall be permitted to reduce deliveries of Product during any period of such Planned Outages.

(ii) If reasonably required in accordance with Prudent Operating Practices, Seller may perform maintenance at a different time than maintenance scheduled pursuant to Section 4.6(a)(i), but Major Maintenance shall not be performed more than one week before or after the scheduled time (provided that the outage remains within the same month(s) as originally scheduled) unless Seller first provides Buyer notice prior to rescheduling. Such notice of the change in time of Major Maintenance shall be provided at least (a) in the event that Seller moves the date of such Major Maintenance to an earlier date, fifty (50) Business Days prior to the first day of the month in which such Major Maintenance is to re-scheduled, and (b) in the event that Seller moves the date of such Major Maintenance to a later date, fifty (50) Business Days prior to the first day of the month in which such Major Maintenance was originally scheduled.

(iii) Major Maintenance shall not exceed fifteen (15) days once every five (5) years, and one hundred twenty (120) days once during the Term.

(iv) Notwithstanding anything in this Agreement to the contrary, no Planned Outages of the Facility shall be scheduled or planned from each June 1 through October 31 during the Delivery Term, unless approved by Buyer in writing in its sole discretion. In the event that Seller has a previously Planned Outage that becomes coincident with a System Emergency, Seller shall make all reasonable efforts to reschedule such Planned Outage.

(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, or upon Notice of a Curtailment Order pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff.

(d) Force Majeure Event. Subject to Article 10, 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.

4.7 **Guaranteed Energy Production.** During each Performance Measurement Period, Seller shall deliver to Buyer an amount of Facility Energy, not including any Excess MWh, equal to no less than the Guaranteed Energy Production (as defined below). "**Guaranteed Energy Production**" means an amount of Facility Energy, as measured in MWh, equal to [REDACTED] percent ([REDACTED]%) of the sum of the annual Expected Energy amounts 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's Default or other Buyer failure to perform that directly prevents Seller from being able to deliver Energy to the Delivery Point. For purposes of determining whether Seller has achieved the Guaranteed Energy Production, Seller shall be deemed to have delivered to Buyer the amount of Facility Energy 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 that is not caused by Seller's actions or inactions, or Curtailment Periods or Major Maintenance ("**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 ("**Energy Replacement Damages**"); *provided*, Seller may, as an alternative, provide Replacement Product (as defined in Exhibit G) delivered to Buyer at SP 15 EZ Gen Hub 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, (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller refuses to provide reimbursement, and (iii) not to exceed ten percent (10%) of the Expected Energy for the previous Contract Year.

4.8 **WREGIS**. Seller shall, at its sole expense, but subject to Section 3.13, 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 all 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 4.8(g), provided that Seller fulfills its obligations under Sections 4.8(a) through (g) below. In addition:

(a) Prior to the Commencement 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 4.8. 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 by, or the result of any action or inaction of, Seller, then the amount of Facility Energy in the Deficient Month shall be reduced by three times (3x) 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*, 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 Green Attributes (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 4.8, 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 4.8 after the Effective Date, the Parties promptly shall modify this Section 4.8 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 to evidence such exemption or exclusion within thirty (30) days after the date Buyer makes such claim. Buyer shall indemnify, defend, and hold Seller harmless from any liability with respect to Taxes for which Buyer is responsible hereunder and from which Buyer claims it is exempt.

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

ARTICLE 6 MAINTENANCE OF THE FACILITY

6.1 **Maintenance of the Facility.** Seller shall, as between Seller and Buyer, be solely responsible for the operation and maintenance of the Facility and the delivery of the Product to the Delivery Point and 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 Facility Energy to the Delivery Point.

6.3 **Shared Facilities.** The Parties acknowledge and agree that certain of the Shared Facilities and Interconnection Facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities and/or co-tenancy agreements to be entered into among Seller, the Transmission Provider, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities may be subject to joint ownership and shared maintenance and operation arrangements, provided that such agreements (i) permit Seller to perform or satisfy, and shall not purport to limit, its obligations hereunder and (ii) provide for separate metering of the Facility.

ARTICLE 7 METERING

7.1 **Metering.** Seller shall measure the amount of Facility Energy using the Facility Meter. The Facility Meter shall be operated pursuant to applicable CAISO-approved calculation methodologies and maintained as Seller's cost. Subject to meeting any applicable CAISO

requirements, the Facility Meter shall be programmed to adjust for all losses from the Facility Meter to the Delivery Point in a manner subject to Buyer's prior written approval, not to be unreasonably withheld. **The** Facility Meter shall be kept under seal, such seals to be broken only when the Facility Meter is to be tested, adjusted, modified or relocated. In the event Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Facility Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO or the Transmission Provider, as applicable, the meter data directly relating to the Facility and all inspection, testing and calibration data and reports. Seller and Buyer, or Seller's Scheduling Coordinator, shall cooperate to allow both Parties to retrieve the Facility Meter reads from the CAISO Operational Meter Analysis and Reporting (OMAR) web and/or directly from the Facility Meter.

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 it shall be promptly repaired or replaced. If a meter is inaccurate by more than one percent (1%) and it is not known when the meter inaccuracy commenced (if such evidence exists such date will be used to adjust prior invoices), then the invoices covering the period of time since the last meter test shall be adjusted for the amount of the inaccuracy on the assumption that the inaccuracy persisted during one-half of such period; provided, that (a) such period may not exceed twelve (12) months and (b) such adjustments are accepted by CAISO and WREGIS.

ARTICLE 8 INVOICING AND PAYMENT; CREDIT

8.1 **Invoicing**. Seller shall make good faith efforts to deliver an invoice to Buyer for Product no later than the tenth (10th) day of each month for the previous calendar month. Each invoice shall (a) reflect 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 Product in MWh delivered during the prior billing period as set forth in CAISO T+9 settlement statements, the amount of Product in MWh produced by the Facility as read by the Approved Meter, deviations between the Scheduled Energy and the Facility Energy, and the applicable LMP prices at the Delivery Point for each Settlement Interval, the Contract Price applicable to such Product, and the amount of Replacement Product or Replacement RA delivered during the preceding month; and (b) be in a format reasonably specified by Buyer, covering the Product provided in the preceding month determined in accordance with the applicable provisions of this Agreement. Seller shall provide Buyer with reasonable access to any records, including invoices or settlement data from CAISO, necessary to verify the accuracy of any invoices.

8.2 **Payment**. Buyer shall make payment to Seller for Product (and any other amounts due) by wire transfer or ACH payment to the bank account provided on each monthly invoice. Buyer shall pay undisputed invoice amounts by the later of (a) ten (10) Business Days after Buyer's receipt of the invoice from Seller, and (b) the thirtieth (30th) day of the month after the operational month for which such invoice was rendered; *provided*, if such due date falls on a weekend or legal holiday, such due date shall be the next Business Day. Payments made after the due date will be

considered late and will bear interest on the unpaid balance. If the amount due is not paid on or before the due date or if any other payment that is due and owing from one Party to another is not paid on or before its applicable due date, a late payment charge shall be applied to the unpaid balance and shall be added to the next billing statement. Such late payment charge shall be calculated based on an annual Interest Rate equal to the prime rate published on the date of the invoice in The Wall Street Journal (or, if The Wall Street Journal is not published on that day, the next succeeding date of publication), plus two percent (2%) (the “**Interest Rate**”). If the due date occurs on a day that is not a Business Day, the late payment charge shall begin to accrue on the next succeeding Business Day.

8.3 **Books and Records.** To facilitate payment and verification, each Party shall maintain all books and records necessary for billing and payments, including copies of all invoices under this Agreement, for a period of at least two (2) years or as otherwise required by Law. Upon fifteen (15) days’ Notice to the other Party, either Party shall be granted reasonable access to the accounting books and records within the possession or control of the other Party pertaining to all invoices generated pursuant to this Agreement.

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, or there is determined to have been a meter inaccuracy sufficient to require a payment adjustment. If the required adjustment is in favor of Buyer, Buyer’s 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 and G, 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 **[Intentionally Omitted]**

8.8 **Seller's Performance Security.** To secure its obligations under this Agreement, Seller shall deliver the Performance Security to Buyer on or before the Effective Date. Seller shall maintain the Performance Security in full force and effect, and Seller shall within ten (10) Business Days after any draw thereon, replenish the Performance Security in the event Buyer collects or draws down any portion of the Performance Security for any reason permitted under this Agreement other than to satisfy a Termination Payment, until the following have occurred: (a) the Delivery Term has expired or terminated early; and (b) all payment obligations of Seller due and payable under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security.

8.9 **First Priority Security Interest in Cash or Cash Equivalent Collateral.** To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing first-priority security interest ("**Security Interest**") in, and lien on (and right to net against), and assignment of the Performance Security 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 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 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 Performance Security; and
- (c) Liquidate all Performance Security then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

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

ARTICLE 9 NOTICES

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

9.2 **Acceptable Means of Delivering Notice.** Each Notice required, permitted, or contemplated hereunder shall be deemed to have been validly served, given or delivered as follows: (a) if sent by United States mail with proper first class postage prepaid, three (3) Business Days following the date of the postmark on the envelope in which such Notice was deposited in the United States mail; (b) if sent by a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement with such carrier made for the payment of such fees, the next Business Day after the same is delivered by the sending Party to such carrier; (c) if sent by electronic communication (including electronic mail or other electronic means) at the time indicated by the time stamp upon delivery and, if after 5 pm, on the next Business Day; or (d) if delivered in person, upon receipt by the receiving Party. Notwithstanding the foregoing, Notices of outages or other scheduling or dispatch information or requests, may be sent by electronic communication and shall be considered delivered upon successful completion of such transmission.

ARTICLE 10 FORCE MAJEURE

10.1 **Definition.**

(a) **"Force Majeure Event"** means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of commercially reasonable efforts, cannot be avoided by and is beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance, or noncompliance.

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 (including the disease designated

COVID-19 or the related virus designated SARS-CoV-2); 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.

Notwithstanding the foregoing, the term “**Force Majeure Event**” does not include (i) economic conditions or changes in Law that render a Party’s performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including an increase in component or compliance costs for any reason, including foreign or domestic tariffs, Buyer’s ability to buy Product at a lower price, or Seller’s ability to sell the Product, or any component thereof, at a higher price, than under this Agreement); (ii) Seller’s inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above; (iv) a Curtailment Order; (v) Seller’s inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility, including the lack of steam, water or other fuel source of an inherently intermittent nature, except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller’s Affiliates, Seller’s contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) any action or inaction by any third party, including Transmission Provider, that delays or prevents the approval, construction or placement in service of any Interconnection Facilities or Network Upgrades, except to the extent caused by a Force Majeure Event.

10.2 **No Liability If a Force Majeure Event Occurs.** 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*, 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 or Development Cure Period.**

(a) If the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 4(d) in Exhibit B) equal or exceed one hundred eighty (180) days, and Seller has demonstrated to Buyer's reasonable satisfaction that such delays did not result from Seller's actions or failure to take commercially reasonable actions, then Seller may terminate this Agreement upon written Notice to Buyer. Upon such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Development Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

(b) If a Force Majeure Event has occurred after the Commencement Date that has caused either Party to be wholly or partially unable to perform its obligations hereunder in any material respect, and the impacted Party has claimed and received relief from performance of its obligations for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon Notice to the other Party. Upon any such termination, neither Party shall have any liability to the other Party, save and except for those obligations specified in Section 2.1(b), and Buyer shall promptly return to Seller any Performance Security then held by Buyer, less any amounts drawn in accordance with this Agreement.

**ARTICLE 11
DEFAULTS; REMEDIES; TERMINATION**

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

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

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

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after Notice thereof (or such longer additional period, not to exceed an additional sixty (60) days, if the Defaulting Party is unable to remedy such default within such initial thirty (30)-day period despite 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 11.1; and except for (A) failure to provide Capacity Attributes, the exclusive remedies for which are set forth in Section 3.9, or (B) failures related to the Adjusted Energy Production that do not trigger the provisions of Section 11.1(b)(iii), the exclusive remedies for which are set forth in Section 4.7) 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 Article 14, if applicable; or

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

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

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

(ii) [Intentionally Omitted];

(iii) if, in any consecutive six (6) month period, the Adjusted Energy Production amount (calculated in accordance with Exhibit G) for such period is not at least ten percent (10%) of the 6-month pro rata amount of Expected Energy for such period adjusted for seasonality proportionately to the monthly forecast provided annually by Seller under Section 4.3(a), and Seller fails to (x) deliver to Buyer within ten (10) Business Days after Notice from Buyer a plan or report developed by Seller that describes the cause of the failure to meet the ten percent (10%) threshold and the actions that Seller has taken, is taking, or proposes to take in an effort to cure such condition along with the written confirmation of a Licensed Professional Engineer that such plan or report is in accordance with Prudent Operating Practices and capable of cure within a reasonable period of time, not to exceed one hundred eighty (180) days (“Cure Plan”) and (y) complete such Cure Plan in all material respects as set forth therein, including within the timeframe set forth therein;

(iv) failure by Seller to satisfy the collateral requirements pursuant to Section 8.8 within five (5) Business Days after Notice from Buyer, including the failure to replenish the Performance Security amount in accordance with this Agreement in the event Buyer draws against it for any reason other than to satisfy a Termination Payment;

(v) failure by Seller to commence the Delivery Term on or before the Guaranteed Commencement Date, as such date may be extended pursuant to Exhibit B;

(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 A- by S&P or A3 by Moody's;
- (B) the issuer of such Letter of Credit becomes Bankrupt;
- (C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;
- (D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;
- (E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;
- (F) such Letter of Credit fails or ceases to be in full force and effect at any time; or
- (G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

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

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

provided, that payment by the Defaulting Party of the Termination Payment 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 **Termination Payment**. If an Early Termination Date has been declared, the Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Termination Payment in accordance with this Section 11.3.

(a) **Termination Payment**. The payment owed by the Defaulting Party to the Non-Defaulting Party for a Terminated Transaction occurring after the Effective Date ("**Termination Payment**") shall be the aggregate of all Settlement Amounts plus any and all other amounts due to or from the Non-Defaulting Party (as of the Early Termination Date) netted into a single amount. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages. Without prejudice to the Non-Defaulting Party's duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (i) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (ii) the Termination Payment is a reasonable and appropriate approximation of such damages, and (iii) the Termination Payment 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, but in no event later than sixty (60) days after the Early Termination Date, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to 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 as applicable, 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 **Limitation on Seller's Ability to Make or Agree to Third-Party Sales from the Facility after Early Termination Date**. If the Agreement is terminated by Buyer prior to the Commencement Date due to Seller's Event of Default, neither Seller nor Seller's Affiliates may

sell, market or deliver any Product associated with or attributable to the Facility to a party other than Buyer for a period of two (2) years following the Early Termination Date due to Seller's Event of Default, unless prior to selling, marketing or delivering such Product, or entering into the agreement to sell, market or deliver such Product to a party other than Buyer, Seller or Seller's Affiliates provide Buyer with a written offer to sell the Product on terms and conditions materially similar to the terms and conditions contained in this Agreement (including price) and Buyer fails to accept such offer within forty-five (45) days of Buyer's receipt thereof.

Neither Seller nor Seller's Affiliates may sell or transfer the Facility, or any part thereof, or land rights or interests in the Site so long as the limitations contained in this Section 11.6 apply, unless the transferee agrees to be bound by the terms set forth in this Section 11.6 pursuant to a written agreement approved by Buyer.

Seller shall indemnify and hold Buyer harmless from all benefits lost and other damages sustained by Buyer as a result of any breach by Seller of its covenants contained within this Section 11.6.

11.7 **Rights And Remedies Are Cumulative.** Except where liquidated damages or other remedy are explicitly provided as the exclusive remedy, the rights and remedies of a Party pursuant to this Article 11 shall be cumulative and in addition to the rights of the Parties otherwise provided in this Agreement.

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

ARTICLE 12 LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES.

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

12.2 **Waiver and Exclusion of Other Damages.** EXCEPT AS EXPRESSLY SET FORTH HEREIN, THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO SELLER'S LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF

CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO “FAIL OF THEIR ESSENTIAL PURPOSE” OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS AND EXCLUSIVE REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, THE OBLIGOR’S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED.

IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR’S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES ONLY. THE VALUE OF ANY TAX CREDITS, DETERMINED ON AN AFTER-TAX BASIS, LOST DUE TO BUYER’S DEFAULT (WHICH SELLER HAS NOT BEEN ABLE TO MITIGATE AFTER USE OF REASONABLE EFFORTS) AND AMOUNTS DUE IN CONNECTION WITH THE RECAPTURE OF ANY RENEWABLE ENERGY INCENTIVES, IF ANY, SHALL BE DEEMED TO BE DIRECT DAMAGES.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.9, 4.7, 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B AND EXHIBIT G, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

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

ARTICLE 13
REPRESENTATIONS AND WARRANTIES; 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) The Facility is located in the State of California.

(f) As of the Effective Date, Seller represents and warrants to Buyer that it has not received notice from or been advised by any existing or potential supplier or service provider that the disease designated COVID-19 or the related virus designated SARS-CoV-2 have caused, or are reasonably likely to cause, a delay in the construction of the Project or the delivery of materials necessary to complete the Project, in each case that would cause the Commercial Operation Date to be later than the Guaranteed Commercial Operation Date.

(g) All applicable regulatory authorizations, approvals and permits for the operation of the Facility have been obtained and all conditions thereof have been satisfied and shall be in full force and effect.

(h) Seller has received CEC Certification and Verification for the Facility.

(i) Seller has 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 and shall reasonably have assisted Buyer to complete any other requirements to enable Buyer to use the Product toward fulfilling its RPS requirements.

(j) During periods in which Seller is generating Energy and selling Product to Buyer hereunder, Station Use will be served exclusive by Energy generated by the Facility prior to being metered, and no Facility Energy will be used to serve Station Use.

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 community choice aggregation, the Joint Powers Act, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

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

(e) Buyer warrants and covenants that with respect to its contractual obligations under this Agreement, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (1) suit, (2) jurisdiction of court, (3) relief by way of injunction, order for specific performance or recovery of property, (4) attachment of assets, or (5) execution or enforcement of any judgment.

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

(g) Buyer cannot assert sovereign immunity as a defense to the enforcement of its obligations under this Agreement.

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 in this Article 14, 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, conditioned, or delayed. Any Change of Control of Seller (whether voluntary or by operation of law) will be deemed an assignment and will require the prior written consent of Buyer, which consent shall not be unreasonably withheld, conditioned, or delayed; *provided*, a Change of Control of Seller shall not require Buyer's consent if the assignee or transferee is a Permitted Transferee. Any assignment made without the required written consent or in violation of the conditions to assignment set out below shall be null and void. 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 by Seller, 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 execute a consent to collateral assignment of this Agreement substantially in the form attached hereto as Exhibit O, with such changes as are reasonably acceptable to the parties thereto ("**Consent to Collateral Assignment**").

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 fifteen (15) Business Days before the date of such proposed assignment; and

(iii) to the extent that an assignment is not a Change of Control of Seller, 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.

Notwithstanding the foregoing, to the extent that an assignment is not a Change of Control of Seller, any assignment by Seller, its successors or assigns under this Section 14.3 shall be of no force and effect unless and until such Notice and agreement by the assignee have been received and accepted by Buyer.

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

14.5 **Buyer Financing Assignment.** Seller agrees that Buyer may assign a portion of its rights and obligations under this Agreement to a Person in connection with a municipal prepayment financing transaction ("**Buyer Assignee**") at any time upon not less than fifteen (15) Business Days' notice by delivering Notice of such assignment, which Notice must include a proposed assignment agreement substantially in the form attached hereto as Exhibit L ("**Assignment Agreement**"), provided that, at the time of such assignment, such Buyer Assignee has a Credit Rating equal to the higher of (a) Buyer's Credit Rating at the time of such assignment (if applicable), and (b) Baa3 from Moody's and BBB- from S&P. As reasonably requested by Buyer Assignee, Seller shall (i) provide Buyer Assignee with information and documentation with respect to Seller, including but not limited to account opening information, information related to forecasted generation, Credit Rating, and compliance with anti-money laundering rules, the Dodd-Frank Act, the Commodity Exchange Act, the Patriot Act and similar rules, regulations, requirements and corresponding policies; and (ii) promptly execute such Assignment Agreement and implement such assignment as contemplated thereby, subject only to the countersignature of Buyer Assignee and Buyer and the requirements of this Section 14.5.

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 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) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees and agents (collectively, the "**Indemnified Party**") from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) (i) for personal injury or death to Persons and damage to the property of any third party to the extent arising out of, resulting from, or caused by the negligent or willful misconduct of the Indemnifying Party, its Affiliates, its directors, officers, employees, or agents, or (ii) for third-party claims resulting from the Indemnifying Party's breach (including inaccuracy of any representation of warranty made hereunder), performance or non-performance of its obligations under this Agreement, not including Seller's failure to deliver Product to Buyer hereunder or Seller's failure to achieve the Commencement of Operations by the Guaranteed Commencement Date.

(b) Seller shall indemnify, defend and hold harmless Buyer and its Affiliates, directors, officers, employees from and against all claims, demands, losses, liabilities, penalties, and expenses (including reasonable attorneys' fees) in connection with any claims of infringement upon or violation of any trade secret, trademark, trade name, copyright, patent, or other intellectual property rights of any third party by equipment, software, applications or programs (or any portion of same) used in connection with the Facility (an "**IP Indemnity Claim**").

(c) Nothing in this Section 16.1 shall enlarge or relieve Seller or Buyer of any liability to the other for any breach of this Agreement. Neither Party shall be indemnified for its damages resulting from its sole negligence, intentional acts or willful misconduct. These indemnity provisions shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy.

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

ARTICLE 17 INSURANCE

17.1 **Insurance.**

(a) **General Liability.** Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance, including products and completed operations and personal injury insurance, in a minimum amount of Two Million Dollars (\$2,000,000) per occurrence, and an annual aggregate of not less than Five Million Dollars (\$5,000,000), 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) Subcontractor Insurance. Seller shall require all of its subcontractors to maintain coverages and limits that are appropriate for the work being performed.

(f) Evidence of Insurance. Within ten (10) days after execution of the Agreement and upon annual renewal thereafter, Seller shall deliver to Buyer certificates of insurance evidencing such coverage. 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. The general liability, auto liability and worker's compensation policies shall be endorsed with a waiver of subrogation in favor of Buyer for all work performed by Seller, its employees, agents and sub-contractors.

(g) 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 Definition of Confidential Information. The following constitutes "**Confidential Information**," whether oral or written which is delivered by Seller to Buyer or by Buyer to Seller including: (a) the terms and conditions of, and proposals and negotiations related to this Agreement, and (b) information that either Seller or Buyer stamps or otherwise identifies as "confidential" or "proprietary" before disclosing it to the other. Confidential Information does not include (i) information that was publicly available at the time of the disclosure, other than as a result of a disclosure in breach of this Agreement; (ii) information that becomes publicly available through no fault of the recipient after the time of the delivery; (iii) information that was rightfully in the possession of the recipient (without confidential or proprietary restriction) at the time of delivery or that becomes available to the recipient from a source not subject to any restriction against disclosing such information to the recipient; and (iv) information that the recipient independently developed without a violation of this Agreement.

18.2 **Duty to Maintain Confidentiality.** The Party receiving Confidential Information (the “**Receiving Party**”) from the other Party (the “**Disclosing Party**”) shall not disclose Confidential Information to a third party (other than the Party’s employees, lenders, counsel, investors, accountants, directors or advisors, or any such representatives of a Party’s Affiliates, or up five (5) potential lenders or potential investors per solicitation for debt or investment, which potential lenders or potential investors have executed a term sheet or other document containing indicative debt or investment terms, in each case who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable Law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding applicable to such Party or any of its Affiliates; *provided*, each Party shall, to the extent practicable, use reasonable efforts to prevent or limit the disclosure. The Parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. The Parties agree and acknowledge that nothing in this Section 18.2 prohibits a Party from disclosing any one or more of the commercial terms of a transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index.

The Parties acknowledge and agree that the Agreement and any transactions entered into in connection herewith are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). In order to designate information as confidential, the Disclosing Party must clearly stamp and identify the specific portion of the material designated with the word “Confidential.” The Parties agree not to over-designate material as Confidential Information. Over-designation includes stamping whole agreements, entire pages or series of pages as “Confidential” that clearly contain information that is not Confidential Information.

Upon request or demand of any third person or entity not a Party hereto to Buyer pursuant to the California Public Records Act for production, inspection and/or copying of Confidential Information (“**Requested Confidential Information**”), Buyer shall as soon as practical notify Seller in writing via email that such request has been made. Seller shall be solely responsible for taking at its sole expense whatever legal steps are necessary to prevent release of the Requested Confidential Information to the third party by Buyer. If Seller takes no such action after receiving the foregoing notice from Buyer, Buyer shall, at its discretion, be permitted to comply with the third party’s request or demand and is not required to defend against it. If Seller does take or attempt to take such action, Buyer shall provide timely and reasonable cooperation to Seller, if requested by Seller, and Seller agrees to indemnify and hold harmless Buyer, its officers, employees and agents (“**Buyer’s Indemnified Parties**”), from any claims, liability, award of attorneys’ fees, or damages, and to defend any action, claim or lawsuit brought against any of Buyer’s Indemnified Parties for Buyer’s refusal to disclose any Requested Confidential Information.

18.3 **Irreparable Injury; Remedies.** Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages would be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach will cause irreparable injury to Disclosing Party and that, in

addition to any other remedies that may be available, in law, in equity or otherwise, Disclosing Party will be entitled to obtain injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Further Permitted Disclosure.** Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by the Receiving Party to any of its agents, consultants, contractors, trustees, or actual or potential financing parties (including, in the case of Seller, its Lender(s)), so long as such Person to whom Confidential Information is disclosed agrees in writing to be bound by confidentiality provisions that are at least as restrictive as this Article 18 to the same extent as if it were a Party.

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

ARTICLE 19 MISCELLANEOUS

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

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

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

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

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

19.6 **Mobile-Sierra.** Notwithstanding any other provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to FERC pursuant to the provisions of Section 205, 206 or 306 of the Federal Power Act, or any other provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party shall be the “public interest” standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956). Changes proposed by a non-Party or FERC acting *sua sponte* shall be subject to the most stringent standard permissible under applicable Law.

19.7 **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.

19.8 **Electronic Delivery.** This Agreement may be duly executed and delivered by a Party by electronic format (including portable document format (.pdf)) delivery of the signature page of a counterpart to the other Party.

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

19.10 **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 of Buyer or its constituent members, in connection with this Agreement.

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

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

[Signatures on following page.]

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

ORHEBER 2, LLC

By: _____
Name: _____
Title: _____

**CLEAN POWER ALLIANCE OF
SOUTHERN CALIFORNIA, a California
joint powers authority**

By: _____
Name: _____
Title: _____

EXHIBIT A

FACILITY DESCRIPTION

Site Name: Heber South Geothermal Project

Site includes the following APN: 054-250-031

City: Heber

County: Imperial

Zip Code: 92249

Latitude and Longitude: 32.714446; -115.53566

Facility Description: See attached Site Diagram

Delivery Point: PNode

PNode: COACHELV_2_N101

Settlement Point: COACHELV_2_N101

Transmission Provider: Imperial Irrigation District

Site Diagram:



EXHIBIT B

COMMENCEMENT OF OPERATION

1. **Commencement of Operation of the Facility.** “**Commencement of Operation**” means the condition existing when Seller has fulfilled all of the conditions precedent in Section 2.2 of the Agreement.
 - a. Seller shall cause Commencement of Operations for the Facility to occur by the Guaranteed Commencement Date. Seller shall notify Buyer that it intends to achieve Commencement of Operations at least thirty (30) days before the anticipated Commencement Date.
 - b. Seller may extend the Guaranteed Commencement Date by paying Commencement Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commencement Date, not to exceed a total of [REDACTED] days of extensions by such payment of Commencement Delay Damages. On or before the date that is ten (10) days prior to the then-current Guaranteed Commencement Date Seller shall provide notice and payment to Buyer of the Commencement Delay Damages for the number of days of extension to the Guaranteed Commencement Date. If Seller achieves Commencement of Operations prior to the Guaranteed Commencement Date as extended by the payment of Commencement Delay Damages, Buyer shall refund to Seller the Commencement Delay Damages for each day Seller achieves Commencement of Operations prior to the Guaranteed Commencement Date times the Commencement Delay Damages, not to exceed the total amount of Commencement Delay Damages paid by Seller pursuant to this Section 1(b).
2. **Termination for Failure to Achieve Commencement of Operations.** If the Facility has not achieved Commencement of Operations on or before the Guaranteed Commencement Date (as may be extended hereunder), Buyer may elect to terminate this Agreement in accordance with Sections 11.1(b)(ii) and 11.2.
3. **Buyer’s Right to Draw on Performance Security.** If Seller fails to timely pay any Commencement Delay Damages, Buyer may draw upon the Performance Security to satisfy Seller’s payment obligation thereof.
4. **Extension of the Guaranteed Commencement Date.** The Guaranteed Commencement 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 to the extent the following circumstances are not the result of Seller’s failure to take all commercially reasonable actions to meet its requirements and deadlines:
 - a. a Force Majeure Event occurs; or
 - b. Buyer has not made all necessary arrangements to receive the Facility Energy at the Delivery Point by the Guaranteed Commencement Date.

Notwithstanding anything in this Agreement to the contrary, the cumulative extensions granted under the Development Cure Period (other than the extensions granted pursuant to clause 3(b) above) shall not exceed one hundred eighty (180) days, for any reason, including a Force Majeure Event, and the cumulative extensions granted to the Guaranteed Commencement Date by the payment of Commencement Delay Damages and any Development Cure Period(s) (other than the extensions granted pursuant to clause 3(b) above) shall not exceed two hundred seventy (270) days. 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.

EXHIBIT C

[INTENTIONALLY OMITTED]

EXHIBIT D

[INTENTIONALLY OMITTED]

EXHIBIT E
[INTENTIONALLY OMITTED]

EXHIBIT F

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																								
JUN																								
JUL																								
AUG																								
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 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:

$$[(A - B) * (C - D)] - (E + F)$$

where:

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

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

C = Replacement price for the Performance Measurement Period, in \$/MWh, which is the sum of (a) the simple average of the Integrated Forward Market hourly price for all the hours in the Performance Measurement Period, as published by the CAISO, for the Existing Zone Generation Trading Hub (as defined in the CAISO Tariff) for the Delivery Point, plus (b) the market value of Replacement Green Attributes, but not be less than fifteen dollars (\$15) per MWh or more than fifty dollars (\$50) per MWh.

D = the Contract Price, in \$/MWh.

E = The amount of Energy Replacement Damages paid by Seller with respect to the immediately preceding Performance Measurement Period

F = The product of (a) the amount of Replacement Product in MWhs delivered by Seller in the immediately preceding Contract Year and (b) the price which is (C - D)

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

“Replacement Energy” means Energy produced by a facility other than the Facility, that is provided by Seller to Buyer as Replacement Product, in an amount equal to the amount of Replacement Green Attributes provided by Seller as Replacement Product for the same Performance Measurement Period.

“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 year of production as the Renewable Energy Credits that would have been generated by the Facility.

“Replacement Product” means (a) Replacement Energy, and (b) Replacement Green Attributes in an amount not to exceed ten percent (10%) of the Expected Energy for the previous Contract Year.

No payment shall be due if the calculation of (a) $(A - B)$, (b) $(C - D)$ or (c) $[(A - B) * (C - D)] - (E + F)$, yields a negative number. In no event will Buyer owe any payment to Seller pursuant to this Exhibit G.

Within sixty (60) days after each Contract Year, Buyer shall 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*, the amount of damages owing shall be adjusted to account for Replacement Product, if any, delivered after each applicable Performance Measurement Period.

EXHIBIT H
[INTENTIONALLY OMITTED]

EXHIBIT I
[INTENTIONALLY OMITTED]

EXHIBIT J

[INTENTIONALLY OMITTED]

EXHIBIT K
FORM OF LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXXX]

Date:

Bank Ref.:

Amount: US\$[XXXXXXXXXX]

Beneficiary:

Clean Power Alliance of Southern California,
a California joint powers authority
801 S Grand, Suite 400
Los Angeles, CA 90017

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 Clean Power Alliance of Southern California, a California joint powers authority (“Beneficiary”), 801 S Grand, Suite 400, Los Angeles, CA 90017, for an amount not to exceed the aggregate sum of U.S. \$[XXXXXXXX] (United States Dollars [XXXXXX] and 00/100) (the “Available Amount”), 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 be of no further force or effect at 5:00 p.m., California time, on [Date] or, if such day is not a Business Day (as hereinafter defined), on the next Business Day (as may be extended pursuant to the terms of this Letter of Credit, the “Expiration Date”).

For the purposes hereof, “Business Day” shall mean any day on which commercial banks are not authorized or required to close in Los Angeles, California.

Funds under this Letter of Credit are available to Beneficiary by valid presentation on or before 5:00 p.m. California time, on or before the Expiration Date of a copy of this Letter of Credit No. [XXXXXXXX] and all amendments accompanied by Beneficiary’s dated statement purportedly signed by Beneficiary’s duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein.

Any full or partial drawing hereunder may be requested by transmitting copies of the requisite

documents as described above to the Issuer by facsimile at [facsimile number for draws] or such other number as specified from time-to-time by the Issuer.

The facsimile transmittal shall be deemed delivered when received. Drawings made by facsimile transmittal are deemed to be the operative instrument without the need of originally signed documents.

Issuer hereby agrees that all drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to the Issuer before the Expiration Date. All correspondence and any drawings (other than those made by facsimile) hereunder are to be directed to [Issuer address/contact]. Issuer undertakes to make payment to Beneficiary under this Standby Letter of Credit within three (3) business days of receipt by Issuer of a properly presented Drawing Certificate. The Beneficiary shall receive payment from Issuer by wire transfer to the bank account of the Beneficiary designated in the Drawing Certificate.

Partial draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance; provided, the Available Amount shall be reduced by the amount of each such drawing.

It is a condition of this Letter of Credit that it shall be deemed automatically extended without an amendment for a one year period (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter) beginning on the present Expiration Date hereof and upon each anniversary for such date (or, if such period ends on a day that is not a Business Day, until the next Business Day thereafter), unless at least one hundred twenty (120) days prior to any such Expiration Date Issuer has sent Beneficiary written notice by overnight courier service at the address provided below that Issuer elects not to extend this Letter of Credit, in which case it will expire on its then current Expiration Date. No presentation made under this Letter of Credit after such Expiration Date will 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.

Except so far as otherwise stated, this Letter of Credit is subject to the International Standby Practices ISP98 (also known as ICC Publication No. 590), or revision currently in effect (the "ISP"). As to matters not covered by the ISP, the laws of the State of California, without regard to the principles of conflicts of laws thereunder, shall govern all matters with respect to this Letter of Credit.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available.

All notices to Beneficiary shall be in writing and are required to be sent by certified letter, overnight courier, or delivered in person to: Clean Power Alliance of Southern California, a California joint powers authority, Chief Financial Officer, 801 S Grand, Suite 400, Los Angeles,

CA 90017. Only notices to Beneficiary meeting the requirements of this paragraph shall be considered valid. Any notice to Beneficiary which is not in accordance with this paragraph shall be void and of no force or effect.

[Bank Name]

[Insert officer name]

[Insert officer title]

EXHIBIT A

(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 [], [ADDRESS], 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.

or

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. \$_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

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

FORM OF ASSIGNMENT AGREEMENT

This Assignment Agreement (this “**Assignment Agreement**” or “**Agreement**”) is entered into as of [_____] by and among [PPA Seller], a [_____] (“**PPA Seller**”), Clean Power Alliance of Southern California, a California joint powers authority (“**PPA Buyer**”), and [Financing Party] (“**Financing Party**”), and relates to that certain power purchase agreement (the “**PPA**”) between PPA Buyer and PPA Seller as described on Appendix 1.

In consideration of the premises above and the mutual covenants and agreements herein set forth, PPA Seller, PPA Buyer and Financing Party (the “**Parties**” hereto; each is a “**Party**”) agree as follows:

1. Limited Assignment and Delegation.

- (a) PPA Buyer hereby assigns, transfers and conveys to Financing Party all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of the products described on Appendix 1 (the “**Assigned Products**”) during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the “Further Information” section on Appendix 1 (the “**Assigned Product Rights**”)[NOTE: **Appendix 1 to provide for transfer of RECs.**]. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer, including the right to receive any additional quantities of products beyond the limits set forth in Appendix 1.
- (b) PPA Buyer hereby delegates to Financing Party the obligation to pay for all Assigned Products that are actually delivered to Financing Party pursuant to the Assigned Product Rights during the Assignment Period (the “**Delivered Product Payment Obligation**”) and together with the Assigned Product Rights, collectively the “**Assigned Rights and Obligations**”). All other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer. To the extent Financing Party fails to pay for any Assigned Products by the due date for payment set forth in the PPA, PPA Buyer agrees that it will remain responsible for such payment within five (5) Business Days (as defined in the PPA) of receiving notice of such non-payment from PPA Seller.
- (c) Financing Party hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance and delegation described in clauses (a) and (b) above.
- (d) All scheduling of Assigned Products and other communications related to the PPA shall take place between PPA Buyer and PPA Seller pursuant to the terms of the PPA; *provided*, (i) PPA Buyer and PPA Seller shall provide to Financing Party copies of all scheduling communications, billing statements, generation reports and other notices delivered under the PPA during the Assignment Period contemporaneously upon delivery thereof to the other party to the PPA; (ii) title to Assigned Product will pass to Financing Party upon delivery by PPA Seller in accordance with the PPA; and (iii) PPA Buyer is hereby authorized by Financing Party to and shall act as Financing Party’s agent with regard to scheduling Assigned Product.
- (e) PPA Seller acknowledges that (i) Financing Party intends to immediately transfer title to any Assigned Products received from PPA Seller through one or more intermediaries such that all Assigned Products will be re-delivered to PPA Buyer, and (ii) Financing

Party has the right to purchase from PPA Buyer receivables due from PPA Seller to PPA Buyer for any such Assigned Products. To the extent Financing Party purchases any such receivables from PPA Buyer, Financing Party may transfer such receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation.

2. Assignment Early Termination.

- (a) The Assignment Period may be terminated early upon the occurrence of any of the following:
 - (1) delivery of a written notice of termination by either Financing Party or PPA Buyer to each of the other Parties hereto;
 - (2) delivery of a written notice of termination by PPA Seller to each of Financing Party and PPA Buyer following Financing Party's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such failure continues for one (1) Business Day following receipt by Financing Party of written notice thereof;
 - (3) delivery of a written notice by PPA Seller if any of the events described in **[NOTE: Insert reference to bankruptcy event of default in PPA.]** occurs with respect to Financing Party; or
 - (4) delivery of a written notice by Financing Party if any of the events described in **[NOTE: Insert reference to bankruptcy event of default in PPA.]** occurs with respect to PPA Seller.
- (b) The Assignment Period will end as of the date specified in the termination notice, which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clauses (a)(1) or (a)(2) above.
- (c) All Assigned Rights and Obligations shall revert from Financing Party to PPA Buyer upon the expiration of or early termination of the Assignment Period; *provided*, (i) Financing Party shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to Financing Party prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

3. Notices. Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Section [] of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Seller and PPA Buyer agree to notify Financing Party of any updates to such notice information. Notices to Financing Party shall be provided to the following address, as such address may be updated by Financing Party from time to time by notice to the other Parties:

Financing Party

Email: _____

4. Miscellaneous. Sections [Severability], [Counterparts], [Amendments] and [No Agency, Partnership, Joint Venture or Lease] of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

5. Governing Law, Jurisdiction, Waiver of Jury Trial

(a) **Governing Law.** This Assignment Agreement and the rights and duties of the parties under this assignment agreement will be governed by and construed, enforced and performed in accordance with the laws of the state of New York, without reference to any conflicts of laws provisions that would direct the application of another jurisdiction's laws; *provided*, the authority of PPA Buyer to enter into and perform its obligations under this assignment agreement shall be determined in accordance with the laws of the State of California.

(b) **Jurisdiction.** Each party submits to the exclusive jurisdiction of (a) the courts of the state of New York located in the Borough of Manhattan, (b) the federal courts of the United States of America for the Southern District of New York or (c) the federal courts of the United States of America in any other state.

(c) **Waiver of Right to Trial by Jury.** Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this assignment agreement.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Parties have executed this Assignment Agreement effective as of the date first set forth above.

PPA SELLER

PPA BUYER

By:
.....
Name:
Title:

By:

Name:
Title:

FINANCING PARTY

By:
Name:
Title:

Execution and delivery of the foregoing Assignment Agreement is hereby approved.

[ISSUER]

By:
Name:
Title:

Appendix 1

Assigned Rights and Obligations

PPA: The Power Purchase Agreement dated [_____] by and between PPA Buyer and PPA Seller.

“Assignment Period” means the period beginning on [_____] and extending until [_____] *provided*, in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 4 of the Assignment Agreement and (ii) the end of the delivery period under the PPA¹

Assigned Product: [Describe and define]

Further Information: [Include, if any]²

Projected P99 Generation: The “Projected P99 Generation” is attached hereto on a monthly basis.

¹ The Assignment Period must end no less than 18 months following the Assignment Period Start Date and no later than the end of the delivery period under the PPA.

² To include transfer and settlement mechanics for RECs, as applicable.

EXHIBIT M
[INTENTIONALLY OMITTED]

Exhibit M - 1

EXHIBIT N

NOTICES

<p>ORHEBER 2, LLC ("Seller")</p>	<p>CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority ("Buyer")</p>
<p>All Notices:</p> <p>Street: 6140 Plumas Street City: Reno, NV 89519 Attn: CEO</p> <p>Phone: (775) 356-9029 Facsimile: (775) 356-9039 Email: assetmanager@ormat.com</p>	<p>All Notices:</p> <p>Street: 801 S Grand, Suite 400 City: Los Angeles, CA 90017 Attn: Executive Director</p> <p>Phone: (213) 269-5870 Email: tbardacke@cleanpoweralliance.org</p>
<p>Reference Numbers:</p> <p>Duns: Federal Tax ID Number: 57-1198166</p>	<p>Reference Numbers:</p> <p>Duns: Federal Tax ID Number:</p>
<p>Invoices:</p> <p>Attn: Asset Manager Phone: (775) 356-9029 Facsimile: (775) 356-9039 E-mail: assetmanager@ormat.com</p>	<p>Invoices:</p> <p>Attn: Director, Power Planning & Procurement Phone: (213) 269-5870 E-mail: settlements@cleanpoweralliance.org</p>
<p>Scheduling: TBD</p> <p>Attn: Phone: Facsimile: Email:</p>	<p>Scheduling: TBD</p> <p>Attn: Phone: Email:</p>
<p>Confirmations:</p> <p>Attn: Asset Manager Phone: (775) 356-9029 Facsimile: (775) 356-9039 Email: assetmanager@ormat.com</p>	<p>Confirmations:</p> <p>Attn: Director, Power Planning & Procurement Phone: (213) 269-5870 Email: nkeefe@cleanpoweralliance.org</p>
<p>Payments:</p> <p>Attn: Asset Manager Phone: (775) 356-9029 Facsimile: (775) 356-9039 E-mail: assetmanager@ormat.com</p>	<p>Payments:</p> <p>Attn: Director, Power Planning & Procurement Phone: (213) 269-5870 E-mail: settlements@cleanpoweralliance.org</p>
<p>Wire Transfer:</p> <p>BNK: ABA: ACCT:</p>	<p>Wire Transfer:</p> <p>BNK: River City Bank ABA: [REDACTED] ACCT: [REDACTED]</p>

EXHIBIT O

FORM OF CONSENT TO COLLATERAL ASSIGNMENT

This Consent to Collateral Assignment (this “Consent”) is entered into among (i) Clean Power Alliance of Southern California, a California joint powers authority (“CPA”), (ii) *[Name of Seller]*, a *[Legal Status of Seller]* (the “Project Company”), and (iii) *[Name of Collateral Agent]*, a *[Legal Status of Collateral Agent]*, as Collateral Agent for the secured parties under the Financing Documents referred to below (such secured parties together with their successors permitted under this Consent in such capacity, the “Secured Parties”, and, such agent, together with its successors in such capacity, the “Collateral Agent”). CPA, Project Company and Collateral Agent are hereinafter sometimes referred to individually as a “Party” and jointly as the “Parties”. Capitalized terms used but not otherwise defined in this Consent shall have the meanings ascribed to them in the PPA (as defined below).

RECITALS

The Parties enter into this Consent with reference to the following facts:

- A. Project Company and CPA have entered into that certain Renewable Power Purchase Agreement, dated as of *[Date]* *[List all amendments as contemplated by Section 3.4]* (“PPA”), pursuant to which Project Company will develop, construct, commission, test and operate the Storage Units (the “Project”) and sell the Product to CPA, and CPA will purchase the Product from Project Company;
- B. As collateral for Project Company’s obligations under the PPA, Project Company has agreed to provide to CPA certain collateral, which may include Performance Security and Development Security and other collateral described in the PPA (collectively, the “PPA Collateral”);
- C. Project Company has entered into that certain *[Insert description of financing arrangements with Lender]*, dated as of *[Date]*, among Project Company, the Lenders party thereto and the Collateral Agent (the “Financing Agreement”), pursuant to which, among other things, the Lenders have extended commitments to make loans to Project Company;
- D. As collateral security for Project Company’s obligations under the Financing Agreement and related agreements (collectively, the “Financing Documents”), Project Company has, among other things, assigned all of its right, title and interest in, to and under the PPA and Project’s Company’s owners have pledged their ownership interest in Project Company (collectively, the “Assigned Interest”) to the Collateral Agent pursuant to the Financing Documents; and
- E. It is a requirement under the Financing Agreement and the PPA that CPA and the other Parties hereto shall have executed and delivered this Consent.

AGREEMENT

In consideration of the foregoing, and for other good and valuable consideration, the receipt and

adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereto hereby agree as follows:

SECTION 1. CONSENT TO ASSIGNMENT, ETC.

1.1 Consent and Agreement.

CPA hereby acknowledges:

(a) Notice of and consents to the assignment as collateral security to Collateral Agent, for the benefit of the Secured Parties, of the Assigned Interest; and

(b) The right (but not the obligation) of Collateral Agent in the exercise of its rights and remedies under the Financing Documents, to make all demands, give all notices, take all actions and exercise all rights of Project Company permitted under the PPA (subject to CPA's rights and defenses under the PPA and the terms of this Consent) and accepts any such exercise; *provided*, insofar as the Collateral Agent exercises any such rights under the PPA or makes any claims with respect to payments or other obligations under the PPA, the terms and conditions of the PPA applicable to such exercise of rights or claims shall apply to Collateral Agent to the same extent as to Project Company.

1.2 Project Company's Acknowledgement.

Each of Project Company and Collateral Agent hereby acknowledges and agrees that CPA is authorized to act in accordance with Collateral Agent's instructions, and that CPA shall bear no liability to Project Company or Collateral Agent in connection therewith, including any liability for failing to act in accordance with Project Company's instructions.

1.3 Right to Cure.

If Project Company defaults in the performance of any of its obligations under the PPA, or upon the occurrence or non-occurrence of any event or condition under the PPA which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable CPA to terminate or suspend its performance under the PPA (a "PPA Default"), CPA will not terminate or suspend its performance under the PPA until it first gives written notice of such PPA Default to Collateral Agent and affords Collateral Agent the right to cure such PPA Default within the applicable cure period under the PPA, which cure period shall run concurrently with that afforded Project Company under the PPA. In addition, if Collateral Agent gives CPA written notice prior to the expiration of the applicable cure period under the PPA of Collateral Agent's intention to cure such PPA Default (which notice shall include a reasonable description of the time during which it anticipates to cure such PPA Default) and is diligently proceeding to cure such PPA Default, notwithstanding the applicable cure period under the PPA, Collateral Agent shall have a period of sixty (60) days (or, if such PPA Default is for failure by the Project Company to pay an amount to CPA which is due and payable under the PPA other than to provide PPA Collateral, thirty (30) days, or, if such PPA Default is for failure by Project Company to provide PPA Collateral, ten (10) Business Days) from the Collateral Agent's receipt of the notice of such PPA Default from CPA to cure such PPA Default; *provided*, (a) if possession of the Project is necessary to cure any such non-monetary PPA Default and Collateral Agent has commenced

foreclosure proceedings within sixty (60) days after notice of the PPA Default and is diligently pursuing such foreclosure proceedings, Collateral Agent will be allowed a reasonable time, not to exceed one hundred eighty (180) days after the notice of the PPA Default, to complete such proceedings and cure such PPA Default, and (b) if Collateral Agent is prohibited from curing any such PPA Default by any process, stay or injunction issued by any Governmental Authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving Project Company, then the time periods specified herein for curing a PPA Default shall be extended for the period of such prohibition, so long as Collateral Agent has diligently pursued removal of such process, stay or injunction. Collateral Agent shall provide CPA with reports concerning the status of efforts to cure a PPA Default upon CPA's reasonable request.

1.4 Substitute Owner.

Subject to Section 1.7, the Parties agree that if Collateral Agent notifies (such notice, a "Financing Document Default Notice") CPA that an event of default has occurred and is continuing under the Financing Documents (a "Financing Document Event of Default") then, upon a judicial foreclosure sale, non-judicial foreclosure sale, deed in lieu of foreclosure or other transfer following a Financing Document Event of Default, Collateral Agent (or its designee) shall be substituted for Project Company (the "Substitute Owner") under the PPA, and, subject to Sections 1.7(b) and 1.7(c) below, CPA and Substitute Owner will recognize each other as counterparties under the PPA and will continue to perform their respective obligations (including those obligations accruing to CPA and the Project Company prior to the existence of the Substitute Owner) under the PPA in favor of each other in accordance with the terms thereof; *provided*, before CPA is required to recognize the Substitute Owner, the Substitute Owner must have demonstrated to CPA's reasonable satisfaction that the Substitute Owner has financial qualifications and operating experience *[TBD]* (a "Permitted Transferee"). For purposes of the foregoing, CPA shall be entitled to assume that any such purported exercise of rights by Collateral Agent that results in substitution of a Substitute Owner under the PPA is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide reasonable evidence demonstrating the same.

1.5 Replacement Agreements.

Subject to Section 1.7, if the PPA is terminated, rejected or otherwise invalidated as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting Project Company, its owner(s) or guarantor(s), and if Collateral Agent or its designee directly or indirectly takes possession of, or title to, the Project (including possession by a receiver or title by foreclosure or deed in lieu of foreclosure) ("Replacement Owner"), CPA shall, and Collateral Agent shall cause Replacement Owner to, enter into a new agreement with one another for the balance of the obligations under the PPA remaining to be performed having terms substantially the same as the terms of the PPA with respect to the remaining Term ("Replacement PPA"); *provided*, before CPA is required to enter into a Replacement PPA, the Replacement Owner must have demonstrated to CPA's reasonable satisfaction that the Replacement Owner satisfies the requirements of a Permitted Transferee. For purposes of the foregoing, CPA is entitled to assume that any such purported exercise of rights by Collateral Agent that results in a Replacement Owner is in accordance with the Financing Documents without independent investigation thereof but shall have the right to require that the Collateral Agent and its designee (if applicable) provide

reasonable evidence demonstrating the same. Notwithstanding the execution and delivery of a Replacement PPA, to the extent CPA is, or was otherwise prior to its termination as described in this Section 1.5, entitled under the PPA, CPA may suspend performance of its obligations under such Replacement PPA, unless and until all PPA Defaults of Project Company under the PPA or Replacement PPA have been cured.

1.6 Transfer.

Subject to Section 1.7, a Substitute Owner or a Replacement Owner may assign all of its interest in the Project and the PPA and a Replacement PPA to a natural person, corporation, trust, business trust, joint venture, joint stock company, association, company, limited liability company, partnership, Governmental Authority or other entity (a “Person”) to which the Project is transferred; *provided*, the proposed transferee shall have demonstrated to CPA’s reasonable satisfaction that such proposed transferee satisfies the requirements of a Permitted Transferee.

1.7 Assumption of Obligations.

(a) Transferee.

Any transferee under Section 1.6 shall expressly assume in a writing reasonably satisfactory to CPA all of the obligations of Project Company, Substitute Owner or Replacement Owner under the PPA or Replacement PPA, as applicable, including posting and collateral assignment of the PPA Collateral. Upon such assignment and the cure of any outstanding PPA Default, and payment of all other amounts due and payable to CPA in respect of the PPA or such Replacement PPA, the transferor shall be released from any further liability under the PPA or Replacement PPA, as applicable.

(b) Substitute Owner.

Subject to Section 1.7(c), any Substitute Owner pursuant to Section 1.4 shall be required to perform Project Company’s obligations under the PPA, including posting and collateral assignment of the PPA Collateral; *provided*, the obligations of such Substitute Owner shall be no more than those of Project Company under the PPA.

(c) No Liability.

CPA acknowledges and agrees that neither Collateral Agent nor any Secured Party shall have any liability or obligation under the PPA as a result of this Consent (except to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner) nor shall Collateral Agent or any other Secured Party be obligated or required to (i) perform any of Project Company’s obligations under the PPA, except as provided in Sections 1.7(a) and 1.7(b) and to the extent Collateral Agent or a Secured Party is a Substitute Owner or Replacement Owner, or (ii) take any action to collect or enforce any claim for payment assigned under the Financing Documents. If Collateral Agent becomes a Substitute Owner pursuant to Section 1.4 or enters into a Replacement PPA, Collateral Agent shall not have any personal liability to CPA under the PPA or Replacement PPA and the sole recourse of CPA in seeking enforcement of such obligations against Collateral Agent shall be to the aggregate interest of the Secured Parties in the Project; *provided*, such limited recourse shall not limit CPA’s right to seek equitable or injunctive relief

against Collateral Agent, or CPA's rights with respect to any offset rights expressly allowed under the PPA, a Replacement PPA or the PPA Collateral.

1.8 Delivery of Notices.

CPA shall deliver to Collateral Agent, concurrently with the delivery thereof to Project Company, a copy of each notice, request or demand given by CPA to Project Company pursuant to the PPA relating to (a) a PPA Default by Project Company under the PPA, (b) any claim regarding Force Majeure by CPA under the PPA, (c) any notice of dispute under the PPA, (d) any notice of intent to terminate or any termination notice, and (e) any matter that would require the consent of Collateral Agent pursuant to Section 1.11 or any other provision of this Consent. Collateral Agent acknowledges that delivery of such notice, request and demand shall satisfy CPA's obligation to give Collateral Agent a notice of PPA Default under Section 1.3. Collateral Agent shall deliver to CPA, concurrently with delivery thereof to Project Company, a copy of each notice, request or demand given by Collateral Agent to Project Company pursuant to the Financing Documents relating to a default by Project Company under the Financing Documents.

1.9 Confirmations.

CPA will, as and when reasonably requested by Collateral Agent from time to time, confirm in writing matters relating to the PPA (including the performance of same by Project Company); *provided*, such confirmation may be limited to matters of which CPA is aware as of the time the confirmation is given and such confirmations shall be without prejudice to any rights of CPA under the PPA as between CPA and Project Company.

1.10 Exclusivity of Dealings.

Except as provided in Sections 1.3, 1.4, 1.8, 1.9 and 2.1, unless and until CPA receives a Financing Document Default Notice, CPA shall deal exclusively with Project Company in connection with the performance of CPA's obligations under the PPA. From and after such time as CPA receives a Financing Document Default Notice and until a Substitute Owner is substituted for Project Company pursuant to Section 1.4, a Replacement PPA is entered into or the PPA is transferred to a Person to whom the Project is transferred pursuant to Section 1.6, CPA shall, until Collateral Agent confirms to CPA in writing that all obligations under the Financing Documents are no longer outstanding, deal exclusively with Collateral Agent in connection with the performance of CPA's obligations under the PPA, and CPA may irrevocably rely on instructions provided by Collateral Agent in accordance therewith to the exclusion of those provided by any other Person.

1.11 No Amendments.

To the extent permitted by Laws, CPA agrees that it will not, without the prior written consent of Collateral Agent (not to be unreasonably withheld, delayed or conditioned) (a) enter into any material supplement, restatement, novation, extension, amendment or modification of the PPA (b) terminate or suspend its performance under the PPA (except in accordance with Section 1.3) or (c) consent to or accept any termination or cancellation of the PPA by Project Company.

SECTION 2. PAYMENTS UNDER THE PPA

2.1 Payments.

Unless and until CPA receives written notice to the contrary from Collateral Agent, CPA will make all payments to be made by it to Project Company under or by reason of the PPA directly to Project Company. CPA, Project Company, and Collateral Agent acknowledge that CPA will be deemed to be in compliance with the payment terms of the PPA to the extent that CPA makes payments in accordance with Collateral Agent's instructions.

2.2 No Offset, Etc.

All payments required to be made by CPA under the PPA shall be made without any offset, recoupment, abatement, withholding, reduction or defense whatsoever, other than that expressly allowed by the terms of the PPA.

SECTION 3. REPRESENTATIONS AND WARRANTIES OF CPA

CPA makes the following representations and warranties as of the date hereof in favor of Collateral Agent:

3.1 Organization.

CPA is a joint powers authority and community choice aggregator duly organized and validly existing 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. CPA has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the PPA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

3.2 Authorization.

The execution, delivery and performance by CPA of this Consent and the PPA have been duly authorized by all necessary corporate or other action on the part of CPA and do not require any approval or consent of any holder (or any trustee for any holder) of any indebtedness or other obligation of CPA which, if not obtained, will prevent CPA from performing its obligations hereunder or under the PPA except approvals or consents which have previously been obtained and which are in full force and effect.

3.3 Execution and Delivery; Binding Agreements.

Each of this Consent and the PPA is in full force and effect, have been duly executed and delivered on behalf of CPA by the appropriate officers of CPA, and constitute the legal, valid and binding obligation of CPA, enforceable against CPA in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

3.4 No Default or Amendment.

Except as set forth in Schedule A attached hereto: (a) Neither CPA nor, to CPA's actual knowledge, Project Company, is in default of any of its obligations under the PPA; (b) CPA and, to CPA's actual knowledge, Project Company, has complied with all conditions precedent to the effectiveness of its obligations under the PPA; (c) to CPA's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either CPA or Project Company to terminate or suspend its obligations under the PPA; and (d) the PPA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

3.5 No Previous Assignments.

CPA has no notice of, and has not consented to, any previous assignment by Project Company of all or any part of its rights under the PPA, except as previously disclosed in writing and consented to by CPA.

SECTION 4. REPRESENTATIONS AND WARRANTIES OF PROJECT COMPANY

Project Company makes the following representations and warranties as of the date hereof in favor of the Collateral Agent and CPA:

4.1 Organization.

Project Company is a *[Legal Status of Seller]* duly organized and validly existing under the laws of the state of its organization, and is duly qualified, authorized to do business and in good standing in every jurisdiction in which it owns or leases real property or in which the nature of its business requires it to be so qualified, except where the failure to so qualify would not have a material adverse effect on its financial condition, its ability to own its properties or its ability to transact its business. Project Company has all requisite power and authority, corporate and otherwise, to enter into and to perform its obligations hereunder and under the PPA, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby.

4.2 Authorization.

The execution, delivery and performance of this Consent by Project Company, and Project Company's assignment of its right, title and interest in, to and under the PPA to the Collateral Agent pursuant to the Financing Documents, have been duly authorized by all necessary corporate or other action on the part of Project Company.

4.3 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Project Company by the appropriate officers of Project Company, and constitutes the legal, valid and binding obligation of Project Company, enforceable against Project Company in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

4.4 No Default or Amendment.

Except as set forth in Schedule B attached hereto: (a) neither Project Company nor, to Project Company's actual knowledge, CPA, is in default of any of its obligations thereunder; (b) Project Company and, to Project Company's actual knowledge, CPA, has complied with all conditions precedent to the effectiveness of its obligations under the PPA; (c) to Project Company's actual knowledge, no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either CPA or Project Company to terminate or suspend its obligations under the PPA; and (d) the PPA has not been amended, modified or supplemented in any manner except as set forth herein and in the recitals hereto.

4.5 No Previous Assignments.

Project Company has not previously assigned all or any part of its rights under the PPA.

SECTION 5. REPRESENTATIONS AND WARRANTIES OF COLLATERAL AGENT

Collateral Agent makes the following representations and warranties as of the date hereof in favor of CPA and Project Company:

5.1 Authorization.

The execution, delivery and performance of this Consent by Collateral Agent have been duly authorized by all necessary corporate or other action on the part of Collateral Agent and Secured Parties.

5.2 Execution and Delivery; Binding Agreement.

This Consent is in full force and effect, has been duly executed and delivered on behalf of Collateral Agent by the appropriate officers of Collateral Agent, and constitutes the legal, valid and binding obligation of Collateral Agent as Collateral Agent for the Secured Parties, enforceable against Collateral Agent (and the Secured Parties to the extent applicable) in accordance with its terms, except as the enforceability thereof may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or other similar laws of general application affecting the enforcement of creditors' rights generally and (b) general equitable principles (whether considered in a proceeding in equity or at law).

SECTION 6. MICPALLANEOUS

6.1 Notices.

All notices and other communications hereunder shall be in writing, shall be deemed given upon receipt thereof by the Party or Parties to whom such notice is addressed, shall refer on their face to the PPA (although failure to so refer shall not render any such notice or communication ineffective), shall be sent by first class mail, by personal delivery or by a nationally recognized courier service, and shall be directed (a) if to CPA or Project Company, in accordance with [\[Notice Section of the PPA\]](#) of the PPA, (b) if to Collateral Agent, to [\[Collateral Agent Name\]](#), [\[Collateral Agent Address\]](#), Attn: [\[Collateral Agent Contact Information\]](#), Telephone: [\[\]](#), Fax: [\[\]](#), and

(c) to such other address or addressee as any such Party may designate by notice given pursuant hereto.

6.2 Governing Law; Submission to Jurisdiction.

(a) THIS CONSENT SHALL BE CONSTRUED IN ACCORDANCE WITH, AND THIS CONSENT AND ALL MATTERS ARISING OUT OF THIS CONSENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL BE GOVERNED BY, THE LAW OF THE STATE OF CALIFORNIA WITHOUT REGARD TO ANY CONFLICTS OF LAWS PROVISIONS THEREOF THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION.

(b) All disputes, claims or controversies arising out of, relating to, concerning or pertaining to the terms of this Consent shall be governed by the dispute resolution provisions of the PPA. Subject to the foregoing, any legal action or proceeding with respect to this Consent and any action for enforcement of any judgment in respect thereof may be brought in the courts of the State of California or of the United States of America for the Central District of California, and, by execution and delivery of this Consent, each Party hereby accepts for itself and in respect of its property, generally and unconditionally, the non-exclusive jurisdiction of the aforesaid courts and appellate courts from any appeal thereof. Each Party further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to its notice address provided pursuant to Section 6.1 hereof. Each Party hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Consent brought in the courts referred to above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum. Nothing herein shall affect the right of any Party to serve process in any other manner permitted by law.

6.3 Headings Descriptive.

The headings of the several sections and subsections of this Consent are inserted for convenience only and shall not in any way affect the meaning or construction of any provision of this Consent.

6.4 Severability.

In case any provision in or obligation under this Consent shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

6.5 Amendment, Waiver.

Neither this Consent nor any of the terms hereof may (a) be terminated, amended, supplemented or modified, except by an instrument in writing signed by CPA, Project Company and Collateral Agent or (b) waived, except by an instrument in writing signed by the waiving Party.

6.6 Termination.

Each Party's obligations hereunder are absolute and unconditional, and no Party has any right, and shall have no right, to terminate this Consent or to be released, relieved or discharged from any obligation or liability hereunder until CPA has been notified by Collateral Agent that all of the obligations under the Financing Documents shall have been satisfied in full (other than contingent indemnification obligations) or, with respect to the PPA or any Replacement PPA, its obligations under such PPA or Replacement PPA have been fully performed.

6.7 Successors and Assigns.

This Consent shall be binding upon each Party and its successors and assigns permitted under and in accordance with this Consent, and shall inure to the benefit of the other Parties and their respective successors and assignee permitted under and in accordance with this Consent. Each reference to a Person herein shall include such Person's successors and assigns permitted under and in accordance with this Consent.

6.8 Further Assurances.

CPA hereby agrees to execute and deliver all such instruments and take all such action as may be necessary to effectuate fully the purposes of this Consent.

6.9 Waiver of Trial by Jury.

TO THE EXTENT PERMITTED BY APPLICABLE LAWS, THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT OF TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR IN CONNECTION WITH THIS CONSENT OR ANY MATTER ARISING HEREUNDER. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

6.10 Entire Agreement.

This Consent and any agreement, document or instrument attached hereto or referred to herein integrate all the terms and conditions mentioned herein or incidental hereto and supersede all oral negotiations and prior writings in respect to the subject matter hereof. In the event of any conflict between the terms, conditions and provisions of this Consent and any such agreement, document or instrument, the terms, conditions and provisions of this Consent shall prevail.

6.11 Effective Date.

This Consent shall be deemed effective as of the date upon which the last Party executes this Consent.

6.12 Counterparts; Electronic Signatures.

This Consent may be executed in one or more counterparts, each of which will be deemed to be an original of this Consent and all of which, when taken together, will be deemed to constitute one and the same agreement. The exchange of copies of this Consent and of signature pages by

facsimile transmission, Portable Document Format (i.e., PDF), or by other electronic means shall constitute effective execution and delivery of this Consent as to the Parties and may be used in lieu of the original Consent for all purposes.

[Remainder of Page Left Intentionally Blank.]

IN WITNESS WHEREOF, the Parties hereto have caused this Consent to be duly executed and delivered by their duly authorized officers on the dates indicated below their respective signatures.

<p><i>[NAME OF PROJECT COMPANY],</i> <i>[Legal Status of Project Company].</i></p>	<p>CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, a California joint powers authority.</p>
<p>By: _____ <i>[Name]</i> <i>[Title]</i> Date: _____</p>	<p>By: _____ <i>[Name]</i> <i>[Title]</i> Date: _____</p>
<p><i>[NAME OF COLLATERAL AGENT],</i> <i>[Legal Status of Collateral Agent].</i></p> <p>By: _____ <i>[Name]</i> <i>[Title]</i> Date: _____</p>	

SCHEDULE A

[Describe any disclosures relevant to representations and warranties made in Section 3.4]

Staff Report – Agenda Item 6

To: Clean Power Alliance (CPA) Board of Directors
From: Matthew Langer, Chief Operating Officer
Approved By: Ted Bardacke, Executive Director
Subject: FY 2021/22 Rate Setting Approach Options
Date: May 6, 2021

RECOMMENDATION

Approval of a Cost of Service (COS) based rate setting approach for FY 2021/22, including a subsidy to maintain CARE¹ rates at current levels and 100% Green residential rates targeted at a 9% premium to SCE base rates, as recommended by CPA's Executive Committee.

The rate setting approach will be used to develop detailed rates that will be brought to the Board for approval at its June 3 meeting in concert with CPA's FY 2021/22 budget.

BACKGROUND

Rates and Costs

2021 is a uniquely challenging rate environment for CPA driven by a variety of factors, including increases to the Power Charges Indifference Adjustment (PCIA), the timing of when SCE generation rates were set compared to current energy market conditions, and increasing costs for energy and resource adequacy.

On February 1, SCE implemented new rates that increased delivery charges by 14% for all customers and increased the PCIA by 27% for CPA customers while SCE's generation

¹ When referring to CARE customer rates, other programs that protect low-income and vulnerable customers, such as FERA and Medical Baseline, will also receive the subsidy.

rate remained flat. The full year impact of adjusting CPA rates downward to within CPA's standard rate targets, based on SCE's February rates and PCIA, would have resulted in a revenue reduction of 8% or ~\$65 million.

At the same time, CPA has seen significant procurement cost increases for resource adequacy, energy, and congestion, along with increased bad debt expense related to the economic impacts of COVID. Absent action, increased costs would have led to a \$104 million revenue shortfall in FY 2021/22.

At the April 1 Board meeting, the Board decided to modify CPA's power content for 2021 and 2022, yielding an expected cost savings of \$16.7 million. The Board also took action to reduce data manager expenses by ~\$1.3 million and banking costs by ~\$60,000. After implementing these cost savings measures, CPA still faces an \$87 million revenue requirement shortfall that must be addressed in rates.

Rate Comparison Context

SCE plans to implement an additional rate change in summer 2021 that is expected to increase both SCE delivery and generation rates, reducing the current rate differential between SCE and CPA rates. The rate comparisons for all rate setting approaches considered are based on estimates of these summer 2021 SCE rate changes. These estimates are based on the best available information about timing and magnitude of the changes; CPA could decide to change rates again later in the year in response to SCE rate changes.

The table below shows total bill premiums between CPA rates and SCE base rates after the anticipated summer SCE rate change goes into effect. These values reflect rates that do not cover CPA's costs in FY2021/22 but serve as a baseline for comparison of the rate setting approach options being considered.

	Lean	Clean	100% Green
Residential	1.2%	1.8%	7.9%
Residential-CARE	1.8%	2.8%	2.8%
Small/Medium Business	0.8%	1.6%	8.7%

DISCUSSION

At the April 1 Board meeting, staff presented a Cost of Service analysis and several rate setting approach options for discussion. The Cost of Service analysis showed that, based on current rates, Lean and Clean were 10.9% and 15.9% below their cost of service, respectively, while 100% Green was 2.3% below cost of service. Residential customers were collectively \$57 million below cost of service, driven primarily by Lean and Clean. Small and medium commercial customers were closest to cost of service for all products.

Based on feedback from the Board, staff developed additional options and presented them to the Executive Committee on April 21. The Executive Committee endorsed Option 2 below.

Option 1: Average Percentage Change with CARE Protection

This approach applies the rate increase equally across most customers products and customer groups. CARE customer rates are held at current levels, protecting them from any impact associated with CPA's rising rates.

This approach applies the necessary rate increase across most customers equally. However, it does not address any of the current imbalances in CPA's Cost of Service.

The resulting monthly bill differentials in percentage and dollar terms for Option 1 are below. The table shows total monthly bill premiums for typical customers between CPA

rates and SCE's base rate after SCE's estimated summer rate change.

	Lean	Clean	100% Green
Residential	4.1%	4.9%	11.8%
Residential-CARE	1.8%	2.8%	2.8%
Small/Medium Business	4.6%	5.5%	13.4%

	Lean	Clean	100% Green
Residential	\$6.96	\$8.24	\$19.76
Residential-CARE	\$1.94	\$3.08	\$3.08
Small Business	\$10.20	\$12.17	\$29.94

Option 2: COS with CARE Protection and 100% Green Target (Recommended)

This approach sets each rate product (Lean Power, Clean Power and 100% Green Power) based on the total Cost of Service to serve customers on each rate. This results in increases to Lean Power and Clean Power, which were being charged less than actual cost, while 100% Green's cost of service falls within the 7-9% rate target for residential customers.

As with Option 1, CARE customers are protected by holding their CPA rates at current levels. In order to mitigate some of the impact of the rate increase on Lean and Clean customers, Option 2 increases residential 100% Green customer rates to the top of the range (i.e. 9%), placing them slightly above their Cost of Service but within the target range.

Following COS sends customers a clear signal about the relative value of CPA's products. The rate discount or premium targets were established by the Board in August of 2018, but energy markets and CPA's cost structure are not static. COS rates reflect the current cost environment.²

² Note that COS is not static and it is a coincidence that current COS for 100% Green falls within the targets set in August of 2018 for that rate product. Future COS-based rate setting could see swings in different directions for different products.

The resulting bill differentials in percentage and dollar terms for Option 2 are below.

	Lean	Clean	100% Green
Residential	5.3%	6.1%	9.0%
Residential-CARE	1.8%	2.8%	2.8%
Small/Medium Business	6.0%	6.9%	9.5%

	Lean	Clean	100% Green
Residential	\$8.92	\$10.25	\$15.13
Residential-CARE	\$1.94	\$3.08	\$3.08
Small Business	\$13.43	\$15.48	\$21.18

Option 3: Hybrid Approach

This approach implements Option 1 for summer months of July through September and then transitions to Option 2 beginning in October 2021. The summer months are when the cost pressures are most acute across all rates and the Option 1 APC approach deals with these pressures equally. The transition to Option 2 in fall brings 100% Green residential customers to the 9% target allowing default changes to remain on schedule and moving all customers to rates the more closely reflect the actual Cost of Service.

There are drawbacks to the hybrid approach, particularly related to customer messaging and perception. First, for Lean and Clean customers, they will receive two separate rate increases. This could be perceived as a worse outcome for customers than simply changing rates once. Additionally, 100% Green customers would see a rate increase in the summer before a fall rate decrease. Customers may be left with negative impression of the summer rate increase and not realize their rates are going down later, potentially leading to unnecessary opt outs.

CARE Customer Impact

In each scenario, CARE customers' CPA rates are held at the rates set by the Board in May of 2020. This represents a \$10.1 million benefit to CPA's most vulnerable customers. Based on feedback from the Board and other stakeholders, protecting CARE customers is an important aspect of CPA's rate setting approach. Notably, 29% of CPA's residential customers are on CARE rates, including 34% of residential customers in Lean and Clean

jurisdictions where the rate increases could be the largest. By excluding CARE customers from CPA's non-CARE rate increases, the impact is limited to those customers who generally have a greater ability to pay. CARE customer enrollment by jurisdiction is provided in Attachment 2.

Subset Customers

In each scenario, subset rates (GS-3, PA-2, PA-3, TOU-8, Lighting) for 2018 vintage customers are reset to cover the current cost of service. 2017 vintage customers (non-residential customers in Rolling Hills Estates, South Pasadena and unincorporated Los Angeles County) were previously excluded from the subset group because they had a lower PCIA. Each scenario moves 2017 vintage GS-3 and TOU-8 customers onto the same subset rates as the 2018 vintage. This impacts about 325 customer accounts in those three jurisdictions.

Stakeholder Input

Rate approach options were presented to the Community Advisory Committee on April 22, 2021. In addition, CPA customers have been invited to share their views on rates and organizational priorities via a survey on CPA's website; announcement of the survey has been provided on all customer bills since early April and included in CPA's monthly newsletter.

The CAC strongly supported protection for low-income customers under all scenarios, though some members noted that these additional protections could become fiscally unsustainable in the long-term. Several members supported the Cost of Service approach, as it sent customers a price signal that renewable energy is coming down in cost compared to fossil fuels and that the leadership of the cities that defaulted into 100% Green should be supported. However, other CAC members expressed support for an approach that was more targeted towards "ability to pay", or income-based with higher income areas bearing more of the brunt of rate increases. The CAC also recommended a robust education campaign on rates and how Cost of Service works, the impacts of climate change on the energy sector, and how CPA customers can save money by

switching to Time of Use rates and modifying their energy use patterns.

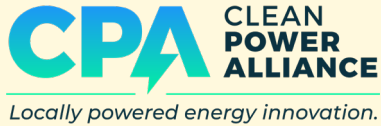
Survey participation has been low, with less than 100 customers engaging. Key takeaways from those who have participated are that customers equally value reliability and environmental performance as their top priorities in an electricity provider, followed by cost. They believe that rate increases are justified by the cost of energy, the need to make investments in reliability and projects that reduce greenhouse gas emissions, offering customer programs, and providing additional incentives or relief to low-income customers. The top two most important attributes that CPA is recognized for is having more customers on 100% renewable energy rates than any other utility in the country and for its investments in clean energy projects and programs that create jobs and economic development. Bill messages will continue to run until the end of May, when the survey will close.

NEXT STEPS

At the June Board meeting, staff will present rates reflecting an approved rate setting approach and recovering CPA's budgeted revenue requirement. Exact rate comparisons may change slightly ahead of the June Board meeting based on tweaks to the rate model to reflect alignment with the updated load forecast and any changes to projected SCE rates but will continue to follow the adopted approach. Staff may also propose additional rate adjustments later in the year should it be necessary based on actual adopted SCE rates.

ATTACHMENTS

- 1) [FY 2021/22 Rate Setting Approach Presentation](#)
- 2) [CARE Customer Enrollment by Member Jurisdiction](#)



Item 6

FY 2021/22 Rate Setting Approach

Thursday, May 6, 2021

Summary

- Rates Recap
- Rate Scenarios
- Recommendation and Next Steps

Rates Recap

- CPA must adopt new rates in June in concert with the FY 2021/22 budget
 - CPA's rates will need to be ~\$90 million higher than current rates to cover the projected cost to serve CPA's customers in FY2021/22
 - Modifications to CPA's power content that were approved by the Board in April, other cost reduction measures, and a \$30 million reserve contribution are included in the planned FY2021/22 budget
- At the April 1 Board meeting, four possible rate setting approach options were presented to the Board, followed by a robust discussion
- At the April 21 Executive Committee meeting, staff presented updated options and arrived at a recommended approach
- Today, formal adoption of a rate-setting approach for is being requested so that actual rates which meet CPA's FY 2021/22 revenue requirement can be prepared for the June 3 Board meeting

Initial Scenarios

- Four options were presented to the Board on April 1:
 - 1) Average Percentage Change (APC): All rate classes have an equal percentage increase.
 - a) Without low-income subsidy
 - b) With low-income subsidy, keeping CARE rates flat
 - 2) Cost of Service Informed: Rates for Lean, Clean, and 100% Green are set to cover their cost of service
 - 3) Residential Subsidy: Domestic rates are held at current levels and commercial customers get large increases to meet total revenue requirement
- Each of these scenarios would have met CPA's revenue requirement

Board Feedback

- Support for CARE customer protection, a \$10.1 million benefit
 - Staff strongly supports; important as 29% of CPA residential customers are CARE customers, including 34% in Lean/Clean jurisdictions where rate increases could be largest
- Significant opposition to weighting increases toward commercial customers
 - Staff supports; risk of opt-outs and revenue deficiency very high
- No consensus on APC vs. COS
- Concern for 100% Green going into double-digit premium
 - Particular concern for new cities that decided to opt-up to 100% Green this year – repercussions there and elsewhere
- General philosophical support for COS – but maybe not so abruptly
- Requests for a middle path, tweaks, or compromise scenarios

Stakeholder Feedback

- The rate setting options were presented to the Community Advisory Committee at its April 22 meeting, key takeaways are as follows
 - Strong support for protecting low-income customers, but questions about long-term financial sustainability of this approach
 - Some support for COS approach, with others suggesting an approach that considered “ability to pay” or income-based rate setting by city
- Staff released a survey that yielded fewer than 100 responses, summarized below
 - Reliability and environmental performance are seen as top priorities, followed by cost
 - Belief that rate increases are justified by increasing costs, investments in reliability and GHG reduction projects, customer programs, and low-income support

Updated Scenarios

- Based on the feedback from the Board, staff presented the Executive Committee three options
 1. **APC with CARE protection** became the baseline APC scenario
 2. A new **COS-informed scenario with CARE protection** that moderates increases on Lean/Clean customers by adjusting 100% Green rates to the top of the 7%-9% range
 3. A new **hybrid scenario** that implements both APR and COS scenarios at different times of the year based on unique 2021 circumstances
- In all scenarios 2017 PCIA vintage GS-3 and TOU-8 (~325 customer accounts in Unincorporated LA County, South Pasadena and Rolling Hills Estates) are added to CPA's existing "subset" group and subset rates overall are adjusted to cover cost of service

Rate Comparison Results Expected Comparison as of Summer

- The table shows total bill premiums between current CPA rates and SCE's base rate
- Values reflect comparison based on estimated summer SCE rate change
- Values reflect rates that do not cover CPA's costs in FY 2021/22

	Lean	Clean	100% Green
Residential	1.2%	1.8%	7.9%
Residential-CARE	1.8%	2.8%	2.8%
Small/Medium Business	0.8%	1.6%	8.7%

- **Important Caveat:** Rate premiums for all scenarios are based on estimates of future SCE rate changes; staff estimates are based on the best available information about timing and magnitude of the changes; CPA could decide to change rates later in the year in response to SCE rate changes

Option 1: Average Percentage Change with CARE Subsidy

	Lean	Clean	100% Green
Residential	4.1%	4.9%	11.8%
Residential-CARE	1.8%	2.8%	2.8%
Small/Medium Business	4.6%	5.5%	13.4%

Key Aspects

- CARE customer rates are held at current levels
- Increase spread equally across most products and customer groups
- Does not address any current imbalances in COS

Average monthly bill premiums

	Lean	Clean	100% Green
Residential	\$6.96	\$8.24	\$19.76
Residential-CARE	\$1.94	\$3.08	\$3.08
Small Business	\$10.20	\$12.17	\$29.94

Note: each table shows total bill premiums for typical customer between CPA rates and SCE's base rate based on estimated summer SCE rate change.

Option 2: COS with CARE + 100% Green Target (Recommended)

	Lean	Clean	100% Green
Residential	5.3%	6.1%	9.0%
Residential-CARE	1.8%	2.8%	2.8%
Small/Medium Business	6.0%	6.9%	9.5%

Key Aspects

- CARE customer rates are held at current levels – all other rates go up between 0.4% and 1.4% compared to previous COS w/o CARE subsidy
- 100% Green residential still had room to move up to ~9% target; adjusted those rates up slightly to help moderate Lean/Clean increases
- Lean/Clean go up ~1.5% more than APC, though 34% of customers in those communities would see no CPA rate increase (via CARE)

Average monthly bill premiums

	Lean	Clean	100% Green
Residential	\$8.92	\$10.25	\$15.13
Residential-CARE	\$1.94	\$3.08	\$3.08
Small Business	\$13.43	\$15.48	\$21.18

Note: each table shows total bill premiums for typical customer between CPA rates and SCE's base rate based on estimated summer SCE rate change.

Option 3: Hybrid – Different Approaches at Different Times

- Under this option, CPA would adopt APC for the summer months (July through September) and then transition to COS-informed in October

Key Aspects

- Summer months are when cost pressures are most acute across all rates; APC deals with those pressures equally
- Transition from APC to COS makes rate increases on non-CARE Lean/Clean customers a two-step process, which could be viewed as a “double” rate increase
- Change to COS in October bringing 100% Green to 9% target allows for default changes to proceed on schedule, but leaves those customers outside of the competitive target ranges during the summer months
- Customer communications will be challenging given the multiple rate changes and different outcomes by product

Recommendation and Next Steps

- **Option 2, COS with CARE subsidy and 100% Green target is the recommended approach**
 - The COS approach provides the clearest signal to customers about the relative value of each of CPA's products while mitigating cost shifts
 - CPA will have a challenging rate competitiveness environment in the second half of 2021 regardless of rate setting approach
- At the June Board meeting, staff will present rates reflecting the approved approach and recovering the budgeted revenue requirement
 - Exact rate comparisons may change slightly ahead of the June Board meeting based on tweaks to reflect alignment with the updated load forecast and projected SCE rates
 - Staff may also propose additional rate adjustments after June should it be necessary based on final SCE rates

[Return to Staff Report](#)**Residential CARE enrollment by jurisdiction as of March 2021**

Default Option	Jurisdiction	CARE**	Non-CARE	Total	% CARE
Lean	ARCADIA, CITY OF	4,075	15,185	19,260	21%
Lean	CAMARILLO, CITY OF	4,132	20,040	24,172	17%
Lean	HAWTHORNE, CITY OF	10,870	13,923	24,793	44%
Lean	PARAMOUNT, CITY OF	7,422	5,489	12,911	57%
Lean	SIMI VALLEY, CITY OF	8,308	29,715	38,023	22%
Lean	TEMPLE CITY, CITY OF	3,343	8,023	11,366	29%
Lean	WESTLAKE VILLAGE, CITY OF	266	2,465	2,731	10%
Clean	ALHAMBRA, CITY OF	10,565	19,193	29,758	36%
Clean	BEVERLY HILLS, CITY OF	1,826	12,998	14,824	12%
Clean	CARSON, CITY OF	8,994	16,119	25,113	36%
Clean	CLAREMONT, CITY OF	2,055	9,203	11,258	18%
Clean	DOWNEY, CITY OF	12,675	20,121	32,796	39%
Clean	HAWAIIAN GARDENS, CITY OF	1,750	1,347	3,097	57%
Clean	LOS ANGELES, COUNTY OF	108,497	163,085	271,582	40%
Clean	MOORPARK, CITY OF	1,976	7,951	9,927	20%
Clean	REDONDO BEACH, CITY OF	3,011	25,960	28,971	10%
Clean	WHITTIER, CITY OF	8,685	18,441	27,126	32%
100% Green**	AGOURA HILLS, CITY OF	917	5,974	6,891	13%
100% Green**	CALABASAS, CITY OF	1,174	7,644	8,818	13%
100% Green	CULVER CITY, CITY OF	2,325	13,796	16,121	14%
100% Green	MALIBU, CITY OF	264	5,390	5,654	5%
100% Green**	MANHATTAN BEACH, CITY OF	579	13,238	13,817	4%
100% Green	OJAI, CITY OF	550	2,289	2,839	19%
100% Green	OXNARD, CITY OF	19,285	28,655	47,940	40%
100% Green	ROLLING HILLS ESTATES, CITY O	196	2,653	2,849	7%
100% Green	SANTA MONICA, CITY OF	6,222	39,446	45,668	14%
100% Green	SIERRA MADRE, CITY OF	588	4,004	4,592	13%
100% Green	SOUTH PASADENA, CITY OF	1,399	8,986	10,385	13%
100% Green	THOUSAND OAKS, CITY OF	6,541	31,922	38,463	17%
100% Green	VENTURA, CITY OF	8,146	28,570	36,716	22%
100% Green	VENTURA, COUNTY OF	4,929	22,384	27,313	18%
100% Green	WEST HOLLYWOOD, CITY OF	4,288	18,398	22,686	19%

*Includes CARE, FERA and Medical Baseline customers

**Default as of October 2021

Staff Report – Agenda Item 7

To: Clean Power Alliance (CPA) Board of Directors
From: David McNeil, Chief Financial Officer
Approved By: Ted Bardacke, Executive Director
Subject: Proposed Fiscal Year 2020/21 Amended Budget
Date: May 6, 2021

RECOMMENDATION

Approve the Fiscal Year (FY) 2020/21 Amended Budget (“Amendment”).

BACKGROUND

Each year CPA develops an annual budget to govern the receipt of revenues and to authorize expenses and capital expenditures during the upcoming fiscal year. In June 2020, CPA’s Board of Directors approved the FY 2020/21 Budget (“Budget”). On April 28, 2021, the Finance Committee reviewed the Amendment and recommended approval to the Board of Directors.

SUMMARY

The proposed Amendment authorizes an \$81.4 million increase in energy expenses. Increased energy expenses arise primarily from increased costs to serve CPA customers during extreme heat events in August, September, and October 2020 and increased resource adequacy costs. The Amendment also reflects increased retail electricity revenues and \$9.6 million in transfers from the Fiscal Stabilization Fund that occurred in the second half of 2020.

The net impact of increased revenue and energy costs is a decrease of \$9.37 million, or 31%, to the budgeted increase to the net position. The budgeted increase to the net position, after the Amendment, would now be \$20.78 million. The Amendment reflects a

budgeted end of period (June 30, 2021) total net position of \$67.3 million and end of period Reserves (net position plus Fiscal Stabilization Fund balance) of \$84.7 million.

Budgeted operating costs are unchanged by this proposed Amendment. CPA remains within budget authority for all operating expense line items and expects that to remain the case through the end of the current fiscal year.

Budget Detail

The Amendment includes changes to the following Budget line items:

Revenue – electricity (+\$62.3 million, +8%): Budgeted electricity revenues are based on estimates of customer electricity usage and retail electricity rates.

The increase in budgeted revenue arises from above normal temperatures in August, September, and October 2020 resulting in higher than budgeted energy use and energy revenue.

Transfer from (to) Fiscal Stabilization Fund (+\$9.6 million) Transfer from (to) the Fiscal Stabilization Fund occur pursuant to CPA's Fiscal Stabilization Fund Policy. \$9.6 million was transferred from the Fiscal Stabilization Fund during the second half of 2020 in response to extreme weather and wholesale market price events in August and October 2020. The balance in the Fiscal Stabilization Fund is \$17.4 million.

Cost of energy (+81.3 million, +12%): Cost of energy includes expenses associated with the purchase of system energy, renewable energy, resource adequacy, and charges by the California Independent Systems Operator (CAISO) for load, and services performed by the CAISO. CAISO charges for load are based on customer energy use and prices at the Default Load Aggregation Point (DLAP). Credits for energy generation scheduled into the CAISO market and revenues arising from Congestion Revenue Rights (CRRs) are netted from the cost of energy. CAISO credits for energy generation are based on wholesale energy deliveries and Locational Margin Prices (LMPs). CRRs are financial instruments created by the CAISO which enable load serving entities, such as

CPA, to manage price differences between wholesale energy delivery locations and retail use points.

Higher than budgeted energy expenses arise from higher than budgeted energy use, extreme wholesale spot market prices particularly in August through October 2020 arising primarily from extreme heat events across the western United States and higher than budgeted costs for resource adequacy capacity.

ATTACHMENTS

- 1) [Proposed FY 2020/21 Amended Budget](#)
- 2) [Budget Amendment Presentation](#)

CLEAN POWER ALLIANCE of SOUTHERN CALIFORNIA
Fiscal Year 2020/2021 Amended BUDGET

Proposed

	FY 2020/21		FY 2020/21	Difference	Difference
	Budget	Amendment	Amended Budget	(\$)	(%)
Revenue - Electricity net	745,942,000	62,293,431	808,235,431	62,293,431	8%
Transfer from (to) Fiscal Stabilization Fund		9,607,035	9,607,035	9,607,035	
Other revenue	566,000	-	566,000	-	0%
TOTAL REVENUE	746,508,000	71,900,466	818,408,466	71,900,466	10%
TOTAL ENERGY COSTS	683,946,000	81,271,390	765,217,390	81,271,390	12%
NET ENERGY REVENUE	62,562,000	(9,370,924)	53,191,076	(9,370,924)	-15%
OPERATING EXPENSES					
Staffing	7,791,000	-	7,791,000	-	0%
Technical services	2,752,000	-	2,752,000	-	0%
Legal services	1,849,000	-	1,849,000	-	0%
Other services	1,003,000	-	1,003,000	-	0%
Communications and marketing services	525,000	-	525,000	-	0%
Customer notices and mailing services	865,000	-	865,000	-	0%
Billing data management services	11,881,000	-	11,881,000	-	0%
Service fees - SCE	2,315,000	-	2,315,000	-	0%
Customer programs	1,360,000	-	1,360,000	-	0%
General and administration	1,325,000	-	1,325,000	-	0%
Occupancy	516,000	-	516,000	-	0%
TOTAL OPERATING EXPENSES	32,182,000	-	32,182,000	-	0%
OPERATING INCOME	30,380,000	(9,370,924)	21,009,076	(9,370,924)	-31%
Finance and interest expense	298,000	-	298,000	-	0%
Depreciation	176,000	-	176,000	-	0%
TOTAL NON OPERATING EXPENSES	474,000	-	474,000	-	0%
Interest Income	250,000	-	250,000	-	0%
TOTAL NON OPERATING REVENUE	250,000	-	250,000	-	0%
NON OPERATING REVENUE (EXPENSE)	(224,000)	-	(224,000)	-	
CHANGE IN NET POSITION	30,156,000	(9,370,924)	20,785,076	(9,370,924)	-31%
NET POSITION BEGINNING OF PERIOD	45,252,000	1,333,635	46,585,635	1,333,635	3%
NET POSITION END OF PERIOD	75,408,000	(8,037,289)	67,370,711	(8,037,289)	-11%
FISCAL STABILIZATION FUND	27,000,000	(9,607,035)	17,392,965	(9,607,035)	-36%
RESERVES END OF PERIOD (Net Position + FSF)	102,408,000	(17,644,324)	84,763,676	(17,644,324)	-17%
<i>Other Uses</i>		-			
Capital Outlay	1,074,000	-	1,074,000	-	0%
Depreciation	(176,000)	-	(176,000)	-	0%
CHANGE IN FUND BALANCE	29,258,000	(9,370,924)	19,887,076	(9,370,924)	-32%

Note: Funds may not sum precisely due to rounding



Item 7

Proposed FY 2020/21 Amended Budget

Thursday, May 6, 2021

Recommendation:

Approve Fiscal Year (FY) 2020/21 Amended Budget (“Amendment”)

Budget Highlights

CLEAN POWER ALLIANCE of SOUTHERN CALIFORNIA Fiscal Year 2020/2021 Amended BUDGET

Proposed

	A	B	C	C	D	E
		FY 2020/21 Budget	Amendment	FY 2020/21 Amended Budget	Difference (\$)	Difference (%)
1	Revenue - Electricity net	745,942,000	62,293,431	808,235,431	62,293,431	8%
2	Transfer from (to) Fiscal Stabilization Fund		9,607,035	9,607,035	9,607,035	
2	Other revenue	566,000	-	566,000	-	0%
3	TOTAL REVENUE	746,508,000	71,900,466	818,408,466	71,900,466	10%
4	TOTAL ENERGY COSTS	683,946,000	81,271,390	765,217,390	81,271,390	12%
5	NET ENERGY REVENUE	62,562,000	(9,370,924)	53,191,076	(9,370,924)	-15%

- The increase in budgeted revenue arises from above normal temperatures in August, September and October 2020 resulting in higher than budgeted energy use and energy revenue.
- Higher than budgeted energy expenses arise from higher than budgeted energy use, extreme wholesale spot market prices particularly in August through October 2020 arising primarily from coincident heat across the western united states and higher than budgeted costs for increasingly scarce resource adequacy.
- Transfers from the Fiscal Stabilization Fund (\$9.6 million) occurred in the second half of 2020 in response to the above noted events consistent with the Fiscal Stabilization Fund Policy

Budget Highlights

Fiscal Year 2020/2021 Amended BUDGET

Proposed

	A	B	C	C	D	E
		FY 2020/21 Budget	Amendment	FY 2020/21 Amended Budget	Difference (\$)	Difference (%)
18	TOTAL OPERATING EXPENSES	32,182,000	-	32,182,000	-	0%
19	OPERATING INCOME	30,380,000	(9,370,924)	21,009,076	(9,370,924)	-31%
26	CHANGE IN NET POSITION	30,156,000	(9,370,924)	20,785,076	(9,370,924)	-31%
27	NET POSITION BEGINNING OF PERIOD	45,252,000	1,333,635	46,585,635	1,333,635	3%
28	NET POSITION END OF PERIOD	75,408,000	(8,037,289)	67,370,711	(8,037,289)	-11%
29	FISCAL STABILIZATION FUND	27,000,000	(9,607,035)	17,392,965	(9,607,035)	-36%
30	RESERVES END OF PERIOD (Net Position + FSF)	102,408,000	(17,644,324)	84,763,676	(17,644,324)	-17%

- No change in Operating expenses
- The decrease in Net energy revenue falls to the bottom line reducing the budgeted change in net position to an increase of \$20.75 million
- Transfers from the Fiscal Stabilization Fund (revenue) are offset by a decline in the Fiscal Stabilization Fund balance (row 29).
- The Amendment reflects a budgeted end of period (June 30, 2021) net position of \$67.3 million (row 28, column C) and end of period Reserves (net position plus Fiscal Stabilization Fund balance) of \$84.7 million (row 30, column C).

Recommendation:

Approve Fiscal Year (FY) 2020/21 Amended Budget

Staff Report – Agenda Item 8

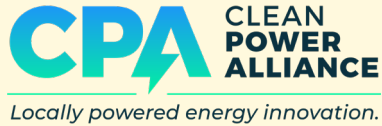
To: Clean Power Alliance (CPA) Board of Directors
From: David McNeil, Chief Financial Officer
Approved by: Ted Bardacke, Executive Director
Subject: FY 2021/2022 Budget Priorities
Date: May 6, 2021

RECOMMENDATION

Receive and file.

ATTACHMENT

- 1) [FY 2021/2022 Budget Priorities Presentation](#)



Item 8

FY 2021/22 Budget Priorities

Thursday, May 6, 2021

FY 2021/22 Budget Process & Schedule

- ✓ January-April 2021 (Staff) – FY 2021/22 Goal Setting, Departmental Budgeting, Rate Design Planning, Energy Cost Projections & Consolidated Budget Planning (ongoing)
- ✓ April 21, 2021 (Executive) – Budget Priorities
- ✓ April 28, 2021 (Finance) – FY 2021/22 Budget Priorities & Draft Operating Expense Budget
 - May 6, 2021 (Board) – FY 2021/22 Budget Priorities
 - May 19, 2021 (Executive) – Draft FY 2021/22 Budget
 - May 26, 2021 (Finance) – Proposed FY 2021/22 Budget
 - June 3, 2021 (Board) – Proposed FY 2021/22 Budget

Operational Priorities

- Achieve CPA's financial targets
- Achieve CPA's power procurement and GHG emissions targets
- Attract, retain and develop high-performing and diverse staff
- Comply with or surpass all regulatory and legal obligations
- Deliver impactful customer programs
- Develop diversity, equity and inclusion plan
- Establish and improve processes
- Implement Data and Systems Strategic Plan
- Lead and shape regulatory and policy discussions
- Maintain customer participation rates
- Plan for future success

Operating Expenses Context

- Energy market risks are increasing. CPA manages \$800 million of annual energy costs while contracting for long term renewable and storage projects involving billions of dollars of financial commitments. Managing these risks and leveraging opportunities is critical to ensuring energy costs are minimized
- Energy costs represent ~96% of annual expenses. Savings from Board-approved changes to energy product content will be included in FY 2021/22 energy costs.
- Operating costs represent ~4% of annual expenses. 45% of these operating expenses (~\$14 million) are fixed by regulatory or contract obligation.
- CPA has limited ability to impact rates in the short term through adjustments to budgeted energy or operating expenses

Operating Expenses Context

- In-sourcing of core functions has improved internal performance and capacity and is expected to reduce spending on consultants by ~27% next fiscal year.
- Reduced costs arising from the amended Calpine contract provides room for investments in customer programs and community engagement
- Consolidating and extending these benefits and savings is dependent on ensuring continuous coverage of key functions, reducing staff turnover, and addressing opportunities before they become risks
- Investments in communications provide a better customer experience and helps customers, particularly low-income, access assistance programs, some of which directly benefit CPA.
- Investments in Customer Programs, in addition to customer/community benefits in the short-term offer ROI opportunities for CPA over the medium and long term

Framework for Financial Stewardship and Cost Control

- Budget authorization to collect revenues and incur expenses
- Competitive hiring and solicitation processes. Board-approved salary ranges (March 2021) provide a strong framework for managing staffing costs in a sustainable manner
- Contract approval by the board or in accordance with delegated authorities and Non-Energy Contracting Policy
- Managerial prioritization and decision making within budget and policy limits
- Reporting and transparency – enhanced quarterly financial reporting implemented in Q4 2020

Key budget priorities for FY 2021/22

- **Contain Costs**

- Contain budgeted net operating expenses to current levels adjusted for inflation (less than 3% increase) and 50% reduction in capital outlay
- Reduce consultant and data management costs

- **Staffing**

- Build out mid and lower levels of the organization to ensure coverage during staff absences, reduce burnout and turnover, free up senior management time for critical tasks, and build for the future
- Properly resource the management of energy costs and risk
- Build capacity to develop and leverage the data warehouse and enhance data security

- **Invest in Communications and Customer programs**

- Promote programs like AMP and the Tenant Relief Program that help customers and CPA while leveraging third party funds
- Develop scalable business models for customer programs (eg transportation electrification and demand response) that help customers, advance CPA mission objectives and help CPA better manage energy costs and risks

Customer Communications

- **Brand Awareness and loyalty**
 - Website, customer app, and design standards update
 - Event and organizational sponsorships
 - Increased use of email for some required customer communications (reduces mailer costs)
- **AMP and customer assistance programs with high ROI potential**
 - Outbound calling
 - Paid social media
 - CBO partnerships
- **Program Marketing Support**
 - Power Share (reimbursable) and Power Response
 - Power Ready events
 - Support customer transition to Time of Use (TOU) pricing

Customer Programs

- **Reimbursable**
 - Power Share/Community Solar (CPUC)
 - Electrification Workforce Development (NextEra)
- **Leverage State Resources**
 - Electric Vehicle Charger Incentives (contract to Board in May)
- **Strategic with long-term ROI or community benefits potential**
 - Power Response/Demand Response
 - Power Ready/Backup Power (RFO and second phase support)
 - Building Electrification Code Incentives (Program Development)
 - Low Carbon Fuel Standard credits for fleets and EV charger operators (Program Development)

Staffing Overview

- Emphasis on mid and junior level hiring across the organization
 - Building internal capacity for short-term needs and long-term sustainability
 - Support for current functions, particularly in energy and legal
 - Support for deepening of capabilities, particularly in energy, data, risk management, and external affairs
- Continued focus on retention in a highly competitive talent market
- CPA initial budget projects an 8% increase in costs for current staff, including mid-year COLA, merit increases, and full year impacts on staff hired during the current fiscal year.
- An additional increase is projected to support new positions
- Staffing costs will remain at industry-leading 1% – 1.2% of total revenue

Summary

- Through recognition of cost savings, CPA can advance organizational priorities while containing operating costs
- Investments in communications and customer programs are expected to mitigate potential opt-outs during a time of pressure on rate competitiveness, enable assistance for low-income customers and support CPA's bottom line
- Expansion of staff at mid and lower levels of the organization can reduce potential for burn-out and build internal resources to prepare for expected levels of staff turnover
- Continued investments in energy/data/risk management staff, technology and systems in FY 2021/22 will manage energy cost volatility and long-term contracting and are expected to result in additional operational efficiencies

Thank You. Questions?

Management Report

To: Clean Power Alliance (CPA) Board of Directors
From: Ted Bardacke, Executive Director
Subject: Management Report
Date: May 6, 2021

SB 612 Update

CPA's top legislative priority this year is SB 612 (Portantino), which would provide CCA customers access to the benefits of the legacy resources that they pay for through the Power Charge Indifference Adjustment (PCIA). Passage of the bill would bring more balance to the PCIA framework and could reduce CPA's procurement costs for renewable energy, Resource Adequacy, and greenhouse gas free energy over the medium and long-term.

The bill passed out of its first policy committee, Senate Energy and Utilities, on April 28. It will next be heard in Senate Appropriations, and potentially on the Senate floor, later this month. Advocacy by CPA Board members and their member agencies has been instrumental in success so far. For cities who have yet to weigh in it is not too late; Policy Director Gina Goodhill is available to speak to city councils regarding the bill.

Annual Impact Report (2020)

In conjunction with Earth Day on April 22, CPA released the 2020 version of its [Annual Impact Report](#). The report documents CPA's impact by focusing on four key areas: Supplying Reliable Clean Power, Customer and Environmental Benefits, Investing in Our Communities, and Building a Self-Sustaining Organization. Chock full of key facts and vignettes, the report can help communicate CPA's effectiveness and serves as a historical document for the institution we are building. The report is provided as Attachment 5 and is linked of the homepage of CPA's website; a limited print run is also being planned. Please let the External Affairs team know if you would like printed copies.

Upcoming Electric Vehicle Charger Incentive Program

With expected approval of the contracts to support Electric Vehicle charger incentives, the incentive programs are expected to launch in Ventura County in fall of 2021 and in Los Angeles County in the first quarter of 2022. As CPA's program implementer, the Center for Sustainable Energy will lead a robust marketing, education & outreach campaign. CPA staff will support these activities through cobranding, paid social media and email campaigns, and by leveraging existing CPA stakeholder networks. CPA staff thanks Board members for their advocacy in securing over \$10 million in state matching funds for this program.

Customer Participation Rate

As of April 27, 2021, CPA's overall participation rate is 95.3% with a total of 1,008,669 active customers, slightly up from the previous month. Customer participation has remained stable through the first two full billing cycles of SCE's new delivery rates and the increase to the PCIA. The bi-annual \$29 climate credit applied to April bills helped moderate the impact of recent rate increases.

Customer Service Center Performance

Incoming calls to CPA's Customer Service Center have fallen significantly in April to 1,679 calls as of April 27, compared to an average of 3,500 calls per month in Q1 2021. In April 99.9% of calls were answered within 60 seconds, and average wait time was 8 seconds. Expectations of higher call volume in March and April as customers inquire about SCE's February rate and PCIA increases, and the availability of the Power Share and Arrearage Management Program, have not materialized.

Program Marketing & Community Outreach

CPA was notified that later in May it will be awarded the Policy Leadership Award by the United States Green Building Council at its 20th Annual Municipal Green Building Conference and Expo. The award recognizes CPA's ongoing work in centering equity in the delivery of clean energy. Media materials will be made available to Board members and member agencies.

The Power Share (DAC-GT) launched in late February with materials in English, Spanish and Chinese. CPA continues to experience an increase in website visits weekly, and sign-ups have scaled to 94 as a result of increased marketing and outreach. The team is working to optimize the Power Share landing page, which has become the second most visited on our website, to make it as easy as possible to convert the thousands of visits into to sign-ups. In our outreach, staff is prioritizing the most vulnerable communities across the CPA service area and has provided electronic materials to board members, member agency staff, CAC members as well as CBOs to help promote the program. In May, staff will be sending postcards to customers without email addresses on record and refreshing the creative which we expect to lead to an increase in sign-ups.

Additionally, CPA will be continuing to promote other bill assistance measures including the Arrearage Management Program (AMP) and CARE/FERA. These programs will continue to be a critical lifeline as we approach the end of the statewide suspensions on disconnections on June 30, 2021. Our last report from SCE identified that almost 400 customers owing \$150,000 had already signed up for AMP. (In all, there are over 14,000 CPA customers eligible owing over \$6.6 million.)

In the lead up to Earth Day (April 22) CPA celebrated #earthdayeveryday on social media as we promoted the positive impact that CPA and our customers have on the environment. During the month, we provided solar cell-phone chargers to four customers who shared with us and their followers how they #restoreourearth. Board Chair Diana Mahmud penned an op-ed educating people that electricity choice is a powerful one to help fight climate change, CPA was featured in a National Geographic article on how community choice is leading the way to the clean energy future.

During April, CPA was also active on social media and with traditional news media in supporting the SB 612 campaign. An op-ed on SB 612 by the Executive Director was published by California Energy Markets and was shared through our social channels.

For next month, CPA will be promoting our Power Response program via a direct mail piece, as well as an email. We hope to remind customers, both residential and

commercial, about this program which provides financial incentives for reducing usage during peak periods in advance of the summer months.

Next month CPA will be joining Nextdoor, the website and mobile application used to connect with neighbors. They offer a subscription for utility providers that will allow us to reach over 684,000 people in our service area with helpful information such as Flex alerts, bill pay assistance and rate updates like the transition to residential TOU rates coming next year. This will also let us better understand any issues with our customers in the future and connect with them directly in this non-traditional, digital space.

Contracts Executed in March Under Executive Director Authority

A list of non-energy contracts executed under the Executive Director's signing authority is attached (Attachment 6). The list includes all open contracts as well as all contracts, open or completed, executed in the past 12 months.

ATTACHMENTS

- 1) [Overall Participation Rates by Jurisdiction](#)
- 2) [Residential Participation Rate Report by Jurisdiction](#)
- 3) [Non-Residential Participation Rate Report by Jurisdiction](#)
- 4) [Monthly Financial Dashboard](#)
- 5) [CPA Annual Impact Report \(2020\)](#)
- 6) [Non-Energy Contracts Executed under Executive Director Authority](#)

Clean Power Alliance - Overall Participation Customer Status Report - As of April 26, 2021

Participation by City & County						
CPA Cities & Counties	Default Option	Participation Rate	Active Accounts	Lean %	Clean%	100% Green %
AGOURA HILLS	Lean	95.1%	8,357	99.4%	0.2%	0.3%
ALHAMBRA	Clean	97.8%	34,299	1.4%	98.4%	0.1%
ARCADIA	Lean	97.8%	22,698	99.8%	0.1%	0.1%
BEVERLY HILLS	Clean	99.1%	18,927	1.6%	98.3%	0.1%
CALABASAS	Lean	97.9%	9,991	99.6%	0.2%	0.2%
CAMARILLO	Lean	94.1%	28,598	99.1%	0.3%	0.6%
CARSON	Clean	97.0%	29,485	1.3%	98.6%	0.1%
CLAREMONT	Clean	94.5%	12,772	2.4%	97.0%	0.6%
CULVER CITY	100% Green	97.2%	19,433	4.2%	1.3%	94.6%
DOWNEY	Clean	97.3%	37,187	1.5%	98.4%	0.1%
HAWAIIAN GARDENS	Clean	97.8%	3,702	1.4%	98.6%	0.0%
HAWTHORNE	Lean	99.0%	28,687	99.8%	0.1%	0.1%
LOS ANGELES COUNTY	Clean	95.8%	299,447	1.8%	98.1%	0.1%
MALIBU	100% Green	97.0%	6,991	3.0%	0.5%	96.5%
MANHATTAN BEACH	Clean	98.1%	15,647	2.4%	96.4%	1.3%
MOORPARK	Clean	89.0%	11,546	3.1%	96.4%	0.5%
OJAI	100% Green	93.2%	3,539	6.0%	1.4%	92.6%
OXNARD	100% Green	95.1%	55,256	4.1%	0.5%	95.4%
PARAMOUNT	Lean	98.5%	15,777	99.9%	0.1%	0.1%
REDONDO BEACH	Clean	98.6%	33,653	1.9%	97.7%	0.3%
ROLLING HILLS ESTATES	100% Green	94.5%	3,369	7.5%	16.2%	76.3%
SANTA MONICA	100% Green	97.2%	54,040	3.8%	0.8%	95.5%
SIERRA MADRE	100% Green	95.5%	5,071	5.4%	1.7%	92.9%
SIMI VALLEY	Lean	92.6%	43,261	99.7%	0.1%	0.2%
SOUTH PASADENA	100% Green	97.7%	11,815	3.6%	11.3%	85.1%
TEMPLE CITY	Lean	97.6%	12,707	99.8%	0.1%	0.1%
THOUSAND OAKS	100% Green	87.6%	44,498	8.5%	1.8%	89.6%
VENTURA	100% Green	93.1%	43,938	5.1%	1.3%	93.6%
VENTURA COUNTY	100% Green	86.2%	32,737	6.6%	1.3%	92.1%
WEST HOLLYWOOD	100% Green	99.2%	26,685	2.5%	0.4%	97.0%
WESTLAKE VILLAGE	Lean	86.8%	3,718	99.6%	0.1%	0.3%
WHITTIER	Clean	95.6%	30,838	1.9%	98.0%	0.1%
Total		95.4%	1,008,669	30.6%	34.9%	34.6%

Overall Participation by Default Option	
Default	Participation Rate
100% Green Power	93.6%
Clean Power	96.3%
Lean Power	95.7%
Total	95.2%

Overall Participation by Default Option		
Default	Active Accounts	% of Active
100% Green Power	307,372	30.5%
Clean Power	527,503	52.3%
Lean Power	173,794	17.2%
Total	1,008,669	100.00%

Clean Power Alliance - Residential Customer Status Report - As of April 26, 2021

CPA Cities & Counties	Participation by City & County					
	Default Option	Participation Rate	Active Accounts	Lean %	Clean%	100% Green %
AGOURA HILLS	Lean	95.0%	6,914	99.3%	0.3%	0.4%
ALHAMBRA	Clean	98.4%	29,916	1.5%	98.3%	0.1%
ARCADIA	Lean	97.8%	19,333	99.8%	0.1%	0.1%
BEVERLY HILLS	Clean	99.3%	14,902	1.8%	98.0%	0.2%
CALABASAS	Lean	98.5%	8,856	99.6%	0.2%	0.2%
CAMARILLO	Lean	94.1%	24,250	99.3%	0.3%	0.4%
CARSON	Clean	97.5%	25,200	1.4%	98.5%	0.1%
CLAREMONT	Clean	94.3%	11,288	2.6%	96.8%	0.6%
CULVER CITY	100% Green	97.4%	16,210	4.6%	1.4%	94.0%
DOWNEY	Clean	97.6%	32,922	1.6%	98.3%	0.1%
HAWAIIAN GARDENS	Clean	97.6%	3,106	1.5%	98.5%	0.0%
HAWTHORNE	Lean	99.3%	24,923	99.8%	0.1%	0.1%
LOS ANGELES COUNTY	Clean	95.5%	271,538	1.9%	98.0%	0.2%
MALIBU	100% Green	97.2%	5,675	3.5%	0.5%	95.9%
MANHATTAN BEACH	Clean	98.3%	13,858	2.5%	96.7%	0.7%
MOORPARK	Clean	88.2%	9,969	3.5%	96.1%	0.4%
OJAI	100% Green	93.0%	2,841	6.1%	1.2%	92.7%
OXNARD	100% Green	95.6%	48,131	3.0%	0.5%	96.5%
PARAMOUNT	Lean	99.1%	12,941	99.9%	0.1%	0.0%
REDONDO BEACH	Clean	98.6%	29,114	2.1%	97.5%	0.4%
ROLLING HILLS ESTATES	100% Green	94.1%	2,854	8.7%	2.2%	89.1%
SANTA MONICA	100% Green	97.4%	46,086	3.7%	0.8%	95.6%
SIERRA MADRE	100% Green	95.3%	4,595	5.6%	1.3%	93.1%
SIMI VALLEY	Lean	92.2%	38,104	99.6%	0.1%	0.2%
SOUTH PASADENA	100% Green	97.5%	10,439	3.9%	0.8%	95.3%
TEMPLE CITY	Lean	97.4%	11,401	99.8%	0.1%	0.2%
THOUSAND OAKS	100% Green	87.4%	38,625	9.0%	2.0%	88.9%
VENTURA	100% Green	93.2%	36,896	4.9%	1.2%	94.0%
VENTURA COUNTY	100% Green	87.5%	27,238	6.6%	1.2%	92.2%
WEST HOLLYWOOD	100% Green	99.4%	22,897	2.6%	0.5%	97.0%
WESTLAKE VILLAGE	Lean	85.5%	2,740	99.5%	0.1%	0.4%
WHITTIER	Clean	95.3%	27,215	2.0%	97.8%	0.1%
Total		95.5%	880,977	30.7%	34.0%	35.3%

Residential Participation by Default Option	
Default	Participation Rate
100% Green Power	93.8%
Clean Power	96.1%
Lean Power	95.7%
Total	95.2%

Residential Participation by Default Option		
Default	Active Accounts	% of Active
100% Green Power	262,487	29.8%
Clean Power	469,028	53.2%
Lean Power	149,462	17.0%
Total	880,977	100.00%

Clean Power Alliance - Non Residential Customer Status Report - As of April 26, 2021

Participation by City & County						
CPA Cities & Counties	Default Option	Participation Rate	Active Accounts	Lean %	Clean%	100% Green %
AGOURA HILLS	Lean	95.4%	1,443	100.0%	0.0%	0.0%
ALHAMBRA	Clean	93.8%	4,383	0.9%	99.1%	0.0%
ARCADIA	Lean	97.9%	3,365	99.8%	0.2%	0.0%
BEVERLY HILLS	Clean	98.4%	4,025	0.8%	99.1%	0.1%
CALABASAS	Lean	93.3%	1,135	99.7%	0.3%	0.0%
CAMARILLO	Lean	94.1%	4,348	98.3%	0.2%	1.5%
CARSON	Clean	93.9%	4,285	0.8%	99.2%	0.0%
CLAREMONT	Clean	96.1%	1,484	1.0%	98.9%	0.1%
CULVER CITY	100% Green	96.6%	3,223	2.1%	0.7%	97.1%
DOWNEY	Clean	95.0%	4,265	1.0%	99.0%	0.0%
HAWAIIAN GARDENS	Clean	98.7%	596	0.7%	99.3%	0.0%
HAWTHORNE	Lean	97.3%	3,764	100.0%	0.0%	0.0%
LOS ANGELES COUNTY	Clean	98.4%	27,909	1.0%	98.9%	0.0%
MALIBU	100% Green	96.3%	1,316	1.0%	0.2%	98.8%
MANHATTAN BEACH	Clean	97.0%	1,789	1.3%	93.3%	5.4%
MOORPARK	Clean	94.4%	1,577	0.9%	97.8%	1.3%
OJAI	100% Green	93.8%	698	5.9%	2.0%	92.1%
OXNARD	100% Green	92.0%	7,125	11.7%	0.3%	88.0%
PARAMOUNT	Lean	95.8%	2,836	99.9%	0.0%	0.1%
REDONDO BEACH	Clean	98.2%	4,539	1.3%	98.7%	0.0%
ROLLING HILLS ESTATES	100% Green	96.8%	515	0.6%	94.2%	5.2%
SANTA MONICA	100% Green	95.9%	7,954	4.3%	0.8%	94.8%
SIERRA MADRE	100% Green	98.1%	476	3.4%	6.1%	90.5%
SIMI VALLEY	Lean	95.7%	5,157	99.7%	0.0%	0.2%
SOUTH PASADENA	100% Green	99.4%	1,376	1.2%	91.2%	7.6%
TEMPLE CITY	Lean	99.3%	1,306	100.0%	0.0%	0.0%
THOUSAND OAKS	100% Green	89.4%	5,873	5.5%	0.3%	94.3%
VENTURA	100% Green	92.5%	7,042	6.2%	1.9%	91.9%
VENTURA COUNTY	100% Green	80.5%	5,499	6.9%	1.9%	91.2%
WEST HOLLYWOOD	100% Green	98.0%	3,788	2.1%	0.3%	97.5%
WESTLAKE VILLAGE	Lean	90.5%	978	100.0%	0.0%	0.0%
WHITTIER	Clean	97.8%	3,623	0.8%	99.2%	0.0%
Total		95.3%	127,692	30.0%	40.1%	29.9%

Non Residential Participation by Default Option	
Default	Participation Rate
100% Green Power	91.8%
Clean Power	97.2%
Lean Power	95.8%
Total	94.9%

Non Residential Participation by Default Option		
Default	Active Accounts	% of Active
100% Green Power	42,994	33.7%
Clean Power	60,366	47.3%
Lean Power	24,332	19.1%
Total	127,692	100.00%



Financial Dashboard

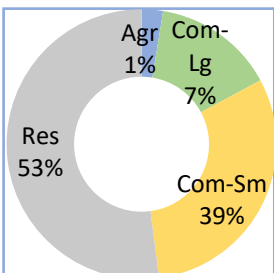
YTD
Feb
2021

Active Accounts
1,006,000

Participation Rate
95.19%

YTD Sales Volume
10,223 GWh

Feb Sales Volume
844 GWh



Summary of Financial Results

in \$000,000's	February				Year-to-Date			
	Actual	Budget	Var	%	Actual	Budget	Var	%
Energy Revenues	\$50.3	45.9	4.3	9%	565.0	520.7	44.2	8%
Cost of Energy	\$49.7	48.8	1.0	2%	545.9	488.3	57.5	12%
Net Energy Revenue	\$0.5	-2.8	3.3	118%	19.1	32.4	-13.3	-41%
Operating Expenditures	\$2.1	2.6	-0.5	-19%	16.1	21.5	-5.4	-25%
Net Income	-\$1.6	-5.4	3.8	70%	3.0	10.9	-7.9	-72%

Note: Numbers may not sum up due to rounding.

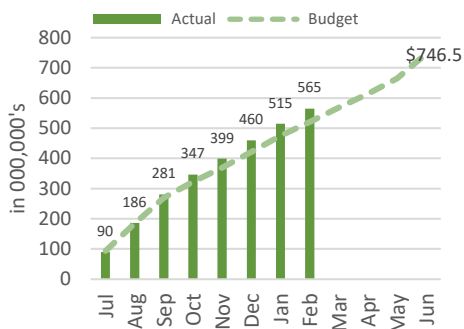
CPA recorded a \$1.6 million loss in February 2021, decreasing year to date net income to \$3 million. February net income was \$3.8 million above budgeted net income of -\$5.4 million.

February results were favorably impacted by higher than budgeted revenue (+\$4.3m) and lower than budgeted operating expenditures (-\$480k) offset by higher than budgeted cost of energy (+\$1m).

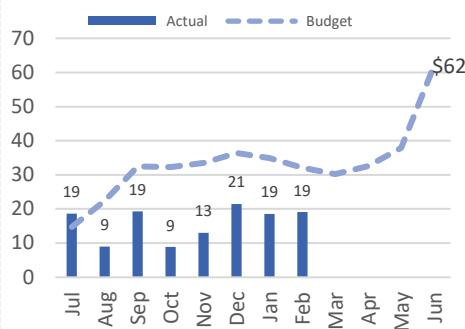
As of February 2021, CPA had \$63 million in cash and cash equivalents, \$36 million available on its line of credit and no bank or other debt outstanding. The net position was \$49.7 million and Fiscal Stabilization Fund balance was \$17.39 million.

CPA is in compliance with its bank and other credit covenants and is in sound financial health.

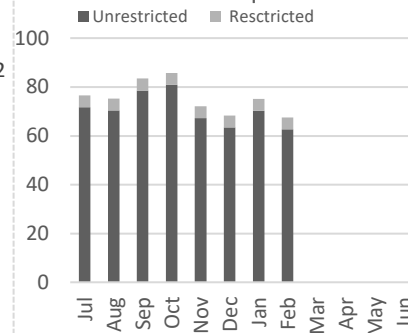
Cumulative Revenue



Net Energy Revenue



Cash & Cash Equivalents



Definitions:

Accounts: Active Accounts represent customer accounts of active customers served by CPA per Calpine Invoice.

Opt-out %: Customer accounts opted out divided by eligible CPA accounts

YTD Sales Volume: Year to date sales volume represents the amount of energy (in gigawatt hours) sold to retail customers

Revenues: Retail energy sales less allowance for doubtful accounts

Cost of energy: Cost of energy includes direct costs incurred to serve CPA's load

Operating expenditures: Operating expenditures include general, administrative, consulting, payroll and other costs required to fund operations

Net income: Net income represents the difference between revenues and expenditures before depreciation and capital expenditures

Cash and Cash Equivalents: Includes cash held as bank deposits.

Year to date (YTD): Represents the fiscal period beginning July 1, 2020

2020 IMPACT REPORT



CPA CLEAN
POWER
ALLIANCE

**Welcome Message from
the Board Chair and
Executive Director**



REFLECTIONS AND LOOKING FORWARD

Together, we *powered* through 2020, our first full year of providing clean power to more than one million customers. In the midst of the COVID-19 global pandemic, we became a virtual organization while also becoming the nation's leading provider of 100% renewable energy. This has enabled Clean Power Alliance to meet California's ambitious clean electricity goals 10 years early, a result of which we are justly proud.

We achieved these milestones while adhering to the local community values that are the foundation of our organization. Our Board of Directors approved a \$2 million COVID-19 Bill Relief Program to provide support to our most vulnerable community members when they needed it most. Through this program, we helped more than 77,000 residential and small business customers by providing bill credits that immediately reduced their electricity bills while linking them to long-term and ongoing financial assistance.

Meanwhile, we launched innovative programs and services like Power Response, which provides financial incentives for residential and commercial customers to reduce their electric usage during times of high demand for dirty power, and Power Share, providing low-income customers in underserved communities 100% Green Energy and 20% off their electricity bills. These and other programs were promoted through important community connections we made through our Community Based Organization Outreach Grant program, which reaches thousands of customers through trusted on-the-ground partners.

Our investment in local clean energy was robust and steady in spite of COVID-19 impacts on developer supply chains. In December, just in time for the holidays, Clean Power Alliance gave a gift to the planet in the form of two new renewable energy projects, one wind and one solar. And there is more to come, as we proudly added 10 additional long-term power procurement projects to our renewable energy portfolio in 2020 alone, with a strong emphasis on

battery storage and resilience. The construction of a diverse, resilient and forward-looking power portfolio will continue to be a North Star for Clean Power Alliance, so that we continue to play a leading role in ensuring that the transition to a low-carbon grid is done safely and reliably.

In September 2020, we were proud to receive the 2020 Green Power Leadership Award from the Center for Resource Solutions (CRS) in recognition of the impact of our twelve 100% Green Power communities that have made Clean Power Alliance the nation's single largest provider of 100% renewable energy to customers. This leadership expanded when two of our member agencies—Malibu and Sierra Madre—switched their communities' default rate to 100% Green Power in October.

Financially, we ended 2020 debt-free after paying back our \$10 million start-up loan from Los Angeles County and over \$17 million in a newly established Fiscal Stabilization Fund. Despite a difficult competitive landscape confronting us in 2021—market impacts from last summer's grid reliability challenges, rising levels of customer delinquencies, and an unfavorable regulatory environment are creating headwinds—we are confident that we will continue to stand together and support our communities by providing clean power at competitive rates, investing in the low carbon economy, and offering innovative customer-friendly programs.

Thank you to the entire Clean Power Alliance team—our forward-looking Board of Directors, member agencies, dedicated staff and valued customers—for everything we accomplished together.

Diana Mahmud
Chair, Board of Directors

Ted Bardacke
Executive Director

A Reliable Supply of Clean Energy for a Brighter, Greener Tomorrow

1,300 MEGAWATTS

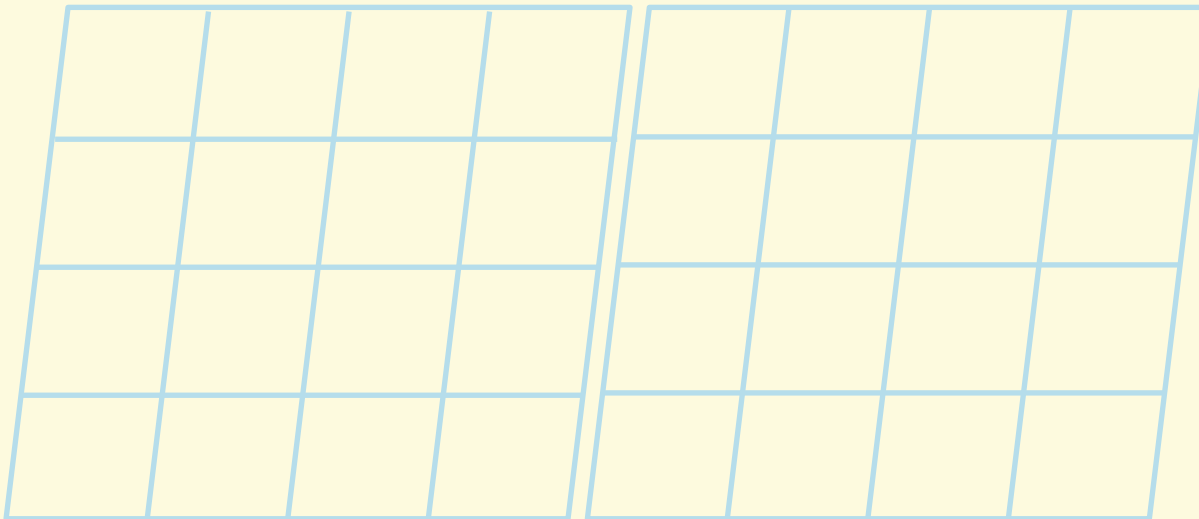
(MW) of new renewable energy procured under long-term contracts including more than

700 MW in 2020 alone across **9 PROJECTS**

enough energy to power

288,000

Southern California homes with 100% carbon-free energy



715 MW

of new battery storage contracted making CPA one of the

TOP THREE energy storage purchasers in California

projected to create

~2,500

construction jobs and generate more than

\$1 BILLION IN CAPITAL INVESTMENT

More Clean Power for More People

City of Westlake Village joins CPA as our

32nd

member agency

12

CPA member agencies

power their communities with 100% Green Power, up from 10 in 2019

More than 300,000 households and businesses representing one million residents - receive 100% Green Power, making CPA the

LARGEST PROVIDER of 100% renewable energy in the nation

OVER 80% OF CPA CUSTOMERS

totaling approximately 800,000 households and businesses – more than

2.5 MILLION PEOPLE

received at least 50% renewable energy content with CPA's Clean Power and 100% Green Power rates

Residential customers on CPA's Lean Power rate saved an estimated

\$1.8 million

on their electricity bills in 2020 compared to Southern California Edison (SCE) rates

More than

890,000*

metric tons of greenhouse gas emissions avoided

as a result of CPA customers' and communities' collective choices

*Based on 2019 data; 2020 data will be available mid-2021.

Investing in Our Communities

Local Programs for a Clean Energy Future

five-year strategic plan adopted calling for

\$200 million

in local investment in customer programs and community priorities centered around building and transportation electrification, resiliency and demand management, and local renewable energy procurement

CPA Power Response customers earned financial incentives while

REDUCING ENERGY USAGE UP TO 6.3 MW

during the August and September extreme heat events

CPA committed **\$2 million** to COVID-19 Relief

providing more than 77,000 financially impacted residential and commercial customers with electricity bill assistance, including 79% new CARE/FERA/Medical Baseline customers - 33% of the new CARE/FERA/Medical Baseline customers are from Disadvantaged Communities

Building a Self-sustaining Organization

\$10 million start up loan from Los Angeles County paid off in full making CPA

100% DEBT-FREE

Increased net position by **\$30.6 million** and added **\$27 MILLION** to the Fiscal Stabilization Fund

Expanded diverse staff to a total of

35 TEAM MEMBERS

with decades of industry expertise and a shared passion for CPA's mission and service to our customers and communities

Power Procurement

Clean Power Alliance (CPA) secured more than 700 MW of new renewable energy projects and 715 MW of new battery storage in 2020, establishing CPA as one of the largest purchasers of new renewable energy capacity in California and one of the three largest purchasers of battery storage in the state.

To help achieve our ambitious renewable energy goals, between April and November 2020, CPA's Board of Directors approved a rapid succession of high impact long-term power purchase and energy storage agreements. These projects will generate enough clean energy to power 288,000 Southern California homes, approximately 17% of CPA's total load. Selected from hundreds of bids, these projects meet CPA's high standards for 1) economic value; 2) proximity to CPA territory; 3) development risk; 4) environmental stewardship; 5) workforce development; and 6) benefits to Disadvantaged Communities. They will help CPA continue to stay well ahead of the State of California's SB 100 renewable energy targets and keep pace with our customers high and growing demand for clean, reliable, and affordable zero-carbon energy.



700 MW

OF NEW RENEWABLE ENERGY

=

455,000 metric tons

of avoided greenhouse gas emissions

OR

288,000 homes

in Southern California powered carbon-free

OR

98,000 automobiles

taken off the road for one year

OR

7.5 million trees

planted and grown for 10 years

=

HEALTHIER FAMILIES

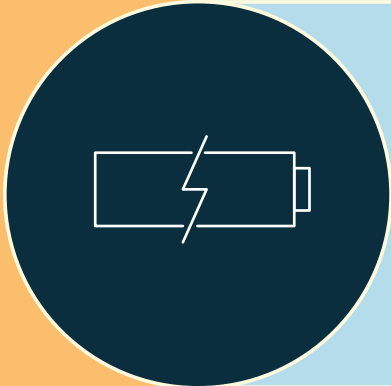
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CLEANER COMMUNITIES

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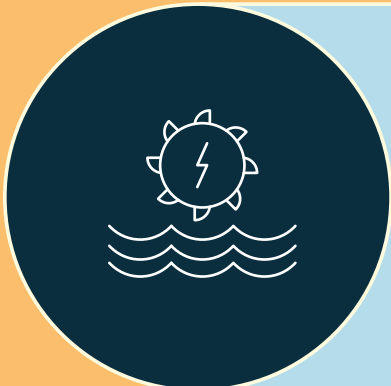
GREENER FUTURE





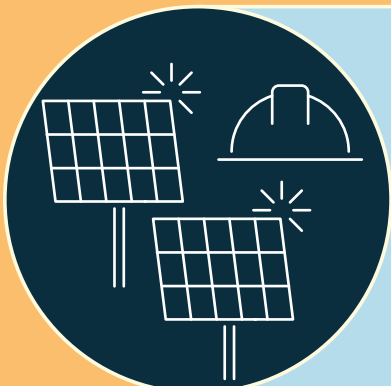
Investing in CPA Service Territory: Estrella Solar plus Storage Project

As CPA's first renewable energy project to be built within our service territory, this project will be constructed by sPower, adding 56 MW of renewable energy capacity and 28 MW/112 megawatt-hours (MWh) of battery storage in the Antelope Valley region of unincorporated Los Angeles County. The project will create approximately 200 construction jobs through a 5-trade project labor agreement. Operations will begin in December 2022.



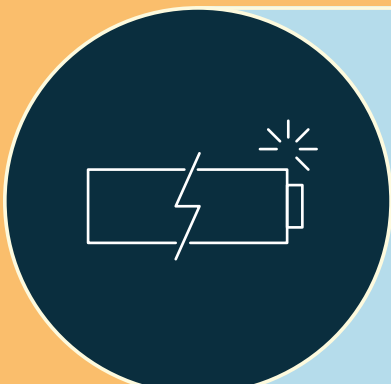
Greening Jobs and Infrastructure: Daggett Solar and Storage Project

CPA signed a 15-year agreement with this project to supply 123 MW of solar energy and 61.5 MW/246 MWh of battery storage capacity. The project is being developed by Clearway Energy Group. The Power Purchase Agreement represents a portion of the larger Daggett Solar project, which is located on a repurposed former gas plant site in San Bernardino County, CA. The project will create approximately 500 construction jobs under a project labor agreement. Operations will begin in March 2023.



Striking Great Deals for Our Customers: Arlington Solar and Storage Project

In 2020, CPA secured an additional 132 MW/528 MWh of storage through expansion of the previously approved Arlington 233 MW solar project in Riverside County, CA, to be owned and operated by a subsidiary of NextEra Energy Resources, LLC. By combining the solar and storage facilities, CPA will obtain new battery storage at a lower cost than by procuring the storage on a standalone basis due to investment tax credit benefits. The storage expansion portion of the project will add 20 more construction jobs and come online in August 2022.



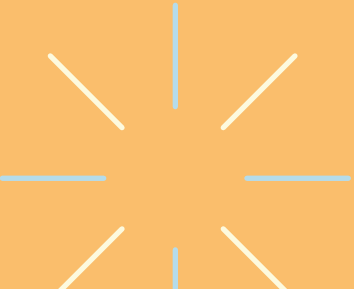
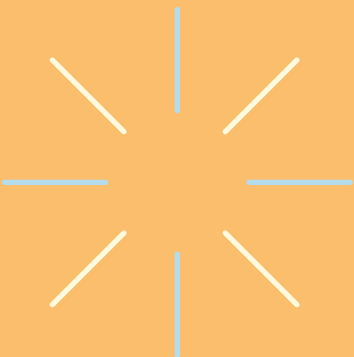
Building Resilience and Reliability: Luna Storage Project

This project, the largest Energy Storage Agreement (ESA) deal for a Community Choice Aggregator (CCA) in California and one of the largest in the entire state, contracts for 100 MW/400 MWh from a standalone lithium-ion battery storage project developed by sPower. The project will be located in Lancaster, within Los Angeles County, and is expected to be operational by Summer 2021. The 15-year agreement will create approximately 50 construction jobs through a project labor agreement.

Power Sources

We value transparency and the ability to provide clear and concise information to our customers regarding the source of their power. Our customers can see in CPA's 2019 Power Content Label below, our level of renewable and non-renewable energy that we supply to our customers. Renewable energy is collected from renewable resources, such as solar, wind, or geothermal to name a few. Non-renewable energy is comprised of large hydroelectric or natural gas for instance. CPA publishes its Power Content Label each fall for the previous year per California Energy Commission reporting and verification requirements. CPA also voluntarily reports audited greenhouse gas emission factors through The Climate Registry. For more information visit theclimateregistry.com.

As indicated in CPA's 2019 Power Content Label, CPA purchased unbundled Renewable Energy Credits (RECs) to complete its 36% renewable energy Lean Power portfolio as well as a small fraction of its 50% renewable Clean Power portfolio in 2019. The California Energy Commission requires these to be listed separately in the Power Content Label although these RECs were created by eligible renewable energy generators, including a mix of biomass, wind, solar, and eligible hydroelectric.



Using CPA's Purchasing Power to Create Green and High Road Jobs

CPA seeks to leverage its purchasing power to create high-quality green jobs and careers. We prioritize energy projects that utilize project labor agreements, targeted-hire, union labor, or multi-trade labor agreements. Our long-term renewable energy and storage contracts to date will create approximately 2,500 well-paying construction jobs. In 2020 we distributed \$33,000 in scholarships to 29 students pursuing energy career pathways at four community colleges in Los Angeles County and three in Ventura County, in the first of four rounds funded by Terra-Gen, developer of our 2018 Voyager Wind project. We also mapped out a plan for a four-year, \$1 million strategic investment in workforce development, funded by our partner NextEra Energy Resources, that will equip workers to pursue family-supporting career-track jobs – also known as “high road” jobs – in the rapidly growing transportation and building electrification sectors.

CPA and The Nature Conservancy Drive Environmental Stewardship in Renewable Energy Development

CPA is committed to being an environmental leader by providing customers with energy that delivers multiple benefits for air, water, and nature. In an innovative partnership, CPA and The Nature Conservancy have collaborated on a unique web-based mapping tool to screen long-term energy project proposals. This mapping tool communicates environmental risks and benefits of proposed projects, factors which CPA uses in its process of evaluating and selecting new energy suppliers. The partnership is helping drive the market for projects that avoid the most significant impacts, while also offering environmental benefits beyond greenhouse gas reductions – values that are good for business as well as conservation, climate, and communities.

CPA 2020 Long-term Power Purchase Agreements

Project	Location	Developer	Energy Capacity	Storage Capacity	Online Date
Estrella Solar and Storage	Los Angeles County, CA	sPower	56 MW	28 MW / 112 MWh	December 2022
Luna Storage	Los Angeles County, CA	sPower	-	100 MW	Summer 2021
Arlington Solar and Storage	Riverside County, CA	NextEra Energy Resources	233 MW*	132 MW / 528 MWh	August 2022
Daggett Solar and Storage	San Bernardino County, CA	Clearway Energy Group	123 MW	61.5 MW / 246 MWh	March 2023
Goldman Sachs Renewable Power Solar and Storage	San Bernardino County, CA	Middle River Power	100 MW	50 MW / 200 MWh	August 2021
Chalan Solar and Storage	Kern County, CA	Origis Energy	64.9 MW	25 MW / 100 MWh	December 2023
Sanborn Storage	Kern County, CA	Terra-Gen	-	100 MW / 400 MWh	August 2021
Rexford 1 Solar and Storage	Tulare County, CA	8minute Solar Energy	300 MW	180 MW / 540 MWh	October 2023
Azalea Solar and Storage	Kern County, CA	Idemitsu Renewables (formerly Solar Frontiers America)	60 MW	38 MW / 152 MWh	December 2022
Kaweah Small Hydroelectric	Tulare County, CA	Kaweah River Power Authority	20.1 MW	-	June 2020
Total	-	-	724 MW	714.5 MW	-

CPA 2019 Power Content Label

Energy Resources	Lean Power	Clean Power	100% Green Power	2019 CA Power Mix
Eligible Renewable*	0%	47.5%	100%	31.7%
Biomass & Biowaste	0%	4.8%	1%	2.4%
Geothermal	0%	8.9%	0%	4.8%
Eligible Hydroelectric	0%	0.3%	0%	2%
Solar	0%	7.4%	89.6%	12.3%
Wind	0%	26%	9.4%	10.2%
Coal	0%	0%	0%	3%
Large Hydroelectric	1.4%	13.5%	0%	14.6%
Natural Gas	0%	0.1%	0%	34.2%
Nuclear	0%	0%	0%	9%
Other	0%	0.3%	0%	0.2%
Unspecified Sources of Power**	98.5%	38.5%	0%	7.3%
Total	100%	100%	100%	100%
Percentage of Retail Sales Covered by Retired Unbundled RECs***	36%	3%	0%	-

*The eligible renewable percentage above does not reflect RPS compliance, which is determined using a different methodology.

**Unspecified power is electricity that has been purchased through open market transactions and is not traceable to a specific generation source.

***Renewable energy credits (RECs) are tracking instruments issued for renewable generation. Unbundled renewable energy credits (RECs) represent renewable generation that was not delivered to serve retail sales. Unbundled RECs are not reflected in the power mix or GHG emissions intensities above.



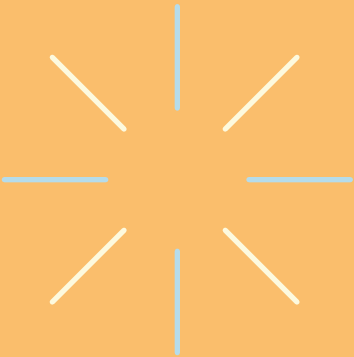


Greenhouse Gas Emissions Intensity

Beginning in 2021, for the 2020 reporting year, the Power Content Label will include data on greenhouse gas (GHG) emission intensity for each of our rate products. Until this time, our emission factors (listed below) are reported and independently verified by The Climate Registry, the leading nonprofit third-party voluntary reporting and verification system.

CPA Rate Product	Percent of Customers	MT/CO2e per MWh*
Lean Power (36% renewable)	19%	0.2760
Clean Power (50% renewable)	53%	0.1552
100% Green Power (100% renewable)	28%	0.0000

*Metric tons of carbon dioxide-equivalent per megawatt-hour of energy consumed.



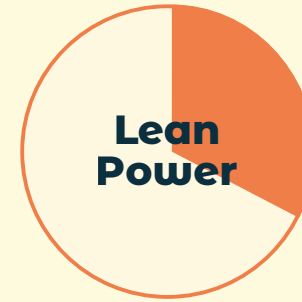
Meeting the Needs of Diverse Communities

As the largest Community Choice Aggregator in the nation and the fifth largest electricity provider in California, CPA proudly serves more than one million residential and non-residential customer accounts, representing some 3 million people across Los Angeles and Ventura Counties. Our 32 member cities and counties span the breadth and diversity of the region, from Ojai (population 7,470) to unincorporated Los Angeles County (population 1,095,592).

In 2020, the City of Westlake Village became CPA's newest member agency and two of our member agencies switched their default rate product for their communities to 100% Green Power, bringing the total number of 100% Green Power communities to 12 - 38% of our 32-member agency total.

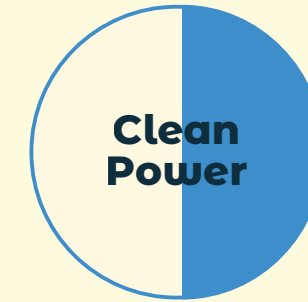


CPA Member Agencies and Default Rate Tiers



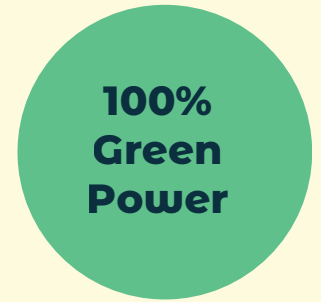
36%
Renewable Energy

1. Arcadia
2. Camarillo
3. Hawthorne
4. Paramount
5. Simi Valley
6. Temple City
7. Westlake Village



50%
Renewable Energy

1. Alhambra
2. Beverly Hills
3. Carson
4. Claremont
5. Downey
6. Hawaiian Gardens
7. Los Angeles County Unincorporated
8. Moorpark
9. Redondo Beach
10. Whittier



100%
Renewable Energy

1. Agoura Hills (effective Oct. 2021)
2. Calabasas (effective Oct. 2021)
3. Culver City
4. Malibu
5. Manhattan Beach (effective Oct. 2021)
6. Ojai
7. Oxnard
8. Rolling Hills Estates
9. Santa Monica
10. Sierra Madre
11. South Pasadena
12. Thousand Oaks
13. Ventura
14. Ventura County Unincorporated
15. West Hollywood

Customer Choices as of December 31, 2020

Community Default	Lean Power	Clean Power	100% Green Power
Customers	173,210	527,441	306,142
Percent of Total	17%	52%	30%

93.4% of eligible customers have stayed with CPA since we began service



25% of residential customers are enrolled in CARE, FERA, or Medical Baseline financial assistance programs

OVER 80% of CPA customers¹ – received at least 50% renewable energy content with CPA's Clean Power and 100% Green Power

¹ totaling approximately 800,000 households and businesses, consisting of more than 2.5 million people.

Residential customers on CPA's Lean Power rate saved an estimated **\$1.8 million**

on their electricity bills in 2020 compared to SCE rates

MORE THAN 890,000²

metric tons of greenhouse gas emissions avoided as a result of CPA customers' and communities' collective choices

² Based on 2019 data; 2020 data will be available mid-2021

CPA Recognized as Green Power Leader

CPA received a 2020 Green Power Leadership Award from the Center for Resource Solutions in recognition of our innovative and accelerated renewable energy procurement and the choices of our twelve 100% Green Power communities that have made CPA the single largest retail provider of 100% renewable energy in the nation. Other past and current award recipients include Apple, Google, Microsoft, AT&T, Marin Clean Energy, and the U.S. Navy.

Helping Customers In-need In a Challenging Year

Responding to the hardships brought on by the COVID-19 pandemic, CPA's Board of Directors established a \$2 million COVID-19 Relief fund to provide electric bill credits to customers in need. A wide-reaching multilingual campaign raised awareness of the available aid, resulting in more than 77,000 residential and small business customers receiving one-time bill credits from CPA when they enrolled in CARE, FERA or Medical Baseline financial assistance programs or signed up for a bill payment plan to help manage their utility bills while juggling other financial challenges.



Local Programs for a Clean Energy Future

A Roadmap for Community Investment

Following a year of analysis and customer and community input, CPA released its Local Programs strategic plan in May 2020, calling for \$200 million in investments over the next 3-5 years to promote customer savings, green jobs and economic development, climate resilience, and local acceleration toward a clean energy future. CPA planned, piloted and launched initial offerings in each of the three programmatic areas identified in the plan: 1) resiliency and grid management; 2) electrification; and 3) local energy procurement.



Local Renewable Procurement

Power Share Brings Green Power and Savings to Customers in Underserved Communities

Launched in December 2020, Power Share will provide 15 MW of new, local renewable energy to eligible low-income residential customers at a 20 percent discount on their electricity bill. Renters and other customers who lack access to roof-top solar, can share in the financial benefits of solar and underserved communities can benefit from the health and economic development of local clean energy projects.

Solar Marketplace

2020 saw a surge of public interest in backup energy storage, driven by extreme climate events, wildfires, and power outages. CPA launched an online Solar Marketplace platform, offered through EnergySage, to allow customers to make informed decisions about solar and solar-plus-storage battery system investments, saving money, and reducing the impact of power outages. A user-friendly website enables customers to understand and compare customized, apples-to-apples cost and savings estimates from local, screened contractors.

Sharing Tools and Ideas for Local Energy Innovation

CPA continued its partnership with the Local Government Commission to host three 2020 Sustainable Energy Incubators in its ongoing quarterly series. Each virtual workshop brought together 50-75 local elected officials, member agency staff, community stakeholders and industry experts to examine emerging trends, including the impact of COVID-19 on energy markets—and to discuss new technologies and opportunities to accelerate toward a net-zero carbon economy.



Resilience and Demand Management

Power Response Customers Moving the Grid

CPA piloted new smart technology demand response programs in 2020, providing a total of 478 participants with financial rewards for reducing energy use during peak demand events over the course of the hot summer months. Customers utilized their own smart thermostats, battery storage, or networked electric vehicle charging stations to modify their usage, or authorized program partner Olivine Inc. to automatically reduce loads in response to phone app or text message event notifications. Experience from the pilot will inform full program roll out in 2021 to continue and expand the financial and grid resilience benefits of shifting energy use away from the times when the electric system is at its dirtiest and most expensive.

Peak Management Pricing

In 2019, CPA piloted a behavioral demand response program for commercial and municipal customers. In 2020, the program was renewed and renamed "Peak Management Pricing". The program allows non-residential customers to earn summer bill credits by voluntarily powering down appliances, air conditioning or other equipment during peak heat days. In addition to saving money, this helps reduce greenhouse gas (GHG) and air pollutant emissions caused by peak strain on the grid.

Community Groups Connect Customers with Clean Energy Savings

Five community-based organizations (CBOs) became the inaugural cohort of CPA's first CBO Outreach Grant Program. Each grantee received \$20,000 to support community education and engagement with vulnerable and hard to reach populations in CPA's service territory. In spite of the unique outreach challenges presented by the COVID-19 crisis, our CBO partners reached many customers, helping to enroll them in available energy- and money-saving programs.

2020 CBO Grantees:

- Breathe LA**
Unincorporated Los Angeles County
- Climate First: Replacing Oil and Gas (CFROG)**
Oxnard
- Filipino American Chamber of Commerce, South Bay LA**
Carson, Hawthorne, and Unincorporated Los Angeles County
- MERITO Foundation**
Various communities in Unincorporated Ventura County, Oxnard, and Ventura
- Temple City Chamber of Commerce**
Temple City, Arcadia, Alhambra, and Unincorporated Los Angeles County

Financials

As a self-sustaining, debt-free organization financed by customer revenue, we've continued to be fiscally conservative and keep our operating expenses low during the uncertain economic times of 2020. As of June 30, 2020 we have accumulated \$46.6 million in reserves plus set aside another \$27 million in a Fiscal Stabilization Fund. A portion of this Fund helped CPA weather the electricity market volatility California and the west experienced in the summer of 2020.

	July 1 to July 31	
	2020	2019
OPERATING REVENUES		
Electricity sales, net	\$ 774,817,064	\$ 253,913,018
Revenue transferred to Rate Stabilization Fund	(27,000,000)	-
Other revenue	4,253,050	6,000
Total operating revenues	752,070,114	253,919,018
OPERATING EXPENSES		
Cost of electricity	699,782,409	223,125,906
Contract services	16,680,152	9,123,988
Staff compensation	4,147,412	2,133,751
General and administration	983,356	745,213
Depreciation	-	-
Total operating expenses	721,593,329	235,128,858
Operating income	30,476,785	18,790,160
NONOPERATING REVENUES (EXPENSES)		
Interest income	361,022	121,962
Interest and related expenses	(241,150)	(246,304)
Total nonoperating revenues (expenses)	119,872	(124,342)
CHANGE IN NET POSITION		
Net position at beginning of year	15,988,978	(2,676,840)
Net position at end of year	46,585,635	15,988,978
As of June 30		
Total assets	186,141,764	142,783,564
Total liabilities	112,556,129	126,794,586
Fiscal Stabilization Fund	27,000,000	-
Total net position	46,585,635	15,988,978

CPA Customers Help Avoid Rolling Outages During Extreme Heat Waves

CPA customers pitched in and took collective action to avoid power outages by reducing their energy use during the summer's extreme heat events and statewide Flex Alerts, demonstrating the power of local communities to shape a clean energy future. CPA took part during the Flex Alerts by keeping customers informed with up-to-the-minute news and energy-saving tips as well as by activating our Power Response and Peak Management Pricing programs to reduce stress on the grid. Perhaps most importantly, we continue to meet and exceed our requirements to add new renewable energy and battery storage capacity to the grid to make it greener and more reliable.



Electrification

Decarbonizing transportation and buildings

The CPA Board committed up to \$4.6 million in matching funds over three years to provide rebates to municipal and commercial customers for the installation of publicly accessible 24/7 electric vehicle charging stations in partnership with the California Energy Commission and the Ventura County Air Pollution Control District. Administered as part of the California Electric Vehicle Incentive Program (CALeVIP), the rebate program will roll out to customers across CPA's service territory in 2021.

CPA member agencies have begun investigating and in some cases adopted building electrification reach codes to take GHG-emitting fossil fuels out of new home and office construction. CPA will be looking in 2021 at ways to provide technical assistance to support more member agency initiatives in this important arena.

Board of Directors

CPA is governed by a Board of Directors, which includes an elected official from each of our member agencies. Our 32-member Board of Directors is committed to providing our community's residents, businesses, and organizations with renewable energy options at competitive rates.

Agoura Hills 	Culver City 	Ojai 	South Pasadena 
Alhambra 	Downey 	Oxnard 	Temple City 
Arcadia 	Hawaiian Gardens 	Paramount 	Thousand Oaks 
Beverly Hills 	Hawthorne 	Redondo Beach 	Ventura 
Calabasas 	Los Angeles County 	Rolling Hills Estates 	Ventura County 
Camarillo 	Malibu 	Santa Monica 	West Hollywood 
Carson 	Manhattan Beach 	Sierra Madre 	Westlake Village 
Claremont 	Moorpark 	Simi Valley 	Whittier 

Community Advisory Committee

We also have a dedicated Community Advisory Committee (CAC), comprised of customers who are leaders in their communities. The CAC advises our Board of Directors on policies, programs, and planning, while also serving as advocates for our customers. Our 15-member committee represents seven sub-regions of our service territory. Our CAC members represent a diverse cross-section of community and professional backgrounds.

East Ventura/West L.A. County
Agoura Hills, Camarillo, Calabasas, Moorpark, Simi Valley, and Thousand Oaks

San Gabriel Valley
Arcadia, Alhambra, Temple City, South Pasadena, Claremont, and Sierra Madre

West/Unincorporated Ventura County
Ojai, Oxnard, Unincorporated Ventura County, and Ventura

South Bay
Carson, Hawthorne, Manhattan Beach, Redondo Beach, and Rolling Hills Estates

Gateway Cities
Downey, Hawaiian Gardens, Paramount, and Whittier

Westside
West Hollywood, Santa Monica, Beverly Hills, Malibu, and Culver City

Unincorporated L.A. County

VENTURA COUNTY



Service Territory

CPA believes in a clean energy future that is local, where our communities and customers are empowered and given a choice about the source of their energy. We serve approximately three million customers and one million customer accounts across 32 diverse communities throughout Southern California.

LOS ANGELES COUNTY





cleanpoweralliance.org

Customer Support:
customerservice@cleanpoweralliance.org
888-585-3788 | TTY: 323-214-1296



CleanPowerInfo



CleanPowerAlliance



Clean Power Alliance

Clean Power Alliance					
Non-energy contracts executed under Executive Director authority					
Rolling 12 months -- Open contracts shown in Bold					
Vendor	Purpose	Month	NTE Amount	Status	Notes
Polsinelli, LLP	Legal Service Agreement (Employment, Compliance, General Legal Support related to Commercial Liability, Risk, and Mitigation issues)	April 2021	\$75,000	Active	Amendment #2 to original Agreement executed on March 8, 2019
AccuWeather Enterprise Solutions	Professional Forecasting Weather Services	April 2021	\$9,600	Active	Addendum to April 2020 Agreement. Extended through March 2023 at \$400/mo
Shute, Mihaly & Weinberger, LLP	Legal Service Agreement (Regulatory, Administrative, Environmental, Energy Procurement, Public Contracting, Public Entity Governance Laws, Issues and/or Proceedings)	April 2021	\$65,000	Active	
NewGen Strategies and Solutions, LLC	Regulatory Support for 2021 ERRA forecast proceedings	April 2021	\$102,560	Active	Amendment #1 to May 2020 Agreement to increase NTE from \$71,240 to \$102,560
SCS Engineers	Professional Services for CARB AB32 GHG Verification	April 2021	\$17,000	Active	
Chapman & Cutler, LLP	2021 Legal Services (CPA's Credit Agreement)	March 2021	\$20,000	Active	
Wimer Associates	Facilitation of Staff Training Sessions	February 2021	\$13,600	Active	
Critical Mention, Inc.	Media Monitoring Service	February 2021	\$6,000	Active	
OpenPath	New Office Keycard Access Control System	January 2021	\$1,500	Active	
Wrike, Inc	Project Management Software	January 2021	\$2,100	Active	
Clever Creative Inc.	CPA Brand Audit and Design Refresh	January 2021	\$50,000	Active	
Celtis Ventures, Inc.	Marketing Support for Power Share program	January 2021	\$50,000	Active	NTE increased to \$55,000 in April 2021
(W)right On Communications, Inc.	On-call External Affairs support services	January 2021	\$50,000	Active	
Prime Government Solutions, Inc.	Board and committee meeting agenda management software	December 2020	\$16,000	Active	
MRW & Associates, LLC	Ratemaking support	December 2020	\$90,000	Active	
Informal Development	Website repair, development, & as-needed maintenance	November 2020	\$12,000	Active	
Sigma Computing, Inc.	Business intelligence & analytics software tool	October 2020	\$10,000	Active	
ProComply, Inc.	Energy regulation compliance training	October 2020	\$5,000	Active	
Langan Engineering and Environmental Services	GIS support services for CPA's community solar programs and RFO procurement process	October 2020	\$120,000	Active	

Clean Power Alliance					
Non-energy contracts executed under Executive Director authority					
Rolling 12 months -- Open contracts shown in Bold					
Vendor	Purpose	Month	NTE Amount	Status	Notes
Mercer (US) Inc.	Total remuneration benchmarking study with job architecture and salary structure design	October 2020	\$105,500	Active	Joint project with three other CCAs
Gold Coast Transit District	On-bus advertising in Ventura County	October 2020	\$2,970	Completed	
Cameron-Cole, LLC	Independent audit of Greenhouse Gas Emissions	September 2020	\$7,080	Active	
Crown Castle Fiber LLC	New Office Dedicated Internet Access Service	September 2020	\$ 18,600	Active	
NextLevel Internet, Inc.	New Office High Speed Internet Service	September 2020	\$ 6,936	Active	
Windstream Services, LLC	New Office Telephone Service	September 2020	\$ 14,095	Active	
Zero Outages	New Office Security, Firewall, & Wi-Fi Service	September 2020	\$ 7,608	Active	
Westfall Commercial Interiors	Furniture for New Office	September 2020	\$ 296,558	Completed	Signed under expanded authority of up to \$500,000 for office relocation design, equipment and construction expenses granted by the Board of Directors on March 25, 2020
Abbot, Stringham and Lynch	2019 CEC Power Source Disclosure Audit	September 2020	\$ 13,000	Completed	
Elite Edge Consulting	Accounting system support and implementation	September 2020	\$ 112,000	Active	
Gold Coast Transit District	On-Bus Advertising in Oxnard & Ventura	August 2020	\$ 600	Completed	
Baker Tilly	FY 2019/20 Financial Audit	August 2020	\$ 28,000	Completed	
Burke, Williams, Sorenson, LLP	Legal Services Agreement (Brown Act, public entity governance issues and other legal services)	July 2020	\$ 100,000	Active	
Hall Energy Law PC	Energy Procurement Counsel	July 2020	\$ 125,000	Active	
The Harmon Press	Professional Printing Services	July 2020	\$ 40,000	Active	
InterEthnica	Written Translation Services, Typesetting, and Graphic Design in Spanish, Chinese, and Korean	July 2020	\$ 10,000	Active	
West Coast Mailers	Bulk Mailing Services	July 2020	\$ 20,000	Active	
Sara Daleiden Consulting	Staff Retreat and Strategic Planning Facilitation	July 2020	\$ 14,500	Completed	
Snowflake Inc.	Engineering Support Services for Load Forecasting Analysis	July 2020	\$ 15,000	Active	
OUTFRONTmedia	Advertiser Agreement for Los Angeles transit shelter ads in San Gabriel Valley and unincorporated Los Angeles County re COVID-19 bill credit campaign	July 2020	\$ 13,500	Completed	

Clean Power Alliance					
Non-energy contracts executed under Executive Director authority					
Rolling 12 months -- Open contracts shown in Bold					
Vendor	Purpose	Month	NTE Amount	Status	Notes
OUTFRONTmedia	Advertising Non-Space Agreement related to production costs	July 2020	\$ 990	Completed	
Vector Medial Holding Corporation	Advertising & Production Agreement for Santa Monica & Culver City Transit Bus Ads re COVID-19 bill credit campaign	July 2020	\$ 2,200	Completed	
CIM/Prime Construction/Pinnacle Communication Services	New Office Space Equipment and Installation: Audio Visual/Security Systems/Data and Communications Cabling	July 2020	\$ 361,281	Active	Signed under expanded authority of up to \$500,000 for office relocation design, equipment and construction expenses granted by the Board of Directors on March 25, 2020
801 South Grand Avenue (LA)	Storage Space Lease	July 2020	\$ 1,980	Completed	
Adobe Inc.	AdobeSign Secure Electronic Signature Service	June 2020	\$ 3,200	Active	
EZ Texting	Peak Management Pricing customer text messaging alerts	May 2020	\$ 1,000	Active	
Place and Page	Graphic Design Services	May 2020	\$ 30,000	Active	
KnowledgeCity	Employee Training	May 2020	\$ 3,745	Active	
SCS Engineers	CARB GHG Audit for 2019	May 2020	\$ 4,500	Completed	
Davis Wright Tremaine, LLP	Legal Services Agreement (Regulatory Assistance)	April 2020	\$ 125,000	Active	1st Amendment in October 2020 to increase the NTE from \$4,000 to \$35,000. 2nd Amendment in March 2021 to increase the NTE from \$35,000 to \$125,000.
Snowflake Inc.	Cloud-Native Elastic Data Warehouse Service	April 2020	\$ 36,000	Active	
Amazon Web Services	Cloud-based Database Hosting	April 2020	\$ 36,000	Active	
ICE Options Analytics LLC	Trading Platform Subscription Service	March 2020	\$ 19,000	Active	
Bold New Directions, Inc.	Management Training	March 2020	\$ 17,995	Active	Increased to \$20,328 in May 2020
Greenberg Glusker	Legal Services Agreement (PPA Negotiations)	March 2020	\$ 59,000	Active	
Omni Government Relations & Pinnacle Advocacy, LLC	Lobbying Services	December 2019	\$ 108,000	Active	Renewed for 2021 at same amount
CLG Group	Executive Training	November 2019	\$ 15,000	Active	
Inventure Recruitment	Ongoing Recruitment Services	October 2019	\$ 120,000	Active	Renewed for 2021 at same amount
JLL	Real Estate Brokerage Services	October 2019	NA	Active	
Siemens	Integrated Resource Planning for 2020 CPUC IRP Compliance	October 2019	\$ 62,500	Active	25% cost share with 3 other CCAs

Commonly Used Acronyms

BESS	Battery Energy Storage System
CAC	Community Advisory Committee
CAISO	California Independent System Operator
CALCCA	California Community Choice Association
CalEVIP	California Electric Vehicle Incentive Program
CARB	California Air Resources Board
CARE	California Alternate Rates for Energy (Low Income Discount Rate)
CCA	Community Choice Aggregation
CEC	California Energy Commission
CPUC	California Public Utilities Commission
DA	Direct Access (Private Retail Energy Supplier)
DAC	Disadvantaged Community (As Defined by Calenviroscreen 3.0)
DER	Distributed Energy Resources
DR	Demand Response
ERMP	Energy Risk Management Policy
ERRA	Energy Resource Recovery Account (SCE Generation Rate Setting)
ESA	Energy Storage Agreement
EVSE	Electric Vehicle Supply Equipment (EV Charger)
FERA	Family Electric Rate Assistance (Low Income Discount Rate)
GHG	Greenhouse Gas
IOU	Investor Owned Utility
IRP	Integrated Resource Plan
JPA	Joint Powers Authority

Commonly Used Acronyms

Kwh	Kilowatt-Hour (A Measure of Energy Used in A One-Hour Period)
Kw	Kilowatt = 1,000 Watts (Watt = A Measure of Instantaneous Power)
LSE	Load Serving Entity
MB	Medical Baseline (Discount Rate for Medical Equipment Needs)
MW	Megawatt = 1,000 Kilowatts
Mwh	Megawatt-Hour = 1,000 Kilowatt-Hours
NEM	Net Energy Metering (Usually for Customers With Solar)
OAT	Other Applicable Tariffs
PCIA	Power Charge Indifference Adjustment (Can Be Called “Exit Fee”)
PCC1	Renewable Energy Generated Inside California
PCC2	Renewable Energy Generated Outside California
PCC3	A REC from A Renewable Resource, Delivered Without Energy
PCL	Power Content Label
POU	Publicly Owned or Municipal Utility
PPA	Power Purchase Agreement
PSPS	Public Safety Power Shutoff
PV	Photovoltaic (Solar) Panels
RA	Resource Adequacy
REC	Renewable Energy Credit
RPS	Renewables Portfolio Standard
T&D	Transmission and Distribution
TOU	Time Of Use (Used to Refer To Rates That Differ By Time Of Day)
WECC	Western Electricity Coordinating Council