BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Appeal of City of San Jose, administrator of San Jose Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division	PROCEEDING: K.19-03-024

EXHIBITS 51-89

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April 25, 2025

Attorneys for City of San Jose

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EXHIBIT: SJCE #51
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/JEANNE M. SOLE/ OK 10-24-2018-RE Turlock Irrigation District - CONFIDENTIAL
DATE IDENT. 04/22/25 RECD. 04/22/25
ALJ: GERALD F. KELLY

OK 10-24-2018-RE TURLOCK IRRIGATION DISTRICT - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

From: Tony Zimmer <Tony.Zimmer@ncpa.com>
Sent: Wednesday, October 24, 2018 1:49 PM
To: Sole, Jeanne
Cc: Morris, Kelly
Subject: RE: Turlock Irrigation District

Hi Jeanne,

I just spoke with TID, and it sounds like their supply is no longer available, so I don't think you have to account for that at this point.

Please let me know if you have any questions.

Thank you,

Tony Zimmer
Assistant General Manager, Power Management

Northern California Power Agency
A Public Agency
651 Commerce Drive
Roseville, CA 95678-6420
(916) 781-4229 Phone
www.ncpa.com

From: Jeanne M. Solé
Sent: Wednesday, October 24, 2018 10:35 AM
To: Tony Zimmer <Tony.Zimmer@ncpa.com>
Cc: Morris, Kelly <KELLY.MORRIS@SANJOSECA.GOV>
Subject: Turlock Irrigation District

Hi Tony,

To have any hope of transaction with TID by 10/31 I would need to get ROC approval on Friday. I am finalizing the presentation now. Is this still on the table and do you have any idea of how much we might be talking about. Does $150,000 seem like a reasonable amount for now?

Please let me know asap.

Jeanne M. Solé
Deputy Director of Power Resources

200 E. Santa Clara St., 14th Floor | San José, CA 95113
408.535.4867 | Jeanne.Sole@sanjoseca.gov
SAN JOSE CLEAN ENERGY
SanJoseCleanEnergy.org

EXHIBIT: SJCE #52
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/JEANNE M. SOLE/ OK 10-25-2018-FW AMP_SJCE CY 2019 RA Transaction Confirmation Draft - CONFIDENTIAL
DATE IDENT. 04/22/25 RECD. 04/22/25
ALJ: GERALD F. KELLY

OK 10-25-2018-FW AMP_SJCE CY 2019 RA TRANSACTION CONFIRMATION DRAFT - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

From: Sole, Jeanne
Sent: Thursday, October 25, 2018 11:30 AM
To: Tony Zimmer
Cc: Morris, Kelly; chawla@alamedamp.com; Moran, Ed; Hall, Stephen C.
Subject: FW: AMP_SJCE CY 2019 RA Transaction Confirmation Draft
Attachments: Alameda_SJCE CY 2019 RA Confirmation (Draft).doc

Importance: High

Hi Vidhi and Tony,

Thanks for clarifying the status.

We have confirmed that we can prepay five 5 business days prior to the applicable monthly compliance filing deadline. Our attorneys are reviewing the draft confirmation. We will bring these transactions to our Risk Oversight Committee for approval tomorrow and let you know if there are any problems getting their approval.

Jeanne M. Solé
Deputy Director of Power Resources
200 E. Santa Clara St., 14th Floor | San José, CA 95113
408.535.4867 | Jeanne.Sole@sanjoseca.gov
SAN JOSE CLEAN ENERGY
SanJoseCleanEnergy.org

From: Tony Zimmer [mailto:Tony.Zimmer@ncpa.com]
Sent: Thursday, October 25, 2018 10:14 AM
To: Sole, Jeanne <jeanne.sole@sanjoseca.gov>; Morris, Kelly <Kelly.Morris@sanjoseca.gov>
Cc: Vidhi Chawla <chawla@alamedamp.com>; Alan Hanger O365 <hanger@alamedamp.com>; Tony Zimmer <Tony.Zimmer@ncpa.com>
Subject: AMP_SJCE CY 2019 RA Transaction Confirmation Draft
Importance: High

Hi Jeanne and Kelly,

Please find attached for your review and consideration the draft RA confirmation I have received from Alameda Municipal Power (AMP). Under such, AMP is proposing the sell the following products to SJCE:

- Greater Bay Area Local

Showing Month and Year	Contract Quantity (MW)	Contract Price ($/kW-mo)
JUNE 2019	6.0	$5.50
JULY 2019	5.3	$6.50
AUGUST 2019	3.0	$6.50

- PG&E Other Local

Showing Month and Year	Contract Quantity (MW)	Contract Price ($/kW-mo)
JANUARY 2019	6.8	$3.50
FEBRUARY 2019	2.09	$3.50
JULY 2019	1.0	$6.50
AUGUST 2019	3.2	$6.50
OCTOBER 2019	4.2	$4.00
NOVEMBER 2019	10.2	$3.50
DECEMBER 2019	4.8	$3.75

AMP is proposing to use the WSPP RA confirmation form recently developed by the WSPP contracts committee. This form has been accepted by their Counsel, so this would enable this transaction to be processed quickly. Also, due to AMP's collateral and credit requirements, AMP is requesting to include a pre-payment provision that will require payment for product to be made five (5) business days prior to the applicable monthly compliance filing deadline.

AMP is prepared to move this forward for execution pending any questions or comments SJCE may have.

Please feel free to contact me or Vidhi (AMP) if you have any questions.

Thank you,

Tony Zimmer
Assistant General Manager, Power Management

Northern California Power Agency
A Public Agency
651 Commerce Drive
Roseville, CA 95678-6420
(916) 781-4229 Phone
www.ncpa.com

WSPP RESOURCE ADEQUACY CONFIRMATION

This Confirmation under the WSPP Agreement confirms the transaction between Alameda Municipal Power and San Jose Clean Energy dated as of 10/22/2018 (the "Effective Date"), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product (the "Transaction"). Capitalized terms not otherwise defined in this Confirmation or the WSPP Agreement are defined in the Tariff.

ARTICLE 1
TRANSACTION TERMS

Purchaser: San Jose Clean Energy ("SJCE")

Seller: Alameda Municipal Power ("AMP")

Product, Delivery Period, Contract Quantity, Contract Price and other specifics of the Product are in Appendix B. Appendices A, B and C are incorporated into this Confirmation

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Sale and Delivery of Product

(a) For each Showing Month of the Delivery Period, Seller will sell and deliver to Purchaser, and Purchaser will purchase and receive from Seller, the Contract Quantity of the Product from the Shown Unit(s).

(b) Seller will deliver the Contract Quantity by submitting to CAISO in its Supply Plan the Shown Unit and the characteristics of the Shown Unit and Product for Purchaser, as further specified in Appendix B, all in compliance with this Confirmation.

(c) Seller will cause all Supply Plans to meet and be filed in conformance with the requirements of the CPUC and the Tariff. Seller will submit, or cause the Unit's SC to submit, on a timely basis with respect to each applicable Showing Month, Supply Plans in accordance with the Tariff and CPUC requirements to identify and confirm the Product delivered to Purchaser for each Showing Month of the Delivery Period. The total amount of Product identified and confirmed for each day of such Showing Month will equal the Contract Quantity, less any excused deductions to the Contract Quantity in the case of Flexible RA Capacity for excused reductions in Unit EFC.

(d) Seller may sell and deliver from a Shown Unit that meets requirements set forth in Appendix B. Seller will identify the Shown Unit(s) and Contract Quantity by providing Purchaser with the specific Unit information contemplated in Appendix B no later than the Notification Deadline for the relevant Showing Month.

(e) If CAISO rejects either the Supply Plan or the Resource Adequacy Plan with respect to any part of the Contract Quantity for the Shown Unit in any Showing Month, the Parties will confer, make such corrections as are necessary for acceptance, and resubmit the corrected Supply Plan or Resource Adequacy Plan for validation before the applicable deadline for the Showing Month.

(f) The Product is delivered and received when the CIRA Tool shows the Supply Plan accepted for the Product from the Shown Unit by CAISO or Seller complies with Purchaser's instruction to withhold all or part of the Contract Quantity from Seller's Supply Plan for any Showing Month during the Delivery Period. Seller has failed to deliver the Product if (i) Purchaser has elected to submit the Product from the Shown Unit in its Resource Adequacy Plan and such submission is accepted by the CPUC and the CAISO but the Supply Plan and Resource Adequacy Plan are not matched in the CIRA Tool and are rejected by CAISO notwithstanding performance of Section 2.1(e) or (ii) Seller fails to submit the volume of Contract Quantity for any Showing Month in such amount as instructed by Purchaser for the applicable Showing Month. Purchaser will have received the Contract Quantity if (i) Seller's Supply Plan is accepted by the CAISO for the applicable Showing Month or (ii) Seller complies with Purchaser's instruction to withhold all or part of the Contract Quantity from Seller's Supply Plan for the applicable Showing Month. Seller will not have failed to deliver the Contract Quantity if Purchaser fails or chooses not to submit the Shown Unit and the Product in its Resource Adequacy Plan with the CPUC or CAISO.

(g) The Shown Unit must not have characteristics that would trigger the need for Purchaser or Seller to file an advice letter or other request for authorization with the CPUC or for Purchaser to make a compliance filing pursuant to California Public Utilities Code Section 380.[1]

(h) Excused Reductions in Unit EFC: Unless the Parties have designated this Section 2.1(h) as "Not applicable", if the Product includes FCR Attributes, then Seller's failure to deliver any of the Contract Quantity of FCR Attributes during the Delivery Period will be excused if the Unit experiences a reduction in Unit EFC after the Effective Date as determined by CAISO and Seller has provided notice of such reduction to Purchaser by the Notification Deadline for the applicable Showing Month. The extent to which Seller's failure is excused will equal (i) the Contract Quantity of FCR Attributes for such day multiplied by (ii) the total amount (in MW) by which the Unit EFC was reduced since the Effective Date, divided by (iii) the Unit EFC as of the Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller may, but is not obligated to, provide the applicable part of the Contract Quantity of FCR Attributes for such day from the Shown Unit.

[1] For example, contracts with Once-Through Cooling resources that terminate one year or less before the State Water Resources Control Board compliance deadline require an advice letter filing under CPUC Decision 12-04-046

2.2 Purchaser's Remedies for Seller's Failure to Deliver Contract Quantity

(a) If Seller fails to deliver any part of the Contract Quantity as required herein for any Showing Month, Seller is liable for damages pursuant to Section 21.3 of the WSPP Agreement, without reference to the word "hourly" therein.

(b) Seller agrees to indemnify, defend and hold harmless Purchaser from any penalties, fines or costs, including Environmental Costs, assessed against Purchaser by the CPUC, CAISO or other Governmental Body resulting from Seller's failure to deliver the Product. The Parties will use commercially reasonable efforts to minimize such penalties, fines or costs; provided, that in no event will Purchaser be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties, fines or costs. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Purchaser for those penalties, fines or costs, then, without prejudice to its other rights and remedies, Purchaser may setoff and recoup those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation or the WSPP Agreement.

2.3 Purchaser's Re-Sale of Product

(a) Purchaser may re-sell all or part of the Product; provided that any such re-sale must not increase Seller's obligations hereunder other than as set forth in this Section 2.3(a). For any such a resale, Resource Adequacy Plan of Purchaser as used herein will refer to the Resource Adequacy Plan of Subsequent Purchaser. Seller will, or will cause the Unit's SC, to follow Purchaser's instructions with respect to providing such resold Product to Subsequent Purchasers, to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller will, and will cause the Unit's SC, to take all commercially reasonable actions and execute all documents or instruments reasonably necessary to allow such Subsequent Purchasers to use such resold Product in a manner consistent with Purchaser's rights under this Confirmation. If Purchaser incurs any liability to a Subsequent Purchaser due to the failure of Seller or the Unit's SC to comply with this Confirmation, Seller will be liable to Purchaser for the same amounts Seller would have owed Purchaser under this Confirmation if Purchaser had not resold the Product.

(b) Purchaser will notify Seller in writing of any resale of Product and the Subsequent Purchaser no later than two Business Days before the Notification Deadline for the Showing Month. Purchaser will notify Seller of any subsequent changes or further resales no later than two Business Days before the Notification Deadline for the Showing Month.

ARTICLE 3
PAYMENTS

3.1 Payment

After Seller has delivered the Contract Quantity in accordance with Section 2.1 and issued its invoice, Purchaser must pay for the Product as provided in Article 9 of the WSPP Agreement. Notwithstanding the foregoing, Purchaser shall make payment to Seller, within five (5) Business Days before the applicable deadline for the Showing Month. The Monthly RA Capacity Payment shall equal the product of (a) the applicable Contract Price for that Showing Month, (b) the Contract Quantity for the Showing Month and (c) 1,000, rounded to the nearest penny (i.e., two decimal places).

3.2 Allocation of Other Payments and Costs

(a) Seller will receive any revenues from, and must pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity for ancillary services, (iii) energy sales, (iv) flexible ramping product, or (v) black start or reactive power services. Purchaser must promptly report receipt of any such revenues to Seller. Purchaser must pay to Seller any such amounts described in this Section 3.2(a) received by Purchaser or a Subsequent Purchaser. Without prejudice to its other rights and remedies, Seller may setoff and recoup any such amounts that are not paid to it against any amounts owed to Purchaser under the WSPP Agreement.

(b) Purchaser is to receive and retain all revenues associated with the Contract Quantity of Product during the Delivery Period, including any capacity and availability revenues from the Capacity Procurement Mechanism, or its successor, RUC Availability Payments, or its successor, but excluding payments described in Section 3.2(a)(i)-(v) or 3.2(d). Seller must promptly report receipt of any such revenues to Purchaser. Seller must pay to Purchaser any such amounts received by Seller, or a Unit's SC, owner, or operator. Without prejudice to its other rights, Purchaser may set off and recoup any such amounts that are not paid to it against amounts owed to Seller under the WSPP Agreement.

(c) If CAISO designates any part of the Contract Quantity as Capacity Procurement Mechanism Capacity, then Seller will, or will cause the Unit's SC to, within one Business Day of the time Seller receives notification from CAISO, notify Purchaser and not accept any such designation by CAISO unless and until Purchaser has agreed to accept such designation.

(d) Any Availability Incentive Payments or Non-Availability Charges are for Seller to receive and pay.

ARTICLE 4
OTHER PURCHASER AND SELLER COVENANTS

4.1 CAISO Requirements

Seller must schedule or cause the Unit's SC to schedule or make available to CAISO the Contract Quantity of the Product during the Delivery Period, in compliance with the Tariff, and perform all, or cause the Unit's SC, owner, or operator to perform all, obligations under applicable law and the Tariff relating to the Product. Purchaser is not liable for, and Seller will indemnify and hold Purchaser harmless from, the failure of Seller or the Unit's SC, owner, or operator to comply with the Tariff, and for any penalties, fines or costs imposed on Seller or the Unit's SC, owner, or operator for noncompliance.

4.2 Seller's and Purchaser's Duties to Take Actions to Allow Product Utilization

Throughout the Delivery Period, Purchaser and Seller will take all commercially reasonable actions and execute all documents or instruments reasonably necessary to ensure Purchaser's rights to the Contract Quantity for the sole benefit of Purchaser or any Subsequent Purchaser. If necessary, the Parties further agree to negotiate in good faith to amend this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by CAISO or an applicable Governmental Body to maintain the benefits of the Transaction.

4.3 Seller's Representations and Warranties

Seller represents and warrants to Purchaser throughout the Delivery Period that:

(a) no part of the Contract Quantity during the Delivery Period has been committed by Seller to any third party to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(b) the Unit qualifies under the Tariff for the Product, and the Unit and Seller are capable of delivering the Product;

(c) the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned, or transferred for the Unit during the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit;

(d) if applicable, Seller has notified either the Unit's SC or the entity from which Seller purchased the Product that Seller has transferred the Contract Quantity of Product for the Delivery Period to Purchaser; and

(e) Seller has notified or will notify the Unit's SC that Purchaser is entitled to the revenues set forth in Section 3.2(b), and such SC is obligated to promptly deliver those revenues to Purchaser, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 5
ADDITIONAL WSPP AGREEMENT AMENDMENTS; GENERAL PROVISIONS

5.1 Termination Payment

For this Transaction, the following is inserted as a penultimate paragraph in Section 22.2(b) of the WSPP Agreement:

> "If Purchaser is the Non-Defaulting Party and Purchaser reasonably expects to incur or be liable for any penalties, fines or costs from CAISO, or any Governmental Body, because Purchaser or a Subsequent Purchaser is not able to include the applicable Contract Quantity in a Compliance Showing due to Seller's Event of Default, then Purchaser may, in good faith, estimate the amount of those penalties, fines or costs and include the estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Purchaser's estimate exceeds the actual amount of penalties, fines or costs, Purchaser must promptly remit to Seller the excess amount with interest in accordance with Section 9.3 of the WSPP Agreement. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

5.2 Confidentiality

Notwithstanding Section 30.1 of the WSPP Agreement, (i) Purchaser may disclose information in order to support its Compliance Showings or otherwise show it has met its Compliance Obligations; (ii) Seller may disclose to a Unit's SC or as necessary for Supply Plans; (iii) each Party may disclose information to the independent evaluator or other administrator of any competitive solicitation process of Purchaser, which in turn may disclose such information to CAISO or any Governmental Body; and (iv) Purchaser may disclose information to any Subsequent Purchaser.

5.3 Dodd-Frank Act

The Parties intend this Transaction to be a "customary commercial arrangement" as described in Section II.A.1 of Commodity Futures Trading Commission, *Proposed Guidance, Certain Natural Gas and Electric Power Contracts*, 81 Fed. Reg. 20583 at 20586 (Apr. 8, 2016) and a "Forward Capacity Transaction" within the meaning of Commodity Futures Trading Commission, *Final Order in Response to a Petition From Certain Independent System Operators and Regional Transmission Organizations To Exempt Specified Transactions Authorized by a Tariff or Protocol Approved by the Federal Energy Regulatory Commission*, 78 Fed. Reg. 19,880 (Apr. 2, 2013).

5.4 Governing Law

For this Transaction, Section 13.1 of the WSPP Agreement is amended to change "FERC" to "FERC or the CPUC", and Section 24 of the WSPP Agreement is amended to replace "Utah" with "California".

AGREED AS OF THE EFFECTIVE DATE:

ALAMEDA MUNICIPAL POWER	**SAN JOSE CLEAN ENERGY**
By:_____	By:_____
Name: _____	Name: _____
Title: _____	Title: _____

APPENDIX A
DEFINED TERMS

"CAISO" means the California ISO.

"Capacity Attributes" means attributes of the Unit that may be counted toward Compliance Obligations, including: flexibility, dispatchability, physical location or point of electrical interconnection of the Unit; Unit ability to generate at a given capacity level, provide ancillary services, or ramp up or down at a given rate; any current or future defined characteristics, certificates, tags, credits, or accounting constructs of the Unit, howsoever entitled, identified from time to time by the CAISO or a Governmental Body having jurisdiction over Compliance Obligations.

"CIRA Tool" means the CAISO Customer Interface for Resource Adequacy.

"Compliance Obligations" means, as applicable, RAR, Local RAR and FCR.

"Compliance Showings" means the applicable LSE's compliance with the resource adequacy requirements of the CPUC for an applicable Showing Month.

"CPUC Decisions" means any currently effective or future decisions, resolutions, or rulings related to resource adequacy.

"Environmental Costs" means (i) costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, (ii) the Product's compliance with all applicable environmental laws, rules, and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, (iii) all operating and maintenance costs for operation of pollution mitigation or control equipment, (iv) costs of permit maintenance fees and emission fees as applicable, (v) the costs of all emission reductions that have been authorized by a local air pollution control district or emissions trading credits or units pursuant to the California Health & Safety Code, market based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, authorizations to emit sulfur dioxide and oxides of nitrogen by the Environmental Protection Agency, and any costs related to greenhouse gas emissions required by any applicable environmental laws, rules, regulations, or permits to operate, and (vi) costs associated with the disposal, clean-up, decontamination or remediation, on or off site, of hazardous substances.

"FCR" means the Flexible Capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, the CAISO pursuant to the Tariff, or other Governmental Body having jurisdiction over Compliance Obligations and includes any non-binding advisory showing which an LSE is required to make with respect to flexible capacity.

"FCR Attributes" means, with respect to a Unit, any and all resource adequacy attributes of the Unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction over Compliance Obligations, that can be counted toward an LSE's FCR.

"Governmental Body" means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal.

"Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

"LSE" means "Load Serving Entity" as such term is used in Section 40.9 of the Tariff.

"MW" means megawatt.

"Notification Deadline" is twenty (20) Business Days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month.

"Product" means RAR, Local RAR and FCR, for the Delivery Period, Unit, Contract Quantity, Contract Price and other specifications contained in Appendix B.

"Prorated Percentage of Unit Factor" means the percentage, as specified in Appendix B, of the Unit NQC as of the Effective Date that is dedicated to Purchaser under this Transaction.

"Prorated Percentage of Unit Flexible Factor" means the percentage, as specified in Appendix B, of the Unit EFC as of the Effective Date that is dedicated to Purchaser under this Transaction.

"RAR" means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction over Compliance Obligations.

"SC" means Scheduling Coordinator as defined in the Tariff.

"Showing Month" means the calendar month of the Delivery Period that is the subject of the related Compliance Showing.

"Shown Unit" means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Purchaser on the Effective Date.

"Subsequent Purchaser" means the purchaser of Product from Purchaser in a re-sale of Product by Purchaser.

"Tariff" means the CAISO Tariff, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means the generation unit described in Appendix B and any Shown Unit.

"Unit EFC" means Unit Effective Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

"Unit NQC" means Unit Net Qualifying Capacity and is the lesser of that of the Unit as set by CAISO as of the Effective Date and that of the Unit on a subsequent date of determination.

APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☐ RAR ☒ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: North Path 26
MCC Bucket: 4
CPUC Local Area (if applicable): PG&E Greater Bay Area
Flexible Capacity Category (if applicable): N/A

Delivery period: June 1, 2019 through August 31, 2019.

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

Showing Month and Year	Contract Quantity (MW)	Contract Price ($/kW-mo)
JUNE 2019	6.0	$5.50
JULY 2019	5.3	$6.50
AUGUST 2019	3.0	$6.50

APPENDIX B
PRODUCT AND UNIT INFORMATION

Product:

☐ RAR ☒ Local RAR ☐ Flexible Capacity

and all Capacity Attributes related to such Product.

Additional Product Information (fill in all that apply):
CAISO Zone: North Path 26
MCC Bucket: 4
CPUC Local Area (if applicable): PG&E Other
Flexible Capacity Category (if applicable): N/A

Delivery period: January 1, 2019 through December 31, 2019.

Contract Quantity and Contract Price:

RAR and Local RAR, as applicable

Showing Month and Year	Contract Quantity (MW)	Contract Price ($/kW-mo)
JANUARY 2019	6.8	$3.50
FEBRUARY 2019	2.09	$3.50
JULY 2019	1.0	$6.50
AUGUST 2019	3.2	$6.50
OCTOBER 2019	4.2	$4.00
NOVEMBER 2019	10.2	$3.50
DECEMBER 2019	4.8	$3.75

Unit 1

Unit Specific Information	
Resource Name	Alameda CT Unit 2
Physical Location	Alameda, CA
CAISO Resource ID	ALMEGT_1_UNIT 2
SCID of Resource	NCPA
Unit NQC by month (e.g., Jan=50,Feb=65):	23.8 MW
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Combustion Turbine
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, , Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	Bay Area
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

Unit Specific Information	
Resource Name	Ox Mountain Landfill
Physical Location	Half Moon Bay, CA
CAISO Resource ID	OXMTN_6_LNDFIL
SCID of Resource	NCPA
Unit NQC by month (e.g., Jan=50,Feb=65):	10.14 MW
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Landfill Gas
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, , Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	Bay Area
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

Unit Specific Information	
Resource Name	Geothermal Plant 1 Unit 1
Physical Location	Sonoma County
CAISO Resource ID	NCPA_7_GP1UN1
SCID of Resource	NCPA
Unit NQC by month (e.g., Jan=50,Feb=65):	31.0 MW
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Geothermal
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, , Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	NCNB
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

Unit Specific Information	
Resource Name	Geothermal Plant 1 Unit 2
Physical Location	Sonoma County
CAISO Resource ID	NCPA_7_GP1UN2
SCID of Resource	NCPA
Unit NQC by month (e.g., Jan=50,Feb=65):	28.0 MW
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Geothermal
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, , Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	NCNB
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

Unit Specific Information	
Resource Name	Geothermal Plant 2 Unit 4
Physical Location	Sonoma County
CAISO Resource ID	NCPA_7_GP2UN4
SCID of Resource	NCPA
Unit NQC by month (e.g., Jan=50,Feb=65):	52.73 MW
Unit EFC by month (e.g., Jan=30, Feb=50)	N/A
Resource Type (e.g., gas, hydro, solar, etc.)	Geothermal
Minimum Qualified Flexible Capacity Category (Flex 1, 2 or 3)	N/A
TAC Area (e.g., PG&E, SCE)	PG&E
Prorated Percentage of Unit Factor	N/A
Prorated Percentage of Unit Flexible Factor	N/A
Capacity Area (CAISO System, Fresno, Sierra, , Kern, LA Basin, Bay Area, Stockton, Big Creek-Ventura, NCNB, San Diego-IV or Humboldt)	NCNB
Resource Category as defined by the CPUC (DR, 1, 2, 3, 4)	4

(*Repeat for additional Units)*

[Information for specific Shown Units may be provided after the Effective Date pursuant to the Confirmation.]

APPENDIX C
NOTICE INFORMATION

Seller: Alameda Municipal Power	Purchaser: San Jose Clean Energy
All Notices: Attn: Phone: Facsimile: Duns: Federal Tax ID Number:	**All Notices:** Attn: Phone: Facsimile: Duns: Federal Tax ID Number:
Invoices: NCPA Settlement Department Settlements@ncpa.com	**Invoices:** NCPA Settlement Department Settlements@ncpa.com
Scheduling: NCPA Pre-Scheduling Department Preschedulers@ncpa.com	**Scheduling:** NCPA Settlement Department Settlements@ncpa.com
Wire Transfer:	**Wire Transfer:**
Credit and Collections:	**Credit and Collections:**
Defaults: Additional notices of an Event of Default to:	**Defaults:** Additional notices of an Event of Default to:

EXHIBIT: SJCE #53
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/JEANNE M. SOLE/ SYS 10-25-Re FW SJCE Request for Offers to Sell CY 2019 - CONFIDENTIAL
DATE IDENT. 04/22/25 RECD. 04/22/25
ALJ: GERALD F. KELLY

SYS 10-25-RE FW SJCE REQUEST FOR OFFERS TO SELL CY 2019 - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

From: Chelsea Keys <ckeys@peninsulacleanenergy.com>
Sent: Thursday, October 25, 2018 10:03 AM
To: Sole, Jeanne
Cc: Morris, Kelly; Tony Zimmer
Subject: Re: FW: SJCE Request for Offers to Sell CY 2019 Resource Adequacy Products

Okay, completely understand. Thanks for letting me know!

On Thu, Oct 25, 2018 at 9:58 AM Sole, Jeanne <jeanne.sole@sanjoseca.gov> wrote:

> Chelsea, unless you hear otherwise from Tony, we just don't have the system to trade. Thanks for thinking of us though.

Jeanne M. Solé

Deputy Director of Power Resources

200 E. Santa Clara St., 14th Floor | San José, CA 95113

408.535.4867 | Jeanne.Sole@sanjoseca.gov

SAN JOSE CLEAN ENERGY

SanJoseCleanEnergy.org

From: Chelsea Keys [mailto:ckeys@peninsulacleanenergy.com]
Sent: Wednesday, October 24, 2018 2:23 PM
To: Sole, Jeanne <jeanne.sole@sanjoseca.gov>
Subject: Re: FW: SJCE Request for Offers to Sell CY 2019 Resource Adequacy Products

Hello Jeanne,

I'm trying to my best to help out as many of us as I can! Of course, we all need it the same months and not in others. As I'm trying to pull this all together this is what I could potentially have for you. Unfortunately, it's not much but it's something. It would at least make you compliant in January. Let me know if it's something you'd like to continue to discuss. The terms of the transaction is that you'd need to directly swap and sell system in the months that you purchased the PG&E Other. In your case it would be a relatively small impact if you decided to go through with it. I laugh at the 1 MW in Oct. but it is available if you need it.

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT
SJCE	4.4	10			0		6			

Thank you!

Chelsea Keys

Power Resources Manager

Peninsula Clean Energy

ckeys@peninsulacleanenergy.com

(650) 382-2002

Visit us at:

www.peninsulacleanenergy.com

On Wed, Oct 24, 2018 at 12:58 PM Sole, Jeanne <jeanne.sole@sanjoseca.gov> wrote:

Jeanne M. Solé

Deputy Director of Power Resources

200 E. Santa Clara St., 14th Floor | San José, CA 95113

408.535.4867 | Jeanne.Sole@sanjoseca.gov

SanJoseCleanEnergy.org

From: Tony Zimmer [mailto:Tony.Zimmer@ncpa.com]
Sent: Tuesday, October 23, 2018 9:30 PM
To: Tony Zimmer <Tony.Zimmer@ncpa.com>; Sole, Jeanne <jeanne.sole@sanjoseca.gov>; Morris, Kelly <Kelly.Morris@sanjoseca.gov>
Cc: Ken Goeke <Ken.Goeke@ncpa.com>; Bernard Erlich <Bernard.Erlich@ncpa.com>; Roxana Khayyam <Roxana.Khayyam@ncpa.com>
Subject: SJCE Request for Offers to Sell CY 2019 Resource Adequacy Products
Importance: High

Date Issued: October 23, 2018

Subject: Request for Offers to Sell CY 2019 Resource Adequacy Products to SJCE

Prospective Resource Adequacy Suppliers:

Pursuant to this Request for Offers (RFO), San Jose Clean Energy (SJCE) is seeking offers from prospective suppliers to sell Resource Adequacy Products to SJCE as further described herein:

Product Description

Showing Month	System RA Quantity (MW)	Local RA PG&E GBA Quantity (MW)	Local RA PG&E Other Quantity (MW)	Flexible RA Quantity (MW)
Jan-19	0.0	0.0	4.4	7.2
Feb-19	0.0	177.0	162.0	7.2

Mar-19	0.0	0.0	0.0	0.0
Apr-19	0.0	0.0	0.0	0.0
May-19	0.0	12.0	10.1	0.0
Jun-19	0.0	6.0	0.0	0.0
Jul-19	412.0	4.7	55.1	34.3
Aug-19	0.0	0.0	0.0	0.0
Sep-19	678.8	30.0	158.1	120.8
Oct-19	0.0	0.0	143.9	77.5
Nov-19	0.0	0.0	0.0	0.0
Dec-19	0.0	12.0	5.3	0.0

Submission of Offers

Please submit all offers to sell Resource Adequacy Products to SJCE using the RA Offer Form attached hereto.

All offers to sell Resource Adequacy Products must be submitted to the following SJCE contacts on or prior to October 25, 2018 at 5:00 PM Pacific:

- Jeanne Sole (SJCE): jeanne.sole@sanjoseca.gov
- Tony Zimmer (NCPA): tony.zimmer@ncpa.com

Upon receipt of any offers submitted in response to this RFO, SJCE will evaluate such offers and determine if SJCE will seek to enter into any confirmation for a transaction at the conclusion of this solicitation.

Contracting Instrument

For reference, please find attached hereto SJCE's preferred form of Resource Adequacy Transaction Confirmation for use with the WSPP. SJCE will also consider use of a Resource Adequacy Transaction Confirmation structured to work in conjunction with an EEI to be negotiated between the parties. Please find attached hereto SJCE's preferred EEI cover sheet.

In addition, SJCE is in the process of qualifying potential counterparties pursuant to its Risk Management Policies. Potential suppliers that are not yet qualified are encouraged to contact SJCE as soon as possible if they intend to

respond to this Request for Proposals. SJCE will only be able to transact with entities that have been qualified by its finance department.

If a prospective supplier does not disclose financial information publicly, SJCE will also require a prospective supplier to provide the information described below for the past two (2) financial years. Also, a prospective supplier with its primary business in sectors other than energy should provide financial information and a description of its energy product operations and trading.

- Consolidated Statement of Income
- Consolidated Statement of Cash Flows
- Consolidated Balance Sheets
- Results of Operations
- Notes to Financial Statements
- Off-Balance Sheet Liabilities, if any

For any questions regarding this RFO, please contact Tony Zimmer at tony.zimmer@ncpa.com.

Disclaimers:

SJCE reserves the sole and discretionary right to (i) reject any offers received in response to this solicitation for any reason, and (ii) accept any offers received after the deadline for submittals as indicated herein. Additionally, SJCE reserves the right, at its sole discretion, to not enter into any confirmation for the transaction at the conclusion of this solicitation. SJCE reserves the right to modify the terms and conditions of this solicitation at any time based on changing needs and market feedback. SJCE also reserves the right to rescind this solicitation at any time prior to SJCE's execution of a binding agreement. SJCE will not be liable at any time for any costs the prospective supplier may incur in preparing or submitting its response to this solicitation.

If an unsuccessful PROPOSER wants to dispute an award or award recommendation, a protest must be submitted in writing to the Director of Community Energy, Lori Mitchell, no later than ten (10) calendar days after announcement of the successful PROPOSER(s), detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes on the grounds that material provision in this RFP is ambiguous. Failure to submit a timely written protest to the contact listed below will bar consideration of the protest.

The address for submitting protests is:

Attention: Lori Mitchell, Director

City of San Jose, Department of Community Energy

200 East Santa Clara Street, 14th Floor

San Jose, CA 95113

Please submit an electronic version of the protest to lori.mitchell@sanjoseca.gov, and Jeanne.sole@sanjoseca.gov

Tony Zimmer

Assistant General Manager, Power Management

Northern California Power Agency

A Public Agency

651 Commerce Drive

Roseville, CA 95678-6420

(916) 781-4229 Phone

www.ncpa.com

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Chelsea Keys
Power Resources Manager
Peninsula Clean Energy
ckeys@peninsulacleanenergy.com
(650) 382-2002

Visit us at:
www.peninsulacleanenergy.com

EXHIBIT: SJCE #54
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/JEANNE M. SOLE/8-8-Agenda Item X - PROCURMENT UPDATE 7.31.18
DATE IDENT. 04/22/25 RECD. 04/22/25
ALJ: GERALD F. KELLY

8-8-AGENDA ITEM X - PROCURMENT UPDATE 7.31.18

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

Procurement Update

August 8, 2018

Risk Oversight Committee

Requested Authorization

SJCE requests approval to transact with the Merced Irrigation District (MEID), Pacific Gas and Electric (PG&E), Calpine and TerraGen as follows:

2019 RA in a total amount not to exceed $35M:

- MEID: In an amount not to exceed: $4,400,000 (System 24 MW-mo at $2/kw-mo; PG&E Local 1029.20 MW-mo at $4.12/kw-mo;)
- PG&E: In an amount not to exceed $25,500,000 (System 3342 MW-mo @ $4.24 kw-mo; GBA Local 860 MW-mo @ $ 4.11 kw-mo; PG&E local 1840 MW @ $4.11 kw-mo)
- Calpine: In an amount not to exceed $6,000,000 (System 250 MW-mo @ $2.75 kw-mo; GBA Local 1250 MW-mo @ $4 kw-mo)

2018 Renewable Energy

- TerraGen: $264,000 (16,000 MWh @ $16.50)

There are few RA suppliers

- System power -
  - Alta Gas offer #1 ($5.5 kw-mo)
  - Alta Gas offer #2 ($3.62 kw-mo – this amount is lower than PG&E's blended price but higher than PG&E's price for the base strip)
  - Powerex ($5 kw-mo)
  - High Desert Project ($4.16 kw-mo – this amount is lower than PG&E's blended price but higher than PG&E's price for the base strip)
  - PG&E (blended price $4.24 kw-mo but they are the only ones that could offer product that meets our shape)
  - Calpine ($2.75 kw-mo – but they are not holding this price while we negotiate with PG&E about having to buy the more expensive base strip)

- GBA Local: All the offers were from Calpine or PG&E. We selected the least expensive and are trying to minimize the more expensive PG&E bids we need to take.
-
- PG&E Other Local: All offers were from PG&E or MEID. We recommend accepting as much MEID as we can (since that allowed us to avoid some of PG&E's most expensive tranche).

Phase 1 Procurement

- Working with NCPA, SJCE issued 4 solicitations for power for Phase 1: RA, energy, RPS, and GHG-free.
- SJCE has procured **RA** for Sept-Oct from PG&E ($240,540)
- SJCE expects to procure **RA** from PG&E for Nov-Dec ($157,040), but need authority to use the EEI agreement. Going to Council 8/14 to receive authorization.
- SJCE has bought all the **energy** needed for launch except peak energy for September. Prices for this commodity spiked during the procurement period. SJCE is holding off on locking a position for a few more days with the hope that prices will moderate. Energy w/o HLH September: $1,792,365 SJCE accepted bid for HLH September ($179,712) and will pay a total of $1,972,077 for energy (excluding real time purchases).
- SJCE accepted a bid for **RPS** for PCC-1 from TerraGen for $264,000. Currently working through mutual qualifying each other as counterparties. Still considering a bid for PCC-2 from PowerEx that could help moderate our prices. SJCE accepted the PCC-2 bid and will pay $15,240.
- SJCE is working to make a final determination about **GHG-free** power. Will select between PowerEx and Constellation. This will add between $25,000 and $50,000 to the total amount.
- Total maximum September – December power costs (excluding real time purchases) is $2,698897

Long term procurement

- 2019 RA bids were received and are being evaluated. Expected procurement is $33M: $10M in FY 18-19, $23M in FY 19-20.
- SJCE working with NCPA will issue an RFP for the remaining power products needed for phase 2 (service to majority of the City) by August 10th.
- SJCE will use the results of the RFP to finalize product offerings for phase 2, develop rates and seek Council authority to undertake long term procurement.
- Preliminary estimates of expected annual power costs for the initial five years of operation (2019-2024) will increase from ~$225 million in 2019 to $300 million in 2024 (in 2016 dollars).
- Counterparty authorization and credit limits will be required.

EXHIBIT: SJCE #55
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/JEANNE M. SOLE/10-26 ROC 10.26.18 presentation
DATE IDENT. 04/22/25 RECD. 04/22/25
ALJ: GERALD F. KELLY

10-26 ROC 10.26.18 PRESENTATION

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

PROCUREMENT UPDATE AND REQUESTED COUNTERPARTY APPROVALS

SJCE Risk Oversight Committee - 10/26/2018

SAN JOSE CLEAN ENERGY
A Program of the City of San José

Updated on 10/26/2018 to reflect what was discussed at ROC Meeting

AGENDA

1. Plan for 2019 Procurement
2. ROC Counterparty Approvals
3. Improved Process

SAN JOSE CLEAN ENERGY

PLAN FOR 2019 PROCUREMENT

RA

- SJCE will not have sufficient RA in annual report and will request a waiver
  - A number of CCAs are in the same situation
- SJCE will continue to solicit RA to meet monthly needs

RPS/GHG-free

- PCC1 and PCC2 needs should be met with current bids
- SJCE will issue solicitation for PCC3
- SJCE will continue to seek additional offers for GHG-free

Energy

- SJCE will issue RFP for indicative bids and seek to procure power based on final bids subject to Council approval on November 6th
- Long Term Contracts
  - SJCE will continue to evaluate bids and will evaluate in Q1 2019 (Q3 FY '18-'19)

SAN JOSE CLEAN ENERGY

PRIORITY OF ROC COUNTERPARTY APPROVALS

1. RA Supplies needed for CPUC Year Ahead RA report due October 31st
   - CPUC report only includes Local RA and summer months of System RA
2. Remaining RA for 2019
   - Important because RA market is tight
3. RPS/GHG-free energy for 2019
   - Market is tight, working on transactions, subject to Council Approval on November 6th
4. Energy transactions for 2019
   - Plan to bring forward in November, subject to Council Approval on November 6th

SAN JOSE CLEAN ENERGY

RA: NEED ROC APPROVAL, CREDIT LIMIT SET

1. Merced Irrigation District (MEID)
   - Maximum credit limit is $3M
   - **Recommending transactions that total $4.22M***

2. CleanPowerSF
   - Maximum credit limit is $400,000
   - **Recommending transactions that total $2.55M***

3. PG&E
   - Maximum credit limit is $13.25M
   - Existing transactions already approved by ROC for 2019 total $26.5M
   - **Recommending additional transactions that total $723,000***

4. Calpine
   - Maximum credit limit $3.5M
   - Existing transactions already approved by ROC for 2019 $5M
   - **Recommending additional transactions that total $1,~~14~~400,000***

* Required for October 31st Report

SAN JOSE CLEAN ENERGY

RA: NEED ROC APPROVAL & CREDIT LIMIT

Each transaction requires a credit limit and ROC approval

1. Peninsula Clean Energy:
   - **Recommending transactions that total $1,200,000 ~~$1,111,577~~***
2. Alameda Municipal Power:
   - **Recommending transactions that total $220,000~~16,032~~***
3. AltaGas
   - Max credit limit is $13.25M subject to ROC approval because lowest rating is BBB (below BBB+)
   - **Recommending transactions that total $300,000~~294,963~~**

* *Required for October 31st Report*

SAN JOSE CLEAN ENERGY

RA: NEED ROC APPROVAL & CREDIT LIMIT

1. High Desert Power Project:
   - **Recommending transactions that total $618,075**

2. Clean Power Alliance:
   - **Recommending transactions that total $120,000**

3. Pioneer Community Energy:
   - **Recommending transactions that total $141,050**

4. 3 Phases Renewables:
   - **Recommending transactions that total $18,000 (may offer 2019 RPS)**
   - **Discuss NDA for financial information**

5. ConocoPhillips:
   - **Recommending transactions that total $50,000~~49,800~~**

SAN JOSE CLEAN ENERGY

RPS & GHG-FREE: NEED ROC APPROVAL & CREDIT LIMIT

Near term:

- TerraGen – no Credit Rating and Financial Information insufficient
  - 2019 RPS Transaction: $2M
  - Proposed credit enhancement: Letter of Credit for 20% of contract value

In the future:

- Clearway Energy
  - 2019 RPS Transaction: between $1.5-3.3M
  - Working on getting financial information
- Scout Clean Energy
  - 2019 RPS Transaction: $1.1M
  - Working on getting financial information

SAN JOSE CLEAN ENERGY

ADDITIONAL ROC COUNTERPARTY APPROVALS REQUIRED

- Credit Limit set by Finance above $20M subject to ROC approval
  - Morgan Stanley Capitol Group: $25M
  - Powerex: $35M
- Lowest allowable rating is below BBB+
  - Exelon Generation Co (Constellation): Credit limit set by Finance $13.25M, lowest rating is BBB
  - First Solar, Inc.: Credit limit set by Finance $13.25M, lowest rating is BBB-
  - TransAlta: Credit limit set by Finance $10M, lowest rating is Ba1

SAN JOSE CLEAN ENERGY

CREDIT ENHANCEMENT AND IMPROVEMENTS TO COUNTERPARTY QUALIFICATION

- Finance recommends credit enhancement any time rating below BBB+
  - Likely response by companies will be to request SJCE credit enhancement
  - No clear process of determining and approving credit enhancement
  - Pending review and revision of Risk Management Regulations, SJCE will present credit enhancements to ROC for review

- SJCE will work with Finance on revisions to the Risk Management Regulations to clarify ambiguities, improve the efficiency of counterparty qualifications, and the application of credit limits

SAN JOSE CLEAN ENERGY

EXHIBIT: SJCE #56
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/JEANNE M. SOLE/ ROC Minutes From 10-26-18-APPROVED
DATE IDENT. 04/22/25 RECD. 04/22/25
ALJ: GERALD F. KELLY

ROC MINUTES FROM 10-26-18-APPROVED

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

City of San José
Risk Oversight Committee

REGULAR MEETING MINUTES
October 26, 2018
9:30 AM
CONTAINS CONFIDENTIAL INFORMATION
These minutes were revised before approval at the ROC Meeting on 11/9/2018. Changes shown in red.

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Lori Mitchell, Jeanne Solé, Sarah Sanchez, Ed Moran, Jim Ortbal, Margaret McCahan; and, on speaker phone, Julia Cooper.

ABSENT: Lenore Reed

STAFF: Present: Kelly Morris, Prachi Avasthy, Qianyu Sun; and, on speaker phone, Lisa Taitano.

II. Consent Calendar

Approve the Minutes from the Meeting on September 24, 2018.

III. Reports and Information Only

Provided Agenda:

A. Plan for 2019 Procurement
B. ROC Counterparty Approvals
C. Improved Process

IV. Old Business

There was no old business.

V. New Business

Plan for 2019 Procurement:

Jeanne explained that SJCE has not been able to procure the full amount of RA it needs for 2019. She noted that a report is due October 31 and that SJCE will have to request a waiver for

the deficiencies. She indicated that SJCE will continue to see to procure the RA it requires in order to minimize the shortages prior to its required monthly filings.

Jim asked about the RA waiver process, and Lori explained that we have already been in communication with the CPUC about the waiver and that other CCAs are in the same situation as we are in needing to submit a waiver.

With that background, Jeanne explained current status of procurement.

- Long-term PPAs are important, but given lack of resources, SJCE plans to wait until Spring 2019 to reengage with bidders, analyze bids and make selections. Lori explained that any long term contracts will be presented to Council for approval.

ROC counter party approvals:

- Jeanne explained that to procure RA needed for 2019 and the October 31 filing additional ROC approvals are needed:
    - Merced Irrigation District (MEID):
        - Finance set their Electric credit limit at $3M; staff requested $4.2M
        - Jim asked about the difference between Electric and Water/Hydro relating to MEID
        - Qianyu and Prachi explained that there are two separate segments with separate financials, but that they are the same entity.
    - CleanPowerSF: Staff requested transaction authority for up to $2.2M
    - PG&E: Staff requested additional transaction authority for up to $723,000
        - PG&E asked that we post collateral. SJCE staff agreed to pre-pay for early months and post collateral for later months.
    - Calpine: Staff requested additional transaction authority for up to $1.4M.
        - Calpine did not ask SJCE to pre-pay or post collateral. If we ask them to post collateral, there is a high likelihood that they would then do the same.
        - Jeanne made the point that, since the transaction is a sale, Calpine as the buyer has most of the risk. SJCE's risk is that Calpine will not deliver but will instead sell to another entity at a higher price.

Discussion around credit limits:

- ~~Lisa: The credit limit is the maximum that can be transacted without collateral and is distinct from requirements for ROC approval of transactions.~~
    - ~~Ex: $400k credit limit means this is the maximum amount that can be transacted with that party before SJCE should require collateral.~~
- Jeanne: Where transactions exceed the credit limit and SJCE does not believe it is possible to get agreement on collateral, SJCE has sought ROC approval.
- Jim: SJCE already has Council approval for all required RA. This means ROC now needs to approve transactions over $1M. What kind of collateral would we post?
- Lori: Cash, Letter of Credit, etc.
- Jeanne: The collateral posting is in case either party to the agreement breaks contract.
    - Ex: PG&E refused to post collateral and has been difficult to negotiate with because of the tight RA market.
    - Some of the deals on the table won't happen if we ask them to post collateral.

DRAFT

- Margaret asked about the risk involved and what the chance is that counterparties will back out of the contracts.
- Lori said that public entities are not likely to. It would also be unusual for entities like PG&E and Calpine to break contract. This would result in CPUC action.
- Julia stated that SJCE needs to spend some money to get Finance the tools they need to accomplish credit limit review.
- Lori responded that SJCE is open to that, but wants to make sure we are consistent with what other CCAs and municipal utilities are doing.
- Jim wanted to further understand the value purpose and risk associated. Requested that Sarah set up a meeting for Lori, Jim, and Julia to review these needs.
- Julia expressed her discomfort at approving transactions with entities that have not been thoroughly vetted by Finance.

Jeanne explained that the CPUC will only grant SJCE a waiver for RA requirements if we prove that we did all we could to meet the requirements and were still unable to. In order to move forward with several deals on the table, staff needed ROC approval of several counterparties and transactions. Jim asked for clarification if we are seeking a waiver for amounts that would be valued at roughly $10M. Jeanne said yes and that we are asking not to be penalized for our deficiency.

Margaret asked about pricing of RA products. Jeanne stated that there are differences in price between the two RA products, system and local, and that there are differences in price between months. Ex: $3.50 in April and $6.50 in September.

Jim expressed that it sounded like there was risk involved with approving counterparties who have not been fully vetted by Finance and, but that there is more of a risk in not executing these agreements.

ACTION: Approve SJCE entering into transactions for 2019 Resource Adequacy without credit support as follows:

- Merced Irrigation District: $4,220,000
- CleanPowerSF: $2,550,000
- PG&E: $723,000
- Calpine: $1,400,000
- Peninsula Clean Energy: $1,200,000
- Alameda Municipal Power: $220,000
- AltaGas: $300,000
- ConocoPhillips: $50,000

MOTION: Jeanne Solé
SECOND: Lori Mitchell
VOTE: 6-0-1; approved.

ACTION: Approve the counterparty credit limits as follows:

- Morgan Stanley: $25,000,000
- Powerex: $35,000,000

MOTION: Jeanne Solé
SECOND: Lori Mitchell

Addition to action: Jim Ortbal wants to add to motion that staff will bring time frame regarding credit tools and revisions to risk management regulations to the next ROC meeting. Jeanne accepts addition to motion.
VOTE: 6-0-1; approved.

Jeanne requested approval to transact with TerraGen even though they won't provide financials because they are offering low wind prices, they are willing to post collateral (20% of contract price), and they are well known and trusted in the industry. Julia stated that she would prefer to wait on approving this transaction.

ACTION: Approve SJCE entering into transactions for additional 2019 Resource Adequacy without credit support as follows:

- High Desert: $618,075
- 3 Phases Renewables: $18,000
- Pioneer Community Energy: $81,600
- Clean Power Alliance: $120,900

MOTION: Jeanne Solé
SECOND: Lori Mitchell
VOTE: 6-0-1; approved.

VI. Meeting Schedule and Agenda Items

Next Meeting: November 8, 2018
Future Agenda Items

- Approvals for the rest of the renewable power procurement
- Discuss time frame around credit tools and risk management regulations

VII. Adjournment

Meeting adjourned at approximately 11:15 a.m.

DRAFT

EXHIBIT: SJCE #57
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/JEANNE M. SOLE/ 9-6-18-SFPUC-Request for Bids - San Francisco Public Utilities Commission (SFPUC) - - CONFIDENTIAL
DATE IDENT. 04/22/25 RECD. 04/22/25
ALJ: GERALD F. KELLY

9-6-18-SFPUC-REQUEST FOR BIDS - SAN FRANCISCO PUBLIC UTILITIES COMMISSION (SFPUC) - - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

From: Power Purchasing <powerpurchasing@sfwater.org>
Sent: Thursday, September 6, 2018 3:51 PM
Subject: Request for Bids - San Francisco Public Utilities Commission (SFPUC) - CleanPowerSF - 2019 Resource Adequacy Supplies
Attachments: CleanPowerSF RFB_2019 RA Supplies.pdf; CleanPowerSF_2019 RA_Exhibit A.xlsx

Good Afternoon,

The San Francisco Public Utilities Commission (SFPUC) - CleanPowerSF issues this Request for Bids (RFB) to sell System, Local, and Flexible Resource Adequacy capacity for January – December of 2019.

The detailed offer and response procedure are provided in the attached documents. **Please submit your responses by 5:00pm PDT on Friday, September 14th.**

Thanks,

Power Purchasing
San Francisco Public Utilities Commission, Power Enterprise
525 Golden Gate Avenue, 7th Floor
San Francisco, CA 94102

San Francisco Water Power Sewer
Services of the San Francisco Public Utilities Commission

CleanPowerSF
Same Service • Cleaner Energy

525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102
T 415.554.3155
F 415.554.3161
TTY 415.554.3488

City and County of San Francisco – CleanPowerSF
Request for Bids
2019 Resource Adequacy Supplies

September 6, 2018

Background

The San Francisco Public Utilities Commission (SFPUC) - Power Enterprise is a department of the City and County of San Francisco (CCSF). The SFPUC operates CleanPowerSF, San Francisco's Community Choice Aggregation Program, serving commercial and residential customers in the City and County of San Francisco. The SFPUC is a member of WSPP under the legacy name of Hetch Hetchy Water & Power (HHWP).

CleanPowerSF issues this Request for Bids (RFB) to sell system, local, and flexible resource adequacy (RA) for January – December of 2019. Bids are requested in $/kW-month.

Requirement	Specification
Capacity Product	Contingent firm
Capacity Attributes	CleanPowerSF is selling RA Capacity that will satisfy CPUC and CAISO requirements for Load Serving Entities for the following RA capacity attributes: - **System RA Capacity:** Qualified generation resources located within NP 15 - **Flexible RA Capacity:** Qualified generation resources located within NP 15 and qualify for the CPUC and CAISO defined flexible attribute (preferably flexible category 1 but will consider flexible categories 2 and 3) - **Local RA Capacity:** Quantified generation resources located within the PG&E "Greater Bay Area" and the "Other PG&E" Local Area and local capacity areas.
Minimum Volume	1 MW, AC
Term	Up to 12 months with deliveries commencing no sooner than January 1, 2019.
Capacity Locations	Generator resources located within the CPUC and CAISO defined geographic boundaries (i.e., North of Path 26, Other PG&E Local Area, and Greater Bay Area).
Proposed Pricing	Bids into this solicitation shall be offered on a fixed $/kW-month basis, for each month of the proposed contract term.

Proposal Timing

The proposed bids must be submitted to powerpurchasing@sfwater.org by **5:00pm PPT on Friday, September 14, 2018.**

525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102
T 415.554.3155
F 415.554.3161
TTY 415.554.3488

Enabling Agreement Requirement

The SFPUC purchases and sells energy under the WSPP agreement. The resulting transactions from this request shall be executed and confirmed using the WSPP confirmation or a confirmation under an existing Master Agreement. The SFPUC requires the following amendments to the confirmation:

- Compliance with Laws. Each Party shall keep itself fully informed of all applicable federal, state, and local laws, ordinances, or regulations that in any manner affect the performance of this Agreement, and must at all times comply with all such laws, ordinance, or regulations they may be amended from time to time.
- Section 24 of the WSPP Agreement is deleted and replaced with the following: "This WSPP Agreement and any Confirmation 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."
- City Vendor Requirements. Notwithstanding any other provision of this Agreement, Buyer shall not be deemed to be in default of this Agreement and no Late Payment Penalty shall be assessed if an invoice under this Agreement cannot be processed by Buyer due to Seller's failure to comply with all applicable City requirements for City contractors, including but not limited to certification of vendors under Chapter 12 of the San Francisco Administrative Code, payment of business license fees or taxes, insurance requirements, registration in the City's vendor payment processing system, or any other current or future City requirement for vendor payment processing. Seller understands and acknowledges that vendor certifications may include annual renewals and additional certification requirements may apply to assignees or changes in ownership or control of Seller.
- Prohibition on Political Activity. In accordance with San Francisco Administrative Code Chapter 12.G, Seller may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure in San Francisco (collectively, "Political Activity") in the performance of this Confirmation. Seller agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City Controller in its performance of this Confirmation. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Seller violates the provisions of this Section, Buyer may, in addition to any other rights or remedies available hereunder, (i) terminate this confirmation, and (ii) prohibit Seller from bidding on or receiving any new City contract for a period of two years. The City Controller will not consider Seller's use of profit from the performance of this Confirmation as a violation of this Section.

How to Respond

- Preference will be given to entities that are a WSPP member or have an existing Master Agreement in place with CleanPowerSF.
- Provide information summarizing your specific bid(s) by completing Exhibit A.
- Attach any additional information relevant to your bid.
- Please complete and submit multiple copies of Exhibit A for multiple products/periods.
- SFPUC Origination and Power Supply staff will respond with an email to confirm your bid has been received.

Responses and/or questions should be addressed to: powerpurchasing@sfwater.org

525 Golden Gate Avenue, 13th Floor
San Francisco, CA 94102
T 415.554.3155
F 415.554.3161
TTY 415.554.3488

Post-Response Negotiations

SFPUC reserves the right to enter into discussions with respondent to gain clarity on its bid, or to suggest a partial amendment to the offer.

Disclaimer and Confidentiality

SFPUC reserves the right, without qualification and in its sole discretion, to reject any or all offers, accept multiple bids, and to terminate this request for bid in whole or in part at any time. Without limiting the foregoing, SFPUC further reserves the right in its sole discretion, to decline to enter into any agreement with any counterparty for any reason.

It is not SFPUC's intent to publicly disclose individual respondent proprietary information obtained in response to this request. This request is intended to provide information for SFPUC to select a bid to purchase energy, it should NOT be construed as a commitment by SFPUC to enter into a contractual agreement, nor will SFPUC pay for information solicited.

CleanPowerSF
Resource Adequacy 2019 Request for Bids (RA RFB)
9/6/2018

Instructions
After reviewing the 2019 RA RFB , please complete and submit this Bid Form to powerpurchasing@sfwater.org by**5:00 pm PDT on Friday, September 14, 2018.**
The City and County of San Francisco, acting by and through its Public Utilities Commission, CleanPowerSF is a member of WSPP under the legacy name of Hetch Hetchy Water & Power (HHWP) and sells RA under the WSPP agreement. Bidding entities are required to be a WSPP member to participate in the RFB.
The tab, titled "Exhibit A-1 - 2019 Bids," is included to facilitate exchange of RA during January through December 2019.
Please add additional sections and rows to any tab as necessary to accomodate multiple product offers and tiered offer pricing.
Please indicate if offers are contingent on selection of other months and/or years. Unless noted otherwise, monthly offers will be assumed to be independent of each other.
Please direct any questions to powerpurchasing@sfwater.org.

Participant Information	
Organization Name	
Address (Street, City, State, ZIP)	
Authorized Participant Name	
Title	
Email	
Phone	
Parent Company, if applicable	
Other	

Exhibit A-1: 2019 Bids to Purchase

Please complete the table below for the Bid Volumes and Prices by Month.
If submitting multiple Bids, please indicate by adding columns/rows or creating a new tab in the Exhibit Workbook as necessary.
Please indicate if offers are contingent on selection of other months and/or years. Unless noted otherwise, monthly offers will be assumed to be independent of each other.

	= Information to be completed by Bidder

Product	**North of Path 26 - System Resource Adequacy**											
Prospective Buyer												
Notes												
	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19
Bid Volume (MW)												
Bid Price ($/kW-mo)												
Flexible Volume (MW), of total Volume, above, if applicable												
Flexible Price Adder, if applicable ($/kW-mo)												

Product	**Local Resource Adequacy - Greater Bay Area**											
Prospective Buyer												
Notes												
	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19
Bid Volume (MW)												
Bid Price ($/kW-mo)												
Flexible Volume (MW), of total Volume, above, if applicable												
Flexible Price Adder, if applicable ($/kW-mo)												

Product	**Local Resource Adequacy - Other PG&E Areas**											
Prospective Buyer												
Notes												
	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19
Bid Volume (MW)												
Bid Price ($/kW-mo)												
Flexible Volume (MW), of total Volume, above, if applicable												
Flexible Price Adder, if applicable ($/kW-mo)												

EXHIBIT: SJCE #58
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/JEANNE M. SOLE/9-14-2018-CleanPower SF Request for Bids - San Jose Clean Energy (SJCE) Offer -CONFIDENTIAL
DATE IDENT. 04/22/25 RECD. 04/22/25
ALJ: GERALD F. KELLY

9-14-2018-CLEANPOWER SF REQUEST FOR BIDS - SAN JOSE CLEAN ENERGY (SJCE) OFFER - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

From: Tony Zimmer <Tony.Zimmer@ncpa.com>
Sent: Friday, September 14, 2018 4:15 PM
To: powerpurchasing@sfwater.org
Cc: Tony Zimmer; Sole, Jeanne; Morris, Kelly; Mulberg, Erin
Subject: CleanPower SF Request for Bids - San Jose Clean Energy (SJCE) Offer
Attachments: CleanPowerSF_2019 RA_Exhibit A (SJCE Offer).xlsx

Importance: High

To Whom It May Concern,

In response to the request for bids issued by CleanPower SF, dated September 6, 2018, please find attached for your consideration an offer submitted by San Jose Clean Energy (SJCE) to purchase Resource Adequacy products from CleanPower SF.

San Jose Clean Energy submits these bid responses subject to receipt of any necessary approvals from its Risk Oversight Committee, qualifying CleanPowerSF as a counterparty, and reaching agreement on mutually acceptable contract terms.

Please feel free to contact me if you have any questions regarding the attached offer, or if you need any additional information.

Thank you,

Tony Zimmer
Assistant General Manager, Power Management

Northern California Power Agency
A Public Agency
651 Commerce Drive
Roseville, CA 95678-6420
(916) 781-4229 Phone
www.ncpa.com

CleanPowerSF
Resource Adequacy 2019 Request for Bids (RA RFB)
9/6/2018

Instructions
After reviewing the 2019 RA RFB , please complete and submit this Bid Form to powerpurchasing@sfwater.org by**5:00 pm PDT on Friday, September 14, 2018.**
The City and County of San Francisco, acting by and through its Public Utilities Commission, CleanPowerSF is a member of WSPP under the legacy name of Hetch Hetchy Water & Power (HHWP) and sells RA under the WSPP agreement. Bidding entities are required to be a WSPP member to participate in the RFB.
The tab, titled "Exhibit A-1 - 2019 Bids," is included to facilitate exchange of RA during January through December 2019.
Please add additional sections and rows to any tab as necessary to accomodate multiple product offers and tiered offer pricing.
Please indicate if offers are contingent on selection of other months and/or years. Unless noted otherwise, monthly offers will be assumed to be independent of each other.
Please direct any questions to powerpurchasing@sfwater.org.

Participant Information	
Organization Name	San Jose Clean Energy
Address (Street, City, State, ZIP)	200 E. Santa Clara Street, 14th Floor'
Authorized Participant Name	Jeanne M. Sole
Title	Deputy Director of Power Resources
Email	jeanne.sole@sanjoseca.gov
Phone	408-535-4867
Parent Company, if applicable	
Other	Alternative Contact: Tony Zimmer, 916-781-4229, tony.zimmer@ncpa.com

Exhibit A-1: 2019 Bids to Purchase

Please complete the table below for the Bid Volumes and Prices by Month.
If submitting multiple Bids, please indicate by adding columns/rows or creating a new tab in the Exhibit Workbook as necessary.
Please indicate if offers are contingent on selection of other months and/or years. Unless noted otherwise, monthly offers will be assumed to be independent of each other.

	= Information to be completed by Bidder

Product	North of Path 26 - System Resource Adequacy											
Prospective Buyer	San Jose Clean Energy											
Notes	The quantity of Flexible can be distributed among the three products offered.											
	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19
Bid Volume (MW)							536.00		645.00	359.00		
Bid Price ($/kW-mo)							$6.50		$6.50	$3.50		
Flexible Volume (MW), of total Volume, above, if applicable							101.00		202.00	164.00		
Flexible Price Adder, if applicable ($/kW-mo)							$0.10		$0.10	$0.10		

Product	Local Resource Adequacy - Greater Bay Area											
Prospective Buyer	San Jose Clean Energy											
Notes												
	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19
Bid Volume (MW)							39.00		39.00	39.00		
Bid Price ($/kW-mo)							$6.50		$6.50	$4.50		
Flexible Volume (MW), of total Volume, above, if applicable												
Flexible Price Adder, if applicable ($/kW-mo)												

Product	Local Resource Adequacy - Other PG&E Areas											
Prospective Buyer	San Jose Clean Energy											
Notes												
	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19
Bid Volume (MW)							147.00		147.00	147.00		
Bid Price ($/kW-mo)							$6.50		$6.50	$4.50		
Flexible Volume (MW), of total Volume, above, if applicable												
Flexible Price Adder, if applicable ($/kW-mo)												

Note 1: San Jose Clean Energy submits these bid responses subject to receipt of any necessary approvals from its Risk Oversight Committee, qualifying CleanPowerSF as a counterparty, and reaching agreement on mutually acceptable terms.

EXHIBIT: SJCE #59
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/JEANNE M. SOLE/13-PG&E Withdrawal Financial Implication -CONFIDENTIAL
DATE IDENT. 04/22/25 RECD. 04/22/25
ALJ: GERALD F. KELLY

13-PG&E WITHDRAWAL FINANCIAL IMPLICATION - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

ORIGINAL OFFER

	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	
Quantity	12	12											SYSTEM
Price	2.18	2.18											
Total $	$26,160	$26,160											
Quantity			150	150	150	150	150	150	150	150	150	150	SYSTEM - Offered as a strip
Price			$2.18	$1.68	$2.50	$4.75	$6.00	$6.00	$6.00	$2.38	$1.68	$1.68	
Total $			$327,000	$252,000	$375,000	$712,500	$900,000	$900,000	$900,000	$357,000	$252,000	$252,000	
Quantity				52	105	125	157	159	167	57	25	74	SYSTEM - Offered as a strip
Price				$1.93	$2.75	$5.00	$6.25	$6.25	$6.25	$2.63	$1.93	$1.93	
Total $				$100,360	$288,750	$625,000	$981,250	$993,750	$1,043,750	$149,910	$48,250	$142,820	
Quantity				52	105	125	157	159	167	57	25	74	SYSTEM - Offered as a strip
Price				$2.18	$3.00	$5.25	$6.50	$6.50	$6.50	$2.88	$2.18	$2.18	
Total $			$0	$113,360	$315,000	$656,250	$1,020,500	$1,033,500	$1,085,500	$164,160	$54,500	$161,320	
Quantity	5	5											LOCAL - GBA
Price	$3.00	$3.00											
Total $	$15,000	$15,000											
Quantity			61	61	61	61	61	61	61	61	61	61	LOCAL - GBA - Offered as a strip
Price			$2.50	$2.50	$2.50	$4.75	$6.00	$6.00	$6.00	$2.80	$2.80	$2.80	
Total $			$152,500	$152,500	$152,500	$289,750		$366,000			$170,800	$170,800	
Quantity			61	61	61	61	61	61	61	61	61	61	LOCAL - GBA - Offered as a strip
Price			$2.75	$2.75	$2.75	$5.00	$6.25	$6.25	$6.25	$3.05	$3.05	$3.05	
Total $			$167,750	$167,750	$167,750	$305,000	$381,250	$381,250	$381,250	$186,050	$186,050	$186,050	
Quantity			63	63	63	63	63	63	63	63	63	63	LOCAL - GBA - Offered as a strip
Price			$3.00	$3.00	$3.00	$5.25	$6.50	$6.50	$6.50	$3.30	$3.30	$3.30	
Total $			$189,000	$189,000	$189,000	$330,750	$409,500	$409,500	$409,500	$207,900	$207,900	$207,900	
Quantity	7	7											LOCAL - PG&E Other
Price	$3.00	$3.00											
Total $	$21,000	$21,000											
Quantity			92	92	92	92	92	92	92	92	92	92	LOCAL - PG&E Other
Price			$2.50	$2.50	$2.50	$4.75	$6.00	$6.00	$6.00	$2.80	$2.80	$2.80	
Total $			$230,000	$230,000	$230,000	$437,000	$552,000	$552,000	$552,000	$257,600	$257,600	$257,600	
Quantity			$92	$92	$92	$92	$92	$92	$92	$92	$92	$92	LOCAL - PG&E Other
Price			$2.75	$2.75	$2.75	$5.00	$6.25	$6.25	$6.25	$3.05	$3.05	$3.05	
Total $			$253,000	$253,000	$253,000	$460,000	$575,000	$575,000	$575,000	$280,600	$280,600	$280,600	
Quantity			94	94	94	94	94	94	94	94	94	94	LOCAL - PG&E Other
Price			$3.00	$3.00	$3.00	$5.25	$6.50	$6.50	$6.50	$3.30	$3.30	$3.30	
Total $			$282,000	$282,000	$282,000	$493,500	$611,000	$611,000	$611,000	$310,200	$310,200	$310,200	
System	12	12	150	254	360	400	464	468	484	264	200	298	
Local GBA	5	5	185	185	185	185	185	185	185	185	185	185	
Local Other PGE	7	7	278	278	278	278	278	278	278	278	278	278	

Total Cost of Quantities Offered **$32,489,400**

FINAL CONTRACTED

	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	
Quantity				108	211	387		441				22	
Price				$2.68	$3.50	$5.75		$6.65				$2.68	SYSTEM
Total $				$289,440	$738,500	$2,225,250		$2,932,650				$58,960	
Quantity			79	145	169	115		130			284	315	
Price			$2.68	$2.68	$3.50	$5.75		$6.65			$2.68	$2.68	SYSTEM
Total $			$211,720	$388,600	$591,500	$661,250		$864,500			$761,120	$844,200	
Quantity			40	40	40	40		40			40	40	
Price			$3.50	$3.50	$3.50	$5.75		$6.65			$3.80	$3.80	LOCAL - GBA
Total $			$140,000	$140,000	$140,000	$230,000		$266,000			$152,000	$152,000	
Quantity			46	148	148	148		148			160	160	LOCAL - PG&E Other
Price			$3.50	$3.50	$3.50	$5.75		$6.65			$3.80	$3.80	
Total $			$161,000	$518,000	$518,000	$851,000		$984,200			$608,000	$608,000	
Quantity			114										LOCAL & FLEX - PG&E Other
Price			$3.50										
Total $			$399,000										

Total Cost of Contract **$16,434,890**

	System RA Quantity (MW)		Local RA GBA Quantity (MW)		Local RA PG&E Other Quantity (MW)	
Showing Month	SJCE Need	PG&E Original Offer	SJCE Need	PG&E Original Offer	SJCE Need	PG&E Original Offer
19-Jan	12	12	5	5	7	7
19-Feb	12	12	5	5	7	7
19-Mar	147	150	185	185	278	278
19-Apr	253	254	185	185	278	278
19-May	360	360	185	185	278	278
19-Jun	400	400	185	185	278	278
19-Jul	464	464	185	185	278	278
19-Aug	467	468	185	185	278	278
19-Sep	485	484	185	185	278	278
19-Oct	264	264	185	185	278	278
19-Nov	200	200	185	185	278	278
19-Dec	297	298	185	185	278	278
Total Outstanding Need:		-5		0		0

ORIGINAL OFFER

	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	
Quantity	12	12											
Price	$2.00	$2.00											SYSTEM
Total $	$24,000	$24,000											
Quantity	7	7	90.72	70	70	70	70	70	70	70	90.72	90.72	
Price	$2.20	$2.20	$2.20	$3.60	$3.60	$5.95	$5.95	$5.95	$5.95	$3.60	$2.20	$2.20	LOCAL - PG&E Other
Total $	$15,400	$15,400	$199,584	$252,000	$252,000	$416,500	$416,500	$416,500	$416,500	$252,000	$199,584	$199,584	
Quantity				32.72	32.72	32.72	32.72	32.72	32.72	32.72			
Price				$3.50	$3.50	$5.85	$5.85	$5.85	$5.85	$3.50			LOCAL - PG&E Other
Total $				$114,520	$114,520	$191,412	$191,412	$191,412	$191,412	$114,520			
											Total Cost of Quantities Offered		**$4,208,760**

FINAL CONTRACTED

	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	
Quantity	5	5											
Price	$2.00	$2.00											SYSTEM
Total $	$10,000	$10,000											
Quantity	14	14	90.72	102.72	102.72	102.72	102.72	102.72	102.72	102.72	90.72	90.72	
Price	$2.20	$2.20	$2.20	$3.57	$3.57	$5.92	$5.92	$5.92	$5.92	$3.57	$2.20	$2.20	LOCAL - PG&E Other
Total $	$30,800	$30,800	$199,584	$366,710	$366,710	$608,102	$608,102	$608,102	$608,102	$366,710	$199,584	$199,584	
											Total Cost of Quantities Offered		**$4,212,893**

ORIGINAL OFFER

	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	
Quantity	100	100	100	100	100	100	100	100	100	100	100	100	LOCAL - GBA
Price	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	
Total $	$400,000	$400,000	$400,000	$400,000	$400,000	$400,000	$400,000	$400,000	$400,000	$400,000	$400,000	$400,000	
											Total Cost of Quantities Offered	**$4,800,000**	

FINAL CONTRACTED

	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	
Quantity	177	100	125	125	125	125	125	125	125	125	125	125	LOCAL - GBA
Price	$3.00	$3.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	
Total $	$531,000	$300,000	$500,000	$500,000	$500,000	$500,000	$500,000	$500,000	$500,000	$500,000	$500,000	$500,000	
											Total Cost of Quantities Offered	**$5,831,000**	

EXHIBIT: SJCE #60
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé /SJCE RA Price Data Response - Feb. 2019 CONFIDENTIAL DATE
IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

SJCE RA Price Data Response - Feb. 2019 CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

Data Field Descriptions:	Data field descriptions:
Contract ID	Insert the LSE unique contract identifier.
Month	Select the delivery month for which the price quoted is applicable. Please insert an additional row for each month regardless of whether capacity price or capacity MW amount changes between months.
Year	Select the year of delivery.
Resource Scheduling ID	CAISO Resource ID
Resource Name	Name of resource
Buyer	Contract Buyer
Seller	Contract seller
Generic Capacity under Contract (MW)	The amount of generic MW(s) under contract for the associated month and year of the contract.
Flexible Capacity under Contract (MW)	The amount of flexible MW(s) under contract for the associated month and year of the contract.
Price	List the price in $ kW/month format for each month and year of a contract even if the price is same for all months of the year. For example, if a contract covers a 3 year period, you will input 36 lines for the contract.
Contract Signed	List the date the contract was originally signed. If there has been an extention signed you do not need to list that date- mm/dd/yyyy.
Type of Generation	Select whether the resource is new or exisitng generation. A repower will be considered new generation for this application.
Combined Heat and Power (CHP) contract	Select Yes if the contract is a CHP contract. Select No if the contract is not a CHP contract

Contract ID	Year	Month	Resource ID	Resource Name (indicate specific units under contract if applicable)	Buyer	Seller	Generic Capacity under contract (MW)	Flexible Capacity under contract (MW)	Capacity Price ($kW/month)	Contract Signed	Type of Generation	CHP contract
18-113-01	2018	October	BLACK 7 UNIT 1	JAMES B. BLACK 1	City of San Jose	[redacted]	23	7	$3.02	7/17/2018	Existing	No
18-113-01	2018	September	BLACK 7 UNIT 1	JAMES B. BLACK 1	City of San Jose		28	6	$6.11	7/17/2018	Existing	No
18-113-02	2018	December	PNCHEG 2 PL1X4	PANOCHE ENERGY CENTER (Aggregated)	City of San Jose		9	9	$3.27	9/14/2018	Existing	No
18-113-02	2018	December	DIABLO 7 UNIT 1	Diablo Canyon Unit 1	City of San Jose		17	0	$3.27	9/14/2018	Existing	No
18-113-02	2018	November	COLUSA 2 PL1X3	Colusa Generating Station	City of San Jose		9	9	$2.77	9/14/2018	Existing	No
18-113-02	2018	November	DIABLO 7 UNIT 1	Diablo Canyon Unit 1	City of San Jose		17	0	$2.77	9/14/2018	Existing	No
18-113-03	2019	April	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		125	0	$4.00	9/17/2018	Existing	No
18-113-03	2019	August	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		125	0	$4.00	9/17/2018	Existing	No
18-113-03	2019	December	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		125	0	$4.00	9/17/2018	Existing	No
18-113-03	2019	July	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		125	0	$4.00	9/17/2018	Existing	No
18-113-03	2019	June	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		125	0	$4.00	9/17/2018	Existing	No
18-113-03	2019	March	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		125	0	$4.00	9/17/2018	Existing	No
18-113-03	2019	May	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		125	0	$4.00	9/17/2018	Existing	No
18-113-03	2019	November	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		125	0	$4.00	9/17/2018	Existing	No
18-113-03	2019	October	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		125	0	$4.00	9/17/2018	Existing	No
18-113-03	2019	September	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		125	0	$4.00	9/17/2018	Existing	No
18-113-04	2019	April	CROKET 7 UNIT	CROCKETT COGEN	City of San Jose		6.8	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	April	GILRPP 1 PL3X4	GILROY ENERGY CENTER, UNIT #3	City of San Jose		33.2	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	April	BLACK 7 UNIT 1	JAMES B. BLACK 1	City of San Jose		70	70	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	TOPAZ 2 SOLAR	Topaz Solar Farms	City of San Jose		30.99	0	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	HATRDG 2 WIND	Hatchet Ridge Wind Farm	City of San Jose		12.68	0	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	HOLSTR 1 SOLAR2	Hollister Solar	City of San Jose		0.5	0	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	MALCHQ 7 UNIT 1	MALACHA HYDRO L.P.	City of San Jose		16.63	0	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	PIT6 7 UNIT 1	PIT PH 6 UNIT 1	City of San Jose		27.57	27.57	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	PNCHEG 2 PL1X4	PANOCHE ENERGY CENTER (Aggregated)	City of San Jose		47.43	47.43	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	RIOBRV 6 UNIT 1	KERN HYDRO (OLCESE)	City of San Jose		0.65	0	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	SMYRNA 1 DL1SR1		City of San Jose		0.33	0	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	TOPAZ 2 SOLAR	Topaz Solar Farms	City of San Jose		46.21	0	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	CTNWDP 1 QF	SMALL QF AGGREGATION - BURNEY	City of San Jose		0.01	0	$2.68	10/10/2018	Existing	No
18-113-04	2019	April	HELMPG 7 UNIT 1	HELMS PUMP-GEN UNIT 1	City of San Jose		148	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	April	LAMONT 1 SOLAR3	Woodmere Solar Farm	City of San Jose		148	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	August	DIABLO 7 UNIT 1	Diablo Canyon Unit 1	City of San Jose		441	0	$6.65	10/10/2018	Existing	No
18-113-04	2019	August	BLACK 7 UNIT 2	JAMES B. BLACK 2	City of San Jose		84.1	84.1	$6.65	10/10/2018	Existing	No
18-113-04	2019	August	COLUSA 2 PL1X3	Colusa Generating Station	City of San Jose		45.9	45.9	$6.65	10/10/2018	Existing	No
18-113-04	2019	August	GATWAY 2 PL1X3	GATEWAY GENERATING STATION	City of San Jose		40	0	$6.65	10/10/2018	Existing	No
18-113-04	2019	August	BELDEN 7 UNIT 1	BELDEN HYDRO	City of San Jose		77.11	0	$6.65	10/10/2018	Existing	No
18-113-04	2019	August	HENRTS 1 SOLAR	Henrietta Solar Project	City of San Jose		41	0	$6.65	10/10/2018	Existing	No
18-113-04	2019	August	MTNPOS 1 UNIT	MT.POSO COGENERATION CO.	City of San Jose		21.66	0	$6.65	10/10/2018	Existing	No
18-113-04	2019	August	7STDRD 1 SOLAR1	Shafter Solar	City of San Jose		8.2	0	$6.65	10/10/2018	Existing	No
18-113-04	2019	August	ALLGNY 6 HYDRO1	Salmon Creek Hydroelectric Project	City of San Jose		0.03	0	$6.65	10/10/2018	Existing	No
18-113-04	2019	December	DIABLO 7 UNIT 2	Diablo Canyon Unit 2	City of San Jose		22	0	$2.68	10/10/2018	Existing	No
18-113-04	2019	December	COLUSA 2 PL1X3	Colusa Generating Station	City of San Jose		315	315	$2.68	10/10/2018	Existing	No
18-113-04	2019	December	GATWAY 2 PL1X3	GATEWAY GENERATING STATION	City of San Jose		40	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	HAASPH 7 PL1X2	HAAS PH UNIT 1 & 2 AGGREGATE	City of San Jose		44	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	DRUM 7 PL3X4	Drum PH 1 Units 3 & 4 Aggregate	City of San Jose		28.9	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	DUTCH2 7 UNIT 1	DUTCH FLAT 2 PH	City of San Jose		26	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	POEPH 7 UNIT 2	POE HYDRO UNIT 2	City of San Jose		19.69	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	SPAULD 6 UNIT12	SPAULDING HYDRO PH 1 & 2 AGGREGATE	City of San Jose		11.4	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	KELYRG 6 UNIT	KELLY RIDGE HYDRO	City of San Jose		6.85	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	DISCOV 1 CHEVRN	CHEVRON USA (EASTRIDGE)	City of San Jose		6.32	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	HALSEY 6 UNIT	HALSEY HYDRO	City of San Jose		5.84	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	ROLLIN 6 UNIT	ROLLINS HYDRO	City of San Jose		3.5	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	PLACVL 1 RCKCRE	PLACER UNIT (ROCK CREEK)	City of San Jose		2.01	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	POTTER 6 UNITS	Potter Valley	City of San Jose		1.14	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	OLDRIV 6 LKVBM1		City of San Jose		0.91	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	HIGGNS 1 COMBIE	Combie South	City of San Jose		0.9	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	GRSCRK 6 BGCKWW	BIG CREEK WATER WORKS - CEDAR FLAT	City of San Jose		0.87	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	FTSWRD 6 TRFORK	Three Forks Water Power Project	City of San Jose		0.82	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	DEADCK 1 UNIT	DEADCK 1 UNIT	City of San Jose		0.4	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	RIOOSO 1 QF	SMALL QF AGGREGATION - GRASS VALLEY	City of San Jose		0.32	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	December	CRNEVL 6 CRNVA	Crane Valley	City of San Jose		0.13	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	June	DIABLO 7 UNIT 2	Diablo Canyon Unit 2	City of San Jose		387	0	$5.75	10/10/2018	Existing	No
18-113-04	2019	June	BLACK 7 UNIT 1	JAMES B. BLACK 1	City of San Jose		59.3	59.3	$5.75	10/10/2018	Existing	No
18-113-04	2019	June	PIT7 7 UNIT 1	PIT PH 7 UNIT 1	City of San Jose		55.7	55.7	$5.75	10/10/2018	Existing	No
18-113-04	2019	June	RUSCTY 2 UNITS	Russell City Energy Center	City of San Jose		40	0	$5.75	10/10/2018	Existing	No
18-113-04	2019	June	STANIS 7 UNIT 1	STANISLAUS HYDRO	City of San Jose		74.53	0	$5.75	10/10/2018	Existing	No
18-113-04	2019	June	HENRTS 1 SOLAR	Henrietta Solar Project	City of San Jose		44.8	0	$5.75	10/10/2018	Existing	No
18-113-04	2019	June	KINGCO 1 KINGBR	Kingsburg Cogen	City of San Jose		17.46	0	$5.75	10/10/2018	Existing	No

Contract ID	Year	Month	Resource ID	Resource Name (indicate specific units under contract if applicable)	Buyer	Seller	Generic Capacity under contract (MW)	Flexible Capacity under contract (MW)	Capacity Price ($kW/month)	Contract Signed	Type of Generation	CHP contract
18-113-04	2019	June	CORCAN 1 SOLAR1	CID Solar	City of San Jose	[redacted]	8.96	0	$5.75	10/10/2018	Existing	No
18-113-04	2019	June	MAGUND 1 BKSSR2		City of San Jose		1.85	0	$5.75	10/10/2018	Existing	No
18-113-04	2019	June	STOREY 2 MDRCH2	Madera Chowchilla 2	City of San Jose		0.4	0	$5.75	10/10/2018	Existing	No
18-113-04	2019	March	SCHLTE 1 PL1X3	Tracy Combined Cycle Power Plant	City of San Jose		114	114	$3.50	10/10/2018	Existing	No
18-113-04	2019	March	PIT7 UNIT 1	PIT PH 7 UNIT 1	City of San Jose		55.7	55.7	$2.68	10/10/2018	Existing	No
18-113-04	2019	March	BUCKCK 7 PL1X2	Lassen Station Hydro	City of San Jose		46	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	March	GATWAY 2 PL1X3	GATEWAY GENERATING STATION	City of San Jose		44	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	March	COLUSA 2 PL1X3	Colusa Generating Station	City of San Jose		21.3	21.3	$2.68	10/10/2018	Existing	No
18-113-04	2019	May	DIABLO 7 UNIT 1	Diablo Canyon Unit 1	City of San Jose		211	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	PNCHEG 2 PL1X4	PANOCHE ENERGY CENTER (Aggregated)	City of San Jose		154.5	154.5	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	BUTTVL 7 UNIT 1	BUTT VALLEY HYDRO	City of San Jose		14.5	14.5	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	LECEF 1 UNITS	LOS ESTEROS ENERGY FACILITY AGGREGATI	City of San Jose		40	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	MTNPOS 1 UNIT	MT.POSO COGENERATION CO.	City of San Jose		43.86	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	KINGCO 1 KINGBR	Kingsburg Cogen	City of San Jose		34.5	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	GRNLF2 1 UNIT	GREENLEAF #1 COGEN AGGREGATE	City of San Jose		22	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	ELDORO 7 UNIT 1	El Dorado Unit 1	City of San Jose		11	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	STANIS 7 UNIT 1	STANISLAUS HYDRO	City of San Jose		7.32	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	SPIFBD 1 PL1X2	SIERRA PACIFIC IND. (SONORA)	City of San Jose		6.63	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	DRUM 7 PL1X2	Drum PH 1 Units 1 & 2 Aggregate	City of San Jose		6.47	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	GUERNS 6 SOLAR	Guernsey Solar Station	City of San Jose		6.1	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	DISCOV 1 CHEVRN	CHEVRON USA (EASTRIDGE)	City of San Jose		4.94	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	AVENAL 6 SANDDG	Sand Drag Solar Project	City of San Jose		4.87	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	ALLGNY 6 HYDRO1	Salmon Creek Hydroelectric Project	City of San Jose		0.3	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	May	FTSWRD 7 OFUNTS	FTSWRD 7 OFUNTS	City of San Jose		0.01	0	$3.50	10/10/2018	Existing	No
18-113-04	2019	November	COLUSA 2 PL1X3	Colusa Generating Station	City of San Jose		278.9	278.9	$2.68	10/10/2018	Existing	No
18-113-04	2019	November	PNCHEG 2 PL1X4	PANOCHE ENERGY CENTER (Aggregated)	City of San Jose		5.1	5.1	$2.68	10/10/2018	Existing	No
18-113-04	2019	November	CROKET 7 UNIT	CROCKETT COGEN	City of San Jose		40	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	HELMPG 7 UNIT 2	HELMS PUMP-GEN UNIT 1	City of San Jose		68.61	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	COGNAT 1 UNIT	Stockton Biomas	City of San Jose		44.55	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	GRNLF2 1 UNIT	GREENLEAF II COGEN	City of San Jose		30.74	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	DISCOV 1 CHEVRN	CHEVRON USA (EASTRIDGE)	City of San Jose		4.86	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	VEDDER 1 SEKERN	TEXACO EXPLORATION & PROD (SE KERN RI	City of San Jose		3.02	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	BOWMN 6 HYDRO	NID Hydro Bowman Powerhouse	City of San Jose		1.62	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	FROGTN 1 UTICAA		City of San Jose		1.4	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	BUCKCK 7 OAKFLT	Oak Flat	City of San Jose		1.3	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	GUERNS 6 SOLAR	Guernsey Solar Station	City of San Jose		0.82	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	BRDGVL 7 BAKER	Baker Station Hydro	City of San Jose		0.63	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	LAMONT 1 SOLAR3	Woodmere Solar Farm	City of San Jose		0.61	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	FTSWRD 6 TRFORK	Three Forks Water Power Project	City of San Jose		0.53	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	GIFFEN 6 SOLAR	Giffen Solar Station	City of San Jose		0.41	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	MCCALL 1 QF	SMALL QF AGGREGATION - FRESNO	City of San Jose		0.37	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	BNNIEN 7 ALTAPH	ALTA POWER HOUSE	City of San Jose		0.33	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	RIOOSO 1 QF	SMALL QF AGGREGATION - GRASS VALLEY	City of San Jose		0.09	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	FULTON 1 QF	SMALL QF AGGREGATION - ZENIA	City of San Jose		0.07	0	$3.80	10/10/2018	Existing	No
18-113-04	2019	November	IGNACO 1 QF	SMALL QF AGGREGATION - VALLEJO/DINSMO	City of San Jose		0.04	0	$3.80	10/10/2018	Existing	No
18-113-05	2019	February	DELTA 2 PL1X4	Delta Energy Center Aggregate	City of San Jose		31.3	0	$2.75	11/27/2018	Existing	No
18-113-05	2019	February	WOLFSK 1 UNITA1	Wolfskill Energy Center	City of San Jose		3	3	$2.85	11/27/2018	Existing	No
18-113-06	2019	February	DELTA 2 PL1X4	Delta Energy Center Aggregate	City of San Jose		100	0	$3.00	10/26/2018	Existing	No
18-113-06	2019	January	DELTA 2 PL1X4	Delta Energy Center Aggregate	City of San Jose		177	0	$3.00	10/26/2018	Existing	No
18-113-07	2019	July	DELTA 2 PL1X4	Delta Energy Center Aggregate	City of San Jose		54.1	0	$6.50	10/26/2018	Existing	No
18-113-07	2019	October	DELTA 2 PL1X4	Delta Energy Center Aggregate	City of San Jose		54	0	$3.50	10/26/2018	Existing	No
18-113-07	2019	September	DELTA 2 PL1X4	Delta Energy Center Aggregate	City of San Jose		10	0	$6.50	10/26/2018	Existing	No
18-113-08	2019	July	WOLFSK 1 UNITA1	Wolfskill Energy Center	City of San Jose		46.9	46.9	$6.60	10/26/2018	Existing	No
18-113-08	2019	October	WOLFSK 1 UNITA1	Wolfskill Energy Center	City of San Jose		46.9	46.9	$3.60	10/26/2018	Existing	No
18-113-08	2019	September	WOLFSK 1 UNITA1	Wolfskill Energy Center	City of San Jose		46.9	46.9	$6.60	10/26/2018	Existing	No
18-113-09	2019	July	DELTA 2 PL1X4	Delta Energy Center	City of San Jose		22	22	$6.50	10/26/2018	Existing	No
18-113-09	2019	July	GEYS20 7 UNIT20	Geysers Unit 20	City of San Jose		20	0	$6.50	10/26/2018	Existing	No
18-113-09	2019	July	COLGAT 7 UNIT 1	Colgate Powerhouse Unit 1	City of San Jose		5	0	$6.50	10/26/2018	Existing	No
18-113-09	2019	November	DELTA 2 PL1X4	Delta Energy Center	City of San Jose		12	12	$4.00	10/26/2018	Existing	No
18-113-09	2019	October	DELTA 2 PL1X4	Delta Energy Center	City of San Jose		36	36	$4.50	10/26/2018	Existing	No
18-113-09	2019	September	DELTA 2 PL1X4	Delta Energy Center	City of San Jose		22	22	$6.50	10/26/2018	Existing	No
18-113-10	2019	April	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		90.72	70	$3.57	10/26/2018	Existing	No
18-113-10	2019	April	MCSWAN 6 UNITS	MC SWAIN HYDRO	City of San Jose		9	0	$3.57	10/26/2018	Existing	No
18-113-10	2019	April	MERCFL 6 UNIT	MERCED FALLS	City of San Jose		3	0	$3.57	10/26/2018	Existing	No
18-113-10	2019	August	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		90.72	70	$5.92	10/26/2018	Existing	No
18-113-10	2019	August	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		9	0	$5.92	10/26/2018	Existing	No
18-113-10	2019	August	MCSWAN 6 UNITS	MC SWAIN HYDRO	City of San Jose		3	0	$5.92	10/26/2018	Existing	No
18-113-10	2019	December	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		90.72	0	$2.20	10/26/2018	Existing	No

Contract ID	Year	Month	Resource ID	Resource Name (indicate specific units under contract if applicable)	Buyer	Seller	Generic Capacity under contract (MW)	Flexible Capacity under contract (MW)	Capacity Price ($kW/month)	Contract Signed	Type of Generation	CHP contract
18-113-10	2019	February	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose	[redacted]	5	0	$2.00	10/26/2018	Existing	No
18-113-10	2019	February	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		14	0	$2.20	10/26/2018	Existing	No
18-113-10	2019	January	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		5	0	$2.00	10/26/2018	Existing	No
18-113-10	2019	January	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		14	0	$2.20	10/26/2018	Existing	No
18-113-10	2019	July	METEC 2 PL1X3	Metcalf Energy Center	City of San Jose		90.72	70	$5.92	10/26/2018	Existing	No
18-113-10	2019	July	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		9	0	$5.92	10/26/2018	Existing	No
18-113-10	2019	July	MCSWAN 6 UNITS	MC SWAIN HYDRO	City of San Jose		3	0	$5.92	10/26/2018	Existing	No
18-113-10	2019	June	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		90.72	70	$5.92	10/26/2018	Existing	No
18-113-10	2019	June	MCSWAN 6 UNITS	MC SWAIN HYDRO	City of San Jose		9	0	$5.92	10/26/2018	Existing	No
18-113-10	2019	June	MERCFL 6 UNIT	MERCED FALLS	City of San Jose		3	0	$5.92	10/26/2018	Existing	No
18-113-10	2019	March	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		90.72	0	$2.20	10/26/2018	Existing	No
18-113-10	2019	May	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		90.72	70	$3.57	10/26/2018	Existing	No
18-113-10	2019	May	MCSWAN 6 UNITS	MC SWAIN HYDRO	City of San Jose		9	0	$3.57	10/26/2018	Existing	No
18-113-10	2019	May	MERCFL 6 UNIT	MERCED FALLS	City of San Jose		3	0	$3.57	10/26/2018	Existing	No
18-113-10	2019	November	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		90.72	0	$2.20	10/26/2018	Existing	No
18-113-10	2019	October	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		90.72	70	$3.57	10/26/2018	Existing	No
18-113-10	2019	October	MCSWAN 6 UNITS	MC SWAIN HYDRO	City of San Jose		9	0	$3.57	10/26/2018	Existing	No
18-113-10	2019	October	MERCFL 6 UNIT	MERCED FALLS	City of San Jose		3	0	$3.57	10/26/2018	Existing	No
18-113-10	2019	September	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		90.72	70	$5.92	10/26/2018	Existing	No
18-113-10	2019	September	MCSWAN 6 UNITS	MC SWAIN HYDRO	City of San Jose		9	0	$5.92	10/26/2018	Existing	No
18-113-10	2019	September	MERCFL 6 UNIT	MERCED FALLS	City of San Jose		3	0	$5.92	10/26/2018	Existing	No
18-113-11	2019	April	LMBEPK 2 UNITA1	Lambie Energy Center, Unit #1	City of San Jose		12	0	$3.51	10/30/2018	Existing	No
18-113-11	2019	April	HELMPG 7 UNIT 3	HELMS PUMP-GEN UNIT 3	City of San Jose		10.2	0	$3.51	10/30/2018	Existing	No
18-113-11	2019	August	RUSCTY 2 UNITS	Russell City Energy Center	City of San Jose		9	0	$6.67	10/30/2018	Existing	No
18-113-11	2019	August	HELMPG 7 UNIT 1	HELMS PUMP-GEN UNIT 1	City of San Jose		7	0	$6.67	10/30/2018	Existing	No
18-113-11	2019	January	HELMPG 7 UNIT 2	HELMS PUMP-GEN UNIT 2	City of San Jose		12.44	0	$3.01	10/30/2018	Existing	No
18-113-11	2019	January	HELMPG 7 UNIT 3	HELMS PUMP-GEN UNIT 3	City of San Jose		90.49	0	$3.01	10/30/2018	Existing	No
18-113-11	2019	January	HENRTA 6 UNITA1	GWF HENRIETTA PEAKER PLANT UNIT 1	City of San Jose		49.97	0	$3.01	10/30/2018	Existing	No
18-113-11	2019	March	HELMPG 7 UNIT 2	HELMS PUMP-GEN UNIT 2	City of San Jose		10.2	0	$3.51	10/30/2018	Existing	No
18-113-12	2019	August	ALMEGT 1 UNIT 2	ALAMEDA GT UNIT 2	City of San Jose		3	0	$6.50	10/30/2018	Existing	No
18-113-12	2019	August	NCPA 7 GP1UN1	NCPA GEO PLANT 1 UNIT 1	City of San Jose		3.2	0	$6.50	10/30/2018	Existing	No
18-113-12	2019	December	NCPA 7 GP1UN1	NCPA GEO PLANT 1 UNIT 1	City of San Jose		4.8	0	$3.75	10/30/2018	Existing	No
18-113-12	2019	February	NCPA 7 GP1UN1	NCPA GEO PLANT 1 UNIT 1	City of San Jose		2.09	0	$3.50	10/30/2018	Existing	No
18-113-12	2019	January	NCPA 7 GP1UN1	NCPA GEO PLANT 1 UNIT 1	City of San Jose		5.2	0	$3.50	10/30/2018	Existing	No
18-113-12	2019	January	NCPA 7 GP1UN2	NCPA GEO PLANT 1 UNIT 2	City of San Jose		1.6	0	$3.50	10/30/2018	Existing	No
18-113-12	2019	July	ALMEGT 1 UNIT 2	ALAMEDA GT UNIT 2	City of San Jose		2.5	0	$6.50	10/30/2018	Existing	No
18-113-12	2019	July	OXMTN 6 LNDFIL	Ox Mountain Landfill Generating Plant	City of San Jose		2.8	0	$6.50	10/30/2018	Existing	No
18-113-12	2019	July	NCPA 7 GP1UN1	NCPA GEO PLANT 1 UNIT 1	City of San Jose		1	0	$6.50	10/30/2018	Existing	No
18-113-12	2019	June	ALMEGT 1 UNIT 2	ALAMEDA GT UNIT 2	City of San Jose		2.5	0	$5.50	10/30/2018	Existing	No
18-113-12	2019	June	OXMTN 6 LNDFIL	Ox Mountain Landfill Generating Plant	City of San Jose		3.5	0	$5.50	10/30/2018	Existing	No
18-113-12	2019	November	NCPA 7 GP1UN1	NCPA GEO PLANT 1 UNIT 1	City of San Jose		1.3	0	$3.50	10/30/2018	Existing	No
18-113-12	2019	November	NCPA 7 GP2UN4	NCPA GEO PLANT 2 UNIT 4	City of San Jose		8.9	0	$3.50	10/30/2018	Existing	No
18-113-12	2019	October	NCPA 7 GP1UN1	NCPA GEO PLANT 1 UNIT 1	City of San Jose		4.2	0	$4.00	10/30/2018	Existing	No
18-113-13	2019	December	MOSSLD 2PSP2	Moss Landing	City of San Jose		7	0	$4.15	10/30/2018	Existing	No
18-113-14	2019	February	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		71.72	0	$4.30	10/30/2018	Existing	No
18-113-14	2019	February	NCPA 7 GP1UN1	NCPA GEO PLANT 1 UNIT 1	City of San Jose		6	0	$4.30	10/30/2018	Existing	No
18-113-14	2019	February	NCPA 7 GP2UN4	NCPA GEO PLANT 2 UNIT 4	City of San Jose		5	0	$4.30	10/30/2018	Existing	No
18-113-14	2019	January	EXCHEC 7 UNIT 1	EXCHEQUER HYDRO	City of San Jose		71.72	0	$4.30	10/30/2018	Existing	No
18-113-14	2019	January	LODIEC 2 PL1X2	Lodi Energy Center	City of San Jose		11	0	$4.30	10/30/2018	Existing	No
18-113-14	2019	June	NCPA 7 GP2UN4	NCPA GEO PLANT 2 UNIT 4	City of San Jose		10.1	0	$6.35	10/30/2018	Existing	No
18-113-15	2019	July	DUANE 1 PL1X3	Donald Von Raesfeld Power Project	City of San Jose		20	0	$6.75	10/30/2018	Existing	No
18-113-15	2019	June	DUANE 1 PL1X3	Donald Von Raesfeld Power Project	City of San Jose		6	0	$5.50	10/30/2018	Existing	No
18-113-16	2019	October	SMPRIP 1 SMPSON	Ripon Cogeneration Unit 1	City of San Jose		46.05	0	$3.25	10/31/2018	Existing	No
18-113-17	2019	January	MDFKRL 2 PROJCT	Middle Fork and Ralston PSP	City of San Jose		4.5	8	$3.00	11/14/2018	Existing	No
18-113-18	2019	February	DELTA 2 PL1X4	Delta Energy Center Aggregate	City of San Jose		5	5	$3.60	11/27/2018	Existing	No
18-113-19	2019	February	SMPRIP 1 SMPSON	Ripon Cogeneration Unit 1	City of San Jose		46.05	0	$2.00	12/7/2018	Existing	No
18-113-20	2019	February	WADHAM 6 UNIT	Wadham Energy LP	City of San Jose		10	0	$1.00	12/12/2018	Existing	No
18-113-20	2019	February	CPSTNO 7 PRMADS	PRIMA DESCHECHA (CAPISTRANO)	City of San Jose		5.6	0	$1.00	12/12/2018	Existing	No
18-113-21	2019	February	COLUSA 2 PL1X3	Colusa Generating Station	City of San Jose		31.82	8	$3.25	12/13/2018	Existing	No
18-113-22	2019	February	LEBECS 2 UNITS	Pastoria Energy Facility	City of San Jose		16.5	0	$2.05	12/17/2018	Existing	No
18-113-22	2019	February	OTAY 6 PL1X2	Chula Vista Energy Center, LLC	City of San Jose		15.5	0	$2.05	12/17/2018	Existing	No
18-113-23	2019	February	MSCG PVWEST I F IMS010	System Import	City of San Jose		100	0	$2.05	12/17/2018		No
18-113-25	2019	July	TEMU NOB I F IMPRA	System Import	City of San Jose		55	0	$5.50	12/20/2018		No
18-113-25	2019	September	TEMU NOB I F IMPRA	System Import	City of San Jose		55	0	$6.00	12/20/2018		No
19-199-01	2019	April	METEC 2 PL1X3	Metcalf Energy Center	[redacted]	City of San Jose	7	7	$3.00	2/13/2019	Existing	No
19-199-01	2019	April	METEC 2 PL1X3	Metcalf Energy Center		City of San Jose	7	0	$3.00	2/13/2019	Existing	No
19-199-01	2019	August	TBD	TBD		City of San Jose	35	0	$3.00	2/13/2019	Existing	No
19-199-01	2019	August	TBD	TBD		City of San Jose	35	0	$3.00	2/13/2019	Existing	No

Contract ID	Year	Month	Resource ID	Resource Name (indicate specific units under contract if applicable)	Buyer	Seller	Generic Capacity under contract (MW)	Flexible Capacity under contract (MW)	Capacity Price ($kW/month)	Contract Signed	Type of Generation	CHP contract
19-199-01	2019	June	TBD	TBD	[redacted]	City of San Jose	36	1	$3.00	2/13/2019	Existing	No
19-199-01	2019	June	TBD	TBD		City of San Jose	36	0	$3.00	2/13/2019	Existing	No
19-199-01	2019	May	TBD	TBD		City of San Jose	8	8	$3.00	2/13/2019	Existing	No
19-199-01	2019	May	TBD	TBD		City of San Jose	8	0	$3.00	2/13/2019	Existing	No

Year	Month	Type
2018	January	New
2019	February	Existing
2020	March	
2021	April	
2022	May	
	June	
	July	
	August	
	September	
	October	
	November	
	December	

EXHIBIT: SJCE #61
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / J. Sole Calc of prices paid
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

J. Sole Calc of prices paid

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

Prices we paid:

For July 2019, of **868.02**MW that we bought, we paid an average of $4125.47 MW-mo. For 314.3MW, we paid at or over $6000MW-mo. All of the transactions at or over took place at or over $6000MW-mo took place on or after October 26, 2019. The highest price we paid was $6750/MW-mo.

For September 2019, of 643.17MW that we bought, we paid an average of $ 3511.774MW-mo. For 143.9MW, we paid at or over $6000MW-mo. All of the transactions at or over took place at or over $6000MW-mo took place on or after October 26, 2019. The highest price we paid was 6600/MW-mo.

EXHIBIT: SJCE #62
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / 10.10.18 PGE RA System Mar-Jun,Aug,Nov-Dec 2019 Full Exec 18-113-04 - CONFIDENTIAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

10.10.18 PGE RA System Mar-Jun,Aug,Nov-Dec 2019 Full Exec 18-113-04 - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

MASTER POWER PURCHASE AND SALE AGREEMENT
RESOURCE ADEQUACY CONFIRMATION LETTER
BETWEEN
CITY OF SAN JOSE ("PARTY A")
AND
PACIFIC GAS AND ELECTRIC COMPANY ("PARTY B")

This confirmation letter ("Confirmation") confirms the Transaction between Party A and Party B, which becomes effective on the date fully executed by both Parties (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation. This Transaction is governed by the Master Power Purchase and Sale Agreement between the Parties, effective as of September 14, 2018, together with the Cover Sheet, the Collateral Annex and Paragraph 10 to the Collateral Annex, and any other annexes thereto (collectively, as amended, restated, supplemented, or otherwise modified from time to time, the "Master Agreement"). The Master Agreement and this Confirmation are collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation, have the meanings specified for such terms in the Master Agreement or the Tariff (defined below), as applicable. Section references herein are to this Confirmation unless otherwise noted.

ARTICLE 1
TRANSACTION TERMS

Buyer: Party A

Seller: Party B

Product: The Product, including the Capacity Attributes of the Unit(s), Alternate Unit(s) or Shown Unit(s), is as defined in Appendix B; provided that if Buyer is purchasing Local RAR, but a particular local area or subarea is not identified in Appendix B, then Seller may provide Local RAR from any local area or subarea in the Seller's local areas. The Product does not include any right to the energy or ancillary services of the Unit(s).

Delivery Period: March 1, 2019, through June 30, 2019, August 1, 2019, through August 31, 2019, and November 1, 2019, through December 31, 2019.

Contract Quantity and Price: The Contract Quantity and Price for each day of each Showing Month during the Delivery Period shall be set forth in Appendix B.

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Firm RA Product

Seller's obligation to deliver the Contract Quantity of Product for each day included in the Delivery Period is firm and will not be excused for any reason.

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2.2 Seller To Identify Shown Unit

(a) Seller shall identify the Shown Unit(s) that meet the Product characteristics and Contract Quantity specified in Appendix B by providing Buyer with the specific Unit information listed in Appendix C no later than fifteen (15) calendar days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month. The Shown Unit should not have characteristics that would trigger the need for Buyer or Seller to file an Advice Letter to the CPUC. Seller's notice under this Section 2.2(a) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within three (3) calendar days of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Shown Unit. If Buyer timely objects, Seller must identify another Shown Unit within five (5) Business Days.

(b) Once the Shown Unit designated by Seller is approved or deemed approved in accordance with Section 2.2, then any such Shown Unit will be automatically deemed a Unit for purposes of this Confirmation for the affected Showing Month.

2.3 Seller To Provide Alternate Capacity

(a) If Seller desires to provide the Contract Quantity for any Showing Month during the Delivery Period from a different Unit other than the Shown Unit as designated in Section 2.2, then Seller may, at no additional cost to Buyer provide Buyer with Product from one (1) or more Alternate Units in an amount such that the total amount of Product provided to Buyer from the Unit and Alternate Units for the Showing Month during the Delivery Period is not more or less than the Contract Quantity for the Delivery Period.

(b) If Seller desires to provide Product from an Alternate Unit under Section 2.3(a), Seller must notify Buyer of its intent to provide Product from an Alternate Unit and identify the proposed Alternate Unit meeting the Product characteristics specified in Appendix B no later than fifteen (15) calendar days before the relevant deadlines for the submission of Compliance Showings related to the applicable Showing Month. Seller's notice under this Section 2.3(b) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within one (1) Business Day of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Alternate Unit. If Buyer timely objects, Seller must identify another Alternate Unit within five (5) Business Days.

(c) Once the Buyer provides its approval of any proposed Alternate Unit designated by Seller in accordance with Section 2.3(b), then any such Alternate Unit will be automatically deemed a Unit for purposes of this Confirmation for the affected Showing Month.

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2.4 Delivery of Product

(a) Seller shall provide Buyer with the Contract Quantity of Product for each day during the Delivery Period consistent with the following:

(i) Seller shall, on a timely basis with respect to each applicable Showing Month, submit, or cause the Unit's SC to submit, Supply Plans in accordance with the Tariff to identify and confirm the Product provided to Buyer for each day of such Showing Month that is included in the Delivery Period so that the total amount of Product identified and confirmed for each such day of such Showing Month equals the Contract Quantity for such day of such Showing Month.

(ii) Seller will be deemed to have delivered the Product on each day to the extent that Buyer receives credit from CAISO for such day for Product identified and confirmed in the Supply Plan submitted for the Unit.

(iii) Hold-Back Capacity, if any, is deemed Contract Quantity delivered.

(b) In accordance with Sections 2.2 and 2.3 and subject to Article 8, Seller shall to the extent required by CAISO or the CPUC rules cause the information listed in Appendix C to be completed and included in all applicable Supply Plans and shall cause all Supply Plans to be filed in conformance with the requirements of the CPUC Filing Guide and the Tariff. In addition, if during the Delivery Period, there are changes to the information included in Appendix C, the Parties agree to communicate such changes to each other promptly.

2.5 Damages for Failure to Provide Capacity

If Seller fails to deliver to Buyer the Contract Quantity of Product for any day during the Delivery Period in accordance with Section 2.4 then with respect to each Showing Month, Seller shall pay to Buyer at the time set forth in Article Six of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement:

for each applicable day during the Showing Month included in the Delivery Period, in which the Buyer's Monthly Payment has been received by Seller in accordance with Section 3.1 of this Confirmation only, the amount equal to (w) the applicable Contract Price, or in the event that more than one Contract Price is specified for the same Showing Month, the weighted average of all applicable prices and Contract Quantities for that Showing Month, divided by (x) the number of days included in the Showing Month multiplied by (y) the amount of Contract Quantity not delivered by Seller on such day, multiplied by (z) 1,000 kW/MW.

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2.6 Indemnities for Failure to Deliver Contract Quantity

(a) Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or CAISO resulting from any of the following:

(i) Seller's failure to deliver any portion of the Contract Quantity of Product for any portion of the Delivery Period and such failure results in the imposition of penalties, fines or costs assessed against Buyer; or

(ii) A Unit's SC's failure to timely or accurately submit Supply Plans that identify Buyer's right to the Contract Quantity purchased hereunder for each day of the Delivery Period.

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

2.7 Buyer's Re-Sale of Product

(a) Buyer may re-sell all or a portion of the Product purchased under this Confirmation ("Resold Product"); provided that such re-sell right does not include the ability to offer any portion of Product into the CSP. If Buyer re-sells Resold Product, Seller agrees, and agrees to cause the Unit's SC, to follow Buyer's instructions with respect to providing such Resold Product to subsequent purchasers of such Resold Product to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller further agrees, and agrees to cause the Unit's SC, to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product in a manner consistent with Buyer's rights under this Confirmation. If Buyer incurs any liability to any purchaser of such Resold Product due to the failure of Seller or the Unit's SC to comply with the terms of this Confirmation, then Seller shall be liable to Buyer for any liabilities Seller would have incurred under this Confirmation if Buyer had not resold the Product, including without limitation, pursuant to Sections 2.5 and 2.6.

(b) If Buyer exercises its right to re-sell the Resold Product, Buyer shall notify Seller in writing that such sale has occurred and such notice shall include the information described in Appendix D no later than two (2) Business Days before the deadline for the Compliance Showings applicable to the relevant Showing Month. Buyer shall notify Seller of any subsequent changes or further resale of the Resold Product, and such notice shall include all updates to the information in Appendix D in accordance with the deadlines described in this Section 2.7(b).

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ARTICLE 3
PAYMENT

3.1 Monthly Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a payment (a "Monthly Payment") to Seller, for the applicable Showing Month, as follows:

$$Monthly\ Payment = Q \times P \times CF$$

where:

Q = The quantity of Product to be delivered by Seller to Buyer pursuant to and consistent with Section 2.4 for the Showing Month

P = The Contract Price for the Showing Month, expressed in dollars per kW-month

CF = The conversion factor equal to 1,000 kW per MW

The Monthly Payment calculation shall be rounded to two decimal places.

3.2 Allocation of Other Payments and Costs

(a) Seller is entitled to retain any revenues it may receive from, and shall pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, (iv) revenue for flexible ramping product, and (v) any revenues for black start or reactive power services. All Seller revenues described in this Section 3.2(a) and received by Buyer or a purchaser of Resold Product must be remitted to Seller and Buyer shall pay such revenues to Seller if received by Buyer or if a purchaser of Resold Product fails to remit those revenues to Seller. If Buyer fails to pay such revenues to Seller, Seller may recoup any amounts owing to it for such revenues against any future amounts it may owe to Buyer pursuant to Article Six of the Master Agreement. Seller shall indemnify, defend and hold Buyer harmless from and against all liabilities, damages, claims, losses, costs or expenses (including, without limitation, attorneys' fees) incurred by or brought against Buyer in connection with Environmental Costs.

(b) In order to verify the accuracy of such revenues, Buyer has the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity and in accordance with Section 3.1 of this Confirmation and Article Six of the Master Agreement.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights to tell the Seller or the Unit's SC to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each day during the Delivery Period

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provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

(d) Buyer and Seller agree that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the Tariff. Any Availability Incentive Payments or Non-Availability Charges are for the account, or are the responsibility of, the Seller, as applicable.

ARTICLE 4
CAISO OFFER REQUIREMENTS

Seller is responsible for, as applicable, scheduling or causing the applicable Unit's SC to schedule with, or make available to, CAISO the Product delivered to Buyer for each day during the Delivery Period in compliance with the Tariff, and performing all, or causing the Unit's SC, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the Product sold hereunder. Buyer is not liable for the failure of Seller or the failure of any Unit's SC, owner, or operator to comply with such Tariff provisions or any penalties or fines imposed on Seller or the Unit's SC (unless Seller is the SC), owner, or operator for such noncompliance.

ARTICLE 5
OTHER BUYER AND SELLER COVENANTS

5.1 Seller's and Buyer's Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity on each day during the Delivery Period for the sole benefit of Buyer or any applicable subsequent purchaser pursuant to Section 2.7. The Parties shall agree upon reasonable changes to this Confirmation necessary to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, CAISO or other Governmental Body having jurisdiction to administer Compliance Obligations.

5.2 Representations, Warranties and Covenants

(a) Seller represents and warrants to Buyer throughout the Delivery Period that:

(i) no portion of the Contract Quantity for any day during the Delivery Period has been committed by Seller to any third party in order to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(ii) the Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;

(iii) each Unit's SC, owner and operator is obligated to comply with applicable laws, including the Tariff, relating to the Product;

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(iv) if Seller is the owner of the Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for the Unit for each day included in the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit; and

(v) Seller has notified either the SC of the Unit or the entity from which Seller purchased the Product of the fact that Seller has transferred the Contract Quantity for each day of the Delivery Period to Buyer.

(b) Seller represents and warrants to Buyer as of the date of the relevant Compliance Showing, that Seller owns or has the exclusive right to the Product sold under this Confirmation from the Unit;

(c) Seller covenants as follows:

(i) Seller shall, upon request, furnish Buyer, CAISO, CPUC or other applicable Governmental Body evidence that its representation made in Section 5.2(c) is true and correct; and

(ii) Seller shall not, and shall cause the Unit's SC to not, offer any portion of the Contract Quantity for any day during the Delivery Period to CAISO as CPM Capacity. However, if CAISO designates any portion of the Contract Capacity as CPM Capacity, then Seller shall, and shall cause the Unit's SC to promptly (and in any event within one (1) Business Day of the time Seller receives notification from CAISO) notify Buyer if CAISO designates any portion of the Contract Quantity for any day during the Delivery Period as CPM Capacity and, if CAISO makes such a designation, shall, and shall cause the Unit's SC to not accept any such designation by CAISO unless and until Buyer has agreed to accept such designation.

(d) Each Party covenants to the other Party throughout the Delivery Period to comply with the Tariff, relating to the Product.

ARTICLE 6
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Notwithstanding Section 10.11 of the Master Agreement, the Seller may disclose the transfer of the Contract Quantity for each day during the Delivery Period under this Transaction to the SC of the Unit in order for such SC to timely submit accurate Supply Plans. Seller shall use reasonable efforts to limit, to the extent possible, the ability of SC to further disclose information disclosed pursuant to this Article. In addition, if Buyer resells all or any portion of the Contract Quantity for any day during the Delivery Period to another party, Buyer shall be permitted to disclose to the purchaser of the Resold Product all such information necessary to effect such resale transaction, other than the Contract Price.

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ARTICLE 7
HOLDBACK CAPACITY

No later than five (5) Business Days before the relevant deadline for the initial Compliance Showing with respect to a particular Showing Month, Buyer may request in writing that Seller not list, or cause the Unit's SC not to list, in the Unit's Supply Plan a portion or all of the Contract Quantity for any portion of such Showing Month included in the Delivery Period ("Hold-Back Capacity"). The amount of Contract Quantity that is the subject of Buyer's request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.4 for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Section 2.5 or 2.6. Seller shall, or shall cause the Unit's SC to, comply with Buyer's request under this Article 7.

ARTICLE 8
COLLATERAL REQUIREMENTS

8.1 Buyer Collateral Requirements

(a) Notwithstanding anything to the contrary contained in the Master Agreement, Buyer shall, within five (5) Business Days following the Confirmation Effective Date, provide to, and maintain with, Seller a Fixed Independent Amount as long as Buyer or its Guarantor, if any, does not maintain Credit Ratings of at least BBB- from S&P and Baa3 from Moody's. The "Fixed Independent Amount" shall be 20% of the sum of the Monthly Payments for all unpaid months of the Delivery Period.

(b) If the conditions in subsections (i) and (ii) of this Section 8.1(b) are satisfied throughout the Delivery Period, then this Confirmation's Fixed Independent Amount shall *not* apply for that time period during which all such conditions are satisfied:

(i) Buyer's customers are PG&E's distribution or transmission customers and PG&E is the billing agent for those customers; and

(ii) PG&E is the provider of last resort pursuant to Cal. Pub. Util. Code Section 451 et seq. and applicable law for Buyer's retail electric customers.

(c) If at any time during the Delivery Period, one or more of the conditions in subsections (i) and (ii) of Section 8.1(b) is no longer satisfied, and Seller has provided Buyer with written notice of such failure to satisfy ("Condition Notice"), then (A) Buyer shall comply with the credit requirements of Section 8.1(a), above by that date which is no later than thirty (30) calendar days following the date of the Condition Notice.

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(d) Notwithstanding anything to the contrary in Paragraph 10 to the Collateral Annex of the Master Agreement, for purposes of this Confirmation and this Transaction only, the Parties agree that the Collateral Requirement under Paragraph 3(b) of the Collateral Annex shall apply to Party A.

8.2 Current Mark-to-Market Value

For the purposes of calculating Exposure pursuant to the Collateral Annex, the Current Mark-to-Market Value for this Transaction is deemed to be zero. If at any time prior to the expiration of the Delivery Period, a liquid market for the Product develops wherein price quotes for such a product can be obtained, the Parties agree to amend the Confirmation to include a methodology for calculating the Current Mark-to-Market Value for this Transaction, consequently affecting each Party's Exposure.

ARTICLE 9
ADDITIONAL MASTER AGREEMENT AMENDMENTS

9.1 Declaration of an Early Termination Date and Calculation of Settlement Amounts

The Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation and with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the Master Agreement:

> "If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur or be liable for any penalties, fines or costs from the CPUC, CAISO, or any Governmental Body having jurisdiction, because Buyer or a purchaser of Resold Product is not able to include the applicable Contract Quantity in any applicable Compliance Showing due to Seller's Event of Default, then Buyer may, in good faith, estimate the amount of those penalties, fines or costs and include this estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Buyer's estimate exceeds the actual amount of penalties, fines or costs, Buyer shall promptly remit to Seller the excess amount. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

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ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

CITY OF SAN JOSE		**PACIFIC GAS AND ELECTRIC COMPANY, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions**	
By:	[signature]	By:	[signature]
Name:	Lori Mitchell	Name:	Kimberly Orang
Title:	Director	Title:	manager
Date:	10/10/18	Date:	10/10/2018

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APPENDIX A
DEFINED TERMS

For purposes of this Confirmation, the following terms have the following meanings:

"Advice Letter" means (1) an informal request by a CPUC jurisdictional entity for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms or conditions other than those contained in the utility's tariffs then in effect, and (2) a compliance filing by a load-serving entity pursuant to Public Utilities Code Section 380.

"Alternate Unit" means a generating unit designated by the Parties in accordance with Section 2.3 and which includes the Product characteristics, if any, as set forth in Appendix B.

"CAISO" means the California Independent System Operator Corporation or any successor entity performing substantially the same functions.

"Capacity Attributes" means, with respect to a generating unit, any and all of the following, in each case which are attributed to or associated with the generating unit at any time throughout the Delivery Period:

(a) Resource Adequacy Capacity attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward RAR;

(b) Resource Adequacy Capacity attributes or other locational attributes of the generating unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the generating unit within the CAISO Control Area, that can be counted toward a Local RAR; and

(c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs of the generating unit, howsoever entitled, including any accounting construct counted toward any Compliance Obligations;

provided that, notwithstanding the foregoing, Capacity Attributes exclude all certificates, tags, credits, or accounting constructs that are not counted toward any Compliance Obligations, howsoever entitled associated with the generating unit, as such characteristics, certificates, tags, credits, or accounting constructs are described in the CPUC Decisions and Tariff.

"Capacity Procurement Mechanism" has the meaning set forth in the Tariff.

"Competitive Solicitation Process" or "CSP" has the meaning set forth in the Tariff.

"Compliance Obligations" means the RAR and Local RAR, and if applicable FCR.

"Compliance Showings" means the (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor

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showings), and (c) if applicable, FCR compliance or advisory showings (or similar or successor showings), in each case, an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to CAISO) pursuant to the CPUC Decisions, to CAISO pursuant to the Tariff, or to any Governmental Body having jurisdiction.

"Confirmation" is defined in the introductory paragraph of this Confirmation.

"Confirmation Effective Date" is defined in the introductory paragraph of this Confirmation.

"Contract Price" means, for any period during the Delivery Period, the price, expressed in dollars per kW-month, specified for such period set forth in the Contract Price Table in Appendix B.

"Contract Quantity" means, with respect to any day during the Delivery Period, the amount of Product, expressed in MW, set forth in the Contract Quantity table in Appendix B for such day.

"CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-01-063, 15-06-063, 16-06-045, 17-06-027, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

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

"Delivery Period" is defined in Article 1.

"Emission Reduction Credits" or "ERC(s)" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

"Environmental Costs" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.

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"FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by a Local Regulatory Authority or other Governmental Body having jurisdiction.

"FCR Attributes" means, with respect to a generating unit, any and all resource adequacy attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward an LSE's FCR.

"FCR Contract Quantity" means, with respect to a day included in the Delivery Period, the amount of FCR Attributes, expressed in MW, equal to the Contract Quantity for such day.

"Governmental Body" means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal. This definition does not include "market participants" as defined in the CAISO's Business Practice Manual for Definitions and Acronyms as published on the CAISO website.

"Hold-Back Capacity" is defined in Article 7.

"Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

"LSE" means "Load Serving Entity" as such term is defined in the Tariff.

"Marketable Emission Trading Credits" means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

"Master Agreement" is defined in the introductory paragraph of this Confirmation.

"Monthly Payment" is defined in Section 3.1.

"MW" means megawatt.

"Procurement Review Group" has the meaning set forth in CPUC Decision D. 02-08-071.

"Product" is defined in Article 1.

"RAR" means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

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"Resold Product" is defined in Section 2.7.

"Resource Adequacy Capacity" has the meaning set forth in the Tariff.

"RMR Contract" means a Reliability Must-Run Contract as forth in the Tariff.

"Showing Month" means the calendar month that is the subject of the related Compliance Showing, as set forth in the CPUC Decisions and outlined in the Tariff. For illustrative purposes only, pursuant to the Tariff and CPUC Decisions in effect as of the Confirmation Effective Date, the monthly Compliance Showing made in June is for the Showing Month of August.

"Shown Unit" means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Buyer on the Confirmation Effective Date.

"Supply Plan" has the meaning set forth in the Tariff.

"System RAR" means the system resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

"Tariff" means the Fifth Replacement FERC Electric Tariff and the associated CAISO protocol provisions, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means the generation unit described in Appendix B and any Alternate Unit or Shown Unit.

"Unit EFC" means, with respect to a Unit on any date of determination, the lesser of the Effective Flexible Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

"Unit NQC" means, with respect to a Unit on any date of determination, the lesser of Net Qualifying Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

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APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

System or Local:	☒ System RAR	☐ Local RAR
Product Attributes:	☒ RAR only (default) ☐ RAR and FCR	☐ Local RAR and RAR only (default) ☐ Local RAR, RAR and FCR
CAISO Zone: (as defined by the CPUC Filing Guide)	☒ North System ☐ South System	☐ Greater Bay Area ☐ Other PG&E Local Areas ☐ Big Creek/Ventura ☐ LA Basin ☐ San Diego-IV
MCC Bucket: (as described in the CPUC Filing Guide)	**4**	
Flexible Category (if Applicable): (as described in the CPUC Filing Guide)	**Not Applicable**	

Contract Quantity and Contract Price:

Showing Month and Year	Quantity (MW)	Contract Price ($/kW-mo)
APRIL 2019	108	$2.68
MAY 2019	211	$3.50
JUNE 2019	387	$5.75
AUGUST 2019	441	$6.65
DECEMBER 2019	22	$2.68

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APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

System or Local:	☒ System RAR	☐ Local RAR
Product Attributes:	☐ RAR only (default) ☒ RAR and FCR	☐ Local RAR and RAR only (default) ☐ Local RAR, RAR and FCR
CAISO Zone: (as defined by the CPUC Filing Guide)	☒ North System ☐ South System	☐ Greater Bay Area ☐ Other PG&E Local Areas ☐ Big Creek/Ventura ☐ LA Basin ☐ San Diego-IV
MCC Bucket: (as described in the CPUC Filing Guide)	4	
Flexible Category (if Applicable): (as described in the CPUC Filing Guide)	1	

Contract Quantity and Contract Price:

Showing Month and Year	Quantity (MW)	Contract Price ($/kW-mo)
MARCH 2019	79	$2.68
APRIL 2019	145	$2.68
MAY 2019	169	$3.50
JUNE 2019	115	$5.75
AUGUST 2019	130	$6.65
NOVEMBER 2019	284	$2.68
DECEMBER 2019	315	$2.68

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APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

System or Local:	☐ System RAR	☒ Local RAR
Product Attributes:	☐ RAR only (default) ☐ RAR and FCR	☒ Local RAR and RAR only (default) ☐ Local RAR, RAR and FCR
CAISO Zone: (as defined by the CPUC Filing Guide)	☐ North System ☐ South System	☒ Greater Bay Area ☐ Other PG&E Local Areas ☐ Big Creek/Ventura ☐ LA Basin ☐ San Diego-IV
MCC Bucket: (as described in the CPUC Filing Guide)		**4**
Flexible Category (if Applicable): (as described in the CPUC Filing Guide)		**Not Applicable**

Contract Quantity and Contract Price:

Showing Month and Year	Quantity (MW)	Contract Price ($/kW-mo)
MARCH 2019	40	$3.50
APRIL 2019	40	$3.50
MAY 2019	40	$3.50
JUNE 2019	40	$5.75
AUGUST 2019	40	$6.65
NOVEMBER 2019	40	$3.80
DECEMBER 2019	40	$3.80

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APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

System or Local:	☐ System RAR	☒ Local RAR
Product Attributes:	☐ RAR only (default) ☐ RAR and FCR	☒ Local RAR and RAR only (default) ☐ Local RAR, RAR and FCR
CAISO Zone: (as defined by the CPUC Filing Guide)	☐ North System ☐ South System	☐ Greater Bay Area ☒ Other PG&E Local Areas ☐ Big Creek/Ventura ☐ LA Basin ☐ San Diego-IV
MCC Bucket: (as described in the CPUC Filing Guide)		**4**
Flexible Category (if Applicable): (as described in the CPUC Filing Guide)		**Not Applicable**

Contract Quantity and Contract Price:

Showing Month and Year	Quantity (MW)	Contract Price ($/kW-mo)
MARCH 2019	46	$3.50
APRIL 2019	148	$3.50
MAY 2019	148	$3.50
JUNE 2019	148	$5.75
AUGUST 2019	148	$6.65
NOVEMBER 2019	160	$3.80
DECEMBER 2019	160	$3.80

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APPENDIX B
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

System or Local:	☐ System RAR	☒ Local RAR
Product Attributes:	☐ RAR only (default) ☐ RAR and FCR	☐ Local RAR and RAR only (default) ☒ Local RAR, RAR and FCR
CAISO Zone: (as defined by the CPUC Filing Guide)	☐ North System ☐ South System	☐ Greater Bay Area ☒ Other PG&E Local Areas ☐ Big Creek/Ventura ☐ LA Basin ☐ San Diego-IV
MCC Bucket: (as described in the CPUC Filing Guide)		**4**
Flexible Category (if Applicable): (as described in the CPUC Filing Guide)		**1**

Contract Quantity and Contract Price:

Showing Month and Year	Quantity (MW)	Contract Price ($/kW-mo)
MARCH 2019	**114**	**$3.50**

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APPENDIX C
SUPPLY PLAN INFORMATION

Resource Capacity Contract Number	Resource ID in CAISO Master File	RA Capacity (MW 00.00 No Rounding)	RA Capacity Effective Start Date	RA Capacity Effective End Date	SCID of Load Serving Entity
			[mm/dd/yyyy hh:mm:ss]	[mm/dd/yyyy hh:mm:ss]	

Seller will provide the Unit Information in accordance with Section 2.2.

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APPENDIX D
SUBSEQUENT SALE INFORMATION

Contract Key ID:	
Benefitting LSE SCID:	
Generic Volume (in MW):	
Local Volume (in MW):	
Flexible Volume (in MW):	
Term:	

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APPENDIX E
NOTICE INFORMATION

Name: City of San José, a California municipality ("Buyer")

All Notices:

Delivery Address:
Street: 200 E. Santa Clara Street, Tower 14
City: San José State: CA Zip: 95113

Mail Address: (if different from above)

Attn: Jeanne Solé
(email) Jeanne.sole@sanjoseca.gov
Phone: 408-535-4867

Invoices and Payments:
Attn: Sarah Sanchez
(email) Sarah.Sanchez@sanjoseca.gov
Phone: 408-535-4865

Scheduling:
Attn: Attention: NCPA Pre-Scheduling Desk
(email) preschedulers@ncpa.com

Phone: 916-781-4227 or 916-781-4290

Alternative: NCPA Scheduling Coordination Desk
Email: ScheduleCoordinators@ncpa.com
Phone: 916-781-4237 or 916-781-4280

Wire Transfer:
BNK: Wells Fargo Bank
ACCT Title:
ABA: 121000248
ACCT: 4121893267
DUNS: 06-354-1874
Federal Tax ID Number: 94-6000419

Credit and Collections:
Attn: Sarah Sanchez
(email) Sarah.Sanchez@sanjoseca.gov
Phone: 408-535-4865

Contract Management
Attn: Jeanne Solé
(email) Jeanne.sole@sanjoseca.gov
Phone: 408-535-4867

Contract Management (Alternative)
Name: Tony Zimmer (NCPA)
Email: tony.zimmer@ncpa.com
Phone: 916-781-4229

With additional Notices of an Event of Default to Contract Manager:

Name: Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions

("[Seller]" or "[Party B]")
All Notices:

Delivery Address:
77 Beale Street, Mail Code N12E
San Francisco, CA 94105-1702

Mail Address:
P.O. Box 770000, Mail Code N12E
San Francisco, CA 94177
Attn: Candice Chan (CWW9@pge.com)
Director, Contract Mgmt & Settlements
Phone: (415) 973-7780

Invoices and Payments:
Attn: Tom Girlich (TAGG@pge.com)
Manager, Electric Settlements
Phone: (415) 973-9381

Outages:
Attn: Outage Coordinator
(ESMOutageCoordinator@pge.com;
RATransactionNotificationList@pge.com)
Phone: (415) 973-1721

Wire Transfer:
BNK: The Bank of NY Mellon
ACC Title: PG&E
ABA: 011001234
ACCT: 059994
DUNS: 556650034
Federal Tax ID Number: 94-0742640

Credit and Collections:
Attn: Credit Risk Management (PGERiskCredit@pge.com)

Phone: (415) 972-5188

Contract Management
Attn: Elizabeth Motley (EMMG@pge.com)
Contract Management
Phone: (415) 973-2368

With additional Notices of an Event of Default to Contract Manager:

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Attn: Jeanne Solé
(email) Jeanne.sole@sanjoseca.gov
Phone: 408-535-4867

Name: City of San José, a California municipality ("Buyer")

Attn: Ted Yura (THY1@pge.com)
Senior Manager, Contract Management
Phone: (415) 973-8660

Supply Plan and Replacement Request:
EPP-RAFilingsMailbox@pge.com

EXHIBIT: SJCE #63
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / 10.30.18 PGE RA Local Jan,Mar,Apr,Aug 2019 Full Exec 18-113-11 – CONFIDENTIAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

10.30.18 PGE RA Local Jan,Mar,Apr,Aug 2019 Full Exec 18-113-11 – CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

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MASTER POWER PURCHASE AND SALE AGREEMENT
RESOURCE ADEQUACY CONFIRMATION LETTER
BETWEEN
CITY OF SAN JOSE ("PARTY A")
AND
PACIFIC GAS AND ELECTRIC COMPANY ("PARTY B")

This confirmation letter ("Confirmation") confirms the Transaction between Party A and Party B, which becomes effective on the date fully executed by both Parties (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in this Confirmation. This Transaction is governed by the Master Power Purchase and Sale Agreement between the Parties, effective as of September 14, 2018, together with the Cover Sheet, the Collateral Annex and Paragraph 10 to the Collateral Annex, and any other annexes thereto (collectively, as amended, restated, supplemented, or otherwise modified from time to time, the "Master Agreement"). The Master Agreement and this Confirmation are collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation, have the meanings specified for such terms in the Master Agreement or the Tariff (defined below), as applicable. Section references herein are to this Confirmation unless otherwise noted.

ARTICLE 1
TRANSACTION TERMS

Buyer: Party A

Seller: Party B

Product: The Product, including the Capacity Attributes of the Unit(s), Alternate Unit(s) or Shown Unit(s), is as defined in Appendix B (Appendices B-1 and B-2); provided that if Buyer is purchasing Local RAR, but a particular local area or subarea is not identified in Appendix B, then Seller may provide Local RAR from any local area or subarea in the Seller's local areas. The Product does not include any right to the energy or ancillary services of the Unit(s).

Delivery Period: January 1, 2019, through January 31, 2019, inclusive, and March 1, 2019, through April 30, 2019, inclusive, and August 1, 2019, through August 31, 2019, inclusive.

Contract Quantity and Price: The Contract Quantity and Price for each day of each Showing Month during the Delivery Period shall be set forth in Appendix B.

ARTICLE 2
DELIVERY OBLIGATIONS AND ADJUSTMENTS

2.1 Firm RA Product

Seller's obligation to deliver the Contract Quantity of Product for each day included in the Delivery Period is firm and will not be excused for any reason.

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2.2 Seller To Identify Shown Unit

(a) Seller shall identify the Shown Unit(s) that meet the Product characteristics and Contract Quantity specified in Appendix B by providing Buyer with the specific Unit information listed in Appendix C no later than fifteen (15) calendar days before the relevant deadlines for the corresponding Compliance Showings applicable to the relevant Showing Month. The Shown Unit should not have characteristics that would trigger the need for Buyer or Seller to file an Advice Letter to the CPUC. Seller's notice under this Section 2.2(a) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within three (3) calendar days of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Shown Unit. If Buyer timely objects, Seller must identify another Shown Unit within five (5) Business Days.

(b) Once the Shown Unit designated by Seller is approved or deemed approved in accordance with Section 2.2, then any such Shown Unit will be automatically deemed a Unit for purposes of this Confirmation for the affected Showing Month.

2.3 Seller To Provide Alternate Capacity

(a) If Seller desires to provide the Contract Quantity for any Showing Month during the Delivery Period from a different Unit other than the Shown Unit as designated in Section 2.2, then Seller may, at no additional cost to Buyer provide Buyer with Product from one (1) or more Alternate Units in an amount such that the total amount of Product provided to Buyer from the Unit and Alternate Units for the Showing Month during the Delivery Period is not more or less than the Contract Quantity for the Delivery Period.

(b) If Seller desires to provide Product from an Alternate Unit under Section 2.3(a), Seller must notify Buyer of its intent to provide Product from an Alternate Unit and identify the proposed Alternate Unit meeting the Product characteristics specified in Appendix B no later than fifteen (15) calendar days before the relevant deadlines for the submission of Compliance Showings related to the applicable Showing Month. Seller's notice under this Section 2.3(b) shall be deemed acceptable to and approved by Buyer upon receipt, unless Buyer, within one (1) Business Day of receipt of Seller's notice and in writing, notifies Seller of any objections Buyer has to the proposed Alternate Unit. If Buyer timely objects, Seller must identify another Alternate Unit within five (5) Business Days.

(c) Once the Buyer provides its approval of any proposed Alternate Unit designated by Seller in accordance with Section 2.3(b), then any such Alternate Unit will be automatically deemed a Unit for purposes of this Confirmation for the affected Showing Month.

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2.4 Delivery of Product

(a) Seller shall provide Buyer with the Contract Quantity of Product for each day during the Delivery Period consistent with the following:

(i) Seller shall, on a timely basis with respect to each applicable Showing Month, submit, or cause the Unit's SC to submit, Supply Plans in accordance with the Tariff to identify and confirm the Product provided to Buyer for each day of such Showing Month that is included in the Delivery Period so that the total amount of Product identified and confirmed for each such day of such Showing Month equals the Contract Quantity for such day of such Showing Month.

(ii) Seller will be deemed to have delivered the Product on each day to the extent that Buyer receives credit from CAISO for such day for Product identified and confirmed in the Supply Plan submitted for the Unit.

(iii) Hold-Back Capacity, if any, is deemed Contract Quantity delivered.

(b) In accordance with Sections 2.2 and 2.3 and subject to Article 8, Seller shall to the extent required by CAISO or the CPUC rules cause the information listed in Appendix C to be completed and included in all applicable Supply Plans and shall cause all Supply Plans to be filed in conformance with the requirements of the CPUC Filing Guide and the Tariff. In addition, if during the Delivery Period, there are changes to the information included in Appendix C, the Parties agree to communicate such changes to each other promptly.

2.5 Damages for Failure to Provide Capacity

If Seller fails to deliver to Buyer the Contract Quantity of Product for any day during the Delivery Period in accordance with Section 2.4 then with respect to each Showing Month, Seller shall pay to Buyer at the time set forth in Article Six of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement:

for each applicable day during the Showing Month included in the Delivery Period, in which the Buyer's Monthly Payment has been received by Seller in accordance with Section 3.1 of this Confirmation only, the amount equal to (w) the applicable Contract Price, or in the event that more than one Contract Price is specified for the same Showing Month, the weighted average of all applicable prices and Contract Quantities for that Showing Month, divided by (x) the number of days included in the Showing Month multiplied by (y) the amount of Contract Quantity not delivered by Seller on such day, multiplied by (z) 1,000 kW/MW.

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2.6 Indemnities for Failure to Deliver Contract Quantity

(a) Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or CAISO resulting from any of the following:

(i) Seller's failure to deliver any portion of the Contract Quantity of Product for any portion of the Delivery Period and such failure results in the imposition of penalties, fines or costs assessed against Buyer; or

(ii) A Unit's SC's failure to timely or accurately submit Supply Plans that identify Buyer's right to the Contract Quantity purchased hereunder for each day of the Delivery Period.

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

2.7 Buyer's Re-Sale of Product

(a) Buyer may re-sell all or a portion of the Product purchased under this Confirmation ("Resold Product"); provided that such re-sell right does not include the ability to offer any portion of Product into the CSP. If Buyer re-sells Resold Product, Seller agrees, and agrees to cause the Unit's SC, to follow Buyer's instructions with respect to providing such Resold Product to subsequent purchasers of such Resold Product to the extent such instructions are consistent with Seller's obligations under this Confirmation. Seller further agrees, and agrees to cause the Unit's SC, to take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to allow such subsequent purchasers to use such Resold Product in a manner consistent with Buyer's rights under this Confirmation. If Buyer incurs any liability to any purchaser of such Resold Product due to the failure of Seller or the Unit's SC to comply with the terms of this Confirmation, then Seller shall be liable to Buyer for any liabilities Seller would have incurred under this Confirmation if Buyer had not resold the Product, including without limitation, pursuant to Sections 2.5 and 2.6.

(b) If Buyer exercises its right to re-sell the Resold Product, Buyer shall notify Seller in writing that such sale has occurred and such notice shall include the information described in Appendix D no later than two (2) Business Days before the deadline for the Compliance Showings applicable to the relevant Showing Month. Buyer shall notify Seller of any subsequent changes or further resale of the Resold Product, and such notice shall include all updates to the information in Appendix D in accordance with the deadlines described in this Section 2.7(b).

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ARTICLE 3
PAYMENT

3.1 Monthly Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a payment (a "Monthly Payment") to Seller, for the applicable Showing Month, as follows:

$$Monthly\ Payment = Q \times P \times CF$$

where:

Q = The quantity of Product to be delivered by Seller to Buyer pursuant to and consistent with Section 2.4 for the Showing Month

P = The Contract Price for the Showing Month, expressed in dollars per kW-month

CF = The conversion factor equal to 1,000 kW per MW

The Monthly Payment calculation shall be rounded to two decimal places.

3.2 Allocation of Other Payments and Costs

(a) Seller is entitled to retain any revenues it may receive from, and shall pay all costs charged by, CAISO or any other third party with respect to the Unit for (i) start-up, shutdown, and minimum load costs, (ii) capacity revenue for ancillary services, (iii) energy sales, (iv) revenue for flexible ramping product, and (v) any revenues for black start or reactive power services. All Seller revenues described in this Section 3.2(a) and received by Buyer or a purchaser of Resold Product must be remitted to Seller and Buyer shall pay such revenues to Seller if received by Buyer or if a purchaser of Resold Product fails to remit those revenues to Seller. If Buyer fails to pay such revenues to Seller, Seller may recoup any amounts owing to it for such revenues against any future amounts it may owe to Buyer pursuant to Article Six of the Master Agreement. Seller shall indemnify, defend and hold Buyer harmless from and against all liabilities, damages, claims, losses, costs or expenses (including, without limitation, attorneys' fees) incurred by or brought against Buyer in connection with Environmental Costs.

(b) In order to verify the accuracy of such revenues, Buyer has the right, at its sole expense and during normal working hours after reasonable prior notice, to hire an independent third party reasonably acceptable to Seller to audit any documents, records or data of Seller associated with the Contract Quantity and in accordance with Section 3.1 of this Confirmation and Article Six of the Master Agreement.

(c) If CAISO or CPUC develops a centralized capacity market, Buyer will have exclusive rights to tell the Seller or the Unit's SC to offer, bid, or otherwise submit the applicable Contract Quantity of Product for each day during the Delivery Period

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provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

(d) Buyer and Seller agree that the Unit is subject to the terms of the Availability Standards, Non-Availability Charges, and Availability Incentive Payments as contemplated under Section 40.9 of the Tariff. Any Availability Incentive Payments or Non-Availability Charges are for the account, or are the responsibility of, the Seller, as applicable.

ARTICLE 4
CAISO OFFER REQUIREMENTS

Seller is responsible for, as applicable, scheduling or causing the applicable Unit's SC to schedule with, or make available to, CAISO the Product delivered to Buyer for each day during the Delivery Period in compliance with the Tariff, and performing all, or causing the Unit's SC, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the Product sold hereunder. Buyer is not liable for the failure of Seller or the failure of any Unit's SC, owner, or operator to comply with such Tariff provisions or any penalties or fines imposed on Seller or the Unit's SC (unless Seller is the SC), owner, or operator for such noncompliance.

ARTICLE 5
OTHER BUYER AND SELLER COVENANTS

5.1 Seller's and Buyer's Duty to Take Action to Allow the Utilization of the Product

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity on each day during the Delivery Period for the sole benefit of Buyer or any applicable subsequent purchaser pursuant to Section 2.7. The Parties shall agree upon reasonable changes to this Confirmation necessary to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, CAISO or other Governmental Body having jurisdiction to administer Compliance Obligations.

5.2 Representations, Warranties and Covenants

(a) Seller represents and warrants to Buyer throughout the Delivery Period that:

(i) no portion of the Contract Quantity for any day during the Delivery Period has been committed by Seller to any third party in order to satisfy Compliance Obligations or analogous obligations in any CAISO or non-CAISO markets;

(ii) the Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, and is under the control of CAISO;

(iii) each Unit's SC, owner and operator is obligated to comply with applicable laws, including the Tariff, relating to the Product;

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(iv) if Seller is the owner of the Unit, the aggregation of all amounts of Capacity Attributes that Seller has sold, assigned or transferred for the Unit for each day included in the Delivery Period does not exceed the Unit NQC and, if applicable, the Unit EFC, for that Unit; and

(v) Seller has notified either the SC of the Unit or the entity from which Seller purchased the Product of the fact that Seller has transferred the Contract Quantity for each day of the Delivery Period to Buyer.

(b) Seller represents and warrants to Buyer as of the date of the relevant Compliance Showing, that Seller owns or has the exclusive right to the Product sold under this Confirmation from the Unit;

(c) Seller covenants as follows:

(i) Seller shall, upon request, furnish Buyer, CAISO, CPUC or other applicable Governmental Body evidence that its representation made in Section 5.2(c) is true and correct; and

(ii) Seller shall not, and shall cause the Unit's SC to not, offer any portion of the Contract Quantity for any day during the Delivery Period to CAISO as CPM Capacity. However, if CAISO designates any portion of the Contract Capacity as CPM Capacity, then Seller shall, and shall cause the Unit's SC to promptly (and in any event within one (1) Business Day of the time Seller receives notification from CAISO) notify Buyer if CAISO designates any portion of the Contract Quantity for any day during the Delivery Period as CPM Capacity and, if CAISO makes such a designation, shall, and shall cause the Unit's SC to not accept any such designation by CAISO unless and until Buyer has agreed to accept such designation.

(d) Each Party covenants to the other Party throughout the Delivery Period to comply with the Tariff, relating to the Product.

ARTICLE 6
CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Seller may disclose the transfer of the Contract Quantity for each day during the Delivery Period under this Transaction to the SC of the Unit in order for such SC to timely submit accurate Supply Plans. Seller shall use reasonable efforts to limit, to the extent possible, the ability of SC to further disclose information disclosed pursuant to this Article. In addition, if Buyer resells all or any portion of the Contract Quantity for any day during the Delivery Period to another party, Buyer shall be permitted to disclose to the purchaser of the Resold Product all such information necessary to effect such resale transaction, other than the Contract Price.

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ARTICLE 7
HOLDBACK CAPACITY

No later than five (5) Business Days before the relevant deadline for the initial Compliance Showing with respect to a particular Showing Month, Buyer may request in writing that Seller not list, or cause the Unit's SC not to list, in the Unit's Supply Plan a portion or all of the Contract Quantity for any portion of such Showing Month included in the Delivery Period ("Hold-Back Capacity"). The amount of Contract Quantity that is the subject of Buyer's request for Hold-Back Capacity shall be deemed Contract Quantity delivered consistent with Section 2.4 for purposes of calculating a Monthly Payment pursuant to Section 3.1 and calculating any amounts due pursuant to Section 2.5 or 2.6. Seller shall, or shall cause the Unit's SC to, comply with Buyer's request under this Article 7.

ARTICLE 8
COLLATERAL REQUIREMENTS

8.1 Buyer Collateral Requirements

(a) Notwithstanding anything to the contrary contained in the Master Agreement, Buyer shall, within five (5) Business Days following the Confirmation Effective Date, provide to, and maintain with, Seller a Fixed Independent Amount as long as Buyer or its Guarantor, if any, does not maintain Credit Ratings of at least BBB- from S&P and Baa3 from Moody's. The "Fixed Independent Amount" shall be 20% of the sum of the Monthly Payments for all unpaid months of the Delivery Period.

(b) If the conditions in subsections (i) and (ii) of this Section 8.1(b) are satisfied throughout the Delivery Period, then this Confirmation's Fixed Independent Amount shall *not* apply for that time period during which all such conditions are satisfied:

(i) Buyer's customers are PG&E's distribution or transmission customers and PG&E is the billing agent for those customers; and

(ii) PG&E is the provider of last resort pursuant to Cal. Pub. Util. Code Section 451 et seq. and applicable law for Buyer's retail electric customers.

(c) If at any time during the Delivery Period, one or more of the conditions in subsections (i) and (ii) of Section 8.1(b) is no longer satisfied, and Seller has provided Buyer with written notice of such failure to satisfy ("Condition Notice"), then (A) Buyer shall comply with the credit requirements of Section 8.1(a), above by that date which is no later than thirty (30) calendar days following the date of the Condition Notice.

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(d) Notwithstanding anything to the contrary in Paragraph 10 to the Collateral Annex of the Master Agreement, for purposes of this Confirmation and this Transaction only, the Parties agree that the Collateral Requirement under Paragraph 3(b) of the Collateral Annex shall apply to Party A. The Parties further agree that Paragraph 3(c) of the Collateral Annex shall not apply to this Confirmation and this Transaction.

8.2 Current Mark-to-Market Value

For the purposes of calculating Exposure pursuant to the Collateral Annex, the Current Mark-to-Market Value for this Transaction is deemed to be zero. If at any time prior to the expiration of the Delivery Period, a liquid market for the Product develops wherein price quotes for such a product can be obtained, the Parties agree to amend the Confirmation to include a methodology for calculating the Current Mark-to-Market Value for this Transaction, consequently affecting each Party's Exposure.

ARTICLE 9
ADDITIONAL MASTER AGREEMENT AMENDMENTS

9.1 Declaration of an Early Termination Date and Calculation of Settlement Amounts

The Parties shall determine the Settlement Amount for this Transaction in accordance with Section 5.2 of the Master Agreement using the defined terms contained in this Confirmation and with respect to this Transaction only, the following language is to be added at the end of Section 5.2 of the Master Agreement:

> "If Buyer is the Non-Defaulting Party and Buyer reasonably expects to incur or be liable for any penalties, fines or costs from the CPUC, CAISO, or any Governmental Body having jurisdiction, because Buyer or a purchaser of Resold Product is not able to include the applicable Contract Quantity in any applicable Compliance Showing due to Seller's Event of Default, then Buyer may, in good faith, estimate the amount of those penalties, fines or costs and include this estimate in its determination of the Termination Payment, subject to accounting to Seller when those penalties, fines or costs are finally ascertained. If this accounting establishes that Buyer's estimate exceeds the actual amount of penalties, fines or costs, Buyer shall promptly remit to Seller the excess amount. The rights and obligations with respect to determining and paying any Termination Payment, and any dispute resolution provisions with respect thereto, survive the termination of this Transaction and continue until after those penalties, fines or costs are finally ascertained."

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ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

CITY OF SAN JOSE, a California municipality	**PACIFIC GAS AND ELECTRIC COMPANY, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions**
By:	By:
Name: Lori Mitchell	Name: Kimberly Chang
Title: Director	Title: manager
Date: 10/30/2019	Date: 10/30/2018

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APPENDIX A
DEFINED TERMS

For purposes of this Confirmation, the following terms have the following meanings:

"Advice Letter" means (1) an informal request by a CPUC jurisdictional entity for Commission approval, authorization, or other relief, including an informal request for approval to furnish service under rates, charges, terms or conditions other than those contained in the utility's tariffs then in effect, and (2) a compliance filing by a load-serving entity pursuant to Public Utilities Code Section 380.

"Alternate Unit" means a generating unit designated by the Parties in accordance with Section 2.3 and which includes the Product characteristics, if any, as set forth in Appendix B.

"CAISO" means the California Independent System Operator Corporation or any successor entity performing substantially the same functions.

"Capacity Attributes" means, with respect to a generating unit, any and all of the following, in each case which are attributed to or associated with the generating unit at any time throughout the Delivery Period:

(a) Resource Adequacy Capacity attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward RAR;

(b) Resource Adequacy Capacity attributes or other locational attributes of the generating unit related to a Local Capacity Area, as may be identified from time to time by the CPUC, CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the generating unit within the CAISO Control Area, that can be counted toward a Local RAR; and

(c) other current or future defined characteristics, certificates, tags, credits, or accounting constructs of the generating unit, howsoever entitled, including any accounting construct counted toward any Compliance Obligations;

provided that, notwithstanding the foregoing, Capacity Attributes exclude all certificates, tags, credits, or accounting constructs that are not counted toward any Compliance Obligations, howsoever entitled associated with the generating unit, as such characteristics, certificates, tags, credits, or accounting constructs are described in the CPUC Decisions and Tariff.

"Capacity Procurement Mechanism" has the meaning set forth in the Tariff.

"Competitive Solicitation Process" or "CSP" has the meaning set forth in the Tariff.

"Compliance Obligations" means the RAR and Local RAR, and if applicable FCR.

"Compliance Showings" means the (a) Local RAR compliance or advisory showings (or similar or successor showings), (b) RAR compliance or advisory showings (or similar or successor

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showings), and (c) if applicable, FCR compliance or advisory showings (or similar or successor showings), in each case, an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to CAISO) pursuant to the CPUC Decisions, to CAISO pursuant to the Tariff, or to any Governmental Body having jurisdiction.

"Confirmation" is defined in the introductory paragraph of this Confirmation.

"Confirmation Effective Date" is defined in the introductory paragraph of this Confirmation.

"Contract Price" means, for any period during the Delivery Period, the price, expressed in dollars per kW-month, specified for such period set forth in the Contract Price Table in Appendix B.

"Contract Quantity" means, with respect to any day during the Delivery Period, the amount of Product, expressed in MW, set forth in the Contract Quantity table in Appendix B for such day.

"CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-04-040, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-01-063, 15-06-063, 16-06-045, 17-06-027, and any other existing or subsequent decisions, resolutions, or rulings related to resource adequacy, including, without limitation, the CPUC Filing Guide, in each case as may be amended from time to time by the CPUC.

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

"Delivery Period" is defined in Article 1.

"Emission Reduction Credits" or "ERC(s)" means emission reductions that have been authorized by a local air pollution control district pursuant to California Division 26 Air Resources; Health and Safety Code Sections 40709 and 40709.5, whereby such district has established a system by which all reductions in the emission of air contaminants that are to be used to offset certain future increases in the emission of air contaminants shall be banked prior to use to offset future increases in emissions.

"Environmental Costs" means costs incurred in connection with acquiring and maintaining all environmental permits and licenses for the Product, and the Product's compliance with all applicable environmental laws, rules and regulations, including capital costs for pollution mitigation or installation of emissions control equipment required to permit or license the Product, all operating and maintenance costs for operation of pollution mitigation or control equipment, costs of permit maintenance fees and emission fees as applicable, and the costs of all Emission Reduction Credits or Marketable Emission Trading Credits (including any costs related to greenhouse gas emissions) required by any applicable environmental laws, rules, regulations, and permits to operate, and costs associated with the disposal and clean-up of hazardous substances introduced to the site, and the decontamination or remediation, on or off the site, necessitated by the introduction of such hazardous substances on the site.

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"FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by a Local Regulatory Authority or other Governmental Body having jurisdiction.

"FCR Attributes" means, with respect to a generating unit, any and all resource adequacy attributes of the generating unit, as may be identified from time to time by the CPUC, CAISO, or other Governmental Body having jurisdiction, that can be counted toward an LSE's FCR.

"FCR Contract Quantity" means, with respect to a day included in the Delivery Period, the amount of FCR Attributes, expressed in MW, equal to the Contract Quantity for such day.

"Governmental Body" means any federal, state, local, municipal or other government; any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and any court or governmental tribunal. This definition does not include "market participants" as defined in the CAISO's Business Practice Manual for Definitions and Acronyms as published on the CAISO website.

"Hold-Back Capacity" is defined in Article 7.

"Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, or local capacity requirement in other regulatory proceedings or legislative actions.

"LSE" means "Load Serving Entity" as such term is defined in the Tariff.

"Marketable Emission Trading Credits" means without limitation, emissions trading credits or units pursuant to the requirements of California Division 26 Air Resources; Health & Safety Code Section 39616 and Section 40440.2 for market based incentive programs such as the South Coast Air Quality Management District's Regional Clean Air Incentives Market, also known as RECLAIM, and allowances of sulfur dioxide trading credits as required under Title IV of the Federal Clean Air Act (see 42 U.S.C. § 7651b.(a) to (f)).

"Master Agreement" is defined in the introductory paragraph of this Confirmation.

"Monthly Payment" is defined in Section 3.1.

"MW" means megawatt.

"Procurement Review Group" has the meaning set forth in CPUC Decision D. 02-08-071.

"Product" is defined in Article 1.

"RAR" means the resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

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"Resold Product" is defined in Section 2.7.

"Resource Adequacy Capacity" has the meaning set forth in the Tariff.

"RMR Contract" means a Reliability Must-Run Contract as forth in the Tariff.

"Showing Month" means the calendar month that is the subject of the related Compliance Showing, as set forth in the CPUC Decisions and outlined in the Tariff. For illustrative purposes only, pursuant to the Tariff and CPUC Decisions in effect as of the Confirmation Effective Date, the monthly Compliance Showing made in June is for the Showing Month of August.

"Shown Unit" means a Unit specified by Seller in a Supply Plan, but not necessarily identified by Seller to Buyer on the Confirmation Effective Date.

"Supply Plan" has the meaning set forth in the Tariff.

"System RAR" means the system resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, by CAISO pursuant to the Tariff, or by any other Governmental Body having jurisdiction.

"Tariff" means the Fifth Replacement FERC Electric Tariff and the associated CAISO protocol provisions, including any current CAISO-published "Operating Procedures" and "Business Practice Manuals," in each case as amended or supplemented from time to time.

"Unit" means the generation unit described in Appendix B and any Alternate Unit or Shown Unit.

"Unit EFC" means, with respect to a Unit on any date of determination, the lesser of the Effective Flexible Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

"Unit NQC" means, with respect to a Unit on any date of determination, the lesser of Net Qualifying Capacity of the Unit as set by CAISO as of (x) the Confirmation Effective Date and (y) such date of determination.

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APPENDIX B-1
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

System or Local:	☐ System RAR	☒ Local RAR
Product Attributes:	☐ RAR only (default) ☐ RAR and FCR	☒ Local RAR and RAR only (default) ☐ Local RAR, RAR and FCR
CAISO Zone: (as defined by the CPUC Filing Guide)	☐ North System ☐ South System	☒ Greater Bay Area ☐ Other PG&E Local Areas ☐ Big Creek/Ventura ☐ LA Basin ☐ San Diego-IV
MCC Bucket: (as described in the CPUC Filing Guide)		**4**
Flexible Category (if Applicable): (as described in the CPUC Filing Guide)		**Not Applicable**

Contract Quantity and Contract Price:

Showing Month and Year	Quantity (MW)	Contract Price ($/kW-mo)
MARCH 2019	12.0	$3.51
APRIL 2019	12.0	$3.51
AUGUST 2019	9.0	$6.67

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APPENDIX B-2
PRODUCT AND PRICE INFORMATION

Product means Capacity Attributes with the following characteristics.

System or Local:	☐ System RAR	☒ Local RAR
Product Attributes:	☐ RAR only (default) ☐ RAR and FCR	☒ Local RAR and RAR only (default) ☐ Local RAR, RAR and FCR
CAISO Zone: (as defined by the CPUC Filing Guide)	☐ North System ☐ South System	☐ Greater Bay Area ☒ Other PG&E Local Areas ☐ Big Creek/Ventura ☐ LA Basin ☐ San Diego-IV
MCC Bucket: (as described in the CPUC Filing Guide)		**4**
Flexible Category (if Applicable): (as described in the CPUC Filing Guide)		**Not Applicable**

Contract Quantity and Contract Price:

Showing Month and Year	Quantity (MW)	Contract Price ($/kW-mo)
JANUARY 2019	152.9	3.01
MARCH 2019	10.2	3.51
APRIL 2019	10.2	3.51
AUGUST 2019	7.0	6.67

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APPENDIX C
SUPPLY PLAN INFORMATION

Resource Capacity Contract Number	Resource ID in CAISO Master File	RA Capacity (MW 00.00 No Rounding)	RA Capacity Effective Start Date	RA Capacity Effective End Date	SCID of Load Serving Entity
			[mm/dd/yyyy hh:mm:ss]	[mm/dd/yyyy hh:mm:ss]	

Seller will provide the Unit Information in accordance with Section 2.2.

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APPENDIX D
SUBSEQUENT SALE INFORMATION

Contract Key ID:	
Benefitting LSE SCID:	
Generic Volume (in MW):	
Local Volume (in MW):	
Flexible Volume (in MW):	
Term:	

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APPENDIX E
NOTICE INFORMATION

Name: City of San José, a California municipality ("Buyer" or "Party A")	Name: Pacific Gas and Electric Company, a California corporation, limited for all purposes hereunder to its Electric Procurement and Electric Fuels Functions ("Seller" or "Party B")
All Notices:	All Notices:
Delivery Address: Street: 200 E. Santa Clara Street, Tower 14 City: San José State: CA Zip: 95113	Delivery Address: 77 Beale Street, Mail Code N12E San Francisco, CA 94105-1702
Mail Address: (if different from above)	Mail Address: P.O. Box 770000, Mail Code N12E San Francisco, CA 94177
Attn: Jeanne Solé (email) Jeanne.sole@sanjoseca.gov Phone: 408-535-4867	Attn: Candice Chan (CWW9@pge.com) Director, Contract Mgmt & Settlements Phone: (415) 973-7780
Invoices and Payments: Attn: Sarah Sanchez (email) Sarah.Sanchez@sanjoseca.gov Phone: 408-535-4865	**Invoices and Payments:** Attn: Tom Girlich (TAGG@pge.com) Manager, Electric Settlements Phone: (415) 973-9381
Scheduling: Attn: Attention: NCPA Pre-Scheduling Desk (email) preschedulers@ncpa.com Phone: 916-781-4227 or 916-781-4290 Alternative: NCPA Scheduling Coordination Desk Email: ScheduleCoordinators@ncpa.com Phone: 916-781-4237 or 916-781-4280	**Outages:** Attn: Outage Coordinator (ESMOutageCoordinator@pge.com; RATransactionNotificationList@pge.com) Phone: (415) 973-1721
Wire Transfer: BNK: Wells Fargo Bank ACCT Title: ABA: 121000248 ACCT: 4121893267 DUNS: 06-354-1874 Federal Tax ID Number: 94-6000419	**Wire Transfer:** BNK: The Bank of NY Mellon ACC Title: PG&E ABA: 011001234 ACCT: 059994 DUNS: 556650034 Federal Tax ID Number: 94-0742640
Credit and Collections: Attn: Sarah Sanchez (email) Sarah.Sanchez@sanjoseca.gov Phone: 408-535-4865	**Credit and Collections:** Attn: Credit Risk Management (PGERiskCredit@pge.com) Phone: (415) 972-5188
Contract Management Attn: Jeanne Solé (email) Jeanne.sole@sanjoseca.gov Phone: 408-535-4867 Contract Management (Alternative) Name: Tony Zimmer (NCPA) Email: tony.zimmer@ncpa.com Phone: 916-781-4229	**Contract Management** Attn: Elizabeth Motley (EMMG@pge.com) Contract Management Phone: (415) 973-2368

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With additional Notices of an Event of Default to Contract Manager:
Attn: Jeanne Solé
(email) Jeanne.sole@sanjoseca.gov
Phone: 408-535-4867

Name: City of San José, a California municipality ("Buyer")

With additional Notices of an Event of Default to Contract Manager:
Attn: Ted Yura (THY1@pge.com)
Senior Manager, Contract Management
Phone: (415) 973-8660

Supply Plan and Replacement Request:
EPP-RAFilingsMailbox@pge.com

EXHIBIT: SJCE #64
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé /PG&E EEI Giles
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

PG&E EEI Giles

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

COPY

EXECUTION VERSION

City of San Jose
Office of the City Clerk

FEB 2 6 2019

■ ACCEPTED
□ REJECTED

EEI MASTER POWER PURCHASE AND SALE AGREEMENT
SHORT TERM SALES CONFIRMATION
BETWEEN
PACIFIC GAS AND ELECTRIC COMPANY
AND
CITY OF SAN JOSÉ

This confirmation ("Confirmation") confirms the transaction ("Transaction") between Pacific Gas and Electric Company, a California corporation but limited for all purposes hereunder to its electric procurement and electric fuels functions ("Seller", or "Party B"), and City of San José, a California municipality ("Buyer" or "Party A"), each individually a "Party" and together the "Parties", effective as of the Execution Date, for the sale and purchase of the Product defined herein.

Except as otherwise expressly stated herein, this Confirmation is subject to, and incorporates by reference with the same force and effect as if set forth herein, all of the terms and provisions of the Parties' EEI Master Power Purchase and Sale Agreement, together with the Cover Sheet and the amendments and annexes thereto, dated as of 09/14/2018 (collectively, "Master Agreement"), and the corresponding Collateral Annex and Paragraph 10 to the Collateral Annex thereto. Such Collateral Annex and Paragraph 10 to the Collateral Annex shall be referred to collectively herein as the "Collateral Annex". The Master Agreement and the Collateral Annex shall be referred to collectively herein as the "EEI Agreement". The EEI Agreement and this Confirmation shall be referred to collectively herein as the "Agreement."

Capitalized terms used but not defined in this Confirmation shall have the meanings ascribed to them in the EEI Agreement, the RPS (defined herein), or the Tariff (defined herein). If there is a conflict between the terms in this Confirmation and those in the EEI Agreement, this Confirmation shall control.

[Standard contract terms and conditions shown in shaded text are those that "may not be modified" per CPUC Decisions ("D.") 07-11-025, D.10-03-021, as modified by D.11-01-025, and D.13-11-024.]

Seller: Pacific Gas and Electric Company, limited for all purposes hereunder to its electric procurement and electric fuels functions		**Buyer:** City of San José, a California municipality
Contact Information:	**Name:** Pacific Gas and Electric Company, limited for all purposes hereunder to its electric procurement and electric fuels functions("Seller", or "Party B")	**Name:** City of San José ("Buyer" or "Party A")
	All Notices: P.O. Box 770000, Mail Code N12E San Francisco, CA 94177 Attn: Candice Chan Director, Energy Contract Management & Settlements Phone: (415) 973-7780 E-mail: CWW9@pge.com	**All Notices:** 200 E. Santa Clara Street, 14th floor San José, CA 95113 Attn: Jeanne Solé, Deputy Director of Power Resources Phone: (408) 535-4867 Email: Jeanne.Sole@sanjoseca.gov

	Invoices: Attn: Amol Patel Senior Manager, Electric Settlements Phone: (415) 973-6510 Email: AXPX@pge.com	**Invoices:** Attn: Sarah Sanchez Phone: (408) 535-4865 Email: sarah.sanchez@sanjoseca.gov
	Scheduling: Attn: Day-Ahead Scheduling Phone: (415) 973-6222 Email: DAEnergy@pge.com	**Scheduling:** Attn: NCPA Pre-Scheduling Desk Phone: (916) 781-4227 or (916) 781-4290 Email: Preschedulers@ncpa.com Alternative: Attn: NCPA Scheduling Coordination Desk Phone: (916) 781-4237 or (916) 781-4280 Email: ScheduleCoordinators@ncpa.com
	Payments: Attn: Amol Patel Senior Manager, Electric Settlements Phone: (415) 973-6510 Email: AXPX@pge.com	**Payments:** Attn: Sarah Sanchez Phone: (408) 535-4865 Email: sarah.sanchez@sanjoseca.gov
	Wire Transfer: BNK: ABA: ACCT: Duns: Federal Tax ID Number:	**Wire Transfer:** BNK: ABA: ACCT: Duns: Federal Tax ID Number:
	Credit and Collections: **Credit and Collections:** Attn: Manager, Credit Risk Management Phone: (415) 972-5188 Email: PGERiskCredit@pge.com	**Credit and Collections:** **Credit and Collections:** Attn: Sarah Sanchez Phone: (408) 535-4865 Email: sarah.sanchez@sanjoseca.gov **Collateral:** Attn: Sarah Sanchez Phone: (408) 535-4865 Email: sarah.sanchez@sanjoseca.gov

	Defaults: With additional Notices of an Event of Default or Potential Event of Default to: Pacific Gas and Electric Company 77 Beale Street, Mail Code B30A San Francisco, CA 94105 Attn: Legal Department **Contract Manager:** Attn: Ted Yura Senior Manager, Contract Management Phone: (415) 973-8660 Email: THY1@pge.com	**Defaults:** With additional Notices of an Event of Default or Potential Event of Default to: Troutman Sanders LLP 100 SW Main St. Ste. 1000 Portland, OR 97204 Attn: Stephen Hall Phone: (503) 290-2336 Email: steve.hall@troutman.com **Contract Manager:** Attn: Jeanne Solé, Deputy Director of Power Resources Phone: (408) 535-4867 Email: Jeanne.Sole@sanjoseca.gov

ARTICLE 1
COMMERCIAL TERMS

Seller: PACIFIC GAS AND ELECTRIC COMPANY	**Buyer: CITY OF SAN JOSÉ, a California municipality, by its duly authorized officers**
Product:	The Product shall consist of Electric Energy and associated Green Attributes from the Project, as further described and subject to the provisions herein.
Project:	All Product sold hereunder shall be generated by the facility or facilities ("Project") listed in Appendix A to this Confirmation or identified pursuant to Section 8.2 herein. Seller shall have sole discretion throughout the Term to designate and re-designate, as applicable, the Project by selecting one or more of the facilities from Appendix A or pursuant to Section 8.2 herein. Buyer shall not be entitled to, and shall not receive, any amount of Green Attributes produced by the Project that is in excess of the Total Quantity. Buyer shall not be entitled to, and shall not receive, any amount of Electric Energy produced by the Project that is in excess of the Energy Quantity.
Quantity:	(a) For Green Attributes: "Total Quantity", with respect to an applicable year shall be equal to those volumes of Green Attributes specified for that applicable year in the Delivery Term Quantity Schedule set forth below and shall be conveyed during the Green Attributes Delivery Period to Buyer as provided herein. (b) For Electric Energy: "Energy Quantity", with respect to an applicable year shall be equal to those volumes of Electric Energy specified for that applicable year in the Delivery Term Quantity Schedule set forth below and shall be delivered during the Energy Delivery Period to Buyer as provided herein. **Delivery Term Quantity Schedule** **Year** | **Green Attributes (MWh)** | **Electric Energy (MWh)**

	[redacted]
Energy Price:	[redacted]
Green Attributes Price:	The Green Attributes Price shall mean with respect to an applicable year, that price in dollars for each MWh of Green Attributes conveyed to Buyer under this Agreement, as specified in the table below. **Year** / **Green Attributes Price ($)** [redacted]
Term of Transaction:	Except as otherwise provided herein, the term of the Transaction shall commence upon the Execution Date and shall continue until the end of the Delivery Term and the satisfaction of all other obligations of the Parties under this Agreement ("Term"). This Confirmation, and the Transaction and Term hereunder, shall terminate early in the event of a failure to satisfy the Green Attributes Condition Precedent defined below or as otherwise provided in the Agreement. Termination because of a failure to satisfy the Green Attributes Condition Precedent shall terminate all of the Parties' obligations under the Confirmation as of the Transaction Termination Date as provided in Section 4.2, except for the Parties' confidentiality obligations under Article 9 herein.
Credit Requirements:	(a) This Confirmation's credit requirements for the Electric Energy portion of the Product shall be governed by the EEI Agreement. (b) Subject to Section (c) below, this Confirmation's credit requirements for the Green Attributes portion of the Product shall apply as specified below: The Exposure Amount for the Green Attributes portion of the Product shall be equal to the product of the following: (I) fifteen percent (15%), multiplied by (II) the volume of the undelivered Green Attributes, multiplied by (III) the Green Attributes Price. (c) Notwithstanding anything to the contrary contained in the EEI Agreement, if the conditions in subsections (i) and (ii) of this Section (c) are satisfied during the Term, then this Confirmation's credit requirements for the Green Attributes portion of the Product under Section (b) above shall *not* apply for that time period during which all such conditions are satisfied: (i) Buyer's customers are Pacific Gas and Electric Company's distribution or transmission customers and Pacific Gas and Electric Company is the billing agent for those customers; and (ii) Pacific Gas and Electric Company is the provider of last resort pursuant to Cal. Pub. Util. Code Section 451 et seq. and applicable law for Buyer's retail electric customers. If at any time during the Term, one or more of the conditions in subsections (i) and (ii) in this Section (c) is no longer satisfied and Seller has provided Buyer with written notice of such failure to satisfy ("Condition Notice"), then Buyer shall comply with the credit requirements of Section (b) above by that date which is no later than thirty (30) calendar days following the date of the Condition Notice.

Delivery Term:	The "Delivery Term" shall consist of both the Energy Delivery Period and the Green Attributes Delivery Period.
Energy Delivery Period:	Subject to the satisfaction, or waiver in writing by both Parties, of the Green Attributes Condition Precedent, the "Energy Delivery Period" shall (1) commence as of the later of [redacted] amount of Electric Energy delivered by Seller satisfies the Energy Quantity.
Green Attributes Delivery Period:	Subject to the satisfaction, or waiver in writing by both Parties, of the Green Attributes Condition Precedent, the "Green Attributes Delivery Period" shall commence on the first day that Seller conveys Green Attributes to Buyer and shall end on that date upon which the amount of Green Attributes conveyed to Buyer satisfies the Total Quantity. Seller shall convey Green Attributes to Buyer in the form of WREGIS Certificates. Seller shall transfer WREGIS Certificates into Buyer's WREGIS account in an amount required to satisfy the Total Quantity.
Delivery Point:	The "Delivery Point" shall be any of the following as selected by Seller in its discretion: NP15, SP15, and/or ZP26. Buyer shall take possession of Electric Energy from the Project at the applicable Delivery Point selected by Seller
Scheduling Obligations:	Seller, or a qualified third party designated by Seller, shall act as Scheduling Coordinator for the Project. Buyer hereby authorizes Seller, or its third party Scheduling Coordinator designee, to deliver the Electric Energy to the CAISO at the Delivery Point as an agent on Buyer's behalf.
Condition Precedent to the Green Attributes Obligations:	Notwithstanding any other provision of this Confirmation to the contrary, all of the Parties' obligations except for the Parties' confidentiality obligations under Article 9 herein, are conditioned upon Seller's receipt, or the Parties' written waiver, of CPUC Approval as defined below ("Green Attributes Condition Precedent").

ARTICLE 2
DEFINITIONS

2.1 "Balancing Authority" has the meaning set forth in the CAISO Tariff.

2.2 "Balancing Authority Area" has the meaning set forth in the CAISO Tariff.

2.3 "Broker or Index Quotes" means quotations solicited or obtained in good faith from (a) regularly published and widely-distributed daily forward price assessments from a broker that is not an Affiliate of either Party and who is actively participating in markets for the relevant Products or (b) end-of-day prices for the relevant Products published by exchanges which transact in the relevant markets.

2.4 "Business Day" means all calendar days other than those days on which the Federal Reserve member banks in New York City are authorized or required by law to be closed, and shall be between the hours of 8:00 a.m. and 5:00 p.m. Pacific Prevailing Time for the relevant Party's principal place of business where the relevant Party, in each instance unless otherwise specified, shall be the Party

from whom the Notice, payment or delivery is being sent and by whom the Notice or payment or delivery is to be received.

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

2.6 "CAISO Grid" has the same meaning as "CAISO Controlled Grid" as defined in the CAISO Tariff.

2.7 "California Renewables Portfolio Standard" or "RPS" means the renewable energy program and policies established by California State Senate Bills 1078, X1 - 2 and 350, codified in California Public Utilities Code Sections 399.11 through 399.32 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

2.8 "CARB" means the California Air Resources Board or its successor agency.

2.9 "CEC" means the California Energy Commission or its successor agency.

2.10 "Contract Price" means the Energy Price plus the Green Attributes Price.

2.11 "CPUC" means the California Public Utilities Commission or its successor entity.

2.12 "CPUC Approval" means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:

(a) approves this Agreement in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer's administration of the Agreement; and

(b) finds that any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 *et seq.*), Decision 03-06-071, or other applicable law.

CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable.

For the purpose of this Section 2.12, a CPUC Energy Division disposition which contains such findings, or deems approved an advice letter requesting such findings, shall be deemed to satisfy the CPUC decision requirement set forth above.

Also, for the purpose of this Section 2.12 only, the references therein to "Buyer" shall mean "Seller".

2.13 "Credit Rating" means, with respect to any entity, (a) the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements), or (b) if such entity does not have a rating for its unsecured, senior long-term debt obligations, then the rating assigned to such entity as an issuer rating by S&P and/or Moody's. If the entity is rated by both S&P and Moody's and such ratings are not equivalent, the lower of the two ratings shall determine the

Credit Rating. If the entity is rated by either S&P or Moody's, but not both, then the available rating shall determine the Credit Rating.

2.14 "Delivered Energy" means the Electric Energy from the Project that is delivered by Seller to Buyer at the Delivery Point.

2.15 "Electric Energy" means three-phase, 60-cycle alternating current electric energy measured in MWh and net of auxiliary loads and station electrical uses (unless otherwise specified).

2.16 "Eligible Renewable Energy Resource" or "ERR" has the meaning set forth in California Public Utilities Code Section 399.12 and California Public Resources Code Section 25741, as either code provision is amended or supplemented from time to time.

2.17 "Execution Date" means the latest signature date found on the signature page of this Agreement.

2.18 "Force Majeure" means an event or circumstance which prevents one Party from performing its obligations under this Agreement, which event or circumstance was not anticipated as of the Execution Date, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (a) the loss of Buyer's markets; (b) Buyer's inability economically to use or resell the Product purchased hereunder; (c) the loss or failure of Seller's supply unless caused by a force majeure event at the Project; or (d) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's tariff; provided, however, that existence of the two foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred.

2.19 "Governmental Authority" means any federal, state, local or municipal government, governmental department, commission, board, bureau, agency, or instrumentality, or any judicial, regulatory or administrative body, having jurisdiction as to the matter in question.

2.20 "Green Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (a) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (b) 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[1]; (c) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state Law, if applicable,

[1] Avoided emissions may or may not have any value for GHG compliance purposes. Although avoided emissions are included in the list of Green Attributes, this inclusion does not create any right to use those avoided emissions to comply with any GHG regulatory program.

and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local Law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Electric Energy. Green Attributes do not include (i) any Electric Energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. If the Project is a biomass or biogas facility and Seller receives any tradable Green Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Green Attributes to ensure that there are zero net emissions associated with the production of electricity from the Project.

2.21 "Index Price" means the Trading Hub price (as defined in the CAISO Tariff) associated with the Delivered Energy to the Delivery Point for each applicable hour as published by the CAISO on the CAISO website or any successor thereto, unless a substitute publication and/or index is mutually agreed to by the Parties.

2.22 "Law" means any statute, law, treaty, rule, regulation, CEC guidance document, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, including any of the foregoing that are enacted, amended, or issued after the Execution Date, and which becomes effective after the Execution Date; or any binding interpretation of the foregoing. For the purposes of the definition of "CPUC Approval" in Section 2.12 and Sections 6.1(a), 6.1(b) and 8.3(b) in this Confirmation, the term "law" shall have the meaning set forth in this definition.

2.23 "Letter of Credit" means an irrevocable, non-transferable, standby letter of credit the form of which shall be substantially as contained in Appendix B to this Agreement; provided that, if the issuer is a U.S. branch of a foreign commercial bank, the intended beneficiary may require changes to such form; and the issuer must be a Qualified Institution on the date of delivery of the Letter of Credit to the Secured Party. In case of a conflict of this definition with any other definition of "Letter of Credit" contained in the EEI Agreement or any exhibit or annex thereto, this definition shall supersede any such other definition for purposes of the Transaction to which this Agreement applies.

2.24 "Market Quotation Average Price" means the arithmetic mean of the quotations solicited in good faith from not less than three (3) Reference Market-Makers (as hereinafter defined); provided, however, that the Party obtaining the quotes shall use reasonable efforts to obtain good faith quotations from at least five (5) Reference Market-Makers and, if at least five (5) such quotations are obtained, the Market Quotation Average Price shall be determined by disregarding the highest and lowest quotations and taking the arithmetic mean of the remaining quotations. The quotations shall be based on the offers to sell or bids to buy, as applicable, obtained for transactions substantially similar to each Terminated Transaction. The quote must be obtained assuming that the Party obtaining the quote will provide sufficient credit support for the proposed transaction. Each quotation shall be obtained, to the extent reasonably practicable, as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the Party obtaining the quotations and in accordance with the Notice provided pursuant to Section 5.2 of the EEI Agreement, which designates the

Early Termination Date. If fewer than three quotations are obtained, it will be deemed that the Market Quotations Average Price in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined. For purposes of this Section 2.24, "Reference Market-Maker" means a leading dealer in the relevant market selected by a Party determining its exposure in good faith from among dealers of the highest credit standing which satisfy all the criteria that such Party applies generally at the time in deciding whether to offer or to make an extension of credit.

2.25 "Notice" means written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail). The contacts table of this Confirmation contains the names and addresses to be used for Notices.

2.26 "Qualified Institution" means either a U.S. commercial bank, or a U.S. branch of a foreign bank acceptable to the Beneficiary Party in its sole discretion; and in each case such bank must (i) have a Credit Rating of at least: (a) "A-, with a stable designation" from S&P and "A3, with a stable designation" from Moody's, if such bank is rated by both S&P and Moody's; or (b) "A-, with a stable designation" from S&P or "A3, with a stable designation" from Moody's, if such bank is rated by either S&P or Moody's, but not both, even if such bank was rated by both S&P and Moody's as of the date of issuance of the Letter of Credit but ceases to be rated by either, but not both of those ratings agencies, and (ii) have assets of at least $10 billion US Dollars.

2.27 "Real-Time Market" has the meaning set forth in the Tariff and shall include any market that CAISO may establish prior to or during the Term that clears at an interval between the Day-Ahead Market and the Real-Time Market.

2.28 "Renewable Energy Credit" or "REC" has the meaning set forth in California Public Utilities Code Section 399.12(h) and CPUC Decision 08-08-028, as may be amended from time to time or as further defined or supplemented by Law.

2.29 "Replacement Price" means the price at which Buyer, acting in a commercially reasonable manner, purchases for delivery at the Delivery Point a replacement for any Product specified in a Transaction but not delivered by Seller, plus (a) costs reasonably incurred by Buyer in purchasing such substitute Product and (b) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or absent a purchase, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller's liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

2.30 "Sales Price" means the price at which Seller, acting in a commercially reasonable manner, resells any Product not received by Buyer, deducting from such proceeds any (a) costs reasonably incurred by Seller in reselling such Product and (b) additional transmission charges, if any, reasonably incurred by Seller in delivering such Product to the third party purchasers, or absent a sale, the market price at the Delivery Point for such Product not received as determined by Seller in a commercially reasonable manner; provided, further, that in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Seller be required to utilize or change its utilization of its owned or controlled assets, including contractual assets, or market positions to minimize Buyer's liability. For purposes of this definition, Seller shall be considered to have resold such Product to the extent Seller shall have entered into one or more arrangements in a commercially reasonable manner

whereby Seller repurchases its obligation to purchase and receive the Product from another party at the Delivery Point.

2.31 "Tariff" means the CAISO Fifth Replacement FERC Electric Tariff and protocol provisions, including any CAISO-published procedures or business practice manuals, as they may be amended, supplemented or replaced (in whole or in part) from time to time.

2.32 "Transactions" as used in the EEI Agreement shall mean the "Transaction" as defined in the preamble above.

2.33 "WREGIS" means the Western Renewable Energy Generation Information System or any successor renewable energy tracking program.

2.34 "WREGIS Certificate" 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.

2.35 "WREGIS Operating Rules" means the operating rules and requirements adopted by WREGIS.

ARTICLE 3
CONVEYANCE OF ELECTRIC ENERGY AND GREEN ATTRIBUTES

3.1 Seller's Delivery of Electric Energy.

Subject to the terms and conditions of this Agreement, beginning on the first day of the Energy Delivery Period and continuing until the last day of the Energy Delivery Period, Seller shall deliver and sell, and Buyer shall purchase and receive, the Delivered Energy.

3.2 Seller's Conveyance of Green Attributes.

(a) Green Attributes. Subject to the terms and conditions of this Agreement, beginning on the first day of the Green Attributes Delivery Period and continuing until the last day of the Green Attributes Delivery Period, Seller shall convey and sell, and Buyer shall purchase and receive, those Green Attributes associated with the Delivered Energy.

(i) Seller represents and warrants that Seller holds the rights to such Green Attributes from the Project and Seller agrees to convey such Green Attributes to Buyer as included in the delivery of the Product from the Project subject to the terms and conditions of this Agreement.

(ii) As set forth above, Seller shall convey only that amount of Green Attributes required to meet the Total Quantity and shall do so only during the Green Attributes Delivery Period.

(b) The Green Attributes in the amount of the Total Quantity shall be deemed to be conveyed to and received by Buyer under this Confirmation as set forth herein. During the Green Attributes Delivery Period, Seller shall convey to Buyer the Green Attributes associated with the Delivered Energy within the later of: (A) twenty-five (25) Business Days following the occurrence of both (I) the deposit into Seller's WREGIS account of the WREGIS Certificates for the Green Attributes for the applicable Calculation Period and (II) Buyer's payment of the Monthly Cash Settlement Amount in accordance with Article 5 herein; and (B) twenty-five (25) Business Days following the satisfaction, or written waiver by

both Parties, of the Green Attributes Condition Precedent. Seller shall transfer such WREGIS Certificates in an amount equivalent to the Total Quantity to Buyer's WREGIS account such that all right, title and interest in and to the WREGIS Certificates shall transfer from Seller to Buyer.

ARTICLE 4
CPUC FILING AND APPROVAL

4.1 Filing for CPUC Approval.

Within sixty (60) days after the Execution Date, Seller shall file with the CPUC a request for CPUC Approval. Buyer shall use commercially reasonable efforts to support Seller in obtaining CPUC Approval. Seller shall have no obligation to seek rehearing or to appeal a CPUC decision which fails to approve this Confirmation or which contains findings required for CPUC Approval with conditions or modifications unacceptable to either Party. Notwithstanding anything to the contrary in the Confirmation, Seller shall not have any obligation or liability to Buyer or any third party for any action or inaction of the CPUC or other Governmental Authority affecting the approval or status of this Confirmation as a transaction eligible for portfolio content category 1, as defined in California Public Utilities Code Section 399.16(b)(1).

4.2 Termination Right and Transaction Termination Date.

In the event that: (a) the CPUC issues a final and non-appealable order not approving this Agreement in its entirety, (b) the CPUC issues a final and non-appealable order which contains conditions or modifications unacceptable to either Party, or (c) approval by the CPUC has not been received by Seller on or before sixty (60) days from the date on which Seller files for CPUC Approval, then either Party may, in its sole discretion, elect to terminate this Agreement upon Notice to the other Party provided in accordance with Article 10.7 of the EEI Agreement. Such Notice shall become effective one (1) Business Day after its provision. The effective date of the Notice shall constitute the "Transaction Termination Date". Any termination elected and noticed in accordance with this Section 4.2 shall terminate all of the Parties' rights and obligations under the Agreement as of the Transaction Termination Date, except for the Parties' confidentiality obligations under Article 9 herein.

4.3 Effect of Termination.

Any termination properly exercised by a Party under Section 4.2 shall be without liability or obligation, except for the Parties' confidentiality obligations under Article 9 herein, and shall have no effect on the status of the EEI Agreement.

ARTICLE 5
COMPENSATION

5.1 Calculation Period.

The "Calculation Period" shall be each calendar month or portion thereof that Delivered Energy was conveyed to Buyer and for which associated Green Attributes will be transferred to Buyer under this Confirmation as described in Section 3.2(b).

5.2 Monthly Cash Settlement Amount.

Buyer shall pay Seller the Monthly Cash Settlement Amount, in arrears, for each Calculation Period. The "Monthly Cash Settlement Amount" for a particular Calculation Period shall be equal to the sum of (a) plus (b) minus (c), where:

(a) equals the sum, over all hours of the Calculation Period, of the applicable Energy Price for each hour of Delivered Energy, multiplied by the quantity of Delivered Energy during that hour; and

(b) equals the Green Attributes Price multiplied by the quantity of Green Attributes (in MWhs) that will be conveyed as described in Section 3.2(b) and that are associated with the Delivered Energy in the Calculation Period; and

(c) equals the sum, over all hours of the Calculation Period, of the applicable Energy Price for each hour of Delivered Energy, multiplied by the quantity of Delivered Energy during that hour.

5.3 Payment Date.

Notwithstanding anything to the contrary in Article Six of the EEI Agreement, payment of each Monthly Cash Settlement Amount by Buyer to Seller under this Confirmation shall be due and payable four (4) calendar months following the applicable Calculation Period and on or before the later of: (a) the twentieth (20th) day of the month in which the Buyer receives from Seller an invoice for the Calculation Period to which the Monthly Cash Settlement Amount pertains, and (b) ten (10) days following the date of Buyer's receipt of an invoice issued by Seller for such applicable Calculation Period; provided that, if such payment due date is not a Business Day, then on the next Business Day. Payment to Seller shall be made by wire transfer pursuant to the Notices section of this Agreement.

5.4 Invoices.

The invoice shall include a statement detailing the amount of Delivered Energy, and associated Green Attributes, transferred to Buyer during the applicable Calculation Period. For purposes of this Confirmation, Buyer shall be deemed to have received an invoice upon Buyer's receipt by e-mail of such invoice in PDF format from Seller. Invoices to Buyer shall be sent by email to: sarah.sanchez@sanjoseca.gov

ARTICLE 6
REPRESENTATIONS, WARRANTIES AND COVENANTS

6.1 Seller's Representations, Warranties, and Covenants.

(a) Seller Representations and Warranties. Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project'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.

(b) Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law.

(c) Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract.

(i) For the avoidance of doubt, the term "contract" as used in the immediately preceding paragraph means this Confirmation.

(ii) For further clarity, the phrase "first delivery" as used in the immediately preceding paragraph means the first date of the Green Attributes Delivery Period.

(d) In addition to the foregoing, Seller warrants, represents and covenants, as of the Execution Date and throughout the Delivery Term, that:

(i) Seller has the contractual rights to sell all right, title, and interest in the Product required to be delivered hereunder;

(ii) Seller has not sold the Product required to be delivered hereunder to any other person or entity;

(iii) Seller is a "forward contract merchant" within the meaning of the United States Bankruptcy Code (as in effect as of the Execution Date of this Confirmation);

(iv) at the time of delivery, all rights, title, and interest in the Product required to be delivered hereunder are free and clear of all liens, taxes, claims, security interests, or other encumbrances of any kind whatsoever;

(v) Seller shall not substitute or purchase any Product from any generating resource other than the Project or the market for delivery hereunder; and

(vi) the facility(s) designated by Seller as the Project and all electrical output from the facility(s) designated as the Project are, or will be by the first date of the Green Attributes Delivery Period, registered with WREGIS as RPS-eligible.

(e) Seller makes no representation, warranty or covenant with respect to any portfolio content category designation pursuant to California Public Utilities Code Section 399.16 nor any eligibility of the Product to qualify as excess procurement pursuant to California Public Utilities Code Section 399.13(a)(4)(B).

(f) As of the Execution Date and throughout the Energy Delivery Period, Seller represents, warrants and covenants that the Project meets the criteria in either (A) or (B):

(A) The Project either has a first point of interconnection with a California balancing authority, or a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area; or

(B) The Project has an agreement to dynamically transfer electricity to a California balancing authority.

(g) If and to the extent that the Product sold by Seller is a resale of part or all of a contract between Seller and one or more third parties, Seller represents, warrants and covenants that the resale complies with the following conditions in (i) through (iv) below as of the Execution Date and throughout the Energy Delivery Period:

(i) The original upstream third party contract(s) meets the criteria of California Public Utilities Code Section 399.16(b)(1)(A);

(ii) This Agreement transfers only Electric Energy and Green Attributes that have not yet been generated prior to the commencement of the Energy Delivery Period;

(iii) The Delivered Energy transferred hereunder is transferred to Buyer in real time; and

(iv) If the Project has an agreement to dynamically transfer electricity to a California balancing authority, the transactions implemented under this Agreement are not contrary to any condition imposed by a balancing authority participating in the dynamic transfer arrangement.

6.2 To the extent a change in Law occurs after the Execution Date that causes the representations, warranties, and/or covenants in Section 6.1or this Section 6.2 that continue beyond the Execution Date 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.

6.3 "Commercially reasonable efforts" as set forth in this Article 6 and as applicable to Seller only shall not require Seller to incur out-of-pocket expenses in excess of twenty-five thousand dollars ($25,000.00) in the aggregate during the Term.

ARTICLE 7
TERMINATION AND CALCULATION OF TERMINATION PAYMENT

In the event this Transaction becomes a Terminated Transaction pursuant to Section 5.2 of the EEI Agreement, then the Settlement Amount with respect to this Transaction shall not be calculated in accordance with the EEI Agreement, but instead shall be calculated as follows:

The Non-Defaulting Party shall determine its Gains and Losses by determining the Market Quotation Average Price for the Terminated Transaction. In the event the Non-Defaulting Party is not able, after commercially reasonable efforts, to obtain the Market Quotation Average Price with respect to the Terminated Transaction, then the Non-Defaulting Party shall calculate its Gains and Losses for the Terminated Transaction in a commercially reasonable manner by calculating the arithmetic mean of the quotes of at least three (3) Broker or Index Quotes based on the offers to sell or bids to buy, as applicable, obtained for transactions substantially similar to the Terminated Transaction. Such Broker or Index Quotes must be obtained assuming that the Party obtaining the quote will provide sufficient credit support for the proposed transaction. In the event the Non-Defaulting Party is not able, after commercially reasonable efforts to obtain at least three (3) such Broker or Index Quotes with respect to the Terminated Transaction, then the Non-Defaulting Party shall calculate its Gains and Losses for such Terminated

Transaction in a commercially reasonable manner by reference to information supplied to it by one or more third parties 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. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information; provided, however, that such third parties shall not be Affiliates of either Party. Only in the event the Non-Defaulting Party is not able, after using commercially reasonable efforts, to obtain such third party information, then the Non-Defaulting Party shall calculate its Gains and Losses for such Terminated Transaction in a commercially reasonable manner using relevant market data it has available to it internally.

ARTICLE 8
GENERAL PROVISIONS

8.1 Buyer Audit Rights.

In addition to any audit rights provided under the EEI Agreement, Seller shall, during the Term as may be requested by Buyer, provide documentation (which may include, for example, meter data as recorded by a meter approved by the Project's governing Balancing Authority) sufficient to demonstrate that the Product has been conveyed and delivered to Buyer.

8.2 Facility Identification.

Seller shall have sole discretion throughout the Term to designate and re-designate, as applicable, the Project by selecting one or more of the facilities from Appendix A or by identifying one or more facilities as provided herein. If Seller determines that any Product to be delivered in a calendar month shall be from a facility or facilities other than those in Appendix A, then Seller shall provide Notice to Buyer identifying the facility or facilities that constitute the Project within three (3) Business Days prior to the delivery of Electric Energy from such facility or facilities in such calendar month.

8.3 Governing Law.

(a) Notwithstanding any provision to the contrary in the EEI Agreement, the Governing Law applicable to this Agreement shall be as set forth herein. This Section 8.3 does not change the Governing Law applicable to any other confirmation or transaction entered into between the Parties under the EEI Agreement.

(b) 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.

For the purposes of Section 8.3(b) above, the words "party" and "parties" shall have the meaning ascribed to them in the preamble of this Confirmation, and the word "agreement" shall mean the term "Agreement" as defined in the preamble of this Confirmation.

ARTICLE 9
CONFIDENTIALITY

9.1 The confidentiality provisions in Section 10.11 of the EEI Agreement shall apply herein, except that each of Buyer and Seller may disclose the following information regarding this Confirmation:

(a) Party names;
(b) Resource(s);
(c) Term;
(d) Project name, location(s), and information in Appendix A;
(e) Capacity of each facility designated as the Project;
(f) The fact that a facility designated as the Project is on-line and delivering;
(g) Delivery Point;
(h) The quantity of Product expected or actually delivered under this Confirmation; and
(i) Information provided by Seller pursuant to Section 8.1 of this Confirmation

9.2 Except for disclosures to comply with any applicable regulation, rule, or order of the CPUC, Federal Energy Regulatory Commission, CEC, or other Governmental Authorities, each Party shall provide Notice of any disclosure made pursuant to this Article 9 to the other Party.

ACKNOWLEDGED AND AGREED TO:

PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, limited for all purposes hereunder to its electric procurement and electric fuels functions	CITY OF SAN JOSÉ, a California municipality, by its duly authorized officers
Signature: Marino Monardi	Signature: Lori Mitchell
Name: Marino Monardi	Name: Lori Mitchell
Title: Director, Structured Energy Transactions	Title: Director
Date: October 11, 2018	Date: 10/10/18

APPENDIX A to
EEI Master Power Purchase and Sale Agreement
Short Term Sales Confirmation

PROJECT

Name of Facility	Resource	Location	CEC RPS ID	Host Balancing Authority
Shiloh II Wind Project	Wind	Rio Vista, CA	60639A	CAISO
High Plains Ranch II	Solar Photovoltaic	California Valley, CA	60603A	CAISO
Topaz Solar Farm	Solar Photovoltaic	Santa Margarita, CA	61698A	CAISO
Hatchet Ridge	Wind	Burney, CA	60741A	CAISO
Ivanpah Unit 1	Solar Thermal	Nipton, CA	62273A	CAISO
Ivanpah Unit 3	Solar Thermal	Nipton, CA	62275A	CAISO
AV Solar Ranch One	Solar Photovoltaic	Lancaster, CA	60790A	CAISO
Mojave Solar Project	Solar Thermal	Hinkley, CA	60848A	CAISO
Genesis Solar Energy Project	Solar Thermal	Blythe, CA	60605A	CAISO
Calpine Geysers - Units 5 & 6	Geothermal	Middletown, CA	60002A	CAISO
Calpine Geysers - Units 7 & 8	Geothermal	Middletown, CA	60003A	CAISO
Calpine Geysers - Unit 12	Geothermal	Middletown, CA	60004A	CAISO
Calpine Geysers - Unit 13	Geothermal	Middletown, CA	60005A	CAISO
Calpine Geysers - Unit 16	Geothermal	Middletown, CA	60006A	CAISO
Calpine Geysers - Unit 17	Geothermal	Middletown, CA	60007A	CAISO
Calpine Geysers - Unit 18	Geothermal	Middletown, CA	60008A	CAISO
Calpine Geysers - Unit 20	Geothermal	Middletown, CA	60009A	CAISO
Calpine Geysers - Sonoma Power Plant Unit 3	Geothermal	Middletown, CA	60010A	CAISO
Calpine Geysers - Unit 11	Geothermal	Middletown, CA	60025A	CAISO
Calpine Geysers - Unit 14	Geothermal	Middletown, CA	60026A	CAISO
Calpine Geysers - Aidlin Power Plant Unit 1	Geothermal	Middletown, CA	60115A	CAISO

Calpine Geysers - Calistoga Power Plant Unit 19	Geothermal	Middletown, CA	60117A	CAISO
Desert Center Solar Farm	Solar Photovoltaic	Desert Center, CA	61068A	CAISO
Coram Brodie	Wind	Tehachapi, CA	60973A	CAISO
Shiloh III Wind Project	Wind	Rio Vista, CA	61069A	CAISO
North Sky River Energy Center	Wind	Tehachapi, CA	61385A	CAISO
Shiloh IV	Wind	Rio Vista, CA	61617A	CAISO
Henrietta Solar	Solar Photovoltaic	Lemoore, CA	61841A	CAISO

APPENDIX B

FORM OF LETTER OF CREDIT

Issuing Bank Letterhead and Address

STANDBY LETTER OF CREDIT NO. XXXXXXXX

Date: *[insert issue date]*

Beneficiary:	Pacific Gas and Electric Company 77 Beale Street, Mail Code B28L San Francisco, CA 94105 Attention: Credit Risk Management	**Applicant:**	[Insert name and address of Applicant]

Letter of Credit Amount: *[insert amount]*

Expiry Date: *[insert expiry date]*

Ladies and Gentlemen:

By order of *[insert name of Applicant]* ("Applicant"), we hereby issue in favor of Pacific Gas and Electric Company (the "Beneficiary") our irrevocable standby letter of credit No. *[insert number of letter of credit]* ("Letter of Credit"), for the account of Applicant, for drawings up to but not to exceed the aggregate sum of U.S. $ *[insert amount in figures followed by (amount in words)]* ("Letter of Credit Amount"). This Letter of Credit is available with *[insert name of issuing bank, and the city and state in which it is located]* by sight payment, at our offices located at the address stated below, effective immediately, and it will expire at our close of business on *[insert expiry date]* (the "Expiry Date").

Funds under this Letter of Credit are available to the Beneficiary against presentation of the following documents:

1. Beneficiary's signed and dated sight draft in the form of Exhibit A hereto, referencing this Letter of Credit No. *[insert number]* and stating the amount of the demand; and

2. One of the following statements signed by an authorized representative or officer of Beneficiary:

   A. "Pursuant to the terms of that certain EEI Power Purchase and Sale Agreement (the "Agreement"), dated *[insert date of the Agreement]*, between Beneficiary and *[insert name of Seller under the Agreement]*, or any Confirmation thereunder or related thereto, Beneficiary is entitled to draw under Letter of Credit No. *[insert number]* amounts owed by *[insert name of Seller under the Agreement]* under the Agreement; or

   B. "Letter of Credit No. *[insert number]* will expire in thirty (30) days or less and *[insert name of Seller under the Agreement]* has not provided replacement security acceptable to Beneficiary.

Special Conditions:

1. Partial and multiple drawings under this Letter of Credit are allowed;
2. All banking charges associated with this Letter of Credit are for the account of the Applicant;

3. This Letter of Credit is not transferable; and
4. The Expiry Date of this Letter of Credit shall be automatically extended without a written amendment hereto for a period of one (1) year and on each successive Expiry Date, unless at least sixty (60) days before the then current Expiry Date we notify you by registered mail or courier that we elect not to extend the Expiry Date of this Letter of Credit for such additional period.

We engage with you that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored upon presentation, on or before the Expiry Date (or after the Expiry Date in case of an interruption of our business as stated below), at our offices at ***[insert issuing bank's address for drawings]***.

All demands for payment shall be made by presentation of original drawing documents and a copy of this Letter of Credit; or by facsimile transmission of documents to ***[insert fax number]***, Attention: ***[insert name of issuing bank's receiving department]***, with original drawing documents and a copy of this Letter of Credit to follow by overnight mail. If presentation is made by facsimile transmission, you may contact us at ***[insert phone number]*** to confirm our receipt of the transmission. Your failure to seek such a telephone confirmation does not affect our obligation to honor such a presentation.

Our payments against complying presentations under this Letter of Credit will be made no later than on the sixth (6th) banking day following a complying presentation.

Except as stated herein, this Letter of Credit is not subject to any condition or qualification. It is our individual obligation, which is not contingent upon reimbursement and is not affected by any agreement, document, or instrument between us and the Applicant or between the Beneficiary and the Applicant or any other party.

Except as otherwise specifically stated herein, this Letter of Credit is subject to and governed by the *Uniform Customs and Practice for Documentary Credits, 2007 Revision,* International Chamber of Commerce (ICC) Publication No. 600 (the "UCP 600"); provided that, if this Letter of Credit expires during an interruption of our business as described in Article 36 of the UCP 600, we will honor drafts presented in compliance with this Letter of Credit, if they are presented within thirty (30) days after the resumption of our business, and will effect payment accordingly.

The law of the State of New York shall apply to any matters not covered by the UCP 600.

For telephone assistance regarding this Letter of Credit, please contact us at *[insert number and any other necessary details]*.

Very truly yours,

[insert name of issuing bank]

By: _____
Authorized Signature

Name: *[print or type name]*

Title: *[print or type title]*

[Note: All pages must contain the Letter of Credit number and page number for identification purposes.]

Appendix B

Form of Letter of Credit

Exhibit A SIGHT DRAFT

TO
[INSERT NAME AND ADDRESS OF PAYING BANK]

AMOUNT: $_____ DATE: _____

AT SIGHT OF THIS DEMAND PAY TO THE ORDER OF PACIFIC GAS AND ELECTRIC COMPANY THE AMOUNT OF U.S.$_____(_____ U.S. DOLLARS)

DRAWN UNDER *[INSERT NAME OF ISSUING BANK]* LETTER OF CREDIT NO. XXXXXX.

REMIT FUNDS AS FOLLOWS:

[INSERT PAYMENT INSTRUCTIONS]

DRAWER

BY: _____
NAME AND TITLE

City of San José Contract/Agreement Transmittal Form

Route order if applicable

TO: ☐ City Manager _____
☑ City Clerk _____
☐ City Attorney _____
☐ Return to Department _____

NEW CONTRACT

Type of Contract Other 151 ? 145 150 108

Existing CHAD # 664215-000
(Use Listing column NOT Maintenance)

REQUIRED INFORMATION FOR ALL CONTRACTS

Name of Contractor: Pacific Gas & Electric Company

Address of Contractor: PO Box 770000, Mail Code N12E, San Francisco, CA 94177

Contractor Contact Person: Candice Chan Contractor Phone Number: (415) 973-7780

Contractor Email: CWW9@pge.com

Description of Contract and Project Name: Master Power Purchase and Sale Agreement

Term Start Date: N/A Term End Date: N/A

Agenda Date *(If applicable)*: _____ Agenda Item No.: _____

Resolution No.: _____ Ordinance No.: _____

Contract Amount: N/A - Flex Revenue? No Change Order Amount: _____

Insurance filed with Risk Management? No *(attach insurance or exemption)*
Department is responsible for making sure insurance is on file and current.

Is Form 700 Required? (Contract will clearly state form 700 is required) No
If yes, attach Filer names. Contact your department contract liaison to enter required filer info into SouthTech eDisclosure.

Business License No: _____ Expiration Date: _____
Department is responsible for making sure business license is current. Check here if exempt. ☐

Department: Clean Energy (78)

Department Contact Name: Baljinder Jhalle

Department Phone Number: 408-535-4869

Department Contact Email: baljinder.jhalle@sanjoseca.gov

CITY MANAGER'S OFFICE REQUIRED INFORMATION (FOR CONTRACTS SIGNED BY CITY MANAGER)

Method of Procurement: Not Applicable Date Conducted: _____

For RFB, RFP, or RFQ provide number below.

For Sole Source/Unique Services, attach justification memo.

Retroactive? No If yes, attach copy of approved retroactivity memo.

Department Head Signature: _____ Date: _____

Office of the City Manager Signature: _____ Date: _____

EXHIBIT: SJCE #65
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé /11-15-EEI Master Agreement_SJCE_Template (15 November 2018)
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

11-15-EEI Master Agreement_SJCE_Template (15 November 2018)

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

SJCE DRAFT
15 NOVEMBER 2018

Master Power Purchase & Sale Agreement

Version 2.1 (modified 4/25/00)

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SJCE DRAFT
15 NOVEMBER 2018

Version 2.1 (modified 4/25/00)

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MASTER POWER PURCHASE AND SALE AGREEMENT

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MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* ("Master Agreement") is made as of the following date: _____, 2018 ("Effective Date"). The Master Agreement, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the "Agreement." The Parties to this Master Agreement are the following:

Name:
("____" or "Party A")

All Notices:
Address:

Attn:_____
Phone:_____
E-mail:_____
Duns:_____
Federal Tax ID Number:_____

Invoices:
Attn:_____
Phone:_____
E-Mail: _____

Scheduling:
Attn:_____
Phone:_____
E-Mail: _____

Confirmations:
Attn:_____
Address:_____
Phone:_____
E-Mail: _____

Payments:
Attn:_____
Phone:_____
E-Mail: _____

Name: **City of San José, a California municipality** ("SJCE" or "Party B")

All Notices:
Address: 200 E. Santa Clara Street, Tower 14
San José, CA 95113

Attn: Jeanne Solé
Phone: 408-535-4867
E-mail: Jeanne.sole@sanjoseca.gov
Duns:_____
Federal Tax ID Number:_____

Invoices:
Attn: Sarah Sanchez
Phone: 408-535-4865
E-mail: sarah.sanchez@sanjoseca.gov

Scheduling:
Attn: NCPA Pre-Scheduling Desk
Phone: 916-781-4227 or 916-781-4290
E-mail: Preschedulers@ncpa.com

Alternative:
Attn: NCPA Scheduling Coordination Desk
Phone: 916-781-4237 or 916-781-4280
E-mail: ScheduleCoordinators@ncpa.com

Confirmations:
Attn:_____
Address:_____
Phone: _____
E-mail:_____

Payments:
Attn: Sarah Sanchez
Phone: 408-535-4865
E-mail: sarah.sanchez@sanjoseca.gov

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Wire Transfer:
BNK:
ABA:
ACCT:

Credit and Collections:
Attn:
Phone:
E-Mail:

With additional Notices of an Event of Default or Potential Event of Default to:
Attn:
Address:

Phone:
Email:

Wire Transfer:
BNK:
ABA:
ACCT:

Credit and Collections:
Attn: Sarah Sanchez
Phone: 408-535-4865
E-mail: sarah.sanchez@sanjoseca.gov

With additional Notices of an Event of Default or Potential Event of Default to:
Attn: Troutman Sanders LLP
100 SW Main St. Ste. 1000
Portland, OR 97204
Attn: Stephen Hall
Phone: 503-290-2336
Email: Steve.Hall@troutmansanders.com

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The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff Tariff: _____ Effective: _____ Docket #: _____

Party B Tariff N/A

Article Two

Transaction Terms and Conditions [ ] Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive [X] Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies

[ ] Cross Default for Party A:

[ ] Party A: Cross Default Amount $_____

[ ] Other Entity: Cross Default Amount $_____

[X] Cross Default for Party B:

[X] Party B: City of San José Cross Default Amount $50,000,000

[ ] Other Entity:_____ Cross Default Amount $_____

5.6 Closeout Setoff

[X] Option A (Applicable if no other selection is made.)

[ ] Option B - Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows:_____

_____

[ ] Option C (No Setoff)

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

(a) Financial Information:

[ ] Option A
[ ] Option B Specify: _____
[X] Option C Specify: _____

(1) The annual report containing audited consolidated financial statements for such fiscal year of Party B as soon as practicable after demand, but in no event later than 180 days after the end of each annual period and such request will be deemed to have been filled if such financial statements are available at http://www.sanjosecleanenergy.org/, and (2) quarterly unaudited financial statements for Party B as soon as

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practicable upon demand, but in no event later than 90 days after the applicable quarter. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements. The first quarterly unaudited statement will be provided within 90 days after the fiscal quarter during which Party A begins deliveries under a Transaction. Party B's fiscal year ends June 30.

(b) Credit Assurances:

[X] Not Applicable
[ ] Applicable

(c) Collateral Threshold:

[X] Not Applicable
[ ] Applicable

If applicable, complete the following:

Party B Collateral Threshold: $____; provided, however, that Party B's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party B has occurred and is continuing.

Party B Independent Amount: $_____

Party B Rounding Amount: $_____

(d) Downgrade Event:

[X] Not Applicable
[] Applicable

If applicable, complete the following:

[ ] It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below BBB- from S&P or Baa3 from Moody's or if Party B is not rated by either S&P or Moody's.

[] Other:

(e) Guarantor for Party B: N/A

Guarantee Amount: _____

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8.2 Party B Credit Protection:

(a) Financial Information:

[ ] Option A
[ ] Option B Specify: _____
[ ] Option C Specify:

The annual report containing audited consolidated financial statements for such fiscal year of Party A as soon as practicable after demand, but in no event later than 180 days after the end of each annual period of Party A and unaudited semi-annual financials within 90 days after the end of each semi-annual period of Party A, and such request will be deemed to have been filled if such financial statements are available at [Website]. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

(b) Credit Assurances:

[ ] Not Applicable
[X] Applicable

(c) Collateral Threshold:

[ ] Not Applicable
[X] Applicable

If applicable, complete the following:

Party A Collateral Threshold: **$TBD**; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: As set forth in the Applicable Confirmation.

Party A Rounding Amount**: $**_____

(d) Downgrade Event:

[ ] Not Applicable
[X] Applicable

If applicable, complete the following:

[X] It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below BBB- from S&P or Baa3 from Moody's or if Party A is not rated by either S&P or Moody's.

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[ ] Other:
Specify: It shall be a Downgrade Event for Party A if Party A's Guarantor's Credit Rating falls below BBB- from S&P or Baa3 from Moody's or if Party A is not rated by either S&P or Moody's.

(e) Guarantor for Party A: _____

Guarantee Amount: _____

Article 10

Confidentiality

[X] Confidentiality Applicable If not checked, inapplicable.

Schedule M

[ ] Party A is a Governmental Entity or Public Power System

[X] Party B is a Governmental Entity or Public Power System

[] Add Section 3.6. If not checked, inapplicable

[] Add Section 8.4. If not checked, inapplicable.

Other Changes

This Master Power Purchase and Sale Agreement and the associated Collateral Annex incorporate, by reference, the changes published in the EEI Errata, Version 1.1, dated July 18, 2007.

1) Section 1.4 is amended by deleting the first sentence and replacing it to read as follows: "Business Day" means any day except a Saturday, Sunday, the Friday immediately following the Thanksgiving holiday or a Federal Reserve Holiday.

2) Section 1.23 shall be amended by inserting in the thirteenth line of this Subsection before the phrase "foregoing factors" the word "two."

3) Section 1.24 is amended by adding before the period at the end thereof the following: "in accordance with Section 5.2".

4) Section 1.27 is amended by deleting the phrase "or a foreign bank with a U.S. branch" and replacing it with the phrase "or a U.S. branch of a foreign bank."

5) Section 1.46 is deleted in its entirety.

6) Section 1.51 is amended by (i) inserting the phrase "for delivery" in the second line after the word "purchases" and before the phrase "at the Delivery Point" and (ii) deleting the phrase "at Buyer's option" from the fifth line and replacing it with the phrase "absent a purchase".

7) Section 1.52 shall be amended by (i) deleting the words "Rating" and "Group" from the first line and replacing with "Financial

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Services LLC" and (ii) by replacing the words in the parenthetical with "a subsidiary of McGraw-Hill Companies, Inc."

8) Section 1.53 is amended by:

(i) deleting the phrase "at the Delivery Point" from the second line;

(ii) deleting the phrase in line 5 "at the Seller's option" and replacing it with "absent a sale"; and

(iii) inserting after the word "liability" in the ninth line the following: "provided, further, if the Seller is unable after using commercially reasonable efforts to resell all or a portion of the Product not received by the Buyer, the Sales Price with respect to such unsold Product shall be deemed equal to zero (0)."

9) The following defined term is added as Section 1.53A:

"1.53A "San José Clean Energy" is the City of San José's community choice aggregation program. The San José Community Energy Department administers and manages San José Clean Energy."

10) Section 1.56 is amended by deleting the words "pursuant to Section 5.2" and by adding before the period at the end thereof the following: ", as determined in accordance with Section 5.2."

11) Section 1.60 is amended by inserting the words "in writing" immediately following the words "agreed to"

12) In Section 2.1, delete the first sentence in its entirety and replace with the following: "A Transaction, or an amendment, modification or supplement thereto, shall be entered into only upon a writing signed by both Parties."

13) In Section 2.1, the last sentence is deleted in its entirety and replaced with the following:

"Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction entered into in accordance with this Master Agreement based on any lack of authority of the Party or any lack of authority of any employee of the Party to enter into a Transaction; provided, however, Party A acknowledges that no employee of Party B may amend or otherwise materially modify this Master Agreement or a Transaction, or enter into a new Transaction, without the approval of the City Counsel of Party B."

14) Section 2.3 is hereby deleted in its entirety and replaced with the following:

2.3 "No Oral Agreements or Modifications. Notwithstanding anything to the contrary in this Master Agreement, the Master

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Agreement and any and all Transactions may not be orally amended or modified."

15) Section 2.4 is hereby amended by deleting the words "either orally or" in the sixth line.

16) Section 2.5 is hereby deleted in its entirety and replaced with the following:

"2.5 Recording. Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording ("Recording") of all telephone conversations between the Parties to this Master Agreement, and that any such Recordings will be retained in confidence and secured from improper access; provided, however, that both Parties acknowledge and agree that any such Recording may not be submitted as evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees."

17) Section 3.2 is hereby amended by adding the following text to the end of the Section: "Product deliveries shall be scheduled in accordance with the then-current applicable tariffs, protocols, operating procedures and scheduling practices for the relevant region."

18) Section 3.4 (in Schedule M) is hereby deleted in its entirety and replaced with the following:

"Section 3.4 Party B Deliveries. Upon the request of Party A, Party B shall provide Party A copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance Party B of this Master Agreement."

19) In Section 5.1(a) change "three (3) Business Days" to "five (5) Business Days".

20) In Section 5.1(g), delete the phrase "or becoming capable at such time of being declared," on the eighth line of the Section, and add the following at the end of the Section:

"provided, however, that no default or event of default shall be deemed to have occurred under this Section 5.1(g) to the extent that any applicable cure period or grace period is available;"

21) Section 5.1(h)(v) - "Events of Default"

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Add "made in connection with this Agreement" after "any guaranty".

22) Section 5.1 is further amended by replacing the period at the end of subsection (h) with a semicolon, and adding new subsections which read as follows:

"(i) during any consecutive ninety (90) day period, there have occurred five (5) or more "Seller Failures" as that term is used in Section 4.1, under any and all Transactions, regarding which the Seller shall be deemed to be the Defaulting Party, and Buyer shall also be entitled to its remedies under Section 4.1;"

"(j) a representation or warranty with respect to the Defaulting Party's financial statement that is false or misleading if such false or misleading statement is not be remedied within five (5) Business Days after written notice; or"

"(k) revocation or suspension by the Federal Energy Regulatory Commission of Party A's authorization to make sales at market-based rates, and Party A is unable to reinstate such authorization within ninety (90) days."

23) Section 5.2 is amended by:

(i) deleting the following phrase from the last line: "as soon thereafter as is reasonably practicable"; and

(ii) adding the following to the end of that provision: "then each such Transaction shall be terminated as soon thereafter as reasonably practicable, and upon termination shall be deemed to be a Terminated Transaction and the Termination Payment payable in connection with all such Transactions shall be calculated in accordance with Section 5.3 below). The Gains and Losses for each Terminated Transaction shall be determined by the Non-Defaulting Party calculating the amount that would be incurred or realized to replace or to provide the economic equivalent of the remaining payments or deliveries in respect of that Terminated Transaction. In making such calculation, the Non-Defaulting Party may reference information supplied by one or more third parties 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. Third parties supplying such information may include dealers, brokers and information vendors, including, without limitation, Intercontinental Exchange, Inc. If the Non-Defaulting Party's calculation of the Termination Payment results in an amount that would be due to the Defaulting Party (i.e. the Defaulting Party was in-the-money), then the Termination Payment shall be deemed to be zero dollars ($0.00)."

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24) Section 5.3 shall be amended by adding the phrase "plus, at the option of the Non-Defaulting Party, any cash or other form of liquid security then in the possession of the Defaulting Party or its agent pursuant to Article 8," after the first use of the phrase "due to the Non-Defaulting Party" in the sixth line.

25) In Section 6.3, lines 3, 16 & 18, change twelve (12) months to twenty-four (24) months.

26) Section 7.1 shall be amended by:

(i) adding "SET FORTH IN THIS AGREEMENT" after "INDEMNITY PROVISION" and before "OR OTHERWISE," in the fifth sentence;

(ii) adding in the nineteenth line the words "PROVIDED, HOWEVER, NOTHING IN THIS SECTION SHALL AFFECT THE ENFORCEABILITY OF THE PROVISIONS OF THIS AGREEMENT EXPRESSLY ALLOWING FOR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO REMEDIES FOR FAILURE TO DELIVER/RECEIVE IN SECTIONS 4.1 AND 4.2, AND CALCULATION AND PAYMENT OF THE TERMINATION PAYMENT IN SECTIONS 5.2 AND 5.3." immediately after the words "ANY INDEMNITY PROVISIONS SET FORTH IN THIS AGREEMENT OR OTHERWISE"; and

(iii) adding at the end of the last sentence the words "AND ARE NOT PENALTIES."

27) In Sections 8.1(c), 8.1(b), 8.2(c) and 8.2(b), change "three (3) Business Days" to "five (5) Business Days".

28) In Sections 8.1(d) and 8.2(d) on line 5, change "three (3) Business Days" to "five (5) Business Days" and before the comma in line five, add "or fails to maintain such Performance Assurance or guaranty or other credit assurance for so long as the Downgrade Event is continuing, and does not restore such Performance Assurance within five (5) Business Days of receipt of notice".

29) Section 8.4 is added as follows:

"In no event shall a Party be required to provide Credit Assurances, Independent Amounts or any other collateral that in the aggregate exceeds Termination Payment plus the Independent Amount."

30) A new Section 8.5. "UCC Waiver," is added as follows:

"Section 8.5: Section 8 sets forth the entirety of the agreement of the Parties regarding credit, collateral and adequate assurances. Except as expressly set forth in the options elected by the Parties in respect of Sections 8.1 and 8.2, neither Party:

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(a) has or will have any obligation to post margin, provide letters of credit, pay deposits, make any other prepayments or provide any other financial assurances, in any form whatsoever, or

(b) will have reasonable grounds for insecurity with respect to the creditworthiness of a Party or Member that is complying with the relevant provisions of Section 8 of this Agreement;

and all implied rights relating to financial assurances arising from Section 2-609 of the Uniform Commercial Code or case law applying similar doctrines, are hereby waived."

31) In Section 10.2, delete the phrase "or Potential Event of Default" from Section 10.2(vii).

32) After Section 10.2(xii) add the following:

"(xiii) each Transaction that is not executed or traded on a trading facility, as defined in the Commodity Exchange Act, is subject to individual negotiation by the Parties;

(xiv) all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute "settlement payments";

(xv) all transfers of Performance Assurance by one Party to the other Party under this Agreement constitute "margin payments"; and

(xvi) each Party's rights under Section 5.2, Declaration of an Early Termination Date and Calculation of Settlement Amounts, and Section 5.3, Net Out of Settlement Amounts constitute a "contractual right to liquidate" Transactions.

(xvii) it is an "eligible commercial entity" within the meaning of Section 1a (17) of the Commodity Exchange Act, as amended by the Commodity Futures Modernization Act of 2000 (the "Commodity Exchange Act");

(xviii) it is an "eligible contract participant" within the meaning of Section 1a (18) of the Commodity Exchange Act."

33) Section 10.2(ix) shall be deleted in its entirety and replaced with the following:

"it is a "forward contract merchant" within the meaning of the Title 11 of the United States Code, as amended (the "Bankruptcy Code"), all payments made or to be made by one Party to the other Party pursuant to this Agreement constitute a "settlement payment" within the meaning of the Bankruptcy Code, all transfers of Performance Assurance by one Party to the other Party under this Agreement constitute a "margin payment" within the meaning of the Bankruptcy Codes, each Party shall have the "contractual right" to terminate, liquidate, accelerate, or

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offset the transaction as a "master netting agreement participant" within the meaning of the Bankruptcy Code, electricity delivered hereunder constitutes a "good" under Section 503(b)(9) of the Bankruptcy Code, and the Parties are entities entitled to the rights under, and protections afforded by, Sections 362, 546, 553, 556, 560, 561 and 562 of the Bankruptcy Code."

34) Section 10.5 shall be amended by deleting the words from the beginning of clause (ii) through the words prior to "provided, however" and replacing them with:

"(ii) transfer or assign this Agreement to an Affiliate of such Party so long as (x) such Affiliate's creditworthiness is equal to or higher than that of such Party or the Guarantor, if any, for such Party, or (y) the obligations of such Affiliate are guaranteed by such Party or its Guarantor, if any, in accordance with a guaranty agreement in form and substance satisfactory to the other Party, and (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party whose creditworthiness is equal to or higher than that of such Party or its Guarantor, if any"

35) Section 10.6 shall be amended by deleting the sentence "EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT."

36) In Section 10.6 change "NEW YORK" to "CALIFORNIA"

37) Section 10.8 shall be amended by:

(i) adding at the end of the second to last sentence: "and the rights of either Party pursuant to (i) Article 5, (ii) Section 7.1, (iii) Section 10.11 (iv) the obligation of either Party to make payments hereunder, (v) Section 10.6 (vi) Section 10.13 and (vii) section 10.4 shall also survive the termination of the Agreement or any Transaction."; and

(ii) adding the following to the end thereof: "This Master Agreement and any Confirmation hereunder may be signed in any number of counterparts, electronically, by PDF with the same effect as if the signatures to counterparty were upon a single instrument. Delivery of an executed signature page of this Master Agreement and any Confirmation by electronic mail transmission shall be effective as delivery of a manually executed signature page."

38) In section 10.9 insert the words "copies of" after the word "examine" in line 2.

39) Section 10.10 shall be amended by adding the following after the last sentence of Section 10.10:

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"Each Party further agrees that, for purposes of this Agreement, the other Party is not a "utility" as such term is used in 11 U.S.C. Section 366, and each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. Section 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."

40) Section 10.11, shall be amended by adding the following:

(i) the phrase "or the completed Cover Sheet to this Master Agreement" immediately before the phrase "to a third party" in line three;

(ii) the phrase ", or any such representatives of a Party's Affiliates," immediately after the phrase "counsel, accountants, or advisors" in line four;

(iii) in the seventh line thereof, between the word "proceeding" and the semi-colon, which immediately follows, the words "applicable to such Party or any of its Affiliates";

(iv) an additional sentence at the end of Section 10.11: "The Parties agree and acknowledge that nothing in this Section 10.11 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."; and

(v) the following at the end of the last sentence: "Party A and Party B acknowledge and agree that the Master Agreement and any Confirmations executed in connection therewith are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). Party B acknowledges that Party A may submit information to Party B that the other party considers confidential, proprietary, or trade secret information pursuant to the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code Sections 6254 and 6255). Party A acknowledges that Party B may submit to Party A information that Party B considers confidential or proprietary or protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). 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. Over-designation would include stamping whole agreements, entire pages or series of pages as Confidential that clearly contain information that is not confidential. Upon request or demand of

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any third person or entity not a party to this Agreement ("Requestor") for production, inspection and/or copying of information designated by a Party as confidential information (such designated information, the "Confidential Information" and the disclosing Party, the "Disclosing Party"), the Party receiving such request (the "Receiving Party") as soon as practical, shall notify the Disclosing Party that such request has been made as specified in the Cover Sheet. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action after receiving the foregoing notice from the Receiving Party, the Receiving Party shall be permitted to comply with the Requestor's demand and is not required to defend against it."

41) The following Mobile-Sierra clause shall be added as Section 10.12:

"10.12 Standard of Review/Modifications.

(a) Absent the prior mutual written agreement of all parties to the contrary, the standard of review for any proposed changes to the rates, terms, and/or conditions of service of this Agreement or any Transaction entered into thereunder, whether proposed by a Party, a non-party or FERC acting sua sponte, shall be the *Mobile Sierra* "public interest" standard of review set forth in *Morgan Stanley Capital Group Inc. v. Public Utility District No. 1 of Snohomish County,* Nos. 06-1457, 128 S.Ct. 2733 (2008) and consistent with the order of the Supreme Court in *NRG Power Marketing, LLC, et al., v. Maine Public Utilities Commission et al.* No. 08-674, 130 S.Ct. 693 (2010) ("NRG Order"). As to all other persons, the Parties intend and agree that the same standard applies, to the maximum degree permitted under the NRG Order.

(b) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that

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may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market-based power sales contracts (including entering into covenants not to do so) then this subsection (b) shall not apply, provided that, consistent with the foregoing subsection (a), neither Party shall seek any such changes except solely under the "public interest" application of the "just and reasonable" standard of review and otherwise as set forth in the foregoing section (a)."

42) The following shall be added as a new Section 10.13:

"Party A's Deliveries. Upon request, Party A shall provide to Party B (i) a certificate of good standing issued by the [State] Secretary of State as of a recent date, (ii) resolutions of the managers, members, or other governing body, as applicable, of Party A approving the execution, delivery and performance of this Master Agreement and any Confirmations executed in connection therewith, and (iii) the incumbency and signatures of the signatories of Party A executing this Master Agreement and any Confirmations executed in connection herewith."

43) The following shall be added as a new Section 10.14:

"Physical Transactions. The Parties understand and agree that the Transactions under this Agreement are physical transactions for deferred delivery, and that the Parties contemplate making or taking physical delivery of electric energy. Party B is a commercial entity engaged in the business of delivering electric energy to its retail load and routinely makes or takes delivery of electric energy in order to provide service to its retail electric customers."

44) The following new Section shall be added as Section 10.15:

"Imaged Agreement. Any original executed Agreement, Confirmation or other related document may be photocopied and stored on computer tapes and disks (the "Imaged Agreement"). The Imaged Agreement, if introduced as evidenced on paper, the Confirmation, if introduced as evidence in its original form and as transcribed onto paper, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of the Recording, the Confirmation or the Imaged Agreement (or photocopies of the transcription of the Recording, the Confirmation or the Imaged Agreement) on the basis that such were not originated or maintained in documentary form under the hearsay rule, the best evidence rule or other rule of evidence."

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45) The following new Section shall be added as Section 10.16:

"Index Transactions. If the Contract Price for a Transaction is determined by reference to a third-party information source, then the following provisions shall be applicable to such Transaction:

(i) Market Disruption. If a Market Disruption Event occurs during a Determination Period, the Floating Price for the affected Trading Day(s) shall be determined by reference to the Floating Price specified in the Transaction for the first Trading Day thereafter on which no Market Disruption Event exists; provided, however, if the Floating Price is not so determined within three (3) Business Days after the first Trading Day on which the Market Disruption Event occurred or existed, then the Parties shall negotiate in good faith to agree on a Floating Price (or a method for determining a Floating Price), and if the Parties have not so agreed on or before the twelfth Business Day following the first Trading Day on which the Market Disruption Event occurred or existed, then the Floating Price shall be determined in good faith by taking the average of two dealer quotes obtained from dealers of the highest credit standing which satisfy all the criteria that the Seller applies generally at the time in deciding to offer or to make an extension of credit. Notwithstanding the foregoing and subject to time limitations set forth in Sub-Section (ii) below, if the Parties have determined a Floating Price pursuant to this Sub-Section (i) and at a later date the responsible Price Source announces or publishes the relevant Floating Price, then such Floating Price shall be treated as a corrected price pursuant to Sub-Section (ii) below."

"Determination Period" means each calendar month, a part or all of which, is within the Delivery Period of a Transaction.

"Exchange" means, in respect of a Transaction, the exchange or principal trading market specified in the relevant Transaction.

"Floating Price" means a Contract Price specified in a Transaction that is based upon a Price Source.

"Market Disruption Event" means, with respect to any Price Source, any of the following events: (a) the failure of the Price Source to announce or publish the specified Floating Price or information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading in the relevant options contract or commodity on the Exchange or in the market specified for determining a Floating Price; (c) the temporary or permanent discontinuance or unavailability of the Price Source; (d) the temporary or permanent closing of any Exchange specified for determining a Floating Price; or (e) a material change in the formula for or the method of determining the Floating Price.

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"Price Source" means, in respect of a Transaction, the publication (or such other origin of reference, including an Exchange) containing (or reporting) the specified price (or prices from which the specified price is calculated) specified in the relevant Transaction.

"Trading Day" means a day in respect of which the relevant Price Source published the Floating Price.

(ii) Corrections to Published Prices. For purposes of determining a Floating Price for any day, if the price published or announced on a given day and used or to be used to determine a relevant price is subsequently corrected and the correction is published or announced by the person responsible for that publication or announcement within three (3) years of the original publication or announcement, either Party may notify the other Party of (i) that correction and (ii) the amount (if any) that is payable as a result of that correction. If, not later than thirty (30) days after publication or announcement of that correction, a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount will, not later than three (3) Business Days after the effectiveness of that notice, pay, subject to any applicable conditions precedent, to the other Party that amount, together with interest at the Interest Rate for the period from and including the day on which payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction.

(iii) Calculation of Floating Price. For purposes of calculating a Floating Price, all numbers shall be rounded to four (4) decimal places. If the fifth (5th) decimal number is five (5) or greater, then the fourth (4th) decimal number shall be increased by one (1), and if the fifth (5th) decimal number is less than five (5), then the fourth (4th) decimal number shall remain unchanged."

46) The following new Section shall be added as Section 10.17:

"Generally Accepted Accounting Principles. Any reference to "generally accepted accounting principles" shall mean, with respect to an entity and its financial statements, generally accepted accounting principles, consistently applied, adopted or used in the jurisdiction of the entity whose financial statements are being considered for the purposes of this Agreement."

47) The following new Section shall be added as Section 10.18:

"Designated Fund and Limited Obligations.
(a) Designated Fund. Purchaser's payment obligations under this Agreement shall be paid from a Department of Community Energy designated fund that shall be used solely for San José Clean Energy costs and expenses, including the obligations under this Agreement (the "Designated Fund"). Subject to the

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requirements and limitations of Applicable Law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to the San José Clean Energy's obligations, Purchaser agrees to establish San José Clean Energy rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this Agreement and all of Purchaser's payment obligations under its other contracts for the purchase of energy for San José Clean Energy. Purchaser shall provide Seller with reasonable access to account balance information with respect to the San José Clean Energy Designated Fund.

(b) Limited Obligations. Purchaser's payment obligations are special limited obligations of the Purchaser payable solely from the Designated Fund. Purchaser's payment obligations under this Agreement are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José."

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

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	CITY OF SAN JOSÉ, A CALIFORNIA MUNICIPALITY
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute ("EEI") and National Energy Marketers Association ("NEM") member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

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GENERAL TERMS AND CONDITIONS

ARTICLE ONE: GENERAL DEFINITIONS

1.1 "Affiliate" means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, "control" means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.

1.2 "Agreement" has the meaning set forth in the Cover Sheet.

1.3 "Bankrupt" means with respect to any entity, such entity (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

1.4 "Business Day" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday. A Business Day shall open at 8:00 a.m. and close at 5:00 p.m. local time for the relevant Party's principal place of business. The relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

1.5 "Buyer" means the Party to a Transaction that is obligated to purchase and receive, or cause to be received, the Product, as specified in the Transaction.

1.6 "Call Option" means an Option entitling, but not obligating, the Option Buyer to purchase and receive the Product from the Option Seller at a price equal to the Strike Price for the Delivery Period for which the Option may be exercised, all as specified in the Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to sell and deliver the Product for the Delivery Period for which the Option has been exercised.

1.7 "Claiming Party" has the meaning set forth in Section 3.3.

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

1.9 "Confirmation" has the meaning set forth in Section 2.3.

1.10 "Contract Price" means the price in $U.S. (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of the Product, as specified in the Transaction.

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1.11 "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 a Terminated Transaction; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the termination of a Transaction.

1.12 "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 issues rating by S&P, Moody's or any other rating agency agreed by the Parties as set forth in the Cover Sheet.

1.13 "Cross Default Amount" means the cross default amount, if any, set forth in the Cover Sheet for a Party.

1.14 "Defaulting Party" has the meaning set forth in Section 5.1.

1.15 "Delivery Period" means the period of delivery for a Transaction, as specified in the Transaction.

1.16 "Delivery Point" means the point at which the Product will be delivered and received, as specified in the Transaction.

1.17 "Downgrade Event" has the meaning set forth on the Cover Sheet.

1.18 "Early Termination Date" has the meaning set forth in Section 5.2.

1.19 "Effective Date" has the meaning set forth on the Cover Sheet.

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

1.21 "Event of Default" has the meaning set forth in Section 5.1.

1.22 "FERC" means the Federal Energy Regulatory Commission or any successor government agency.

1.23 "Force Majeure" means an event or circumstance which prevents one Party from performing its obligations under one or more Transactions, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. Force Majeure shall not be based on (i) the loss of Buyer's markets; (ii) Buyer's inability economically to use or resell the Product purchased hereunder; (iii) the loss or failure of Seller's supply; or (iv) Seller's ability to sell the Product at a price greater than the Contract Price. Neither Party may raise a claim of Force Majeure based in whole or in part on curtailment by a Transmission Provider unless (i) such Party has contracted for firm transmission with a Transmission Provider for the Product to be delivered to or received at the Delivery Point and (ii) such curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the Transmission Provider's

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tariff; provided, however, that existence of the foregoing factors shall not be sufficient to conclusively or presumptively prove the existence of a Force Majeure absent a showing of other facts and circumstances which in the aggregate with such factors establish that a Force Majeure as defined in the first sentence hereof has occurred. The applicability of Force Majeure to the Transaction is governed by the terms of the Products and Related Definitions contained in Schedule P.

1.24 "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 a Terminated Transaction, determined in a commercially reasonable manner.

1.25 "Guarantor" means, with respect to a Party, the guarantor, if any, specified for such Party on the Cover Sheet.

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

1.27 "Letter(s) of Credit" means one or more irrevocable, transferable 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- from S&P or A3 from Moody's, in a form acceptable to the Party in whose favor the letter of credit is issued. Costs of a Letter of Credit shall be borne by the applicant for such Letter of Credit.

1.28 "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 a Terminated Transaction, determined in a commercially reasonable manner.

1.29 "Master Agreement" has the meaning set forth on the Cover Sheet.

1.30 "Moody's" means Moody's Investor Services, Inc. or its successor.

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

1.32 "Non-Defaulting Party" has the meaning set forth in Section 5.2.

1.33 "Offsetting Transactions" mean any two or more outstanding Transactions, having the same or overlapping Delivery Period(s), Delivery Point and payment date, where under one or more of such Transactions, one Party is the Seller, and under the other such Transaction(s), the same Party is the Buyer.

1.34 "Option" means the right but not the obligation to purchase or sell a Product as specified in a Transaction.

1.35 "Option Buyer" means the Party specified in a Transaction as the purchaser of an option, as defined in Schedule P.

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1.36 "Option Seller" means the Party specified in a Transaction as the seller of an option, as defined in Schedule P.

1.37 "Party A Collateral Threshold" means the collateral threshold, if any, set forth in the Cover Sheet for Party A.

1.38 "Party B Collateral Threshold" means the collateral threshold, if any, set forth in the Cover Sheet for Party B.

1.39 "Party A Independent Amount" means the amount, if any, set forth in the Cover Sheet for Party A.

1.40 "Party B Independent Amount" means the amount, if any, set forth in the Cover Sheet for Party B.

1.41 "Party A Rounding Amount" means the amount, if any, set forth in the Cover Sheet for Party A.

1.42 "Party B Rounding Amount" means the amount, if any, set forth in the Cover Sheet for Party B.

1.43 "Party A Tariff" means the tariff, if any, specified in the Cover Sheet for Party A.

1.44 "Party B Tariff" means the tariff, if any, specified in the Cover Sheet for Party B.

1.45 "Performance Assurance" means collateral in the form of either cash, Letter(s) of Credit, or other security acceptable to the Requesting Party.

1.46 "Potential Event of Default" means an event which, with notice or passage of time or both, would constitute an Event of Default.

1.47 "Product" means electric capacity, energy or other product(s) related thereto as specified in a Transaction by reference to a Product listed in Schedule P hereto or as otherwise specified by the Parties in the Transaction.

1.48 "Put Option" means an Option entitling, but not obligating, the Option Buyer to sell and deliver the Product to the Option Seller at a price equal to the Strike Price for the Delivery Period for which the option may be exercised, all as specified in a Transaction. Upon proper exercise of the Option by the Option Buyer, the Option Seller will be obligated to purchase and receive the Product.

1.49 "Quantity" means that quantity of the Product that Seller agrees to make available or sell and deliver, or cause to be delivered, to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller as specified in the Transaction.

1.50 "Recording" has the meaning set forth in Section 2.4.

1.51 "Replacement Price" means the price at which Buyer, acting in a commercially reasonable manner, purchases at the Delivery Point a replacement for any Product specified in a Transaction but not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such substitute Product and

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(ii) additional transmission charges, if any, reasonably incurred by Buyer to the Delivery Point, or at Buyer's option, the market price at the Delivery Point for such Product not delivered as determined by Buyer in a commercially reasonable manner; provided, however, in no event shall such price include any penalties, ratcheted demand or similar charges, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller's liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement Product to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.

1.52 "S&P" means the Standard & Poor's Rating Group (a division of McGraw-Hill, Inc.) or its successor.

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

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

1.55 "Seller" means the Party to a Transaction that is obligated to sell and deliver, or cause to be delivered, the Product, as specified in the Transaction.

1.56 "Settlement Amount" means, with respect to a Transaction and the Non-Defaulting Party, the Losses or Gains, and Costs, expressed in U.S. Dollars, which such party incurs as a result of the liquidation of a Terminated Transaction pursuant to Section 5.2.

1.57 "Strike Price" means the price to be paid for the purchase of the Product pursuant to an Option.

1.58 "Terminated Transaction" has the meaning set forth in Section 5.2.

1.59 "Termination Payment" has the meaning set forth in Section 5.3.

1.60 "Transaction" means a particular transaction agreed to by the Parties relating to the sale and purchase of a Product pursuant to this Master Agreement.

1.61 "Transmission Provider" means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point in a particular Transaction.

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ARTICLE TWO: TRANSACTION TERMS AND CONDITIONS

2.1 Transactions. A Transaction shall be entered into upon agreement of the Parties orally or, if expressly required by either Party with respect to a particular Transaction, in writing, including an electronic means of communication. Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction entered into in accordance with this Master Agreement (i) based on any law requiring agreements to be in writing or to be signed by the parties, or (ii) based on any lack of authority of the Party or any lack of authority of any employee of the Party to enter into a Transaction.

2.2 Governing Terms. Unless otherwise specifically agreed, each Transaction between the Parties shall be governed by this Master Agreement. This Master Agreement (including all exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, and the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmations accepted in accordance with Section 2.3) shall form a single integrated agreement between the Parties. Any inconsistency between any terms of this Master Agreement and any terms of the Transaction shall be resolved in favor of the terms of such Transaction.

2.3 Confirmation. Seller may confirm a Transaction by forwarding to Buyer by facsimile within three (3) Business Days after the Transaction is entered into a confirmation ("Confirmation") substantially in the form of Exhibit A. If Buyer objects to any term(s) of such Confirmation, Buyer shall notify Seller in writing of such objections within two (2) Business Days of Buyer's receipt thereof, failing which Buyer shall be deemed to have accepted the terms as sent. If Seller fails to send a Confirmation within three (3) Business Days after the Transaction is entered into, a Confirmation substantially in the form of Exhibit A, may be forwarded by Buyer to Seller. If Seller objects to any term(s) of such Confirmation, Seller shall notify Buyer of such objections within two (2) Business Days of Seller's receipt thereof, failing which Seller shall be deemed to have accepted the terms as sent. If Seller and Buyer each send a Confirmation and neither Party objects to the other Party's Confirmation within two (2) Business Days of receipt, Seller's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation, unless (i) Seller's Confirmation was sent more than three (3) Business Days after the Transaction was entered into and (ii) Buyer's Confirmation was sent prior to Seller's Confirmation, in which case Buyer's Confirmation shall be deemed to be accepted and shall be the controlling Confirmation. Failure by either Party to send or either Party to return an executed Confirmation or any objection by either Party shall not invalidate the Transaction agreed to by the Parties.

2.4 Additional Confirmation Terms. If the Parties have elected on the Cover Sheet to make this Section 2.4 applicable to this Master Agreement, when a Confirmation contains provisions, other than those provisions relating to the commercial terms of the Transaction (e.g., price or special transmission conditions), which modify or supplement the general terms and conditions of this Master Agreement (e.g., arbitration provisions or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 2.3 unless agreed to either orally or in writing by the Parties; provided that the foregoing shall not invalidate any Transaction agreed to by the Parties.

2.5 Recording. Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation, each Party consents to the creation of a tape or electronic recording ("Recording") of all telephone conversations between the Parties to this Master Agreement, and that any such Recordings will be retained in confidence, secured from improper access, and may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers and employees of such monitoring or recording and to obtain any necessary consent of such officers and employees. The Recording, and the terms and conditions described therein, if admissible, shall be the controlling evidence for the Parties'

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agreement with respect to a particular Transaction in the event a Confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of a Confirmation, such Confirmation shall control in the event of any conflict with the terms of a Recording, or in the event of any conflict with the terms of this Master Agreement.

ARTICLE THREE: OBLIGATIONS AND DELIVERIES

3.1 Seller's and Buyer's Obligations. With respect to each Transaction, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, the Quantity of the Product at the Delivery Point, and Buyer shall pay Seller the Contract Price; provided, however, with respect to Options, the obligations set forth in the preceding sentence shall only arise if the Option Buyer exercises its Option in accordance with its terms. Seller shall be responsible for any costs or charges imposed on or associated with the Product or its delivery of the Product up to the Delivery Point. Buyer shall be responsible for any costs or charges imposed on or associated with the Product or its receipt at and from the Delivery Point.

3.2 Transmission and Scheduling. Seller shall arrange and be responsible for transmission service to the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers, as specified by the Parties in the Transaction, or in the absence thereof, in accordance with the practice of the Transmission Providers, to deliver the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall Schedule or arrange for Scheduling services with its Transmission Providers to receive the Product at the Delivery Point.

3.3 Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under the Transaction and such Party (the "Claiming Party") gives notice and details of the Force Majeure to the other Party as soon as practicable, then, unless the terms of the Product specify otherwise, the Claiming Party shall be excused from the performance of its obligations with respect to such Transaction (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

ARTICLE FOUR: REMEDIES FOR FAILURE TO DELIVER/RECEIVE

4.1 Seller Failure. If Seller fails to schedule and/or deliver all or part of the Product pursuant to a Transaction, and such failure is not excused under the terms of the Product or by Buyer's failure to perform, then Seller shall pay Buyer, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

4.2 Buyer Failure. If Buyer fails to schedule and/or receive all or part of the Product pursuant to a Transaction and such failure is not excused under the terms of the Product or by Seller's failure to perform, then Buyer shall pay Seller, on the date payment would otherwise be due in respect of the month in which the failure occurred or, if "Accelerated Payment of Damages" is specified on the Cover Sheet, within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price. The invoice for such amount shall include a written statement explaining in reasonable detail the calculation of such amount.

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ARTICLE FIVE: EVENTS OF DEFAULT; REMEDIES

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

(a) the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within three (3) Business Days after written notice;

(b) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;

(c) the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for such Party's obligations to deliver or receive the Product, the exclusive remedy for which is provided in Article Four) if such failure is not remedied within three (3) Business Days after written notice;

(d) such Party becomes Bankrupt;

(e) the failure of such Party to satisfy the creditworthiness/collateral requirements agreed to pursuant to Article Eight hereof;

(f) 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;

(g) if the applicable cross default section in the Cover Sheet is indicated for such Party, the occurrence and continuation of (i) a default, event of default or other similar condition or event in respect of such Party or any other party specified in the Cover Sheet for such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet), which results in such indebtedness becoming, or becoming capable at such time of being declared, immediately due and payable or (ii) a default by such Party or any other party specified in the Cover Sheet for such Party in making on the due date therefor one or more payments, individually or collectively, in an aggregate amount of not less than the applicable Cross Default Amount (as specified in the Cover Sheet);

(h) with respect to such Party's Guarantor, if any:

(i) if any representation or warranty made by a Guarantor in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated;

(ii) the failure of a Guarantor to make any payment required or to perform any other material covenant or obligation in any guaranty made in connection

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with this Agreement and such failure shall not be remedied within three (3) Business Days after written notice;

(iii) a Guarantor becomes Bankrupt;

(iv) the failure of a Guarantor's guaranty to be in full force and effect for purposes of this Agreement (other than in accordance with its terms) prior to the satisfaction of all obligations of such Party under each Transaction to which such guaranty shall relate without the written consent of the other Party; or

(v) a Guarantor shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any guaranty.

5.2 Declaration of an Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the "Non-Defaulting Party") shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date ("Early Termination Date") to accelerate all amounts owing between the Parties and to liquidate and terminate all, but not less than all, Transactions (each referred to as a "Terminated Transaction") between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement and (iii) suspend performance. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for each such Terminated Transaction as of the Early Termination Date (or, to the extent that in the reasonable opinion of the Non-Defaulting Party certain of such Terminated Transactions are commercially impracticable to liquidate and terminate or may not be liquidated and terminated under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable).

5.3 Net Out of Settlement Amounts. The Non-Defaulting Party shall aggregate all Settlement Amounts into a single amount by: netting out (a) all Settlement Amounts that are due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Article Eight, plus any or all other amounts due to the Defaulting Party under this Agreement against (b) all Settlement Amounts that are due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the "Termination Payment") payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

5.4 Notice of Payment of Termination Payment. As soon as practicable after a liquidation, 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 due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within two (2) Business Days after such notice is effective.

5.5 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 two (2) Business Days of receipt of Non-Defaulting Party's calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute; provided, however, that if the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first

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transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the Termination Payment.

5.6 Closeout Setoffs.

Option A: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments or undertakings between the Defaulting Party and the Non-Defaulting Party and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option B: After calculation of a Termination Payment in accordance with Section 5.3, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to (i) set off against such Termination Payment any amounts due and owing by the Defaulting Party or any of its Affiliates to the Non-Defaulting Party or any of its Affiliates under any other agreements, instruments or undertakings between the Defaulting Party or any of its Affiliates and the Non-Defaulting Party or any of its Affiliates and/or (ii) to the extent the Transactions are not yet liquidated in accordance with Section 5.2, withhold payment of the Termination Payment to the Defaulting Party. The remedy provided for in this Section shall be without prejudice and in addition to any right of setoff, combination of accounts, lien or other right to which any Party is at any time otherwise entitled (whether by operation of law, contract or otherwise).

Option C: Neither Option A nor B shall apply.

5.7 Suspension of Performance. Notwithstanding any other provision of this Master Agreement, if (a) an Event of Default or (b) a Potential Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right (i) to suspend performance under any or all Transactions; provided, however, in no event shall any such suspension continue for longer than ten (10) NERC Business Days with respect to any single Transaction unless an early Termination Date shall have been declared and notice thereof pursuant to Section 5.2 given, and (ii) to the extent an Event of Default shall have occurred and be continuing to exercise any remedy available at law or in equity.

ARTICLE SIX: PAYMENT AND NETTING

6.1 Billing Period. Unless otherwise specifically agreed upon by the Parties in a Transaction, the calendar month shall be the standard period for all payments under this Agreement (other than Termination Payments and, if "Accelerated Payment of Damages" is specified by the Parties in the Cover Sheet, payments pursuant to Section 4.1 or 4.2 and Option premium payments pursuant to Section 6.7). As soon as practicable after the end of each month, each Party will render to the other Party an invoice for the payment obligations, if any, incurred hereunder during the preceding month.

6.2 Timeliness of Payment. Unless otherwise agreed by the Parties in a Transaction, all invoices under this Master Agreement shall be due and payable in accordance with each Party's invoice instructions on or before the later of the twentieth (20th) day of each month, or tenth (10th) day after receipt of the invoice or, if such day is not a Business Day, then on the next Business Day. Each Party will make payments

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by electronic funds transfer, or by other mutually agreeable method(s), to the account designated by the other Party. Any amounts not paid by the due date will be deemed delinquent and will accrue interest at the Interest Rate, such interest to be calculated from and including the due date to but excluding the date the delinquent amount is paid in full.

6.3 Disputes and Adjustments of Invoices. A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice, rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 6.3 within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived.

6.4 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 pursuant to all Transactions through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of Products during the monthly billing period under this Master Agreement, including any related damages calculated pursuant to Article Four (unless one of the Parties elects to accelerate payment of such amounts as permitted by Article Four), 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.

6.5 Payment Obligation Absent Netting. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly billing period, including, but not limited to, any related damage amounts calculated pursuant to Article Four, interest, and payments or credits, that Party shall pay such sum in full when due.

6.6 Security. Unless the Party benefiting from Performance Assurance or a guaranty notifies the other Party in writing, and except in connection with a liquidation and termination in accordance with Article Five, all amounts netted pursuant to this Article Six shall not take into account or include any Performance Assurance or guaranty which may be in effect to secure a Party's performance under this Agreement.

6.7 Payment for Options. The premium amount for the purchase of an Option shall be paid within two (2) Business Days of receipt of an invoice from the Option Seller. Upon exercise of an Option, payment for the Product underlying such Option shall be due in accordance with Section 6.1.

6.8 Transaction Netting. If the Parties enter into one or more Transactions, which in conjunction with one or more other outstanding Transactions, constitute Offsetting Transactions, then all such Offsetting Transactions may by agreement of the Parties, be netted into a single Transaction under which:

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(a) the Party obligated to deliver the greater amount of Energy will deliver the difference between the total amount it is obligated to deliver and the total amount to be delivered to it under the Offsetting Transactions, and

(b) the Party owing the greater aggregate payment will pay the net difference owed between the Parties.

Each single Transaction resulting under this Section shall be deemed part of the single, indivisible contractual arrangement between the parties, and once such resulting Transaction occurs, outstanding obligations under the Offsetting Transactions which are satisfied by such offset shall terminate.

ARTICLE SEVEN: LIMITATIONS

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

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

8.1 Party A Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.1(a) is specified on the Cover Sheet, Section 8.l(a) Option C shall apply exclusively. If none of Sections 8.1(b), 8.1(c) or 8.1(d) are specified on the Cover Sheet, Section 8.1(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party B's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of Party B's quarterly report containing unaudited

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consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as Party B diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party A, Party B shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party A may request from Party B the information specified in the Cover Sheet.

(b) Credit Assurances. If Party A has reasonable grounds to believe that Party B's creditworthiness or performance under this Agreement has become unsatisfactory, Party A will provide Party B with written notice requesting Performance Assurance in an amount determined by Party A in a commercially reasonable manner. Upon receipt of such notice Party B shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party A. In the event that Party B fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that would be owed to Party A plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold, then Party A, on any Business Day, may request that Party B provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party B's Independent Amount, if any, exceeds the Party B Collateral Threshold (rounding upwards for any fractional amount to the next Party B Rounding Amount) ("Party B Performance Assurance"), less any Party B Performance Assurance already posted with Party A. Such Party B Performance Assurance shall be delivered to Party A within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party B, at its sole cost, may request that such Party B Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party B's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party B Rounding Amount). In the event that Party B fails to provide Party B Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.1(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party A as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party B to Party A, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

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(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party B, then Party A may require Party B to provide Performance Assurance in an amount determined by Party A in a commercially reasonable manner. In the event Party B shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party A within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party A will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party B shall deliver to Party A, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party A.

8.2 Party B Credit Protection. The applicable credit and collateral requirements shall be as specified on the Cover Sheet. If no option in Section 8.2(a) is specified on the Cover Sheet, Section 8.2(a) Option C shall apply exclusively. If none of Sections 8.2(b), 8.2(c) or 8.2(d) are specified on the Cover Sheet, Section 8.2(b) shall apply exclusively.

(a) Financial Information. Option A: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of Party A's annual report containing audited consolidated financial statements for such fiscal year and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of such Party's quarterly report containing unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as such Party diligently pursues the preparation, certification and delivery of the statements.

Option B: If requested by Party B, Party A shall deliver (i) within 120 days following the end of each fiscal year, a copy of the annual report containing audited consolidated financial statements for such fiscal year for the party(s) specified on the Cover Sheet and (ii) within 60 days after the end of each of its first three fiscal quarters of each fiscal year, a copy of quarterly report containing unaudited consolidated financial statements for such fiscal quarter for the party(s) specified on the Cover Sheet. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

Option C: Party B may request from Party A the information specified in the Cover Sheet.

(b) Credit Assurances. If Party B has reasonable grounds to believe that Party A's creditworthiness or performance under this Agreement has become unsatisfactory, Party B will provide Party A with written notice requesting Performance Assurance in an amount determined by Party B in a commercially reasonable manner. Upon receipt of such notice Party A shall have three (3) Business Days to remedy the situation by providing such Performance Assurance to Party B. In the event that Party A fails to provide such Performance Assurance, or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default under Article Five will be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(c) Collateral Threshold. If at any time and from time to time during the term of this Agreement (and notwithstanding whether an Event of Default has occurred), the Termination Payment that

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would be owed to Party B plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold, then Party B, on any Business Day, may request that Party A provide Performance Assurance in an amount equal to the amount by which the Termination Payment plus Party A's Independent Amount, if any, exceeds the Party A Collateral Threshold (rounding upwards for any fractional amount to the next Party A Rounding Amount) ("Party A Performance Assurance"), less any Party A Performance Assurance already posted with Party B. Such Party A Performance Assurance shall be delivered to Party B within three (3) Business Days of the date of such request. On any Business Day (but no more frequently than weekly with respect to Letters of Credit and daily with respect to cash), Party A, at its sole cost, may request that such Party A Performance Assurance be reduced correspondingly to the amount of such excess Termination Payment plus Party A's Independent Amount, if any, (rounding upwards for any fractional amount to the next Party A Rounding Amount). In the event that Party A fails to provide Party A Performance Assurance pursuant to the terms of this Article Eight within three (3) Business Days, then an Event of Default under Article Five shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

For purposes of this Section 8.2(c), the calculation of the Termination Payment shall be calculated pursuant to Section 5.3 by Party B as if all outstanding Transactions had been liquidated, and in addition thereto, shall include all amounts owed but not yet paid by Party A to Party B, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions.

(d) Downgrade Event. If at any time there shall occur a Downgrade Event in respect of Party A, then Party B may require Party A to provide Performance Assurance in an amount determined by Party B in a commercially reasonable manner. In the event Party A shall fail to provide such Performance Assurance or a guaranty or other credit assurance acceptable to Party B within three (3) Business Days of receipt of notice, then an Event of Default shall be deemed to have occurred and Party B will be entitled to the remedies set forth in Article Five of this Master Agreement.

(e) If specified on the Cover Sheet, Party A shall deliver to Party B, prior to or concurrently with the execution and delivery of this Master Agreement a guarantee in an amount not less than the Guarantee Amount specified on the Cover Sheet and in a form reasonably acceptable to Party B.

8.3 Grant of Security Interest/Remedies. To secure its obligations under this Agreement and to the extent either or both Parties deliver Performance Assurance hereunder, each Party (a "Pledgor") hereby grants to the other Party (the "Secured Party") a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all cash collateral and cash equivalent collateral and any and all proceeds resulting therefrom or the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party's first-priority security interest in, and lien on (and right of setoff against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence or deemed occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Defaulting Party may do any one or more of the following: (i) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect; (ii) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent; (iii) draw on any outstanding Letter of Credit issued for its benefit; and (iv) liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party. The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any

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amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE NINE: GOVERNMENTAL CHARGES

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

9.2 Governmental Charges. Seller shall pay or cause to be paid all taxes imposed by any government authority ("Governmental Charges") on or with respect to the Product or a Transaction arising prior to the Delivery Point. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product or a Transaction at and from the Delivery Point (other than ad valorem, franchise or income taxes which are related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Governmental Charges from the sums due to Seller under Article 6 of this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law.

ARTICLE TEN: MISCELLANEOUS

10.1 Term of Master Agreement. The term of this Master Agreement shall commence on the Effective Date and shall remain in effect until terminated by either Party upon (thirty) 30 days' prior written notice; provided, however, that such termination shall not affect or excuse the performance of either Party under any provision of this Master Agreement that by its terms survives any such termination and, provided further, that this Master Agreement and any other documents executed and delivered hereunder shall remain in effect with respect to the Transaction(s) entered into prior to the effective date of such termination until both Parties have fulfilled all of their obligations with respect to such Transaction(s), or such Transaction(s) that have been terminated under Section 5.2 of this Agreement.

10.2 Representations and Warranties. On the Effective Date and the date of entering into each Transaction, each Party represents and warrants to the other Party that:

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

(ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);

(iii) the execution, delivery and performance of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

(iv) this Master Agreement, each Transaction (including any Confirmation accepted in accordance with Section 2.3), and each other document executed and delivered in

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accordance with this Master Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; subject to any Equitable Defenses;

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

(vi) there is not pending or, to its knowledge, threatened against it or any of its Affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);

(vii) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);

(viii) it is acting for its own account, has made its own independent decision to enter into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) and as to whether this Master Agreement and each such Transaction (including any Confirmation accepted in accordance with Section 2.3) is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3);

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

(x) it has entered into this Master Agreement and each Transaction (including any Confirmation accepted in accordance with Section 2.3) in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in the Transaction to which it is a Party;

(xi) with respect to each Transaction (including any Confirmation accepted in accordance with Section 2.3) involving the purchase or sale of a Product or an Option, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into such Transaction for purposes related to its business as such; and

(xii) the material economic terms of each Transaction are subject to individual negotiation by the Parties.

10.3 Title and Risk of Loss. Title to and risk of loss related to the Product shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver to Buyer the Quantity of the Product

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free and clear of all liens, security interests, claims and encumbrances or any interest therein or thereto by any person arising prior to the Delivery Point.

10.4 Indemnity. Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Product is vested in such Party as provided in Section 10.3. Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Article Nine.

10.5 Assignment. Neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent may be withheld in the exercise of its sole discretion; provided, however, either Party may, without the consent of the other Party (and without relieving itself from liability hereunder), (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and so long as the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

10.6 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 NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT.

10.7 Notices. All notices, requests, statements or payments shall be made as specified in the Cover Sheet. Notices (other than scheduling requests) shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service or facsimile. Notice by facsimile or hand delivery shall be effective at the close of business on the day actually received, if received during business hours on a Business Day, and otherwise shall be effective at the close of business on the next Business Day. Notice by overnight United States mail or courier shall be effective on the next Business Day after it was sent. A Party may change its addresses by providing notice of same in accordance herewith.

10.8 General. This Master Agreement (including the exhibits, schedules and any written supplements hereto), the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any Confirmation accepted in accordance with Section 2.3) constitute the entire agreement between the Parties relating to the subject matter. Notwithstanding the foregoing, any collateral, credit support or margin agreement or similar arrangement between the Parties shall, upon designation by the Parties, be deemed part of this Agreement and shall be incorporated herein by reference. 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. Except to the extent herein provided for, no amendment or modification to this Master Agreement shall be enforceable unless reduced to writing and executed by both Parties. Each Party agrees if it seeks to amend any applicable wholesale power sales tariff during the term of this Agreement, such amendment will not in any way affect outstanding Transactions under this

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Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement). Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. Any provision declared or rendered unlawful by any applicable court of law or regulatory agency or deemed unlawful because of a statutory change (individually or collectively, such events referred to as "Regulatory Event") will not otherwise affect the remaining lawful obligations that arise under this Agreement; and provided, further, that if a Regulatory Event occurs, the Parties shall use their best efforts to reform this Agreement in order to give effect to the original intention of the Parties. The term "including" when used in this Agreement shall be by way of example only and shall not be considered in any way to be in limitation. The headings used herein are for convenience and reference purposes only. All indemnity and audit rights shall survive the termination of this Agreement for twelve (12) months. This Agreement shall be binding on each Party's successors and permitted assigns.

10.9 Audit. Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Master Agreement. If requested, a Party shall provide to the other Party statements evidencing the Quantity delivered at the Delivery Point. If any such examination reveals any inaccuracy in any statement, the necessary adjustments in such statement and the payments thereof will be made promptly and shall bear interest calculated at the Interest Rate from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of twelve (12) months from the rendition thereof, and thereafter any objection shall be deemed waived.

10.10 Forward Contract. The Parties acknowledge and agree that all Transactions constitute "forward contracts" within the meaning of the United States Bankruptcy Code.

10.11 Confidentiality. If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement, neither Party shall disclose the terms or conditions of a Transaction under this Master Agreement to a third party (other than the Party's employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential) except in order to comply with any applicable law, regulation, or any exchange, control area or independent system operator rule or in connection with any court or regulatory proceeding; provided, however, 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.

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SCHEDULE M: GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEMS

(THIS SCHEDULE IS INCLUDED IF THE APPROPRIATE BOX ON THE COVER SHEET IS MARKED INDICATING A PARTY IS A GOVERNMENTAL ENTITY OR PUBLIC POWER SYSTEM)

A. The Parties agree to add the following definitions in Article One.

"Act" means the San José, Cal., Muni. Code title 26 (2018).

"Designated Fund" has the meaning set forth in Section 10.18.

"Governmental Entity or Public Power System" means a municipality, county, governmental board, public power authority, public utility district, joint action agency, or other similar political subdivision or public entity of the United States, one or more States or territories or any combination thereof.

"Special Fund" means the Designated Fund, which is set aside to satisfy the Public Power System's obligations hereunder out of which amounts shall be paid to satisfy all of the Governmental Entity's obligations under this Master Agreement for the entire Delivery Period.

B. The following sentence shall be added to the end of the definition of "Force Majeure" in Article One.

If the Claiming Party is a Governmental Entity or Public Power System, Force Majeure does not include any action taken by the Governmental Entity or Public Power System in its governmental capacity.

C. The Parties agree to add the following representations and warranties to Section 10.2:

Further and with respect to a Party that is a Governmental Entity or Public Power System, such Governmental Entity or Public Power System represents and warrants to the other Party continuing throughout the term of this Master Agreement, with respect to this Master Agreement and each Transaction, as follows: (i) all acts necessary to the valid execution, delivery and performance of this Master Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under the Act and the Public Power System's ordinances, bylaws or other regulations, (ii) all persons making up the governing body of Governmental Entity or Public Power System are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with the Act and other applicable law, (iii) entry into and performance of this Master Agreement by

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Governmental Entity or Public Power System are for a proper public purpose within the meaning of the Act and all other relevant constitutional, organic or other governing documents and applicable law, (iv) the term of this Master Agreement does not extend beyond any applicable limitation imposed by the Act or other relevant constitutional, organic or other governing documents and applicable law, (v) the Public Power System's obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Governmental Entity or Public Power System' obligations hereunder and under each Transaction or (c) are to be made solely from a Special Fund, (vi) entry into and performance of this Master Agreement and each Transaction by the Governmental Entity or Public Power System will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of Governmental Entity or Public Power System otherwise entitled to such exclusion, and (vii) obligations to make payments hereunder do not constitute any kind of indebtedness of Governmental Entity or Public Power System or create any kind of lien on, or security interest in, any property or revenues of Governmental Entity or Public Power System which, in either case, is proscribed by any provision of the Act or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

D. The Parties agree to add the following sections to Article Three:

Section 3.4 Public Power System's Deliveries. On the Effective Date and as a condition to the obligations of the other Party under this Agreement, Governmental Entity or Public Power System shall provide the other Party hereto (i) certified copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Governmental Entity or Public Power System of this Master Agreement and (ii) an opinion of counsel for Governmental Entity or Public Power System, in form and substance reasonably satisfactory to the Other Party, regarding the validity, binding effect and enforceability of this Master Agreement against Governmental Entity or Public Power System in respect of the Act and all other relevant constitutional organic or other governing documents and applicable law.

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Section 3.5 No Immunity Claim. Governmental Entity or Public Power System warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.

E. If the appropriate box is checked on the Cover Sheet, as an alternative to selecting one of the options under Section 8.3, the Parties agree to add the following section to Article Three:

Section 3.6 Governmental Entity or Public Power System Security. With respect to each Transaction, Governmental Entity or Public Power System shall either (i) have created and set aside a Special Fund or (ii) upon execution of this Master Agreement and prior to the commencement of each subsequent fiscal year of Governmental Entity or Public Power System during any Delivery Period, have obtained all necessary budgetary approvals and certifications for payment of all of its obligations under this Master Agreement for such fiscal year; any breach of this provision shall be deemed to have arisen during a fiscal period of Governmental Entity or Public Power System for which budgetary approval or certification of its obligations under this Master Agreement is in effect and, notwithstanding anything to the contrary in Article Four, an Early Termination Date shall automatically and without further notice occur hereunder as of such date wherein Governmental Entity or Public Power System shall be treated as the Defaulting Party. Governmental Entity or Public Power System shall have allocated to the Special Fund or its general funds a revenue base that is adequate to cover Public Power System's payment obligations hereunder throughout the entire Delivery Period.

F. If the appropriate box is checked on the Cover Sheet, the Parties agree to add the following section to Article Eight:

Section 8.4 Governmental Security. As security for payment and performance of Public Power System's obligations hereunder, Public Power System hereby pledges, sets over, assigns and grants to the other Party a security interest in all of Public Power System's right, title and interest in and to [specify collateral].

G. The Parties agree to add the following sentence at the end of Section 10.6 - Governing Law:

NOTWITHSTANDING THE FOREGOING, IN RESPECT OF THE APPLICABILITY OF THE ACT AS HEREIN PROVIDED, THE LAWS OF THE STATE OF CALIFORNIA SHALL APPLY.

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SCHEDULE P: PRODUCTS AND RELATED DEFINITIONS

"Ancillary Services" means any of the services identified by a Transmission Provider in its transmission tariff as "ancillary services" including, but not limited to, regulation and frequency response, energy imbalance, operating reserve-spinning and operating reserve-supplemental, as may be specified in the Transaction.

"Capacity" has the meaning specified in the Transaction.

"Energy" means three-phase, 60-cycle alternating current electric energy, expressed in megawatt hours.

"Firm (LD)" means, with respect to a Transaction, that either Party shall be relieved of its obligations to sell and deliver or purchase and receive without liability only to the extent that, and for the period during which, such performance is prevented by Force Majeure. In the absence of Force Majeure, the Party to which performance is owed shall be entitled to receive from the Party which failed to deliver/receive an amount determined pursuant to Article Four.

"Firm Transmission Contingent - Contract Path" means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product in the case of the Seller from the generation source to the Delivery Point or in the case of the Buyer from the Delivery Point to the ultimate sink, and (ii) such interruption or curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the applicable transmission provider's tariff. This contingency shall excuse performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of "Force Majeure" in Section 1.23 to the contrary.

"Firm Transmission Contingent - Delivery Point" means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be payable including any amounts determined pursuant to Article Four, if the transmission to the Delivery Point (in the case of Seller) or from the Delivery Point (in the case of Buyer) for such Transaction is interrupted or curtailed and (i) such Party has provided for firm transmission with the transmission provider(s) for the Product, in the case of the Seller, to be delivered to the Delivery Point or, in the case of Buyer, to be received at the Delivery Point and (ii) such interruption or curtailment is due to "force majeure" or "uncontrollable force" or a similar term as defined under the applicable transmission provider's tariff. This transmission contingency excuses performance for the duration of the interruption or curtailment, notwithstanding the provisions of the definition of "Force Majeure" in Section 1.23 to the contrary. Interruptions or curtailments of transmission other than the transmission either immediately to or from the Delivery Point shall not excuse performance.

"Firm (No Force Majeure)" means, with respect to a Transaction, that if either Party fails to perform its obligation to sell and deliver or purchase and receive the Product, the Party to which

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performance is owed shall be entitled to receive from the Party which failed to perform an amount determined pursuant to Article Four. Force Majeure shall not excuse performance of a Firm (No Force Majeure) Transaction.

"Into _____ (the "Receiving Transmission Provider"), Seller's Daily Choice" means that, in accordance with the provisions set forth below, (1) the Product shall be scheduled and delivered to an interconnection or interface ("Interface") either (a) on the Receiving Transmission Provider's transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which Interface, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area; and (2) Seller has the right on a daily prescheduled basis to designate the Interface where the Product shall be delivered. An "Into" Product shall be subject to the following provisions:

1. Prescheduling and Notification. Subject to the provisions of Section 6, not later than the prescheduling deadline of 11:00 a.m. CPT on the Business Day before the next delivery day or as otherwise agreed to by Buyer and Seller, Seller shall notify Buyer ("Seller's Notification") of Seller's immediate upstream counterparty and the Interface (the "Designated Interface") where Seller shall deliver the Product for the next delivery day, and Buyer shall notify Seller of Buyer's immediate downstream counterparty.

2. Availability of "Firm Transmission" to Buyer at Designated Interface; "Timely Request for Transmission," "ADI" and "Available Transmission." In determining availability to Buyer of next-day firm transmission ("Firm Transmission") from the Designated Interface, a "Timely Request for Transmission" shall mean a properly completed request for Firm Transmission made by Buyer in accordance with the controlling tariff procedures, which request shall be submitted to the Receiving Transmission Provider no later than 30 minutes after delivery of Seller's Notification, provided, however, if the Receiving Transmission Provider is not accepting requests for Firm Transmission at the time of Seller's Notification, then such request by Buyer shall be made within 30 minutes of the time when the Receiving Transmission Provider first opens thereafter for purposes of accepting requests for Firm Transmission.

Pursuant to the terms hereof, delivery of the Product may under certain circumstances be redesignated to occur at an Interface other than the Designated Interface (any such alternate designated interface, an "ADI") either (a) on the Receiving Transmission Provider's transmission system border or (b) within the control area of the Receiving Transmission Provider if the Product is from a source of generation in that control area, which ADI, in either case, the Receiving Transmission Provider identifies as available for delivery of the Product in or into its control area using either firm or non-firm transmission, as available on a day-ahead or hourly basis (individually or collectively referred to as "Available Transmission") within the Receiving Transmission Provider's transmission system.

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3. Rights of Buyer and Seller Depending Upon Availability of/Timely Request for Firm Transmission.

A. Timely Request for Firm Transmission made by Buyer, Accepted by the Receiving Transmission Provider and Purchased by Buyer. If a Timely Request for Firm Transmission is made by Buyer and is accepted by the Receiving Transmission Provider and Buyer purchases such Firm Transmission, then Seller shall deliver and Buyer shall receive the Product at the Designated Interface.

i. If the Firm Transmission purchased by Buyer within the Receiving Transmission Provider's transmission system from the Designated Interface ceases to be available to Buyer for any reason, or if Seller is unable to deliver the Product at the Designated Interface for any reason except Buyer's non-performance, then at Seller's choice from among the following, Seller shall: (a) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, require Buyer to purchase such Firm Transmission from such ADI, and schedule and deliver the affected portion of the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, or (b) require Buyer to purchase non-firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by Seller, or (c) to the extent firm transmission is available on an hourly basis, require Buyer to purchase firm transmission, and schedule and deliver the affected portion of the Product on the basis of Buyer's purchase of such hourly firm transmission from the Designated Interface or an ADI designated by Seller.

ii. If the Available Transmission utilized by Buyer as required by Seller pursuant to Section 3A(i) ceases to be available to Buyer for any reason, then Seller shall again have those alternatives stated in Section 3A(i) in order to satisfy its obligations.

iii. Seller's obligation to schedule and deliver the Product at an ADI is subject to Buyer's obligation referenced in Section 4B to cooperate reasonably therewith. If Buyer and Seller cannot complete the scheduling and/or delivery at an ADI, then Buyer shall be deemed to have satisfied its receipt obligations to Seller and Seller shall be deemed to have failed its delivery obligations to Buyer, and Seller shall be liable to Buyer for amounts determined pursuant to Article Four.

iv. In each instance in which Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI pursuant to Sections 3A(i) or (ii), and Firm Transmission had been purchased by both Seller and Buyer into and within the Receiving Transmission Provider's transmission system as to the scheduled delivery which could not be completed as a result of the interruption or curtailment of such Firm Transmission, Buyer and Seller shall bear their respective transmission expenses and/or associated congestion charges incurred in connection with efforts to complete delivery by such

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alternative scheduling and delivery arrangements. In any instance except as set forth in the immediately preceding sentence, Buyer and Seller must make alternative scheduling arrangements for delivery at the Designated Interface or an ADI under Sections 3A(i) or (ii), Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with such alternative scheduling arrangements.

B. Timely Request for Firm Transmission Made by Buyer but Rejected by the Receiving Transmission Provider. If Buyer's Timely Request for Firm Transmission is rejected by the Receiving Transmission Provider because of unavailability of Firm Transmission from the Designated Interface, then Buyer shall notify Seller within 15 minutes after receipt of the Receiving Transmission Provider's notice of rejection ("Buyer's Rejection Notice"). If Buyer timely notifies Seller of such unavailability of Firm Transmission from the Designated Interface, then Seller shall be obligated either (1) to the extent Firm Transmission is available to Buyer from an ADI on a day-ahead basis, to require Buyer to purchase (at Buyer's own expense) such Firm Transmission from such ADI and schedule and deliver the Product to such ADI on the basis of Buyer's purchase of Firm Transmission, and thereafter the provisions in Section 3A shall apply, or (2) to require Buyer to purchase (at Buyer's own expense) non-firm transmission, and schedule and deliver the Product on the basis of Buyer's purchase of non-firm transmission from the Designated Interface or an ADI designated by the Seller, in which case Seller shall bear the risk of interruption or curtailment of the non-firm transmission; provided, however, that if the non-firm transmission is interrupted or curtailed or if Seller is unable to deliver the Product for any reason, Seller shall have the right to schedule and deliver the Product to another ADI in order to satisfy its delivery obligations, in which case Seller shall be responsible for any additional transmission purchases and/or associated congestion charges incurred by Buyer in connection with Seller's inability to deliver the Product as originally prescheduled. If Buyer fails to timely notify Seller of the unavailability of Firm Transmission, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface, and the provisions of Section 3D shall apply.

C. Timely Request for Firm Transmission Made by Buyer, Accepted by the Receiving Transmission Provider and not Purchased by Buyer. If Buyer's Timely Request for Firm Transmission is accepted by the Receiving Transmission Provider but Buyer elects to purchase non-firm transmission rather than Firm Transmission to take delivery of the Product, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

D. No Timely Request for Firm Transmission Made by Buyer, or Buyer Fails to Timely Send Buyer's Rejection Notice. If Buyer fails to make a Timely Request for Firm Transmission or Buyer fails to timely deliver Buyer's Rejection Notice, then Buyer shall bear the risk of interruption or curtailment of transmission from the Designated

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Interface. In such circumstances, if Seller's delivery is interrupted as a result of transmission relied upon by Buyer from the Designated Interface, then Seller shall be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for amounts determined pursuant to Article Four.

4. Transmission.

A. Seller's Responsibilities. Seller shall be responsible for transmission required to deliver the Product to the Designated Interface or ADI, as the case may be. It is expressly agreed that Seller is not required to utilize Firm Transmission for its delivery obligations hereunder, and Seller shall bear the risk of utilizing non-firm transmission. If Seller's scheduled delivery to Buyer is interrupted as a result of Buyer's attempted transmission of the Product beyond the Receiving Transmission Provider's system border, then Seller will be deemed to have satisfied its delivery obligations to Buyer, Buyer shall be deemed to have failed to receive the Product and Buyer shall be liable to Seller for damages pursuant to Article Four.

B. Buyer's Responsibilities. Buyer shall be responsible for transmission required to receive and transmit the Product at and from the Designated Interface or ADI, as the case may be, and except as specifically provided in Section 3A and 3B, shall be responsible for any costs associated with transmission therefrom. If Seller is attempting to complete the designation of an ADI as a result of Seller's rights and obligations hereunder, Buyer shall co-operate reasonably with Seller in order to effect such alternate designation.

5. Force Majeure. An "Into" Product shall be subject to the "Force Majeure" provisions in Section 1.23.

6. Multiple Parties in Delivery Chain Involving a Designated Interface. Seller and Buyer recognize that there may be multiple parties involved in the delivery and receipt of the Product at the Designated Interface or ADI to the extent that (1) Seller may be purchasing the Product from a succession of other sellers ("Other Sellers"), the first of which Other Sellers shall be causing the Product to be generated from a source ("Source Seller") and/or (2) Buyer may be selling the Product to a succession of other buyers ("Other Buyers"), the last of which Other Buyers shall be using the Product to serve its energy needs ("Sink Buyer"). Seller and Buyer further recognize that in certain Transactions neither Seller nor Buyer may originate the decision as to either (a) the original identification of the Designated Interface or ADI (which designation may be made by the Source Seller) or (b) the Timely Request for Firm Transmission or the purchase of other Available Transmission (which request may be made by the Sink Buyer). Accordingly, Seller and Buyer agree as follows:

A. If Seller is not the Source Seller, then Seller shall notify Buyer of the Designated Interface promptly after Seller is notified thereof by the Other Seller with whom Seller has a contractual relationship, but in no event may such designation of the Designated Interface be later than the prescheduling deadline pertaining to the Transaction between Buyer and Seller pursuant to Section 1.

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B. If Buyer is not the Sink Buyer, then Buyer shall notify the Other Buyer with whom Buyer has a contractual relationship of the Designated Interface promptly after Seller notifies Buyer thereof, with the intent being that the party bearing actual responsibility to secure transmission shall have up to 30 minutes after receipt of the Designated Interface to submit its Timely Request for Firm Transmission.

C. Seller and Buyer each agree that any other communications or actions required to be given or made in connection with this "Into Product" (including without limitation, information relating to an ADI) shall be made or taken promptly after receipt of the relevant information from the Other Sellers and Other Buyers, as the case may be.

D. Seller and Buyer each agree that in certain Transactions time is of the essence and it may be desirable to provide necessary information to Other Sellers and Other Buyers in order to complete the scheduling and delivery of the Product. Accordingly, Seller and Buyer agree that each has the right, but not the obligation, to provide information at its own risk to Other Sellers and Other Buyers, as the case may be, in order to effect the prescheduling, scheduling and delivery of the Product.

"Native Load" means the demand imposed on an electric utility or an entity by the requirements of retail customers located within a franchised service territory that the electric utility or entity has statutory obligation to serve.

"Non-Firm" means, with respect to a Transaction, that delivery or receipt of the Product may be interrupted for any reason or for no reason, without liability on the part of either Party.

"System Firm" means that the Product will be supplied from the owned or controlled generation or pre-existing purchased power assets of the system specified in the Transaction (the "System") with non-firm transmission to and from the Delivery Point, unless a different Transmission Contingency is specified in a Transaction. Seller's failure to deliver shall be excused: (i) by an event or circumstance which prevents Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Seller; (ii) by Buyer's failure to perform; (iii) to the extent necessary to preserve the integrity of, or prevent or limit any instability on, the System; (iv) to the extent the System or the control area or reliability council within which the System operates declares an emergency condition, as determined in the system's, or the control area's, or reliability council's reasonable judgment; or (v) by the interruption or curtailment of transmission to the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Seller's performance. Buyer's failure to receive shall be excused (i) by Force Majeure; (ii) by Seller's failure to perform, or (iii) by the interruption or curtailment of transmission from the Delivery Point or by the occurrence of any Transmission Contingency specified in a Transaction as excusing Buyer's performance. In any of such events, neither party shall be liable to the other for any damages, including any amounts determined pursuant to Article Four.

"Transmission Contingent" means, with respect to a Transaction, that the performance of either Seller or Buyer (as specified in the Transaction) shall be excused, and no damages shall be

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payable including any amounts determined pursuant to Article Four, if the transmission for such Transaction is unavailable or interrupted or curtailed for any reason, at any time, anywhere from the Seller's proposed generating source to the Buyer's proposed ultimate sink, regardless of whether transmission, if any, that such Party is attempting to secure and/or has purchased for the Product is firm or non-firm. If the transmission (whether firm or non-firm) that Seller or Buyer is attempting to secure is from source to sink is unavailable, this contingency excuses performance for the entire Transaction. If the transmission (whether firm or non-firm) that Seller or Buyer has secured from source to sink is interrupted or curtailed for any reason, this contingency excuses performance for the duration of the interruption or curtailment notwithstanding the provisions of the definition of "Force Majeure" in Article 1.23 to the contrary.

"Unit Firm" means, with respect to a Transaction, that the Product subject to the Transaction is intended to be supplied from a generation asset or assets specified in the Transaction. Seller's failure to deliver under a "Unit Firm" Transaction shall be excused: (i) if the specified generation asset(s) are unavailable as a result of a Forced Outage (as defined in the NERC Generating Unit Availability Data System (GADS) Forced Outage reporting guidelines) or (ii) by an event or circumstance that affects the specified generation asset(s) so as to prevent Seller from performing its obligations, which event or circumstance was not anticipated as of the date the Transaction was agreed to, and which is not within the reasonable control of, or the result of the negligence of, the Seller or (iii) by Buyer's failure to perform. In any of such events, Seller shall not be liable to Buyer for any damages, including any amounts determined pursuant to Article Four.

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EXHIBIT A

MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER

This confirmation letter shall confirm the Transaction agreed to on _____, ___ between _____ ("Party A") and _____ ("Party B") regarding the sale/purchase of the Product under the terms and conditions as follows:

Seller: _____

Buyer: _____

Product:

[] Into _____, Seller's Daily Choice

[] Firm (LD)

[] Firm (No Force Majeure)

[] System Firm

(Specify System: _____)

[] Unit Firm

(Specify Unit(s): _____)

[] Other _____

[] Transmission Contingency (If not marked, no transmission contingency)

[]	FT-Contract Path Contingency	[]	Seller	[]	Buyer
[]	FT-Delivery Point Contingency	[]	Seller	[]	Buyer
[]	Transmission Contingent	[]	Seller	[]	Buyer
[]	Other transmission contingency				

(Specify: _____)

Contract Quantity: _____

Delivery Point: _____

Contract Price:

Energy Price: _____

Other Charges: _____

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Delivery Period: _____

Special Conditions: _____

Scheduling: _____

Option Buyer: _____

Option Seller: _____

Type of Option: _____

Strike Price: _____

Premium: _____

Exercise Period: _____

This confirmation letter is being provided pursuant to and in accordance with the Master Power Purchase and Sale Agreement dated _____ (the "Master Agreement") between Party A and Party B, and constitutes part of and is subject to the terms and provisions of such Master Agreement. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement.

[Party A]	[Party B]
Name: _____	Name: _____
Title: _____	Title: _____
Phone No: _____	Phone No: _____
Fax: _____	Fax: _____

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EXHIBIT: SJCE #66
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé /11-15-WSPP SJCE Resource Adequacy Transaction Confirmation 15Nov2018_1
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

11-15-WSPP SJCE Resource Adequacy Transaction Confirmation 15Nov2018_1

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

TRANSACTION CONFIRMATION
RESOURCE ADEQUACY

This Confirmation Letter ("Confirmation") confirms the Transaction between **Party 1** ("Seller") and **the City of San José** ("Buyer"), each individually a "Party" and together the "Parties", dated as of _____, 2018 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product. This Transaction is governed by the terms and conditions of the WSPP Agreement effective as of June 21, 2018, along with any schedules and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. Capitalized terms not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein below).

ARTICLE 1. DEFINITIONS

1.1 "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer from a Replacement Unit in accordance with the terms of Section 4.5.

1.2 "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body of competent jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.

1.3 "Availability Incentive Payments" is defined in the Tariff.

1.4 "Availability Standards" means the availability standards set forth in Section 40.9 of the Tariff.

1.5 "Buyer" is defined in the introductory paragraph hereof.

1.6 "CAISO" means the California Independent System Operator Corporation or its successor.

1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the WSPP Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."

1.8 "Confirmation" is defined in the introductory paragraph hereof.

1.9 "Confirmation Effective Date" is defined in the introductory paragraph hereof.

1.10 "Contract Price" means, for any Monthly Delivery Period, the price specified for such Monthly Delivery Period in the "RA Capacity Price Table" set forth in Section 4.9.

1.11 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3, which Seller has agreed to provide to Buyer from the Unit for such Showing Month.

1.12 "CPUC Decisions" means, to the extent still applicable, CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050 and subsequent decisions related to resource adequacy, as may be amended from time to time by the CPUC.

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

1.14 "Delivery Period" is defined in Section 4.1 hereof.

1.15 "Delivery Point" is defined in Section 4.2 hereof.

1.16 "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product (including any Alternate Capacity) less any reductions to Contract Quantity made by Seller pursuant to Section 4.4 for such Showing Month.

1.17 "Excusable Event" means any event caused by a Planned Outage that is acceptably noticed pursuant to the Notification Deadline prescribed in Section 4.5 that excuses Seller from failure to otherwise perform its obligations under this Confirmation.

1.18 "Flexible RA Attributes" means any and all flexible resource adequacy attributes, as may be identified at any time during the Delivery Period by the CPUC, CAISO or other Governmental Body of competent jurisdiction that can be counted toward Flexible RAR, exclusive of any RA Attributes and LAR Attributes.

1.19 "Flexible RAR" means the flexible resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction.

1.20 "Flexible RAR Showing" means the Flexible RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction over the LSE.

1.21 "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

1.22 "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA of competent jurisdiction over the LSE. LAR may also be known as local resource adequacy, local RAR, "PG&E Other RA", "Greater Bay Area RA", or local capacity requirement in other regulatory proceedings or legislative actions.

1.23 "LAR Attributes" means, with respect to a Unit, any and all local resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC, CAISO, LRA, or other Governmental Body of competent jurisdiction, associated with the physical location or point of electrical interconnection of such Unit within the CAISO Control Area, that can be counted toward LAR, exclusive of any RA Attributes and Flexible RA Attributes.

1.24 "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction over the LSE.

1.25 "Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, "PG&E Other RA", "Greater Bay Area RA", or local capacity requirement in other regulatory proceedings or legislative actions.

1.26 "LRA" means Local Regulatory Authority as defined in the Tariff.

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

1.28 "Monthly Delivery Period" means each calendar month during the Delivery Period and corresponds to each Showing Month.

1.29 "Monthly RA Capacity Payment" is defined in Section 4.9 hereof.

1.30 "Net Qualifying Capacity" is defined in the Tariff.

1.31 "Notification Deadline" is defined in Section 4.5 hereof.

1.32 "Outage" means any CAISO approved disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff.

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

1.34 "Product" is defined in Article 3 hereof.

1.35 "RA Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the CPUC, CAISO or other Governmental Body of competent jurisdiction that can be counted toward RAR, exclusive of any LAR Attributes and Flexible RA Attributes.

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

1.37 "RAR" means the resource adequacy requirements (other than Local RAR or Flexible RAR) established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction.

1.38 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction.

1.39 "Replacement Capacity" is defined in Section 4.7 hereof.

1.40 "Replacement Unit" is defined in Section 4.5.

1.41 "Resource Category" is as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

1.42 "San José Clean Energy" is the City of San José's community choice aggregation program. The San José Community Energy Department administers and manages San José Clean Energy.

1.43 "Scheduling Coordinator" is defined in the Tariff.

1.44 "Seller" is defined in the introductory paragraph hereof.

1.45 "Showing Month" is the calendar month during the Delivery Period that is the subject of the RAR Showing, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.46 "Supply Plan" means the supply plan, or similar or successor filing, that a Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other applicable Governmental Body pursuant to Applicable Laws in order for the RA Attributes or LAR Attributes of such RA Capacity to count.

1.47 "Tariff" means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time. For purposes of Article 5, the Tariff refers to the tariff and protocol provisions of the CAISO as they exist on the Confirmation Effective Date.

1.48 "Transaction" for purposes of this Confirmation means the transaction (as that term is used in the WSPP Agreement) that is evidenced by this Confirmation.

1.49 "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer. A Unit shall not be a coal-fired generating facility.

1.50 "Unit EFC" means the effective flexible capacity that is or will be set by the CAISO for the applicable Unit.

1.51 "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. The Parties agree that if the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, that for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, or (ii) the CAISO-adjusted Net Qualifying Capacity.

1.52 "WSPP Agreement" is defined in the introductory paragraph hereof.

ARTICLE 2. UNIT INFORMATION

Name:	
Location:	
CAISO Resource ID:	
Unit SCID:	
Unit NQC:	
Unit EFC:	
Resource Type:	
Resource Category (1, 2, 3 or 4):	
Flexible RAR Category (1, 2 or 3):	
Path 26 (North or South):	
Local Capacity Area (if any, as of Confirmation Effective Date):	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment:	
Run Hour Restrictions:	

ARTICLE 3. RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity of RA Attributes, LRA Attributes, and if applicable, Flexible RA Attributes from each Unit, as further marked and specified in Section 3.1, Section 3.2 and Section 3.3 below (the "Product"), measured in MWs. The Product does not confer to Buyer any right to the electrical output from the Unit. Rather, the Product confers the right to include the Designated RA Capacity in RAR Showings, LAR Showings, Flexible RAR Showings, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell any RA Capacity from the Unit in excess of the Unit's Contract Quantity and any RA Attributes, LAR Attributes or Flexible RA Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

-
-

3.1 Product Attributes

☐ RA Attributes

☐ RA Attributes with Flexible RA Attributes
☐ LAR Attributes
☐ LAR Attributes with Flexible RA Attributes
☐ Flexible RA Attributes

3.2 ☐ Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Unit in the amount of the Contract Quantity specified in Section 4.3. If the Unit is not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any adjustment of the RA Capacity of any Unit, as set forth in Section 4.4(c), then Seller shall have the option to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Buyer with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, the Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Section 4.7 and 4.8.

3.3 ☐ Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Unit in the amount of the Contract Quantity specified in Section 4.3. If the Unit is not available to provide the full amount of the Contract Quantity as result of an Excusable Event, then, subject to Section 4.4, Seller shall have the option to notify Buyer that either (a) Seller will not provide the full Contract Quantity during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period.

If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than an Excusable Event, including without limitation any adjustment of the RA Capacity of any Unit, as set forth in Section 4.4(c), then Seller shall have the option to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Buyer with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, the Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Section 4.7 and 4.8.

ARTICLE 4. DELIVERY AND PAYMENT

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4.1 Delivery Period

The Delivery Period shall be: _____, 20__, through _____, 20__.

4.2 Delivery Point

The Delivery Point for each Unit is the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity for each Monthly Delivery Period shall be:

Contract Quantity (MWs)

Contract Month	RAR Contract Quantity (MWs)
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

4.4 Adjustments to Contract Quantity

(a) Planned Outages: If Seller is unable to provide the applicable Contract Quantity for a portion of a Showing Month due to a Planned Outage of the Unit, then Seller shall have the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to either (a) reduce the Contract Quantity in accordance with the Planned Outage for such portion of the Showing Month; or (b) provide Alternate Capacity up to the Contract Quantity for the applicable portion of such Showing Month.

(b) Invoice Adjustment: In the event that the Contract Quantity is reduced due to a Planned Outage as set forth in Section 4.4(a) above, then the invoice for such month(s) shall be adjusted to reflect a daily pro rata amount for the duration of such reduction.

(c) Reductions in Unit NQC and/or Unit EFC: Seller's obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced by Seller if the Unit experiences a reduction in Unit NQC and/or Unit EFC as determined by the CAISO. If the Unit experiences such a reduction in Unit NQC and/or Unit EFC, then Seller has the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product, and/or (ii) Alternate Capacity up to the Contract Quantity.

4.5 Notification Deadline and Replacement Units

(a) The "Notification Deadline" in respect of a Showing Month shall be twenty (20) Business Days before the earlier of the relevant deadlines for (a) the corresponding RAR Showings, Flexible RAR Showings and/or LAR Showings for such Showing Month, and (b) the CAISO Supply Plan filings applicable to that Showing Month.

(b) If Seller desires to provide the Contract Quantity of Product for any Showing Month from a generating unit other than the Unit (a "Replacement Unit"), then Seller may, at no additional cost to Buyer, provide Buyer with Product from one or more Replacement Units, up to the Contract Quantity, for the applicable Showing Month; provided that in each case, Seller shall notify Buyer in writing of such Replacement Units no later than five days (5) before the Notification Deadline. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of the Product description in Article 3 and notice provisions in this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for the remaining portion of that Showing Month, provided however that the Replacement Unit shall not be a coal-fired generating facility.

(c) If Seller fails to provide Buyer the Contract Quantity of Product or Alternate Capacity for a given Showing Month during the Delivery Period, then Buyer may, but shall not be required to, purchase Product from a third party in accordance with Section 4.7.

4.6 Delivery of Product

(a) Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month.

(b) Seller shall submit, or cause the Unit's Scheduling Coordinator to submit, by the Notification Deadline (i) Supply Plans to the CAISO, LRA, or other applicable Governmental Body identifying and confirming the Designated RA Capacity to be

provided to Buyer for the applicable Showing Month, unless Buyer specifically requests in writing that Seller not do so (it being understood that any Designated RA Capacity subject to such a request from Buyer will be deemed to have been provided to Buyer for all purposes under this Confirmation); and (ii) written confirmation to Buyer that Buyer will be credited with the Designated RA Capacity for such Showing Month per the Unit's Scheduling Coordinator Supply Plan.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month, and such failure is not excused under the terms of this Confirmation, then the following shall apply:

(a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RA Attributes, LAR Attributes and, if applicable, Flexible RA Attributes as the Designated RA Capacity not provided by Seller; provided, however, that if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having solely RA Attributes and no LAR Attributes or Flexible RA Attributes, and no such RA Capacity is available, then Buyer may replace such portion of the Designated RA Capacity with capacity having any applicable Flexible RA Attributes and/or LAR Attributes ("Replacement Capacity") by entering into purchase transactions with one or more third parties, including, without limitation, third parties who have purchased capacity from Buyer so long as such transactions are done at prevailing market prices. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

(b) Seller shall pay to Buyer the following damages in lieu of damages specified in Section 21.3 of the WSPP Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, and (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a); minus (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any CAISO revenues or future amounts it may owe to Seller under this Confirmation pursuant to Section 9 of the WSPP Agreement.

(c) In the event that Seller fails, or fails to cause a Unit's Scheduling Coordinator, to notify Buyer of a Planned Outage with respect to such Unit in accordance with Section 4.5(a), Seller agrees that it shall reimburse Buyer for the backstop capacity costs, if any, charged to Buyer by the CAISO due to Seller's failure to provide such notice, provided that the amount that Seller is required to reimburse pursuant to

this Section 4.7(c) shall in no event exceed the amount actually charged to Buyer by the CAISO pursuant to the Tariff for such failure.

4.8 Indemnities for Failure to Deliver Contract Quantity

Subject to any adjustments made pursuant to Section 4.4 and requests from Buyer pursuant to Section 4.6(b)(i), Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, to the extent not otherwise paid by Seller to Buyer under Section 4.7(b), resulting from any of the following:

(a) Seller's failure to provide any portion of the Designated RA Capacity due to a non-Excusable Event;

(b) Seller's failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Article 3, Section 4.4 and Section 4.5; or

(c) A Unit Scheduling Coordinator's failure to timely submit accurate Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Section 9 of the WSPP Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears, after the applicable Showing Month. Each Unit's Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be prorated to reflect any portion of Designated RA Capacity that was not delivered pursuant to Section 4.4 at the time of the CAISO filing for the respective Showing Month.

RA CAPACITY PRICE TABLE

Contract Month	RAR Capacity Price ($/kW-month)
January	$X.XX

Contract Month	RAR Capacity Price ($/kW-month)
February	$X.XX
March	$X.XX
April	$X.XX
May	$X.XX
June	$X.XX
July	$X.XX
August	$X.XX
September	$X.XX
October	$X.XX
November	$X.XX
December	$X.XX

4.10 Allocation of Other Payments and Costs

Seller shall be entitled to receive and retain all revenues Buyer is not expressly entitled to receive pursuant to this Agreement, including all revenues that Seller may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, Flexible RAR Showing, as may be applicable, or any similar capacity or resource adequacy showing with the CAISO or CPUC.

Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller's account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. Any Non-Availability Charges are the responsibility of Seller, and for Seller's account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (e) above).

In accordance with Section 4.9 of this Confirmation and Sections 9 and 28 of the WSPP Agreement, all such Buyer revenues actually received by Seller, or a Unit's Scheduling Coordinator, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Seller does not remit to Buyer, owner, or operator, and Seller shall pay

such revenues received by it to Buyer if the Unit's Scheduling Coordinator, owner, or operator fails to remit those revenues to Buyer. If Seller or the Unit's Scheduling Coordinator, owner, or operator (as applicable) fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Section 28 of the WSPP Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

ARTICLE 5. CAISO OFFER REQUIREMENTS

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an Excusable Event, that results in a partial or full outage of that Unit, Seller shall either schedule or cause the Unit's Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit's Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit's Scheduling Coordinator, owner, or operator for such noncompliance.

ARTICLE 6. [RESERVED]

ARTICLE 7. OTHER BUYER AND SELLER COVENANTS

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7.1 Further Assurances

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's applicable RAR, LAR and Flexible RAR. Such commercially reasonable actions shall include, without limitation:

(a) cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable RAR, LAR, and Flexible RAR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CPUC, the CAISO, a LRA of competent jurisdiction, or other Governmental Body of competent jurisdiction to administer the applicable RAR, LAR and Flexible RAR, to demonstrate that the

Contract Quantity can be delivered to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, pursuant to the "deliverability" standards established by the CAISO or other Governmental Body of competent jurisdiction; and

(b) negotiating in good faith to make necessary amendments, if any, to this Confirmation, which are subject to agreement of such Parties, in each Party's sole discretion, to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, or other Governmental Body of competent jurisdiction to administer the applicable RAR, LAR and Flexible RAR, so as to maintain the purpose and intent of the Transaction agreed to by the Parties on the Confirmation Effective Date. The above notwithstanding, the Parties are aware that the CPUC and CAISO are considering changes to RAR and/or LAR in CPUC Rulemaking 11-10-023 and potentially other proceedings.

7.2 Seller Representations and Warranties

Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

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

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

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

(d) The Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;

(e) The owner or operator of the Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, in accordance with General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;

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

(g) If Seller is the owner of any Unit, the aggregation of all amounts of applicable LAR Attributes, RA Attributes and Flexible RA Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit's RA Capacity;

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

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

(j) Seller has notified the Scheduling Coordinator of each Unit that Seller is obligated to cause each Unit's Scheduling Coordinator to provide to the Buyer, by the Notification Deadline, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Confirmation for the applicable period; and

(k) Seller has notified each Unit's Scheduling Coordinator that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such Scheduling Coordinator is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 8. CONFIDENTIALITY

In addition to the rights and obligations in Section 30 of the WSPP Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA of competent jurisdiction in order to support its applicable LAR, RAR or Flexible RAR Showings, if applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the Scheduling Coordinator of each Unit in order for such Scheduling Coordinator to timely submit accurate Supply Plans.

Each Party recognizes that this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). Each Party (a "Receiving Party") acknowledges that the other Party (a "Disclosing Party") may submit information to the Receiving Party that the Disclosing Party considers confidential, proprietary, or trade secret information pursuant to the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code Sections 6254 and 6255). 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. Over-designation would include stamping whole agreements, entire pages or series of pages as confidential that clearly contain information that is not confidential. Upon request or demand of any third person or entity not a party to this Agreement ("Requestor") for production, inspection and/or copying of information designated by a Party as confidential information (such designated information, the "Confidential Information"), the Receiving Party shall notify the Disclosing Party as soon as practical that such request has been made. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action after receiving the foregoing notice from the Receiving Party, the Receiving Party shall be permitted to comply with the Requestor's demand and is not required to defend against it.

If required by any law, statute, ordinance, a court, Governmental Authority or agency having jurisdiction over a Party, including the California Public Records Act, that Party may release Confidential Information, or a portion thereof, as required by the Applicable Law, statute, ordinance, decision, order or regulation. A Party may disclose Confidential Information to accountants in connection with audits. In the event a Party is required to release Confidential Information, such Party shall notify the other Party of the required disclosure, such that the other Party may attempt (if such Party so chooses), at its sole cost, to cause the recipient of the Confidential Information to treat such information in a confidential manner, and to prevent such information from being disclosed or otherwise becoming part of the public domain. Parties acknowledge that Purchaser may be obligated to provide Confidential Information to the CPUC and CEC for regulatory compliance purposes, and Seller waives the prior notice requirement and authorizes such disclosures to the CPUC and CEC.

Except as provided in this *Confidentiality* section and the California Public Records Act, and subject to and without limiting Section R-7, neither Party shall publish, disclose, or otherwise divulge Confidential Information to any person at any time during or after the term of this Agreement, without the other Party's prior express written consent. Each Party shall permit knowledge of and access to Confidential Information only to those of its affiliates and to their respective attorneys, accountants, representatives, agents and employees who have a need to know such Confidential Information related to this Agreement.

ARTICLE 9. BUYER'S RE-SALE OF PRODUCT

Buyer may re-sell all or a portion of the Product hereunder; provided, however, that any such re-sale does not increase Seller's obligations or liabilities hereunder. Notwithstanding anything in this Confirmation to the contrary, to the extent any end user to which Buyer re-sells the Product ("End User") defaults (however defined) under its agreement to purchase the Product from Buyer ("End User Purchase Agreement") and such End User Purchase Agreement terminates as a result, Buyer may terminate this Confirmation upon notice to Seller and neither Party shall have any further liability to the other Party except that Buyer shall remain liable for any payment obligations owing to Seller hereunder with respect to accrued but unpaid amounts for Products

delivered prior to termination, but only to the extent that Buyer has received such payments from End User pursuant to the End User Purchase Agreement. Buyer agrees to promptly assign to Seller any and all claims that Buyer may have against End User relating to such End User's default under the End User Purchase Agreement by entering into documentation mutually agreeable to the Parties which is reasonably necessary to effectuate such assignment of claims.

ARTICLE 10. MARKET BASED RATE AUTHORITY

Upon Buyer's written request, Seller shall, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller shall not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

ARTICLE 11. COLLATERAL REQUIREMENTS

Notwithstanding any provision in the WSPP Agreement to the contrary, neither Party shall be required to post collateral or other security for this Transaction.

ARTICLE 12. GENERAL PROVISIONS

12.1. 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

12.2. Designated Fund and Limited Obligations

(a) Designated Fund. Buyer's payment obligations under this Agreement shall be paid from a Department of Community Energy designated fund ("Designated Fund") that shall be used solely for San José Clean Energy costs and expenses, including the obligations under this Agreement. Subject to the requirements and limitations of Applicable Law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to the San José Clean Energy's obligations, the Buyer agrees to establish San José Clean Energy rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this Agreement and all of Buyer's payment obligations under its other contracts for the purchase of energy for San José Clean Energy. Buyer shall provide Seller with reasonable access to account balance information with respect to the San José Clean Energy Designated Fund during the Term.

(b) Limited Obligations. Buyer's payment obligations are special limited obligations of the Buyer payable solely from the Designated Fund. Buyer's payment obligations under this

Agreement are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

12.3. Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

12.4. Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the transaction into which the Parties have entered and shall constitute the entire Agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may be entered into only by a Documentary Writing executed by both Parties, and no amendment or modification to this Confirmation shall be enforceable except through a Documentary Writing executed by both Parties.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

PARTY 1	**CITY OF SAN JOSÉ**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT: SJCE #67
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé /11-5-2018-SFPUC RE SJCE Request for Offers - CY 2019 Resource Adequacy Products - CONFIDENTIAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

11-5-2018-SFPUC RE SJCE Request for Offers - CY 2019 Resource Adequacy Products – CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

From: Mulberg, Erin <EMulberg@sfwater.org>
Sent: Monday, November 5, 2018 11:35 AM
To: Tony Zimmer; Sole, Jeanne
Cc: Power Purchasing
Subject: RE: SJCE Request for Offers - CY 2019 Resource Adequacy Products
Attachments: SJCE RFO 2019 Resource Adequacy Products 11022018 - CleanPowerSF.xlsx

Hi Tony,

Please find attached CleanPowerSF's bid to sell CY 2019 Resource Adequacy Products to SJCE.

Let us know if you have any questions.

Thanks,
Erin

Erin Mulberg | Origination & Power Supply, SFPUC Power Enterprise| (415) 551-4598 | emulberg@sfwater.org

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From: Tony Zimmer [mailto:Tony.Zimmer@ncpa.com]
Sent: Friday, November 02, 2018 4:59 PM
To: Tony Zimmer <Tony.Zimmer@ncpa.com>; Jeanne M. Solé <jeanne.sole@sanjoseca.gov>; Kelly Morris <Kelly.morris@sanjoseca.gov>
Cc: Ken Goeke <Ken.Goeke@ncpa.com>; Bernard Erlich <Bernard.Erlich@ncpa.com>; Roxana Khayyam <Roxana.Khayyam@ncpa.com>
Subject: SJCE Request for Offers - CY 2019 Resource Adequacy Products
Importance: High

Date Issued: November 2, 2018

Subject: Request for Offers to Sell CY 2019 Resource Adequacy Products to SJCE

Prospective Resource Adequacy Suppliers:

Pursuant to this Request for Offers (RFO), San Jose Clean Energy (SJCE) is seeking offers from prospective suppliers to sell Resource Adequacy Products to SJCE as further described herein:

Product Description

- Compliance Month: **January 2019**
  - Local RA (PG&E Other) with Flexible Attribute
    - 4.4 MW
  - System RA (North or South) with Flexible Attribute
    - 3.6 MW

- Compliance Month: **February 2019**
  - Local RA (Greater Bay Area)
    - 77.0 MW (including up to 8 MW of Flexible Attribute)
  - Local RA (PG&E Other)
    - 162.00 MW (including up to 8 MW of Flexible Attribute)

Submission of Offers

Please submit all offers to sell Resource Adequacy Products to SJCE using the RA Offer Form attached hereto.

All offers to sell Resource Adequacy Products must be submitted to the following SJCE contacts on or prior to November 8, 2018 at 5:00 PM Pacific:

- Jeanne Sole (SJCE): jeanne.sole@sanjoseca.gov
- Tony Zimmer (NCPA): tony.zimmer@ncpa.com

Upon receipt of any offers submitted in response to this RFO, SJCE will evaluate such offers and determine if SJCE will seek to enter into any confirmation for a transaction at the conclusion of this solicitation.

Contracting Instrument

For reference, please find attached hereto SJCE's preferred form of Resource Adequacy Transaction Confirmation for use with the WSPP. SJCE will also consider use of a Resource Adequacy Transaction Confirmation structured to work in conjunction with an EEI to be negotiated between the parties. Please find attached hereto SJCE's preferred EEI cover sheet.

In addition, SJCE is in the process of qualifying potential counterparties pursuant to its Risk Management Policies. Potential suppliers that are not yet qualified are encouraged to contact SJCE as soon as possible if they intend to respond to this Request for Proposals. SJCE will only be able to transact with entities that have been qualified by its finance department.

If a prospective supplier does not disclose financial information publicly, SJCE will also require a prospective supplier to provide the information described below for the past two (2) financial years. Also, a prospective supplier with its primary business in sectors other than energy should provide financial information and a description of its energy product operations and trading.

- Consolidated Statement of Income
- Consolidated Statement of Cash Flows
- Consolidated Balance Sheets
- Results of Operations
- Notes to Financial Statements
- Off-Balance Sheet Liabilities, if any

For any questions regarding this RFO, please contact Tony Zimmer at tony.zimmer@ncpa.com.

Disclaimers:

SJCE reserves the sole and discretionary right to (i) reject any offers received in response to this solicitation for any reason, and (ii) accept any offers received after the deadline for submittals as indicated herein. Additionally, SJCE reserves the right, at its sole discretion, to not enter into

any confirmation for the transaction at the conclusion of this solicitation. SJCE reserves the right to modify the terms and conditions of this solicitation at any time based on changing needs and market feedback. SJCE also reserves the right to rescind this solicitation at any time prior to SJCE's execution of a binding agreement. SJCE will not be liable at any time for any costs the prospective supplier may incur in preparing or submitting its response to this solicitation.

If an unsuccessful PROPOSER wants to dispute an award or award recommendation, a protest must be submitted in writing to the Director of Community Energy, Lori Mitchell, no later than ten (10) calendar days after announcement of the successful PROPOSER(s), detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes on the grounds that material provision in this RFP is ambiguous. Failure to submit a timely written protest to the contact listed below will bar consideration of the protest.

The address for submitting protests is:

Attention: Lori Mitchell, Director
City of San Jose, Department of Community Energy
200 East Santa Clara Street, 14th Floor
San Jose, CA 95113

Please submit an electronic version of the protest to lori.mitchell@sanjoseca.gov, and Jeanne.sole@sanjoseca.gov

Tony Zimmer
Assistant General Manager, Power Management

Northern California Power Agency
A Public Agency
651 Commerce Drive
Roseville, CA 95678-6420
(916) 781-4229 Phone
www.ncpa.com

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Resource Adequacy Request for Offers: Contact Information

Company Name:	CleanPowerSF
Company Address:	525 Golden Gate Avenue, 7th Floor
City, State, Zip	San Francisco, CA 94102
Authorized Contact:	Erin Mulberg
Title of Contact:	Utility Specialist, Origination and Power Supply
Phone Number:	(415) 551-4598
Fax Number:	
Email Address:	emulberg@sfwater.org

Offers to Sell Resource Adequacy Products to SJCE

(add more columns/rows as necessary for multiple offers)

System Resource Adequacy

	Jan-19	Feb-19
Seller:	CleanPowerSF	
Quantity Requested (MW):	**3.6**	**0**
Offer Quantity (MW):	3.6	
Offer Price ($/kW-Month):	$ 3.00	
Flexible RA (Yes or No):	Yes	
Flexible RA Category (if applicable):	1	
North or South of Path 26:	North of Path 26	
Resource Category (1, 2, 3, 4):	4	
Requires Import Capability Allocation (Yes or No):	No	
Import Branch Group (if applicable):	N/A	

Local Resource Adequacy - Greater Bay Area

	Jan-19	Feb-19
Seller:		
Quantity Requested (MW):	**0**	**77**
Offer Quantity (MW):		
Offer Price ($/kW-Month):		
Flexible RA (Yes or No):		
Flexible RA Category (if applicable):		
Resource Category (1, 2, 3, 4):		

Local Resource Adequacy - Other PG&E Areas

	Jan-19	Feb-19
Seller:		
Quantity Requested (MW):	**4.4**	**162**
Offer Quantity (MW):		
Offer Price ($/kW-Month):		
Flexible RA (Yes or No):		

Flexible RA Category (if applicable):		
Resource Category (1, 2, 3, 4):		

EXHIBIT: SJCE #68
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / 11-14-2018-SFPUC Re 2019 RA Products - CONFIDENTIAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

11-14-2018-SFPUC Re 2019 RA Products - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

From: Tony Zimmer <Tony.Zimmer@ncpa.com>
Sent: Wednesday, November 14, 2018 10:26 PM
To: Mulberg, Erin
Cc: Tony Zimmer; Sole, Jeanne
Subject: Re: 2019 RA Products

Hi Erin,

As indicated in my prior email, SJCE would like to purchase the volumes of RA offered by CleanPowerSF in Feb-19. While SJCE appreciates that CleanPowerSF also provided an offer to sell RA products to SJCE in Jan-19, based on the recent adjusts provided by the CPUC, and other transactions entered into by SJCE, SJCE no longer has a need to purchase volumes from CleanPowerSF for Jan-19.

SJCE appreciates working with you. Please let me know if you have any questions. We look forward to doing business with you for Feb-19 volumes.

Thank you,

Tony Zimmer

From: Mulberg, Erin <EMulberg@sfwater.org>
Sent: Friday, November 9, 2018 10:56 AM
To: Tony Zimmer
Subject: 2019 RA Products

Hi Tony,

Just left you a voicemail, but I wanted to connect with you on SJCE's RA RFO for Jan and Feb. We were hoping to amend our bid if possible.

Also if you know of any other parties looking for BA Local, CleanPowerSF has additional length of that product.

If you could give me a call this afternoon that would be great.

Thanks,
Erin

Erin Mulberg | Origination and Power Supply, SFPUC Power Enterprise |Desk: (415) 551-4598 | Cell: (408) 802-1249 |emulberg@sfwater.org

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EXHIBIT: SJCE #69
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / 11-14-2018-SFPUC Re Clean Power SF Jan19-Feb19 - CONFIDENTIAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

11-14-2018-SFPUC Re Clean Power SF Jan19-Feb19 – CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

From: Tony Zimmer <Tony.Zimmer@ncpa.com>
Sent: Wednesday, November 14, 2018 10:21 PM
To: Mulberg, Erin
Cc: Sole, Jeanne; Power Purchasing; Tony Zimmer
Subject: Re: CleanPowerSF Jan19-Feb19 RA Solicitation - SJCE Offer

Hi Erin,

Thank you for providing the offer below. SJCE would like to purchase the volumes you have offered in Feb-19. Can you please provide Jeanne and I with a draft transaction confirmation for review?

Please let me know if you need anything else from SJCE to proceed with consummating this transaction.

Thank you again,

Tony Zimmer

From: Mulberg, Erin <EMulberg@sfwater.org>
Sent: Tuesday, November 13, 2018 1:35 PM
To: Tony Zimmer
Cc: Jeanne M. Solé; Eric Hulin (EHulin@3PhasesRenewables.com); Power Purchasing
Subject: RE: CleanPowerSF Jan19-Feb19 RA Solicitation - SJCE Offer

Hi Tony,

CleanPowerSF would like to move forward with the volumes identified in the tables below. We are able to provide the requested Flex Capacity through the Bay Area volume and a portion of the System volume; we've assumed the flexible price adder to be consistent across product types. If you agree we can provide a draft confirm for your review.

Product	**North of Path 26 - System Resource Adequacy**	
Prospective Buyer	**San Jose Clean Energy**	
Notes	SJCE is willing to accept the 8 MW of Flex Capacity bundled	
	Jan-19	Feb-19
Bid Volume (MW)		31.30
Bid Price ($/kW-mo)		$2.75
Flexible Volume (MW), of total Volume, above, if applicable		
Flexible Price Adder, if applicable ($/kW-mo)		
Total ($)		$86,075.0

Product	**North of Path 26 - System Resource Adequacy**
Prospective Buyer	**San Jose Clean Energy**

Notes	SJCE is willing to accept the 8 MW of Flex Capacity bundled	
	Jan-19	Feb-19
Bid Volume (MW)		3.00
Bid Price ($/kW-mo)		$2.75
Flexible Volume (MW), of total Volume, above, if applicable		3.00
Flexible Price Adder, if applicable ($/kW-mo)		$0.10
Total ($)		$8,550.00

Product	**Greater Bay Area - Local Resource Adequacy Capacity**	
Prospective Buyer	**San Jose Clean Energy**	
Notes		
	Jan-19	Feb-19
Bid Volume (MW)		5.00
Bid Price ($/kW-mo)		$3.50
Flexible Volume (MW), of total Volume, above, if applicable		5.00
Flexible Price Adder, if applicable ($/kW-mo)		$0.10
Total ($)		$18,000.00

Product	**PG&E Other Area - Local Resource Adequacy Capacity**	
Prospective Buyer	**San Jose Clean Energy**	
Notes		
	Jan-19	Feb-19
Bid Volume (MW)		0.00
Bid Price ($/kW-mo)		$3.50
Flexible Volume (MW), of total Volume, above, if applicable		
Flexible Price Adder, if applicable ($/kW-mo)		
Total ($)		$0.00

Please let us know if you have any questions.

Thanks,
Erin

Erin Mulberg | Origination & Power Supply, SFPUC Power Enterprise| (415) 551-4598 |
emulberg@sfwater.org

From: Power Purchasing
Sent: Tuesday, November 13, 2018 9:07 AM
To: Tony Zimmer <Tony.Zimmer@ncpa.com>; Power Purchasing <powerpurchasing@sfwater.org>; Eric Hulin (EHulin@3PhasesRenewables.com) <EHulin@3PhasesRenewables.com>
Cc: Jeanne M. Solé <jeanne.sole@sanjoseca.gov>; Kelly Morris <Kelly.morris@sanjoseca.gov>; Lori Mitchell <Lori.Mitchell@sanjoseca.gov>; Bernard Erlich <Bernard.Erlich@ncpa.com>
Subject: RE: CleanPowerSF Jan19-Feb19 RA Solicitation - SJCE Offer

Tony,

Thank you for submitting SJCE's offer to purchase Resource Adequacy Capacity from CleanPowerSF. This is confirmation the bid was received.

Best,

Shannon

From: Tony Zimmer [mailto:Tony.Zimmer@ncpa.com]
Sent: Friday, November 09, 2018 4:23 PM
To: Power Purchasing <powerpurchasing@sfwater.org>; Eric Hulin (EHulin@3PhasesRenewables.com) <EHulin@3PhasesRenewables.com>
Cc: Jeanne M. Solé <jeanne.sole@sanjoseca.gov>; Kelly Morris <Kelly.morris@sanjoseca.gov>; Tony Zimmer <Tony.Zimmer@ncpa.com>; Lori Mitchell <Lori.Mitchell@sanjoseca.gov>; Bernard Erlich <Bernard.Erlich@ncpa.com>
Subject: CleanPowerSF Jan19-Feb19 RA Solicitation - SJCE Offer
Importance: High

To Whom It May Concern,

Please find attached SJCE's offer to purchase Resource Adequacy Capacity from CleanPowerSF, in response to the Resource Adequacy solicitation issued by CleanPowerSF on November 1, 2018.

Please feel free to contact Jeanne Sole (of SJCE) or me if you have any questions regarding the attached offer.

Thank you for the opportunity to participate in your process.

Best Regards,

Tony Zimmer
Assistant General Manager, Power Management

Northern California Power Agency
A Public Agency
651 Commerce Drive
Roseville, CA 95678-6420
(916) 781-4229 Phone
www.ncpa.com

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EXHIBIT: SJCE #70
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / OK 1-22-2019-Pilot Power Group RA Offer for Bay Area and PGE Other - May2019 - CONFIDENTIAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

OK 1-22-2019-Pilot Power Group RA Offer for Bay Area and PGE Other - May2019 - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

From: Sheetal Parr <SParr@edms-llc.com>
Sent: Tuesday, January 22, 2019 11:44 AM
To: Sole, Jeanne; Tony Zimmer; mike.whitney@ncpa.com
Cc: Andy Anderson; Tom Darton; Sheetal Parr
Subject: Pilot Power Group RA Offer for Bay Area and PG&E Other - May2019
Attachments: SJCE RFO 2019 Pilot Power Group Resource Adequacy Products 012219 - Offer Form.xlsx

Hello,
Pilot Power Group, Inc. would like to place an offer for the attached terms, volumes and price. This offer is contingent on approval of credit and contract processing. Currently, Pilot Power Group is not enabled with San Jose Community Energy. We are however members of WSPP and can contract under the WSPP RA Confirmation format.

Regards,
Seets

Sheetal Parr
Vice President Operations – *EDMS, LLC*

8910 University Center Lane, Suite 520
San Diego, CA 92122

Office: 858.678.0118 x 125
Mobile: 858.883.3336
Fax: 858.678.0353
Email: sparr@edms-llc.com

www.edms-llc.com

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit http://www.symanteccloud.com

Resource Adequacy Request for Offers: Contact Information

Company Name:	PILOT POWER GROUP, INC.
Company Address:	8910 UNIVERSITY CENTER DRIVE SUITE 520
City, State, Zip	SAN DIEGO, CA 92128
Authorized Contact:	SHEETAL PARR
Title of Contact:	VP OF OPERATIONS
Phone Number:	858-678-0118 X125
Fax Number:	858-678-0353
Email Address:	sparr@edms-llc.com

Offers to Sell Resource Adequacy Products to SJCE

(add more columns/rows as necessary for multiple offers)

System Resource Adequacy

	Jul-19	Sep-19
Seller:		
Offer Quantity (MW):		
Offer Price ($/kW-Month):		
Flexible RA (Yes or No):		
Flexible RA Category (if applicable):		
North or South of Path 26:		
Resource Category (1, 2, 3, 4):		
Requires Import Capability Allocation (Yes or No):		
Import Branch Group (if applicable):		

Local Resource Adequacy - Greater Bay Area

	May-19	Sep-19	Oct-19
Seller:	PIPO		
Offer Quantity (MW):	4		
Offer Price ($/kW-Month):	$4.25 kW-Month		
Flexible RA (Yes or No):	Yes		
Flexible RA Category (if applicable):	1		
Resource Category (1, 2, 3, 4):	4		

Local Resource Adequacy - Other PG&E Areas

	May-19	Jul-19	Sep-19	Oct-19	Dec-19
Seller:	PIPO				
Offer Quantity (MW):	14				
Offer Price ($/kW-Month):	$4.25 kW-Month				
Flexible RA (Yes or No):	Yes				
Flexible RA Category (if applicable):	1				
Resource Category (1, 2, 3, 4):	4				

EXHIBIT: SJCE #71
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / OK 1-25-2019-RE Pilot Power Group Financial Statements - CONFIDENTIAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

OK 1-25-2019-RE Pilot Power Group Financial Statements - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

From: Sole, Jeanne
Sent: Friday, January 25, 2019 2:44 PM
To: Denis Vermette; Tony Zimmer
Cc: Sheetal Parr
Subject: RE: Pilot Power Group Financial Statements
Attachments: 11-27-Non-disclosure.doc

Hi Denis,

Thank you for sending your NDA. I was hoping you would be willing to consider the NDA that is attached to this email as it has already been approved by our attorneys. It would expedite the process if you could.

Jeanne M. Solé
Deputy Director of Power Resources
200 E. Santa Clara St., 14th Floor | San José, CA 95113
408.535.4867 | Jeanne.Sole@sanjoseca.gov
SAN JOSE CLEAN ENERGY
SanJoseCleanEnergy.org

From: Denis Vermette [mailto:dvermette@edms-llc.com]
Sent: Thursday, January 24, 2019 3:36 PM
To: Tony Zimmer <Tony.Zimmer@ncpa.com>
Cc: Sheetal Parr <SParr@edms-llc.com>; Sole, Jeanne <jeanne.sole@sanjoseca.gov>
Subject: RE: Pilot Power Group Financial Statements

Please find attached our NDA for your consideration.

Let me know if you have any questions.

Thank you,

Denis Vermette
President and CFO

From: Tony Zimmer <Tony.Zimmer@ncpa.com>
Sent: Thursday, January 24, 2019 3:32 PM
To: Denis Vermette <dvermette@edms-llc.com>
Cc: Sheetal Parr <SParr@edms-llc.com>; Jeanne M. Solé <jeanne.sole@sanjoseca.gov>
Subject: RE: Pilot Power Group Financial Statements

Hi Denis,

Thank you for the response. I think it will be SJCE who would sign that agreement since they will be the ultimate counterparty to the transaction. I have copied Jeanne M. Sole on the message. Jeanne is the SJCE representative who will be involved in this process. If you could share a copy of the non-disclosure agreement, we can take a look at it and let you know if we have any questions.

Thank you again,

Tony Zimmer
Assistant General Manager, Power Management

Northern California Power Agency
A Public Agency
651 Commerce Drive
Roseville, CA 95678-6420
(916) 781-4229 Phone
www.ncpa.com

From: Denis Vermette <dvermette@edms-llc.com>
Sent: Thursday, January 24, 2019 1:45 PM
To: Tony Zimmer <Tony.Zimmer@ncpa.com>
Cc: Sheetal Parr <SParr@edms-llc.com>
Subject: Pilot Power Group Financial Statements

Tony,

It is my understanding you want to see Pilot Power's financial statements to determine creditworthiness. We don't have an issue with sending our audited financial statement. However, we are a privately held company so to do see we require a mutual non-disclosure agreement to be executed. Depending who will be reviewing the financials, is NCPA and/or SJCE willing to execute an NDA?

Thank you,

Denis Vermette
President and Chief Financial Officer – Pilot Power Group, Inc.

8910 University Center Lane, Suite 520
San Diego, California 92122
Email: dvermette@pilotpowergroup.com |Phone: 858.678.0118 ext. 101 | Mobile: 281.825.2890

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MUTUAL NON-DISCLOSURE AGREEMENT

This Mutual Nondisclosure Agreement ("**Agreement**") is made on _____ (the "**Effective Date**"), by and between_____, a California corporation (the "**Company**") and _____, a _____ (the "**Counterparty**"), each of which may within the context of this Agreement be individually be referred to as a "party" and together as the "parties." Each party has disclosed and/or may further disclose its Confidential Information (as defined below) to the other in connection with the Relationship (as defined below) pursuant to the terms and conditions of this Agreement. As used herein, the term "**Discloser**" shall refer to the Company whenever the context refers to the Company's Confidential Information being disclosed to the Counterparty, which shall be referred to as the "**Recipient**" in that context. Conversely, the term "**Discloser**" shall refer to the Counterparty whenever the context refers to the Counterparty's Confidential Information being disclosed to the Company, which shall be referred to as the "**Recipient**" in that context.

1. Purpose. The parties wish to explore a possible business opportunity of mutual interest (the "**Relationship**") in connection with which the Discloser has disclosed and/or may further disclose its Confidential Information (as defined below) to the Recipient. This Agreement is intended to allow the parties to continue to discuss and evaluate the Relationship while protecting the Discloser's Confidential Information (including Confidential Information previously disclosed to Recipient) against unauthorized use or disclosure.

2. Definition of Confidential Information. "**Confidential Information**" means any oral, written, graphic or machine-readable information, technical data or know-how, including, but not limited to, that which relates to patents, patent applications, research, product plans, products, developments, inventions, processes, designs, drawings, engineering, formulae, markets, software (including source and object code), hardware configuration, computer programs, algorithms, regulatory information, business plans, agreements with third parties, services, customers, marketing or finances of Discloser, which Confidential Information is designated in writing to be confidential or proprietary, or if given orally, is confirmed in writing as having been disclosed as confidential or proprietary within a reasonable time (not to exceed three (3) days) after the oral disclosure,

3. Nondisclosure of Confidential Information.

   a. Recipient agrees not to use any Confidential Information disclosed to it by Discloser for its own use or for any purpose other than to carry out discussions concerning, and the undertaking of, the Relationship. Recipient shall not disclose or permit disclosure of any Confidential Information of Discloser to third parties or to employees of Recipient, other than directors, officers, employees, consultants and agents of Recipient who are required to have the information in order to carry out the discussions regarding the Relationship. Recipient agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure or use of Confidential Information of Discloser in order to prevent it

from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such information. Such measures shall include the degree of care that Recipient utilizes to protect its own Confidential Information of a similar nature. Recipient agrees to notify Discloser of any misuse, misappropriation or unauthorized disclosure of Confidential Information of Discloser which may come to Recipient's attention.

b. Exceptions. Notwithstanding the above, Recipient shall not have liability to Discloser with regard to any Confidential Information that:

i. was in the public domain at the time it was disclosed or has entered the public domain through no fault of Recipient;

ii. was known to Recipient, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure;

iii. was independently developed by Recipient without any use of the Confidential Information, as demonstrated by files created at the time of such independent development;

iv. becomes known to Recipient, without restriction, from a source other than Discloser without breach of this Agreement by Recipient and otherwise not in violation of Discloser's rights;

v. is disclosed with the proper written approval of Discloser; or

vi. is disclosed pursuant to the requirements of the California Public Records Act; an order or requirement of a court, administrative agency, or other governmental body; provided, however, that Recipient shall provide prompt notice of such request under the California Public Records Act or court order or requirement to Discloser to enable Discloser to seek a protective order or otherwise prevent or restrict such disclosure.

4. Return of Materials. Any materials or documents that have been furnished by Discloser to Recipient in connection with the Relationship shall be promptly, at the election of the Discloser, (i) returned by Recipient, accompanied by all copies of such documentation or (ii) irreversibly destroyed by the Recipient and such destruction to be accompanied by a signed attestation with respect to the destruction, within ten (10) days after (a) the Relationship has been rejected or concluded or (b) the written request of Discloser.

5. No Rights Granted. Nothing in this Agreement shall be construed as granting any rights under any patent, copyright or other intellectual property right of Discloser, nor shall this Agreement grant Recipient any rights in or to Discloser's Confidential Information other than the limited right to review such Confidential Information solely for the purpose of determining whether to enter into the Relationship. Nothing in this Agreement requires the disclosure of any Confidential Information, which shall be disclosed, if at all, solely at Discloser's option.

Nothing in this Agreement requires the parties to proceed with the Relationship or any transaction in connection with which the Confidential Information may be disclosed.

6. Independent Development and Residuals.

a. Recipient's confidentiality obligations under this Agreement shall not be construed to limit Recipient's right to develop independently or acquire products without use of Discloser's Confidential Information. Discloser acknowledges that Recipient may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information. Accordingly, nothing in this Agreement will prohibit the receiving party from developing or having developed for it products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in the Confidential Information provided that Recipient does not violate any of its obligations under this Agreement in connection with such development.

b. In addition, notwithstanding any other provision of this Agreement, Recipient's confidentiality obligations under this Agreement shall not apply to, and Recipient shall be free to use, the residuals resulting from access to or work with the Confidential Information of Discloser. As used in this Agreement, the term "residuals" means information in non tangible form, which may be retained by persons who have had access to the Confidential Information, including ideas, concepts, know how or techniques contained therein. Recipient shall have no obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of residuals.

7. Term. The foregoing commitments of each party shall survive any termination of the Relationship between the parties, and shall continue for a period terminating on the later to occur of the date (a) three (3) years following the date of this Agreement or (b) two (2) years from the date on which Confidential Information is last disclosed under this Agreement.

8. Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties, provided that Confidential Information of the Discloser may not be assigned without the prior written consent of the Discloser, unless the assignee shall be the successor entity to the assignor upon the dissolution of the assignor in its present form. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

9. Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Agreement; (b) the balance of the

Agreement shall be interpreted as if such provision were so excluded; and (c) the balance of the Agreement shall be enforceable in accordance with its terms.

10. Independent Contractors. The parties are independent contractors, and nothing contained in this Agreement shall be construed to constitute the parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking.

11. Governing Law. This Agreement and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law. Each of the parties hereto consents to the exclusive jurisdiction of the courts of Santa Clara County, California.

12. Remedies. Each party's obligations set forth in this Agreement are necessary and reasonable in order to protect Discloser and its business. Due to the unique nature of the Discloser's Confidential Information, monetary damages would be inadequate to compensate Discloser for any breach by Recipient of its covenants and agreements set forth in this Agreement. Accordingly, the parties each agree and acknowledge that all remedies may be available, in law, in equity or otherwise.

13. Amendment and Waiver. Any term of this Agreement may be amended with the written consent of both parties. Any amendment or waiver effected in accordance with this Section shall be binding upon the parties and their respective successors and assigns. Failure to enforce any provision of this Agreement by a party shall not constitute a waiver of any term hereof by such party.

14. Entire Agreement. This Agreement, together with the attached exhibits, contain the entire agreement of the parties with respect to the Relationship, and no representations, inducements, promises, or agreements, whether oral or written, not expressly set forth in this Agreement or the attached exhibits shall have any force or effect. Without limiting the generality of the foregoing, the parties specifically acknowledge and agree that, except as set forth in this Agreement and the attached exhibits, neither party nor any of its officers, employees, representatives, contractors, agents, or attorneys has made any other representations or promises of any nature whatsoever to, or entered into any other agreements with the other party relating to any modifications of the obligations of the party to the other party. The terms of this Agreement and the attached exhibits may not be discharged or terminated orally but may be discharged or terminated only by an instrument in writing, signed by the party against which enforcement of the discharge or termination is asserted.

15. Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe the provisions of this Agreement.

16. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall together constitute one and the same document. A facsimile signature is as valid as an original signature.

17. Neutral Interpretation. This Agreement is the product of the parties' negotiations and shall be interpreted in a neutral manner. Any presumption regarding the construction or interpretation for or against any party by reason of that party having drafted any or all of this Agreement shall not apply.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties to this Mutual Non-Disclosure Agreement have caused it to be executed as of the date first written above.

THE COMPANY:

By: _____

Name: _____
Title: _____

Address:

Email: _____

COUNTERPARTY:

_____

By: _____

Name: _____
Title: _____

Address:

_____

_____, ____ _____

Email: _____

EXHIBIT: SJCE #72
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / OK 1-29-2019-SFPUC RE Request for Offers to Sell CY 2019 Resource Adequacy Products to SJCE - CONFIDENTIAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

OK 1-29-2019-SFPUC RE Request for Offers to Sell CY 2019 Resource Adequacy Products to SJCE – CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

From: Mulberg, Erin <EMulberg@sfwater.org>
Sent: Tuesday, January 29, 2019 4:33 PM
To: Tony Zimmer; Sole, Jeanne; Mike Whitney
Cc: Power Purchasing
Subject: RE: Request for Offers to Sell CY 2019 Resource Adequacy Products to SJCE
Attachments: SJCE RFO 2019 Resource Adequacy Products 01182019 - CleanPowerSF.xlsx

All,

Please find CleanPowerSF's bid to sell CY 2019 RA products to SJCE attached.

Please let us know if you have any questions.

Thanks,
Erin

Erin Mulberg | Origination & Power Supply, SFPUC Power Enterprise| (415) 551-4598 | emulberg@sfwater.org

---

From: Tony Zimmer <Tony.Zimmer@ncpa.com>
Sent: Friday, January 18, 2019 5:30 PM
To: Tony Zimmer <Tony.Zimmer@ncpa.com>; Jeanne M. Solé <jeanne.sole@sanjoseca.gov>; Mike Whitney <Mike.Whitney@ncpa.com>
Cc: Kelly Morris <Kelly.morris@sanjoseca.gov>; Bernard Erlich <Bernard.Erlich@ncpa.com>; Ken Goeke <Ken.Goeke@ncpa.com>; Roxana Khayyam <Roxana.Khayyam@ncpa.com>
Subject: Request for Offers to Sell CY 2019 Resource Adequacy Products to SJCE
Importance: High

Date Issued: January 18, 2019

Subject: Request for Offers to Sell CY 2019 Resource Adequacy Products to SJCE

Prospective Resource Adequacy Suppliers:

Pursuant to this Request for Offers (RFO), San Jose Clean Energy (SJCE) is seeking offers from prospective suppliers to sell Resource Adequacy Products to SJCE as further described herein:

Product Description

- May 2019
  - Greater Bay Area Local Capacity Product; and
  - PG&E Other Area Local Capacity Product
- July 2019
  - System Resource Adequacy Product; and

    - PG&E Other Area Local Capacity Product; and
    - Flexible Resource Adequacy Product
- September 2019
    - System Resource Adequacy Product; and
    - Greater Bay Area Local Capacity Product; and
    - PG&E Other Area Local Capacity Product; and
    - Flexible Resource Adequacy Product
- October 2019
    - Greater Bay Area Local Capacity Product; and
    - PG&E Other Area Local Capacity Product; and
    - Flexible Resource Adequacy Product
- December 2019
    - PG&E Other Area Local Capacity Product

Submission of Offers

Please submit all offers to sell Resource Adequacy Products to the following SJCE contacts using the RA Offer Form attached hereto:

- Jeanne Sole (SJCE): jeanne.sole@sanjoseca.gov
- Tony Zimmer (NCPA): tony.zimmer@ncpa.com
- Mike Whitney (NCPA): mike.whitney@ncpa.com

Upon receipt of any offers submitted in response to this RFO, SJCE will evaluate such offers and determine if SJCE will seek to enter into any confirmation for a transaction with respect to this solicitation. Offers will be reviewed upon receipt.

Contracting Instrument

For reference, please find attached hereto SJCE's preferred form of Resource Adequacy Transaction Confirmation for use with the WSPP. SJCE will also consider use of a Resource Adequacy Transaction Confirmation structured to work in conjunction with an EEI to be negotiated between the parties. Please find attached hereto SJCE's preferred EEI cover sheet.

In addition, SJCE is in the process of qualifying potential counterparties pursuant to its Risk Management Policies. Potential suppliers that are not yet qualified are encouraged to contact SJCE as soon as possible if they intend to respond to this Request for Proposals. SJCE will only be able to transact with entities that have been qualified by its finance department.

If a prospective supplier does not disclose financial information publicly, SJCE will also require a prospective supplier to provide the information described below for the past two (2) financial years. Also, a prospective supplier with its primary business in sectors other than energy should provide financial information and a description of its energy product operations and trading.

- Consolidated Statement of Income
- Consolidated Statement of Cash Flows
- Consolidated Balance Sheets
- Results of Operations

- Notes to Financial Statements
- Off-Balance Sheet Liabilities, if any

For any questions regarding this RFO, please contact Tony Zimmer at tony.zimmer@ncpa.com.

Disclaimers:

SJCE reserves the sole and discretionary right to (i) reject any offers received in response to this solicitation for any reason, and (ii) accept any offers received after the deadline for submittals as indicated herein. Additionally, SJCE reserves the right, at its sole discretion, to not enter into any confirmation for the transaction at the conclusion of this solicitation. SJCE reserves the right to modify the terms and conditions of this solicitation at any time based on changing needs and market feedback. SJCE also reserves the right to rescind this solicitation at any time prior to SJCE's execution of a binding agreement. SJCE will not be liable at any time for any costs the prospective supplier may incur in preparing or submitting its response to this solicitation.

If an unsuccessful PROPOSER wants to dispute an award or award recommendation, a protest must be submitted in writing to the Director of Community Energy, Lori Mitchell, no later than ten (10) calendar days after announcement of the successful PROPOSER(s), detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes on the grounds that material provision in this RFP is ambiguous. Failure to submit a timely written protest to the contact listed below will bar consideration of the protest.

The address for submitting protests is:

Attention: Lori Mitchell, Director
City of San Jose, Department of Community Energy
200 East Santa Clara Street, 14th Floor
San Jose, CA 95113

Please submit an electronic version of the protest to lori.mitchell@sanjoseca.gov, and Jeanne.sole@sanjoseca.gov

Tony Zimmer
Assistant General Manager, Power Management

Northern California Power Agency
A Public Agency
651 Commerce Drive
Roseville, CA 95678-6420
(916) 781-4229 Phone
www.ncpa.com

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Resource Adequacy Request for Offers: Contact Information

Company Name:	CleanPowerSF
Company Address:	525 Golden Gate Avenue, 7th Floor
City, State, Zip	San Francisco, CA 94102
Authorized Contact:	Erin Mulberg
Title of Contact:	Utility Specialist, Origination and Power Suppl
Phone Number:	(415) 551-4598
Fax Number:	
Email Address:	emulberg@sfwater.org

Offers to Sell Resource Adequacy Products to SJCE

(add more columns/rows as necessary for multiple offers)

System Resource Adequacy

	Jul-19	Sep-19
Seller:		
Offer Quantity (MW):		
Offer Price ($/kW-Month):		
Flexible RA (Yes or No):		
Flexible RA Category (if applicable):		
North or South of Path 26:		
Resource Category (1, 2, 3, 4):		
Requires Import Capability Allocation (Yes or No):		
Import Branch Group (if applicable):		

Local Resource Adequacy - Greater Bay Area

	May-19	Sep-19	Oct-19
Seller:	CleanPowerSF		
Offer Quantity (MW):	5		
Offer Price ($/kW-Month):	$3.25		
Flexible RA (Yes or No):	Yes		
Flexible RA Category (if applicable):	1		
Resource Category (1, 2, 3, 4):	4		

Local Resource Adequacy - Other PG&E Areas

	May-19	Jul-19	Sep-19	Oct-19	Dec-19
Seller:					
Offer Quantity (MW):					
Offer Price ($/kW-Month):					
Flexible RA (Yes or No):					
Flexible RA Category (if applicable):					
Resource Category (1, 2, 3, 4):					

EXHIBIT: SJCE #73
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / OK 3-15-RE Pilot Power Group RA Offer for Bay Area and PGE Other - May2019 – CONFIDENTIAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

OK 3-15-RE Pilot Power Group RA Offer for Bay Area and PGE Other - May2019 - CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

From: Sole, Jeanne
Sent: Friday, March 15, 2019 5:22 PM
To: Sheetal Parr; Tony Zimmer; mike.whitney@ncpa.com
Cc: Andy Anderson; Tom Darton; Elkins, Luisa; Stephen Hall (steve@hallenergylaw.com); Morris, Kelly
Subject: RE: Pilot Power Group RA Offer for Bay Area and PG&E Other - May2019
Attachments: 11-15-WSPP SJCE Resource Adequacy Transaction Confirmation 15Nov2018.DOCX

Sheetal:

I apologize for the delay getting you qualified as a counterparty.

Given the delays, we are hoping to get authority from our Risk Oversight Committee (ROC) to finalize the following deal with Pilot on Wednesday March 20 without further financial evaluation. I will let you know asap on the outcome of this discussion.

Please let me know if this deal is still available. Note that we are not proposing to take the full quantities available.

I have attached our preferred WSPP RA confirmation. If Pilot still is interested in the deal, please provide comments on the proposed confirmation as soon as possible. I would like to have the document ready to go if we get authorization to transact from our ROC.

Thank you!

Local Resource Adequacy - Greater Bay Area

	May-19
Seller:	PIPO
Accepted Quantity (MW):	3
Offer Price ($/kW-Month):	$4.25 kW-Month
Flexible RA (Yes or No):	Yes
Flexible RA Category (if applicable):	1
Resource Category (1, 2, 3, 4):	4

Local Resource Adequacy - Other PG&E Areas

	May-19
Seller:	PIPO
Accepted Quantity (MW):	10.1
Offer Price ($/kW-Month):	$4.25 kW-Month
Flexible RA (Yes or No):	Yes
Flexible RA Category (if applicable):	1
Resource Category (1, 2, 3, 4):	4

Jeanne M. Solé
Deputy Director of Power Resources
200 E. Santa Clara St., 14th Floor | San José, CA 95113
408.535.4867 | Jeanne.Sole@sanjoseca.gov
SAN JOSE CLEAN ENERGY
SanJoseCleanEnergy.org

From: Sheetal Parr [mailto:SParr@edms-llc.com]
Sent: Tuesday, January 22, 2019 11:44 AM
To: Sole, Jeanne <jeanne.sole@sanjoseca.gov>; Tony Zimmer <Tony.Zimmer@ncpa.com>; mike.whitney@ncpa.com
Cc: Andy Anderson <AAnderson@edms-llc.com>; Tom Darton <tdarton@pilotpowergroup.com>; Sheetal Parr <SParr@edms-llc.com>
Subject: Pilot Power Group RA Offer for Bay Area and PG&E Other - May2019

Hello,
Pilot Power Group, Inc. would like to place an offer for the attached terms, volumes and price. This offer is contingent on approval of credit and contract processing. Currently, Pilot Power Group is not enabled with San Jose Community Energy. We are however members of WSPP and can contract under the WSPP RA Confirmation format.

Regards,
Seets

Sheetal Parr
Vice President Operations – *EDMS, LLC*

8910 University Center Lane, Suite 520
San Diego, CA 92122

Office: 858.678.0118 x 125
Mobile: 858.883.3336
Fax: 858.678.0353
Email: sparr@edms-llc.com

www.edms-llc.com
EDMS LLC
ENERGY DATA MANAGEMENT SERVICES

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TRANSACTION CONFIRMATION
RESOURCE ADEQUACY

This Confirmation Letter ("Confirmation") confirms the Transaction between **Party 1** ("Seller") and **the City of San José** ("Buyer"), each individually a "Party" and together the "Parties", dated as of _____, 2018 (the "Confirmation Effective Date") in which Seller agrees to provide to Buyer the right to the Product. This Transaction is governed by the terms and conditions of the WSPP Agreement effective as of June 21, 2018, along with any schedules and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". If there is any conflict between the terms set forth in this Confirmation and the Master Agreement, the terms set forth in this Confirmation shall govern. Capitalized terms not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (defined herein below).

ARTICLE 1. DEFINITIONS

1.1 "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer from a Replacement Unit in accordance with the terms of Section 4.5.

1.2 "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body of competent jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.

1.3 "Availability Incentive Payments" is defined in the Tariff.

1.4 "Availability Standards" means the availability standards set forth in Section 40.9 of the Tariff.

1.5 "Buyer" is defined in the introductory paragraph hereof.

1.6 "CAISO" means the California Independent System Operator Corporation or its successor.

1.7 "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the WSPP Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."

1.8 "Confirmation" is defined in the introductory paragraph hereof.

1.9 "Confirmation Effective Date" is defined in the introductory paragraph hereof.

1.10 "Contract Price" means, for any Monthly Delivery Period, the price specified for such Monthly Delivery Period in the "RA Capacity Price Table" set forth in Section 4.9.

1.11 "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3, which Seller has agreed to provide to Buyer from the Unit for such Showing Month.

1.12 "CPUC Decisions" means, to the extent still applicable, CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050 and subsequent decisions related to resource adequacy, as may be amended from time to time by the CPUC.

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

1.14 "Delivery Period" is defined in Section 4.1 hereof.

1.15 "Delivery Point" is defined in Section 4.2 hereof.

1.16 "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product (including any Alternate Capacity) less any reductions to Contract Quantity made by Seller pursuant to Section 4.4 for such Showing Month.

1.17 "Excusable Event" means any event caused by a Planned Outage that is acceptably noticed pursuant to the Notification Deadline prescribed in Section 4.5 that excuses Seller from failure to otherwise perform its obligations under this Confirmation.

1.18 "Flexible RA Attributes" means any and all flexible resource adequacy attributes, as may be identified at any time during the Delivery Period by the CPUC, CAISO or other Governmental Body of competent jurisdiction that can be counted toward Flexible RAR, exclusive of any RA Attributes and LAR Attributes.

1.19 "Flexible RAR" means the flexible resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction.

1.20 "Flexible RAR Showing" means the Flexible RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction over the LSE.

1.21 "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

1.22 "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA of competent jurisdiction over the LSE. LAR may also be known as local resource adequacy, local RAR, "PG&E Other RA", "Greater Bay Area RA", or local capacity requirement in other regulatory proceedings or legislative actions.

1.23 "LAR Attributes" means, with respect to a Unit, any and all local resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC, CAISO, LRA, or other Governmental Body of competent jurisdiction, associated with the physical location or point of electrical interconnection of such Unit within the CAISO Control Area, that can be counted toward LAR, exclusive of any RA Attributes and Flexible RA Attributes.

1.24 "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction over the LSE.

1.25 "Local RAR" means the local resource adequacy requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction. Local RAR may also be known as local area reliability, local resource adequacy, local resource adequacy procurement requirements, "PG&E Other RA", "Greater Bay Area RA", or local capacity requirement in other regulatory proceedings or legislative actions.

1.26 "LRA" means Local Regulatory Authority as defined in the Tariff.

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

1.28 "Monthly Delivery Period" means each calendar month during the Delivery Period and corresponds to each Showing Month.

1.29 "Monthly RA Capacity Payment" is defined in Section 4.9 hereof.

1.30 "Net Qualifying Capacity" is defined in the Tariff.

1.31 "Notification Deadline" is defined in Section 4.5 hereof.

1.32 "Outage" means any CAISO approved disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff.

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

1.34 "Product" is defined in Article 3 hereof.

1.35 "RA Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the CPUC, CAISO or other Governmental Body of competent jurisdiction that can be counted toward RAR, exclusive of any LAR Attributes and Flexible RA Attributes.

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

1.37 "RAR" means the resource adequacy requirements (other than Local RAR or Flexible RAR) established for LSEs by the CPUC pursuant to the CPUC Decisions, or by any other Governmental Body of competent jurisdiction.

1.38 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the CPUC Decisions, or to an LRA of competent jurisdiction.

1.39 "Replacement Capacity" is defined in Section 4.7 hereof.

1.40 "Replacement Unit" is defined in Section 4.5.

1.41 "Resource Category" is as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.

1.42 "San José Clean Energy" is the City of San José's community choice aggregation program. The San José Community Energy Department administers and manages San José Clean Energy.

1.43 "Scheduling Coordinator" is defined in the Tariff.

1.44 "Seller" is defined in the introductory paragraph hereof.

1.45 "Showing Month" is the calendar month during the Delivery Period that is the subject of the RAR Showing, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.

1.46 "Supply Plan" means the supply plan, or similar or successor filing, that a Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other applicable Governmental Body pursuant to Applicable Laws in order for the RA Attributes or LAR Attributes of such RA Capacity to count.

1.47 "Tariff" means the tariff and protocol provisions of the CAISO, as amended or supplemented from time to time. For purposes of Article 5, the Tariff refers to the tariff and protocol provisions of the CAISO as they exist on the Confirmation Effective Date.

1.48 "Transaction" for purposes of this Confirmation means the transaction (as that term is used in the WSPP Agreement) that is evidenced by this Confirmation.

1.49 "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer. A Unit shall not be a coal-fired generating facility.

1.50 "Unit EFC" means the effective flexible capacity that is or will be set by the CAISO for the applicable Unit.

1.51 "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. The Parties agree that if the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, that for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, or (ii) the CAISO-adjusted Net Qualifying Capacity.

1.52 "WSPP Agreement" is defined in the introductory paragraph hereof.

ARTICLE 2. UNIT INFORMATION

Name:	
Location:	
CAISO Resource ID:	
Unit SCID:	
Unit NQC:	
Unit EFC:	
Resource Type:	
Resource Category (1, 2, 3 or 4):	
Flexible RAR Category (1, 2 or 3):	
Path 26 (North or South):	
Local Capacity Area (if any, as of Confirmation Effective Date):	
Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment:	
Run Hour Restrictions:	

ARTICLE 3. RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity of RA Attributes, LRA Attributes, and if applicable, Flexible RA Attributes from each Unit, as further marked and specified in Section 3.1, Section 3.2 and Section 3.3 below (the "Product"), measured in MWs. The Product does not confer to Buyer any right to the electrical output from the Unit. Rather, the Product confers the right to include the Designated RA Capacity in RAR Showings, LAR Showings, Flexible RAR Showings, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell any RA Capacity from the Unit in excess of the Unit's Contract Quantity and any RA Attributes, LAR Attributes or Flexible RA Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

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3.1 Product Attributes

☐ RA Attributes

☐ RA Attributes with Flexible RA Attributes
☐ LAR Attributes
☐ LAR Attributes with Flexible RA Attributes
☐ Flexible RA Attributes

3.2 ☐ Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Unit in the amount of the Contract Quantity specified in Section 4.3. If the Unit is not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any adjustment of the RA Capacity of any Unit, as set forth in Section 4.4(c), then Seller shall have the option to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Buyer with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, the Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Section 4.7 and 4.8.

3.3 ☐ Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Unit in the amount of the Contract Quantity specified in Section 4.3. If the Unit is not available to provide the full amount of the Contract Quantity as result of an Excusable Event, then, subject to Section 4.4, Seller shall have the option to notify Buyer that either (a) Seller will not provide the full Contract Quantity during the period of such non-availability; or (b) Seller will supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period.

If the Unit is not available to provide the full amount of the Contract Quantity as a result of any reason other than an Excusable Event, including without limitation any adjustment of the RA Capacity of any Unit, as set forth in Section 4.4(c), then Seller shall have the option to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period. If Seller fails to provide Buyer with the Contract Quantity and has failed to supply Alternate Capacity to fulfill the remainder of the Contract Quantity during such period, the Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Section 4.7 and 4.8.

ARTICLE 4. DELIVERY AND PAYMENT

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4.1 Delivery Period

The Delivery Period shall be: _____, 20__, through _____, 20__.

4.2 Delivery Point

The Delivery Point for each Unit is the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity for each Monthly Delivery Period shall be:

Contract Quantity (MWs)

Contract Month	RAR Contract Quantity (MWs)
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

4.4 Adjustments to Contract Quantity

(a) Planned Outages: If Seller is unable to provide the applicable Contract Quantity for a portion of a Showing Month due to a Planned Outage of the Unit, then Seller shall have the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to either (a) reduce the Contract Quantity in accordance with the Planned Outage for such portion of the Showing Month; or (b) provide Alternate Capacity up to the Contract Quantity for the applicable portion of such Showing Month.

(b) Invoice Adjustment: In the event that the Contract Quantity is reduced due to a Planned Outage as set forth in Section 4.4(a) above, then the invoice for such month(s) shall be adjusted to reflect a daily pro rata amount for the duration of such reduction.

(c) Reductions in Unit NQC and/or Unit EFC: Seller's obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced by Seller if the Unit experiences a reduction in Unit NQC and/or Unit EFC as determined by the CAISO. If the Unit experiences such a reduction in Unit NQC and/or Unit EFC, then Seller has the option, but not the obligation, upon written notice to Buyer by the Notification Deadline, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product, and/or (ii) Alternate Capacity up to the Contract Quantity.

4.5 Notification Deadline and Replacement Units

(a) The "Notification Deadline" in respect of a Showing Month shall be twenty (20) Business Days before the earlier of the relevant deadlines for (a) the corresponding RAR Showings, Flexible RAR Showings and/or LAR Showings for such Showing Month, and (b) the CAISO Supply Plan filings applicable to that Showing Month.

(b) If Seller desires to provide the Contract Quantity of Product for any Showing Month from a generating unit other than the Unit (a "Replacement Unit"), then Seller may, at no additional cost to Buyer, provide Buyer with Product from one or more Replacement Units, up to the Contract Quantity, for the applicable Showing Month; provided that in each case, Seller shall notify Buyer in writing of such Replacement Units no later than five days (5) before the Notification Deadline. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of the Product description in Article 3 and notice provisions in this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for the remaining portion of that Showing Month, provided however that the Replacement Unit shall not be a coal-fired generating facility.

(c) If Seller fails to provide Buyer the Contract Quantity of Product or Alternate Capacity for a given Showing Month during the Delivery Period, then Buyer may, but shall not be required to, purchase Product from a third party in accordance with Section 4.7.

4.6 Delivery of Product

(a) Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month.

(b) Seller shall submit, or cause the Unit's Scheduling Coordinator to submit, by the Notification Deadline (i) Supply Plans to the CAISO, LRA, or other applicable Governmental Body identifying and confirming the Designated RA Capacity to be

provided to Buyer for the applicable Showing Month, unless Buyer specifically requests in writing that Seller not do so (it being understood that any Designated RA Capacity subject to such a request from Buyer will be deemed to have been provided to Buyer for all purposes under this Confirmation); and (ii) written confirmation to Buyer that Buyer will be credited with the Designated RA Capacity for such Showing Month per the Unit's Scheduling Coordinator Supply Plan.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month, and such failure is not excused under the terms of this Confirmation, then the following shall apply:

(a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RA Attributes, LAR Attributes and, if applicable, Flexible RA Attributes as the Designated RA Capacity not provided by Seller; provided, however, that if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having solely RA Attributes and no LAR Attributes or Flexible RA Attributes, and no such RA Capacity is available, then Buyer may replace such portion of the Designated RA Capacity with capacity having any applicable Flexible RA Attributes and/or LAR Attributes ("Replacement Capacity") by entering into purchase transactions with one or more third parties, including, without limitation, third parties who have purchased capacity from Buyer so long as such transactions are done at prevailing market prices. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

(b) Seller shall pay to Buyer the following damages in lieu of damages specified in Section 21.3 of the WSPP Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, and (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a); minus (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any CAISO revenues or future amounts it may owe to Seller under this Confirmation pursuant to Section 9 of the WSPP Agreement.

(c) In the event that Seller fails, or fails to cause a Unit's Scheduling Coordinator, to notify Buyer of a Planned Outage with respect to such Unit in accordance with Section 4.5(a), Seller agrees that it shall reimburse Buyer for the backstop capacity costs, if any, charged to Buyer by the CAISO due to Seller's failure to provide such notice, provided that the amount that Seller is required to reimburse pursuant to

this Section 4.7(c) shall in no event exceed the amount actually charged to Buyer by the CAISO pursuant to the Tariff for such failure.

4.8 Indemnities for Failure to Deliver Contract Quantity

Subject to any adjustments made pursuant to Section 4.4 and requests from Buyer pursuant to Section 4.6(b)(i), Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, to the extent not otherwise paid by Seller to Buyer under Section 4.7(b), resulting from any of the following:

(a) Seller's failure to provide any portion of the Designated RA Capacity due to a non-Excusable Event;

(b) Seller's failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Article 3, Section 4.4 and Section 4.5; or

(c) A Unit Scheduling Coordinator's failure to timely submit accurate Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Section 9 of the WSPP Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears, after the applicable Showing Month. Each Unit's Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000, rounded to the nearest penny (i.e., two decimal places); provided, however, that the Monthly RA Capacity Payment shall be prorated to reflect any portion of Designated RA Capacity that was not delivered pursuant to Section 4.4 at the time of the CAISO filing for the respective Showing Month.

RA CAPACITY PRICE TABLE

Contract Month	RAR Capacity Price ($/kW-month)
January	$X.XX

Contract Month	RAR Capacity Price ($/kW-month)
February	$X.XX
March	$X.XX
April	$X.XX
May	$X.XX
June	$X.XX
July	$X.XX
August	$X.XX
September	$X.XX
October	$X.XX
November	$X.XX
December	$X.XX

4.10 Allocation of Other Payments and Costs

Seller shall be entitled to receive and retain all revenues Buyer is not expressly entitled to receive pursuant to this Agreement, including all revenues that Seller may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, Flexible RAR Showing, as may be applicable, or any similar capacity or resource adequacy showing with the CAISO or CPUC.

Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller's account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. Any Non-Availability Charges are the responsibility of Seller, and for Seller's account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (e) above).

In accordance with Section 4.9 of this Confirmation and Sections 9 and 28 of the WSPP Agreement, all such Buyer revenues actually received by Seller, or a Unit's Scheduling Coordinator, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Seller does not remit to Buyer, owner, or operator, and Seller shall pay

such revenues received by it to Buyer if the Unit's Scheduling Coordinator, owner, or operator fails to remit those revenues to Buyer. If Seller or the Unit's Scheduling Coordinator, owner, or operator (as applicable) fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Section 28 of the WSPP Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

ARTICLE 5. CAISO OFFER REQUIREMENTS

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an Excusable Event, that results in a partial or full outage of that Unit, Seller shall either schedule or cause the Unit's Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit's Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit's Scheduling Coordinator, owner, or operator for such noncompliance.

ARTICLE 6. [RESERVED]

ARTICLE 7. OTHER BUYER AND SELLER COVENANTS

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7.1 Further Assurances

Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's applicable RAR, LAR and Flexible RAR. Such commercially reasonable actions shall include, without limitation:

(a) cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering the applicable RAR, LAR, and Flexible RAR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CPUC, the CAISO, a LRA of competent jurisdiction, or other Governmental Body of competent jurisdiction to administer the applicable RAR, LAR and Flexible RAR, to demonstrate that the

Contract Quantity can be delivered to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, pursuant to the "deliverability" standards established by the CAISO or other Governmental Body of competent jurisdiction; and

(b) negotiating in good faith to make necessary amendments, if any, to this Confirmation, which are subject to agreement of such Parties, in each Party's sole discretion, to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, FERC, or other Governmental Body of competent jurisdiction to administer the applicable RAR, LAR and Flexible RAR, so as to maintain the purpose and intent of the Transaction agreed to by the Parties on the Confirmation Effective Date. The above notwithstanding, the Parties are aware that the CPUC and CAISO are considering changes to RAR and/or LAR in CPUC Rulemaking 11-10-023 and potentially other proceedings.

7.2 Seller Representations and Warranties

Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

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

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

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

(d) The Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;

(e) The owner or operator of the Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, in accordance with General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;

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

(g) If Seller is the owner of any Unit, the aggregation of all amounts of applicable LAR Attributes, RA Attributes and Flexible RA Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit's RA Capacity;

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

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

(j) Seller has notified the Scheduling Coordinator of each Unit that Seller is obligated to cause each Unit's Scheduling Coordinator to provide to the Buyer, by the Notification Deadline, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Confirmation for the applicable period; and

(k) Seller has notified each Unit's Scheduling Coordinator that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such Scheduling Coordinator is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

ARTICLE 8. CONFIDENTIALITY

In addition to the rights and obligations in Section 30 of the WSPP Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA of competent jurisdiction in order to support its applicable LAR, RAR or Flexible RAR Showings, if applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the Scheduling Coordinator of each Unit in order for such Scheduling Coordinator to timely submit accurate Supply Plans.

Each Party recognizes that this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.). Each Party (a "Receiving Party") acknowledges that the other Party (a "Disclosing Party") may submit information to the Receiving Party that the Disclosing Party considers confidential, proprietary, or trade secret information pursuant to the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code Sections 6254 and 6255). 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. Over-designation would include stamping whole agreements, entire pages or series of pages as confidential that clearly contain information that is not confidential. Upon request or demand of any third person or entity not a party to this Agreement ("Requestor") for production, inspection and/or copying of information designated by a Party as confidential information (such designated information, the "Confidential Information"), the Receiving Party shall notify the Disclosing Party as soon as practical that such request has been made. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action after receiving the foregoing notice from the Receiving Party, the Receiving Party shall be permitted to comply with the Requestor's demand and is not required to defend against it.

If required by any law, statute, ordinance, a court, Governmental Authority or agency having jurisdiction over a Party, including the California Public Records Act, that Party may release Confidential Information, or a portion thereof, as required by the Applicable Law, statute, ordinance, decision, order or regulation. A Party may disclose Confidential Information to accountants in connection with audits. In the event a Party is required to release Confidential Information, such Party shall notify the other Party of the required disclosure, such that the other Party may attempt (if such Party so chooses), at its sole cost, to cause the recipient of the Confidential Information to treat such information in a confidential manner, and to prevent such information from being disclosed or otherwise becoming part of the public domain. Parties acknowledge that Purchaser may be obligated to provide Confidential Information to the CPUC and CEC for regulatory compliance purposes, and Seller waives the prior notice requirement and authorizes such disclosures to the CPUC and CEC.

Except as provided in this *Confidentiality* section and the California Public Records Act, and subject to and without limiting Section R-7, neither Party shall publish, disclose, or otherwise divulge Confidential Information to any person at any time during or after the term of this Agreement, without the other Party's prior express written consent. Each Party shall permit knowledge of and access to Confidential Information only to those of its affiliates and to their respective attorneys, accountants, representatives, agents and employees who have a need to know such Confidential Information related to this Agreement.

ARTICLE 9. BUYER'S RE-SALE OF PRODUCT

Buyer may re-sell all or a portion of the Product hereunder; provided, however, that any such re-sale does not increase Seller's obligations or liabilities hereunder. Notwithstanding anything in this Confirmation to the contrary, to the extent any end user to which Buyer re-sells the Product ("End User") defaults (however defined) under its agreement to purchase the Product from Buyer ("End User Purchase Agreement") and such End User Purchase Agreement terminates as a result, Buyer may terminate this Confirmation upon notice to Seller and neither Party shall have any further liability to the other Party except that Buyer shall remain liable for any payment obligations owing to Seller hereunder with respect to accrued but unpaid amounts for Products

delivered prior to termination, but only to the extent that Buyer has received such payments from End User pursuant to the End User Purchase Agreement. Buyer agrees to promptly assign to Seller any and all claims that Buyer may have against End User relating to such End User's default under the End User Purchase Agreement by entering into documentation mutually agreeable to the Parties which is reasonably necessary to effectuate such assignment of claims.

ARTICLE 10. MARKET BASED RATE AUTHORITY

Upon Buyer's written request, Seller shall, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller shall not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

ARTICLE 11. COLLATERAL REQUIREMENTS

Notwithstanding any provision in the WSPP Agreement to the contrary, neither Party shall be required to post collateral or other security for this Transaction.

ARTICLE 12. GENERAL PROVISIONS

12.1. 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

12.2. Designated Fund and Limited Obligations

(a) Designated Fund. Buyer's payment obligations under this Agreement shall be paid from a Department of Community Energy designated fund ("Designated Fund") that shall be used solely for San José Clean Energy costs and expenses, including the obligations under this Agreement. Subject to the requirements and limitations of Applicable Law and taking into account other available money specifically authorized by the San José City Council and allocated and appropriated to the San José Clean Energy's obligations, the Buyer agrees to establish San José Clean Energy rates and charges that are sufficient to maintain revenues in the Designated Fund necessary to pay its obligations under this Agreement and all of Buyer's payment obligations under its other contracts for the purchase of energy for San José Clean Energy. Buyer shall provide Seller with reasonable access to account balance information with respect to the San José Clean Energy Designated Fund during the Term.

(b) Limited Obligations. Buyer's payment obligations are special limited obligations of the Buyer payable solely from the Designated Fund. Buyer's payment obligations under this

Agreement are not a charge upon the revenues or general fund of the City of San José or upon any non- San José Clean Energy moneys or other property of the Community Energy Department or the City of San José.

12.3. Counterparts

This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparty were upon a single instrument. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.

12.4. Entire Agreement; No Oral Agreements or Modifications

This Confirmation sets forth the terms of the transaction into which the Parties have entered and shall constitute the entire Agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may be entered into only by a Documentary Writing executed by both Parties, and no amendment or modification to this Confirmation shall be enforceable except through a Documentary Writing executed by both Parties.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE.

PARTY 1	**CITY OF SAN JOSÉ**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____

EXHIBIT: SJCE #74
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / OK 3-18-2019-RE Pilot Power Group RA Offer for Bay Area and PGE Other - May2019 - CONFIDENTIAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

OK 3-18-2019-RE Pilot Power Group RA Offer for Bay Area and PGE Other - May2019 – CONFIDENTIAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

CONFIDENTIAL

From: Sole, Jeanne
Sent: Sunday, March 17, 2019 5:02 PM
To: Sheetal Parr; Tony Zimmer; mike.whitney@ncpa.com
Cc: Andy Anderson; Tom Darton; Elkins, Luisa; Stephen Hall (steve@hallenergylaw.com); Morris, Kelly
Subject: RE: Pilot Power Group RA Offer for Bay Area and PG&E Other - May2019

Ok Sheetal.

If you still have the GBA I am happy to buy it. And yes, let's get ourselves enabled.

Jeanne M. Solé
Deputy Director of Power Resources
200 E. Santa Clara St., 14th Floor | San José, CA 95113
408.535.4867 | Jeanne.Sole@sanjoseca.gov
SAN JOSE CLEAN ENERGY
SanJoseCleanEnergy.org

From: Sheetal Parr [mailto:SParr@edms-llc.com]
Sent: Sunday, March 17, 2019 12:43 PM
To: Sole, Jeanne <jeanne.sole@sanjoseca.gov>; Tony Zimmer <Tony.Zimmer@ncpa.com>; mike.whitney@ncpa.com
Cc: Andy Anderson <AAnderson@edms-llc.com>; Tom Darton <tdarton@pilotpowergroup.com>; Elkins, Luisa <Luisa.Elkins@sanjoseca.gov>; Stephen Hall (steve@hallenergylaw.com) <steve@hallenergylaw.com>; Morris, Kelly <Kelly.Morris@sanjoseca.gov>; Sheetal Parr <SParr@edms-llc.com>
Subject: RE: Pilot Power Group RA Offer for Bay Area and PG&E Other - May2019

Hi Jeanne,

I never heard from you so didn't know if the contract would be able to be in place in time. We filed out May2019 MA filing on Friday. We could do a revision since it's due on Monday however we do not have the PG&E Other quantities anymore. I could try to do 3 MW for Bay Area if you are in a crunch but we have nothing in place so we would really need to work out the credit and contract arrangments in such short notice. We definitely would like to work with San Jose for qualified counterparty so we could work on future transactions with ease.

Thanks
Seets

From: Sole, Jeanne <jeanne.sole@sanjoseca.gov>
Sent: Friday, March 15, 2019 5:22 PM
To: Sheetal Parr <SParr@edms-llc.com>; Tony Zimmer <Tony.Zimmer@ncpa.com>; mike.whitney@ncpa.com
Cc: Andy Anderson <AAnderson@edms-llc.com>; Tom Darton <tdarton@pilotpowergroup.com>; Elkins, Luisa <Luisa.Elkins@sanjoseca.gov>; Stephen Hall (steve@hallenergylaw.com) <steve@hallenergylaw.com>; Morris, Kelly

<Kelly.Morris@sanjoseca.gov>
Subject: RE: Pilot Power Group RA Offer for Bay Area and PG&E Other - May2019

Sheetal:

I apologize for the delay getting you qualified as a counterparty.

Given the delays, we are hoping to get authority from our Risk Oversight Committee (ROC) to finalize the following deal with Pilot on Wednesday March 20 without further financial evaluation. I will let you know asap on the outcome of this discussion.

Please let me know if this deal is still available. Note that we are not proposing to take the full quantities available.

I have attached our preferred WSPP RA confirmation. If Pilot still is interested in the deal, please provide comments on the proposed confirmation as soon as possible. I would like to have the document ready to go if we get authorization to transact from our ROC.

Thank you!

Local Resource Adequacy - Greater Bay Area

	May-19
Seller:	PIPO
Accepted Quantity (MW):	3
Offer Price ($/kW-Month):	$4.25 kW-Month
Flexible RA (Yes or No):	Yes
Flexible RA Category (if applicable):	1
Resource Category (1, 2, 3, 4):	4

Local Resource Adequacy - Other PG&E Areas

	May-19
Seller:	PIPO
Accepted Quantity (MW):	10.1
Offer Price ($/kW-Month):	$4.25 kW-Month
Flexible RA (Yes or No):	Yes
Flexible RA Category (if applicable):	1
Resource Category (1, 2, 3, 4):	4

Jeanne M. Solé
Deputy Director of Power Resources
200 E. Santa Clara St., 14th Floor | San José, CA 95113
408.535.4867 | Jeanne.Sole@sanjoseca.gov

SAN JOSE CLEAN ENERGY
SanJoseCleanEnergy.org

From: Sheetal Parr [mailto:SParr@edms-llc.com]
Sent: Tuesday, January 22, 2019 11:44 AM
To: Sole, Jeanne <jeanne.sole@sanjoseca.gov>; Tony Zimmer <Tony.Zimmer@ncpa.com>; mike.whitney@ncpa.com
Cc: Andy Anderson <AAnderson@edms-llc.com>; Tom Darton <tdarton@pilotpowergroup.com>; Sheetal Parr <SParr@edms-llc.com>
Subject: Pilot Power Group RA Offer for Bay Area and PG&E Other - May2019

Hello,
Pilot Power Group, Inc. would like to place an offer for the attached terms, volumes and price. This offer is contingent on approval of credit and contract processing. Currently, Pilot Power Group is not enabled with San Jose Community Energy. We are however members of WSPP and can contract under the WSPP RA Confirmation format.

Regards,
Seets

Sheetal Parr
Vice President Operations – *EDMS, LLC*

8910 University Center Lane, Suite 520
San Diego, CA 92122

Office: 858.678.0118 x 125
Mobile: 858.883.3336
Fax: 858.678.0353
Email: sparr@edms-llc.com

www.edms-llc.com

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EXHIBIT: SJCE #75
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / SJCE RFO 2019 RA Due 29JULY2019 (Issued 19JULY2019)
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

SJCE RFO 2019 RA Due 29JULY2019 (Issued 19JULY2019)

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

SAN JOSE CLEAN ENERGY
OCTOBER 2019 RESOURCE ADEQUACY PURCHASE

Prospective Resource Adequacy Suppliers:

Pursuant to this Request for Offers (RFO), San José Clean Energy (SJCE) is seeking offers from prospective suppliers to sell Resource Adequacy Products to SJCE as further described herein:

Product Description

- Delivery Month: October 2019
- Products:
  - System Resource Adequacy Capacity
  - PG&E Other Local Capacity
  - Flexible Resource Adequacy Capacity

Requested quantities for each Resource Adequacy Product are listed in the RA Offer Form attached hereto.

Submission of Offers

Please submit all offers to sell Resource Adequacy Products to SJCE using the RA Offer Form attached hereto.

All offers to sell Resource Adequacy Products must be submitted to the following SJCE contacts on or prior to July 29, 2019 at 5:00 PM Pacific:

- Jeanne Sole (SJCE): jeanne.sole@sanjoseca.gov
- Paul Innamorato (SJCE): Paul.Innamorato@sanjoseca.gov
- Mike Whitney (NCPA): mike.whitney@ncpa.com
- Tony Zimmer (NCPA): tony.zimmer@ncpa.com

Upon receipt of any offers submitted in response to this RFO, SJCE will evaluate such offers and determine if SJCE will seek to enter into any confirmation for a transaction at the conclusion of this solicitation.

Contracting Instrument

For reference, please find attached hereto SJCE's preferred form of Resource Adequacy Transaction Confirmation for use with the WSPP. SJCE will also consider use of a Resource Adequacy Transaction Confirmation structured to work in conjunction with an EEI to be negotiated between the parties. Please find attached hereto SJCE's preferred EEI cover sheet.

In addition, SJCE is in the process of qualifying potential counterparties pursuant to its Risk Management Policies. Potential suppliers that are not yet qualified are encouraged to contact SJCE as soon as possible if they intend to respond to this Request for Proposals. SJCE will only be able to transact with entities that have been qualified by its finance department.

If a prospective supplier does not disclose financial information publicly, SJCE will also require a prospective supplier to provide the information described below for the past two (2) financial years. Also, a prospective supplier with its primary business in sectors other than energy should provide financial information and a description of its energy product operations and trading.

- Consolidated Statement of Income
- Consolidated Statement of Cash Flows
- Consolidated Balance Sheets
- Results of Operations
- Notes to Financial Statements
- Off-Balance Sheet Liabilities, if any

For any questions regarding this RFO, please contact Tony Zimmer at tony.zimmer@ncpa.com.

Disclaimers:

SJCE reserves the sole and discretionary right to (i) reject any offers received in response to this solicitation for any reason, and (ii) accept any offers received after the deadline for submittals as indicated herein. Additionally, SJCE reserves the right, at its sole discretion, to not enter into any confirmation for the transaction at the conclusion of this solicitation. SJCE reserves the right to modify the terms and conditions of this solicitation at any time based on changing needs and market feedback. SJCE also reserves the right to rescind this solicitation at any time prior to SJCE's execution of a binding agreement. SJCE will not be liable at any time for any costs the prospective supplier may incur in preparing or submitting its response to this solicitation.

If an unsuccessful PROPOSER wants to dispute an award or award recommendation, a protest must be submitted in writing to the Director of Community Energy, Lori Mitchell, no later than ten (10) calendar days after announcement of the successful PROPOSER(s), detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes on the grounds that material provision in this RFP is ambiguous. Failure to submit a timely written protest to the contact listed below will bar consideration of the protest.

The address for submitting protests is:

Attention: Lori Mitchell, Director
City of San Jose, Department of Community Energy
200 East Santa Clara Street, 14th Floor
San Jose, CA 95113

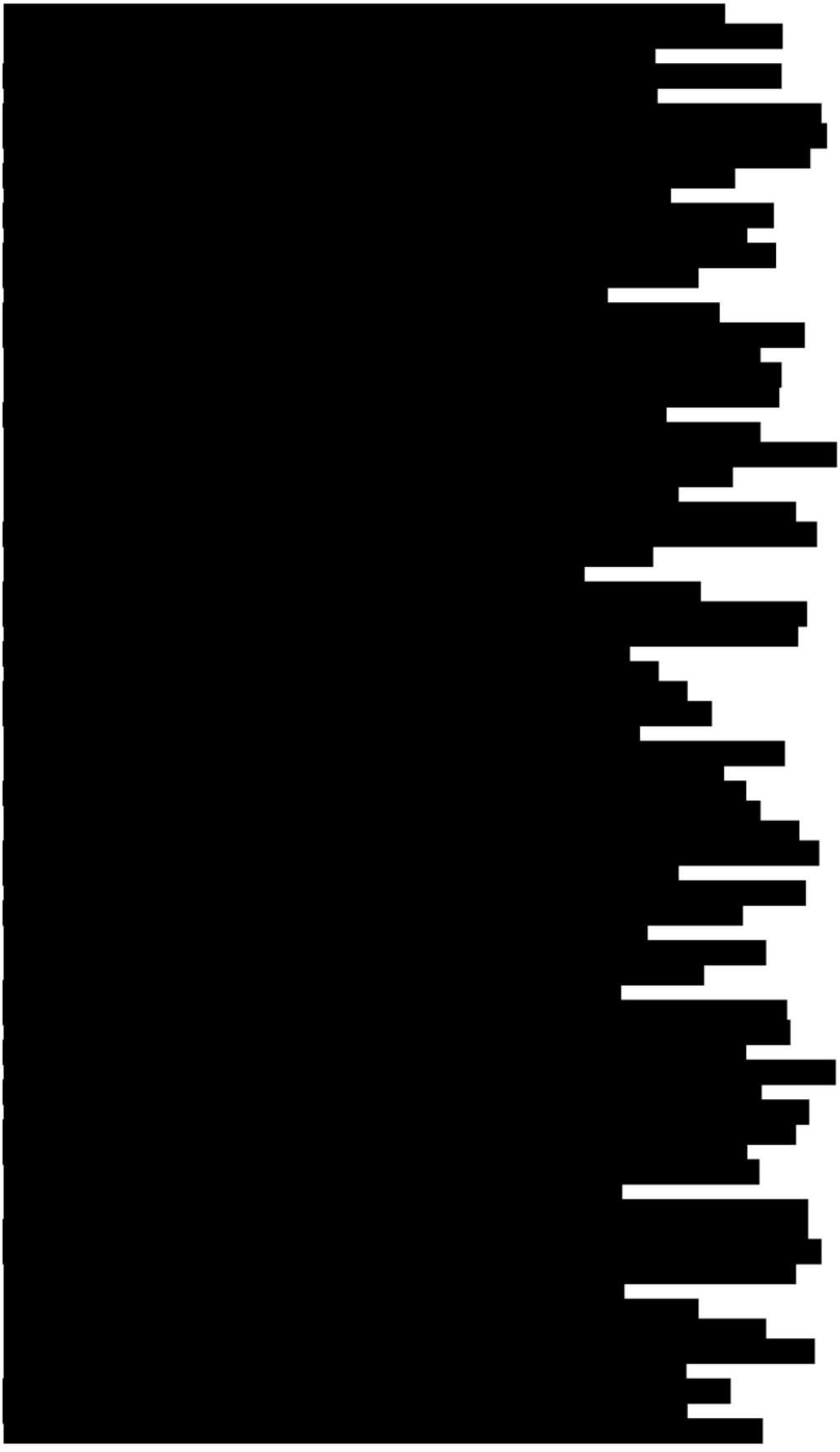
Please submit an electronic version of the protest to lori.mitchell@sanjoseca.gov, and Jeanne.sole@sanjoseca.gov

EXHIBIT: SJCE #76
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

From: RFO
Cc: Sole, Jeanne; Tony Zimmer; Ken Goeke; Bernard Erlich
Bcc:



[redacted]

Subject: San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3
Date: Friday, July 19, 2019 4:30:11 PM
Attachments:
SJCE RFO 2019 RA Due 29JULY2019 (Issued 19JULY2019).pdf
SJCE RFO RPS 2019 Due 29JULY2019 (Issued 19JUL2019).pdf
SJCE RFO October 2019 Resource Adequacy Products 07192019 - Offer Form.xlsx
SJCE RFO RPS 2019 Bid Form Due 29JULY2019 (Issued 19JUL2019).xlsx
EEI Confirmation_SJCE_Multi-Product Template.docx
WSPP Bundled Renewable Energy (PCCX) SJCE.DOCX
WSPP SJCE Resource Adequacy Confirmation.docx

SAN JOSE CLEAN ENERGY

OCTOBER 2019 RA and 2019 RPS PCC2 and PCC3 REC PURCHASE

San José Clean Energy (SJCE) is seeking proposals from power suppliers (Sellers) to supply RPS PCC2 and PCC3 Renewable Energy Certificates (RECs) for calendar year 2019, as well as Resource Adequacy Products as further described herein:

Product Descriptions

Products: 2019
Portfolio Content Category 2 (PCC2): Increments of 5,000 MWh
Portfolio Content Category 3 (PCC3): Increments of 5,000 MWh
October 2019 System Resource Adequacy Capacity
October 2019 PG&E Other Local Capacity
October 2019 Flexible Resource Adequacy Capacity

Please see the attached RFO documents and bid forms for the full information on this RFO. **Responses to this RFO are due at 5:00 PM Pacific Time on Monday, July 29, 2019.** Please submit your offers by returning your contact information, offer prices, and minimum offer quantities for each offer price by email in the attached Excel file to:

- San José Clean Energy: RFO@sanjosecleanenergy.gov
- Tony Zimmer (NCPA): tony.zimmer@ncpa.com
- Ken Goeke (NCPA): ken.goeke@ncpa.com
- Bernard Erlich (NCPA): bernard.erlich@ncpa.com

EXHIBIT: SJCE #77
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / RE_ San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

RE_ San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

From: JDonahoe@CSGInvestments.com
To: RFO; Tony Zimmer; Ken Goeke; Bernard Erlich
Cc: Sole, Jeanne
Subject: RE: San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3
Date: Friday, July 26, 2019 9:42:12 AM
Attachments: SJCE RFO October 2019 Resource Adequacy Products 07192019 - Offer Form (CXA La Paloma 2019-07-25).xlsx

CXA La Paloma's offer for October 2019 RA is attached.

Best regards,

James

James Donahoe
CSG Investments, Inc. (an affiliate of Beal Bank and Beal Bank USA)
6000 Legacy Drive | Plano, TX 75024
☎ 469.467.5579 | jdonahoe@csginvestments.com

From: RFO <RFO@sanjosecleanenergy.org>
Sent: Friday, July 19, 2019 6:30 PM
Cc: Sole, Jeanne <jeanne.sole@sanjoseca.gov>; Tony Zimmer <Tony.Zimmer@ncpa.com>; Ken Goeke <Ken.Goeke@ncpa.com>; Bernard Erlich <Bernard.Erlich@ncpa.com>
Subject: San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3

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SAN JOSE CLEAN ENERGY

OCTOBER 2019 RA and 2019 RPS PCC2 and PCC3 REC PURCHASE

San José Clean Energy (SJCE) is seeking proposals from power suppliers (Sellers) to supply RPS PCC2 and PCC3 Renewable Energy Certificates (RECs) for calendar year 2019, as well as Resource Adequacy Products as further described herein:

Product Descriptions

Products: 2019
Portfolio Content Category 2 (PCC2): Increments of 5,000 MWh
Portfolio Content Category 3 (PCC3): Increments of 5,000 MWh
October 2019 System Resource Adequacy Capacity
October 2019 PG&E Other Local Capacity
October 2019 Flexible Resource Adequacy Capacity

Please see the attached RFO documents and bid forms for the full information on this RFO. **Responses to this RFO are due at 5:00 PM Pacific Time on Monday, July 29, 2019.** Please submit your offers by returning your contact information, offer prices, and minimum offer quantities for each offer price by email in the attached Excel file to:

- San José Clean Energy: RFO@sanjosecleanenergy.gov

- Tony Zimmer (NCPA): tony.zimmer@ncpa.com
- Ken Goeke (NCPA): ken.goeke@ncpa.com
- Bernard Erlich (NCPA): bernard.erlich@ncpa.com

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EXHIBIT: SJCE #78
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / Re_ San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3(1)
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

Re_ San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3(1)

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

From: Tony Zimmer
To: JDonahoe@CSGInvestments.com
Cc: RFO; Ken Goeke; Bernard Erlich; Sole, Jeanne
Subject: Re: San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3
Date: Saturday, July 27, 2019 9:00:09 AM

Hi James,

Thank you for submitting your offer to sell Oct-19 RA capacity to SJCE. SJCE is very interested in your offer, and we will follow up with you early this coming week to discuss next steps.

Please feel free to contact me if you have any questions in the meantime.

Thank you,

Tony Zimmer
NCPA

Sent from my iPhone

On Jul 26, 2019, at 9:57 AM, JDonahoe@CSGInvestments.com <JDonahoe@csginvestments.com> wrote:

> CXA La Paloma's offer for October 2019 RA is attached.
>
> Best regards,
>
> James
>
> James Donahoe
> CSG Investments, Inc. (an affiliate of Beal Bank and Beal Bank USA)
> 6000 Legacy Drive | Plano, TX 75024
> ☎ 469.467.5579 | jdonahoe@csginvestments.com
>
> ---
>
> **From:** RFO <RFO@sanjosecleanenergy.org>
> **Sent:** Friday, July 19, 2019 6:30 PM
> **Cc:** Sole, Jeanne <jeanne.sole@sanjoseca.gov>; Tony Zimmer <Tony.Zimmer@ncpa.com>; Ken Goeke <Ken.Goeke@ncpa.com>; Bernard Erlich <Bernard.Erlich@ncpa.com>
> **Subject:** San José Clean Energy Market Solicitation of Interest to Sell October 2019 RA and 2019 RPS PCC2 and PCC3
>
> ******WARNING: This email came from an external source.******
> **SAN JOSE CLEAN ENERGY**
>
> **OCTOBER 2019 RA and 2019 RPS PCC2 and PCC3 REC PURCHASE**
>
> San José Clean Energy (SJCE) is seeking proposals from power suppliers (Sellers) to

supply RPS PCC2 and PCC3 Renewable Energy Certificates (RECs) for calendar year 2019, as well as Resource Adequacy Products as further described herein:

Product Descriptions

Products: 2019
Portfolio Content Category 2 (PCC2): Increments of 5,000 MWh
Portfolio Content Category 3 (PCC3): Increments of 5,000 MWh
October 2019 System Resource Adequacy Capacity
October 2019 PG&E Other Local Capacity
October 2019 Flexible Resource Adequacy Capacity

Please see the attached RFO documents and bid forms for the full information on this RFO. **Responses to this RFO are due at 5:00 PM Pacific Time on Monday, July 29, 2019.** Please submit your offers by returning your contact information, offer prices, and minimum offer quantities for each offer price by email in the attached Excel file to:

<!--[if !supportLists]-->• <!--[endif]-->San José Clean Energy: RFO@sanjosecleanenergy.gov

<!--[if !supportLists]-->• <!--[endif]-->Tony Zimmer (NCPA): tony.zimmer@ncpa.com

<!--[if !supportLists]-->• <!--[endif]-->Ken Goeke (NCPA): ken.goeke@ncpa.com

<!--[if !supportLists]-->• <!--[endif]-->Bernard Erlich (NCPA): bernard.erlich@ncpa.com

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<SJCE RFO October 2019 Resource Adequacy Products 07192019 - Offer Form (CXA La Paloma 2019-07-25).xlsx>

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EXHIBIT: SJCE #79
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / ROC log FINAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

ROC log

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

4/29/2020	ACTION ITEM 1: Request extending the authority to procure without applying credit limits for another year (RA only) ACTION TAKEN: For another full year (to expire unless reauthorized on April 21, 2021), allow SJCE to continue to buy and sell RA as needed, including when appropriate pursuant to bilateral negotiations; and/or without applying credit limits Subject to the following: SJCE will not purchase more than expected need (except for Joint CCA procurement – see Action Item #2) SJCE will stay within RA budget approved by Council on April 7, 2020: 2020: $50M 2021: $61.2M 2022: $62.3M 2023: $62.2M ACTION ITEM 2: Approve SJCE to engage with the Joint CCAs to take turns contracting for RA and reselling a portion to the other CCAs ACTION TAKEN: Approve SJCE to engage with the Joint CCAs to take turns contracting for RA and reselling a portion to the other CCAs There is a joint agreement between the five CCAs, managed by an outside marketer, that lays out how the cost sharing is billed and has been conducted for the last year
4/6/2020	→ No actions taken during meeting
2/12/2020	→ACTION ITEM 1: Approve additional Terra-Gen PPA ACTION TAKEN: Approve downgrade adjustments to $13.25M for DTE Energy (already done through budget) and $11.5M for Southern California Edison, continuing transactions with these counterparties. • Lori Mitchell motions to approve, Jim Shannon seconds. • Motion approved (7-0-0) ACTION ITEM 2: Approve pending credit limits for various counterparties • Lori Mitchell motions to approve, Jim Ortbal seconds. • Motion approved (7-0-0) ACTION ITEM 3: Approve additional Terra-Gen PPA • Lori Mitchell motions to approve, Julia Cooper seconds. • Motion approved (7-0-0)
1/29/2020	→ ACTION TAKEN: Approve the updated RMR. • Lori motioned to approve. Julia seconded. Approved 7-0-0. → ACTION TAKEN: Approve staff to take the recommendations described in the PowerPoint presentation to Council. • Jeanne motioned to approve. Jim S. seconded. Approved 7-0-0.

12/11/2019	→ ACTION TAKEN: • Accept credit limit for Conoco Phillips at $13.25 M. Jeanne motions to approve, Lori seconds and carried. Motion passed (7-0-0). → ACTION TAKEN: • Approve transaction limits for TerraGen and 3 Phases Renewables for transactions entered into 2020 for $10M in deliveries in 2020, $10M in deliveries in 2021, and $10M in deliveries in 2022. Jim S. motioned to approve, Lisa T. seconds. • Motion passed (7-0-0). → ACTION TAKEN: • Approve transaction limits for NRG and Direct Energy for transactions entered into in 2020 for $10M in deliveries in 2020 and $10M in deliveries in 2021. Jim O. motions to approve, Jim S. seconds and carried. • Motion passed (7-0-0).
11/21/2019	→ RPS - PCC2 Jeanne requests that SJCE is able to purchase PCC2 from bilateral transactions until July 1, 2020 for the period of 2020-2021 • Counterparties must be approved by Finance • Purchases in the aggregate for any given years do not exceed $10 million • MODIFY: SJCE will continue to release competitive solicitations but will have the ability to contract bilateral outside of solicitation → ACTION TAKEN: • Jeanne Solé motions to approve, Jim S. seconds and carried. Motion was approved in accordance with RMR Section 7.4.2. (5-0-2. Absent: Jim O., Sarah S.)
11/5/2019	→ Ross explained the GHG allocation we may get from PG&E through PCIA → ACTION TAKEN: Set 2020 power content to 45% renewable and 86% carbon-neutral
10/3/2019	Approve the Risk Management Regulations with the changes discussed in the meeting.
9/17/2019	Authorize the Community Energy Department to enter into a longterm power purchase agreement with Terra-Gen for 100 MW of solar given the staff can make additional changes, approved by CAO, to the contract.
9/9/2019	No action
7/9/2019	Authorize the Community Energy Director to enter into a long-term power purchase agreement with EDPR for 100 MW of solar and 10 MW of storage given that staff can make additional changes, approved by CAO, to the contract.
6/19/2019	Increase the collateral threshold for Nextera from $5M to $20M instead of the policy directed $15M.
6/12/2019	No action
5/22/2019	No action
5/14/2019	Adopt Finance handout Appendix 3: Maximum Counterparty Credit Limits as Risk Management Regulations 18.2 instead of the previously approved collapsed tiers.
4/29/2019	Approve buying PCC1 for 2019-2021 from PG&E in an amount not-to-exceed $12M and from Southern California Edison (SCE) in an amount not-to-exceed $25M. Actio 1 Note: Although PG&E is in bankruptcy and SCE has a credit rating of junk status, the ROC voted to approve these amounts due to the lack of PCC1 in the market from more viable counterparties. SJCE must purchase this product from these counterparties in order to comply with California RPS state law.

4/29/2019	Change Risk Management Regulations Section 18.2 to reflect Appendix 3 of the Maximum Counterparty Credit Limits document provided by the Finance Department. The new section should reflect the following credit limits:Credit Rating Credit Limit AAA $35M AA+ through AA- $26.5M A+ through A- $18.5M BBB+ through BBB- $11.5M
4/2/2019	Approve use of credit limits recommended by Finanace instead of transaction limits for Bonneville Power, Calpine, Shell, TransAlta, AtlasGas, LADWP, SMUD, Exelon Approve pending credit limits set by Finance as stated on the Approved Counterparty Log dated 03/27/2019. Allow SJCE to increase credit limit to $50M for Shell and Morgan Stanley.
3/20/2019	Allow SJCE to buy and sell RA as needed, given several limitations: 1. SJCE will not purchase more than expected need. 2. SJCE will stay in projected RA cost: • Currently projected: 2019: $43.5M; 2020: $26M; 2021: $26.5M; 2022: $26.5M 3. SJCE will strive to work with the most credit worthy counterparties. 4. SJCE will report purchases and sales to the ROC on a monthly basis.
3/8/2019	Three items were voted on under one motion. They are as follows: 1. Approve transaction limits for 2019 only for the following counterparties at the following limits: Counterparty Transaction Limit for 2019 ConocoPhillips 20 M NRG 10M Direct Energy 10M Terragen 5M 3 Phases Renewables 5M
3/8/2019	Authority to sell 2019 Resource Adequacy back to PG&E.
3/8/2019	The ROC will have a working group session early in the new fiscal year (2019-2020) to revise and finalize the Risk Management Policy to better align with SJCE
2/27/2019	Action: Upon a motion by ROC Member Jim Ortbal, seconded by ROC Member Lori Mitchell, and carried, the ROC approved and increased transaction limit for 3 Phases to $1.6 million and ACT to $30k with a follow-up ROC meeting to further discuss the summary of status of credit limits, transaction limits, transactions, budget, and pro forma. (6-0-1. Absent: Lenore Reed) credit limits, transaction limits, transactions, budget, and pro forma.
2/19/2019	SJCE requested to Approve transaction limit for ConocoPhillips of up to $500k. Upon a motion by ROC Member Lori Mitchell, seconded by ROC Member Jeanne Solé, and carried, the ROC approved increasing the transaction limit for ConocoPhillips
2/6/2019	Authorize Finance to buy a one-year subscription of S&P Financial rating tool and San José Clean Energy is to pay for it.

1/17/2019	No action: Standing Agenda Items 1. Procurement update 2. PG&E debrief 3. Finance reviewing municipal utilities 4. Assessment of private entities
1/4/2019	Approve NRG with a $500,000 transaction limit to sell excess RA only and approve Direct Energy with a $1 Million transaction limit to sell excess RA only.
12/19/2018	Approve an increase in the transaction limit for TransAlta from $10M to $30M. (Per conversation with Jeanne on 4/9/2020 - we are using credit limit for transalta.)
12/19/2018	Approve a $1M transaction limit with Karbone given that SJCE staff will work to provide Karbone's financial information to Finance Department staff.
12/19/2018	Approve a $1M transaction limit with 3 Phases Renewables.
12/4/2018	SJCE staff seeking approvals for transaction limits as follows: $10M with TransAlta; $1.25M with 3 Phases Renewables. Approve transaction limit for TransAlta at $10M and defer consideration of transaction limit of $1.25M for 3 Phases Renewables until Finance has had time to review financial information which will be provided shortly under a non-disclosure agreement.
11/9/2018	Approve Director authority to transact with counterparties up to $50,000,000 for 2019 energy supplies, subject to: • This limit is only for the eight counterparties listed below. • Department will select lowest cost bids. • Department will endeavor to avoid contracting with one supplier for more than 25% of the cost of SJCE's annual power needs. This amounts to $56.5M. • Total amount of transactions for 2019 does not exceed $226 million. Eight Counterparties: 1. DTE Energy 2. Morgan Stanley 3. NextEra 4. Powerex 5. Shell 6. Bonneville Power Administration 7. Exelon (Constellation) 8. PacifiCorp
11/9/2018	Delegate authority to the Director of Community Energy to enter into transactions up to $5,000,000 in addition to any 2018 transactions that have been executed to date (shown below) with the following counterparties: Counterparty Transactions to date AltaGas $149,663 Brookfield Asset Management None Calpine $5,831,000 Exelon Generation Co. (Constellation) $160,241 First Solar, Inc. None PG&E $27,321,183 TransAlta None
11/9/2018	Approve Director of Community Energy authority for the following: 1. Transactions up to a total not to exceed amount of $3,000,000 with California CCAs and municipal utilities without a finance established credit limit or with a low finance established credit limit. 2. Transactions up to $3,000,000 with counterparties that do not have an approved credit limit, provided that such counterparties provide credit enhancements in an amount of no less than 20% of the contract value. 3. Provided that (1) total transactions for the two above groups of counterparties should not exceed 20% of total portfolio without ROC approval; (2) the Director of Community Energy shall report any such transactions to the ROC at the following ROC meeting; and (3) finance and the Department of Community Energy will evaluate

10/26/2018	Approve SJCE entering into transactions for 2019 Resource Adequacy without credit support as follows: · • Merced Irrigation District: $4,220,000 • CleanPowerSF: $2,550,000 • PG&E: $723,000 • Calpine: $1,400,000 • Peninsula Clean Energy: $1,200,000 • Alameda Municipal Power: $220,000 • AltaGas: $300,000 • ConocoPhillips: $50,000 __
10/26/2018	Approve the counterparty credit limits as follows: • Morgan Stanley: $25,000,000 • Powerex: $35,000,000 Addition to action: Jim Ortbal wants to add to motion that staff will bring time frame regarding credit tools and revisions to risk management regulations to the next ROC meeting. Jeanne accepts addition to motion.
10/26/2018	Approve SJCE entering into transactions for additional 2019 Resource Adequacy without credit support as follows: • High Desert: $618,075 • 3 Phases Renewables: $18,000 • Pioneer Community Energy: $81,600 • Clean Power Alliance: $120,900
9/24/2018	Upon a motion by ROC Member Margaret McCahan, seconded by ROC Member Julia Cooper, and carried, the ROC approved an $11M purchase of renewables from PG&E for a total amount of purchases from PG&E of $26.5M.
9/10/2018	No action
8/8/2018	Upon a motion by ROC Member Jim Ortbal, seconded by ROC Member Lori Mitchell, and carried, the ROC approved RA Slide including TerraGen as a counterparty with
7/11/2018	Upon a motion by ROC Member Julia Cooper, seconded by ROC Member Kip Harkness, and carried, the ROC approved PG&E as a counter party with credit enhancmenet with the agreement that it wil not exceed 1 Million with the intent to revisit at the next ROC meeting.
7/6/2018	No Meeting Mintues found
5/29/2018	No action

EXHIBIT: SJCE #80
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé /
11-9-ROC 11.9.18 Presentation FINAL
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

11-9-ROC 11.9.18 Presentation FINAL

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

RISK OVERSIGHT COMMITTEE

November 9, 2018

SAN JOSE CLEAN ENERGY

A Program of the City of San José

PROCUREMENT UPDATE

- On November 6, Council approved $226M for 2019
- Council previously approved $67M for 2019 (included within the $226M)
  - $35M for RA
  - $32M for RPS

2019 Procurement Status			
	RA	**RPS/GHG-Free**	**Energy***
Projected:	$43,300,000	$22,000,000	$152,000,000
Contracted:	$30,192,751	$11,585,500	$440,105
Remaining:	**$13,107,249**	**$10,414,500**	**$151,559,895**

- It's important to execute contracts now to ensure cost effective supplies for 2019

**Not including additional CAISO costs, roughly $6M*

SAN JOSE CLEAN ENERGY

BACKGROUND DEPARTMENT AUTHORITY

- The RM Regulations give the Director authority to enter into individual transactions that do not exceed more than $500,000 per day and have a duration greater than 1 year.
- For transactions over 6 months and over $1M, the Director must have approval by Council. E.g. the November 6, 2018 authority to contract for $226M in power products for 2019.
- The August 14, 2018 Council approval for procurement of RA required RA transactions over $1M to be approved by the ROC.
- Recommend ROC Approval for the Director to enter into individual transactions up to $50M with certain approved counterparties.

SAN JOSE CLEAN ENERGY

ENERGY RECOMMENDATIONS

SJCE asks the ROC to approve Director authority to transact with counterparties up to $50M for 2019 energy supplies, subject to:

1. This limit is only for the 10 counterparties listed on this slide.
2. Department will select lowest cost bids.
3. Department will endeavor to avoid contracting with one supplier for more than 25% of the cost of SJCE's annual power needs. This amounts to $56.5M.
4. Total amount of transactions for 2019 does not exceed $226 million.

APPROVED CREDIT LIMITS		
Counterparty	**Rating**	**Credit Limit**
DTE Energy	BBB+	$15,000,000
Morgan Stanley	A+	$25,000,000
NextEra	Baa1	$15,000,000
Powerex	Aaa	$35,000,000
Shell	AAA	$18,500,000

CREDIT LIMITS PENDING APPROVAL		
Counterparty	**Rating**	**Credit Limit**
Bonneville Power Administration		
ConocoPhillips Company		
Direct Energy		
Exelon Generation Co. (Constellation)	BBB	$13,250,000
PacifiCorp		

SAN JOSE CLEAN ENERGY

RA & RPS RECOMMENDATIONS

- Delegate authority to the Director of Community Energy to enter into transactions for up to an additional five million with the counterparties listed below.
- These counterparties have a credit limit that requires ROC approval because their credit rating is below BBB+.

Requesting ROC Approval of Credit and Transaction Limits			
Counterparty	**Rating**	**Credit Limit**	**2019 Transactions to date**
AltaGas	BBB	13.25 million	$149,663
Brookfield Asset Management	BBB	13.25 million	None
Calpine	B	5 million	$5,831,000
Exelon Generation Co. (Constellation)	BBB	13.25 million	$160,241
First Solar, Inc.	bbb-	11.50 million	None
PG&E	BBB	13.25 million	$27,321,183
TransAlta	Ba1	10 million	None

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ADDITIONAL RECOMMENDATIONS

SJCE asks the ROC to approve Director authority for the following:

- For CCAs and municipal utilities without finance established credit limit or a low finance established credit limit, allow transactions up to $3M. Municipal utilities and CCAs are municipal entities that are likely to honor their contractual commitments.
- Allow transactions up to $3M with counterparties that do not have an approved credit limit, provided that such counterparties provide credit enhancements as defined in the RM Regs, at 17, in an amount of no less than 20% of the contract value. This gives SJCE some additional flexibility to transact with entities that are willing to provide credit enhancements.

SAN JOSE CLEAN ENERGY

HISTORIC POWER COST FLUCTUATION

Since 2010, annual change in average cost of wholesale power has not been more than 33%:

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018 (through Q3)
Average Cost of Wholesale Energy and Reserves in CAISO/MWh	$39.91	$35.68	$35.33	$46.34	$52.19	$36.81	$33.52	$41.77	$50.05
Change	-	($4.23)	($0.35)	$11.01	$5.85	($15.38)	($3.29)	$8.25	$8.28
Percent Change		(10.60)	(0.98)	31.16	12.62	(29.47)	(8.94)	24.61	19.82

2010 through 2013 numbers are from the CAISO, Department of Market Monitoring, 2014 Annual Report on Market Issues & Performance, at 60: http://www.caiso.com/Documents/2014AnnualReport_MarketIssues_Performance.pdf,

2014 through 2017 numbers are from the CAISO, Department of Market Monitoring, 2017 Annual Report on Market Issues & Performance, at 70: http://www.caiso.com/Documents/2017AnnualReportonMarketIssuesandPerformance.pdf

2018 numbers are from the CAISO, Department of Market Monitoring, 2018 Third Quarter Report on Market Issues & Performance, at 78: http://www.caiso.com/Documents/2018ThirdQuarterReportonMarketIssuesandPerformance.pdf

SAN JOSE CLEAN ENERGY

QUESTIONS?

EXHIBIT: SJCE #81
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / ROC Minutes From 12-4-18 Action Minutes Final ROC Edits
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

ROC Minutes From 12-4-18 Action Minutes Final

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

City of San José
Risk Oversight Committee

REGULAR MEETING MINUTES
December 4, 2018
11:00 AM
CONTAINS CONFIDENTIAL INFORMATION

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Lori Mitchell, Jeanne Solé, Sarah Sanchez, Jim Ortbal, Margaret McCahan, Julia Cooper, Lenore Reed.
ABSENT: Ed Moran.
STAFF: Lisa Taitano, Qianyu Sun, Kelly Morris.

II. Consent Calendar

Approve the Minutes from the Meeting on November 9, 2018.

- Julia Cooper requested to move the approval of these minutes in order to have a chance to review against notes taken.

III. Reports and Information Only

Provided Agenda:

A. Counterparty Approvals
   - 3 Phases:
     $18,000 RA already approved
     Seek authorization to buy additional products:
     - RPS PCC2 and PCC3 for a not to exceed amount of $1,250,000 M
   - TransAlta: transaction limit not to exceed $10 M

B. Reduction of PG&E limit (currently working on confirmation for RA for $103,415)

C. Report on energy purchases and price curve

IV. Old Business

No old business.

V. New Business

SJCE staff seeking approvals for transaction limits as follows: $10M with TransAlta; $1.25M with 3 Phases Renewables.

ACTION: Approve transaction limit for TransAlta at $10M and defer consideration of transaction limit of $1.25M for 3 Phases Renewables until Finance has had time to review financial information which will be provided shortly under a non-disclosure agreement.
MOTION: Jim Ortbal
SECOND: Margaret McCahan
VOTE: 6-0-1 (Ed Moran absent)

VI. Meeting Schedule and Agenda Items

Next Meeting: December 19, 2018

Future Agenda Items

- Review Executed Contracts & open position
- Counterparty approvals

VII. Adjournment

Meeting adjourned at approximately 12:10 p.m.

DRAFT

EXHIBIT: SJCE #82
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / ROC Minutes From 12-19-18 ROC Edits
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

ROC Minutes From 12-19-18 ROC Edits

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

City of San José
Risk Oversight Committee

REGULAR MEETING MINUTES
December 19, 2018
11:00 AM
CONTAINS CONFIDENTIAL INFORMATION

I. Call to Order & Orders of the Day

Roll Call

PRESENT: Lori Mitchell, Jeanne Solé, Sarah Sanchez, Ed Moran, Jim Ortbal, Margaret McCahan, Lenore Reed, Lisa Taitano as an alternate for Julia Cooper.

ABSENT: None.

STAFF: Present: Ed Moran, Kelly Morris, Qianyu Sun.

II. Consent Calendar

Approve minutes from 11/9/2018 ROC Meeting.
MOTION: Jim Ortbal
SECOND: Margaret McCahan
VOTE: 6-0-1; approved. (Julia Cooper absent.)

Approve minutes from 12/4/2018 ROC Meeting.
MOTION: Lisa Taitano
SECOND: Jim Ortbal
VOTE: 6-0-1; approved. (Julia Cooper absent.)

III. Reports and Information Only

Provided Agenda:

1) Review 2019 Executed Contracts & open position (CED)
2) Price curves and their movement Oct – Dec (CED)
3) Review and approve Counterparty credit and transaction limits (CED/Finance/ROC)
    1. 3 Phases
    2. Karbone
    3. TransAlta
4) Status of assessment tool to review private entities (Finance)

IV. Old Business

There was no old business.

V. New Business

ACTION: Approve an increase in the transaction limit for TransAlta from $10M to $30M.
MOTION: Jeanne Solé
SECOND: Lisa Taitano
VOTE: 6-0-1; approved. (Julia Cooper absent.)

ACTION: Approve a $1M transaction limit with Karbone given that SJCE staff will work to provide Karbone's financial information to Finance Department staff.
MOTION: Lori Mitchell
SECOND: Jim Ortbal
VOTE: 6-0-1; approved. (Julia Cooper absent.)

ACTION: Approve a $1M transaction limit with 3 Phases Renewables.
MOTION: Lori Mitchell
SECOND: Jeanne Solé
VOTE: 6-0-1; approved. (Julia Cooper absent.)

VI. Meeting Schedule and Agenda Items

Next Meeting: January 17, 2019
Future Agenda Items

- Review new procurement
- Approvals for 2019 power procurement
- Discussion of confidentiality of data

VII. Adjournment

Meeting adjourned at approximately 12:30 p.m.

DRAFT

EXHIBIT: SJCE #83
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / 3-20-19 ROC Presentation
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

3-20-19 ROC Presentation

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

RISK OVERSIGHT COMMITTEE

March 20, 2019

SAN JOSE CLEAN ENERGY

A Program of the City of San José

REQUIRED POWER SUPPLY PRODUCTS

- Energy – meet SJCE's load
- Resource Adequacy (RA) – maintain grid reliability
- RPS – comply with renewable goals and product statements
- GHG-free – comply with product statements

	Energy	RA	RPS	GHG-free	CAISO Fees	Total
2019 Projected Cost	$164,222,631	$43,497,394*	$15,574,543	$5,114,402	$7,248,352	**$235,657,322**
% of Total Energy Cost	70%	18%	7%	2%	3%	**100%**
Procured ($)	$54,427,594	$31,147,340	$14,472,250	$2,713,250	n/a	**$102,760,434**
% Left to Procure	67%	28%	7%	53%	n/a	**44%**

* Includes penalty + procuring shortfall.

RA – KEY MARKET SELLERS

Key RA Sellers	Amount Transacted	Credit Rating	Payment Terms
PG&E	$17,568,678	Ba3	SJCE Must Post Collateral
Calpine	$5,831,000	B	30 days
Merced Irrigation District	$4,212,893	A	30 days
CleanPowerSF	$2,164,695	N/A	30 days
Peninsula Clean Energy	$775,527	N/A	SJCE Must Pre-Pay
TransAlta	$632,500	Ba1	30 days
AltaGas Ripon Energy	$241,763	BBB-	30 days

Additional sellers of small amounts: Clean Power Alliance, Alameda Municipal Power, Silicon Valley Power, East Bay Community Energy, ConocoPhillips, Pioneer Community Energy, 3 Phases

Key market sellers for RA generally do not have good financials.

SAN JOSE CLEAN ENERGY

RECOMMENDATION (ACTION ITEM)

- Allow SJCE to buy and sell RA as needed.
  - Market is constrained, not enough supply.
  - SJCE must procure or pay penalties.
- Limitations:
  - SJCE will not purchase more than expected need.
  - SJCE will stay within projected RA budget.
    - 2019: $43.5 Million; 2020: $26 Million; 2021: $26.5 Million; 2022: $26.5 Million
  - SJCE will strive to work with the most credit worthy counterparties.
  - SJCE will report purchases and sales to the ROC on a monthly basis.

SAN JOSE CLEAN ENERGY

PROJECTED POWER SUPPLY AND RA COSTS AND REQUESTED AUTHORIZATIONS THROUGH CY2022

	2019	2020	2021	2022
Projected Power Supply Costs	$210,000,000	$245,000,000	$255,000,000	240,000,000
Approved Procurement Authorization	$226,000,000			
Recommended Procurement Authorization		$222,000,000	$128,000,000	$30,000,000

SAN JOSE CLEAN ENERGY

REVIEW CURRENT CREDIT APPROACH AND RISK MANAGEMENT REGULATIONS

SJCE needs to procure multi-year supply through 2021

Current transaction limits are too stringent for some products

Recommendations for discussion (no action):

1. Transition to using credit limits vs transaction limits
2. Use of mark to market collateral to expand credit limits

   Ex: Shell credit limit is $18.5 Million.

   - contract requires collateral if market value is more than $18.5 Million different from contract value.
   - SJCE is constrained by Barclay's LOC; report status at each meeting

3. Establish Different Credit Limits for different products

   ➢Less stringent for RPS, & GHG-free products

SAN JOSE CLEAN ENERGY

QUESTIONS?

EXHIBIT: SJCE #84
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / ROC 3.20.19 Minutes
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

ROC 3.20.19 Minutes

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

City of San José
Risk Oversight Committee

REGULAR MEETING MINUTES
March 20, 2019
3:00 PM

I. Call to Order & Orders of the Day

Meeting called to order at 3:12 PM.

Roll Call

PRESENT: Lori Mitchell, Jeanne Solé, Jim Ortbal, Margaret McCahan, Julia Cooper, Lisa Taitano (acting).
ABSENT: Sarah Sanchez.
STAFF: Prachi Avasthy, Alice Vurich, Kelly Morris, Ed Moran, and, on the phone, Luisa Elkins.

II. Consent Calendar

Approval of minutes for the ROC Meeting on March 8, 2019
Lori Mitchell motions to approve, Jim Ortbal seconds. Approved (6-0-1).

III. New Business

ACTION TAKEN: Allow SJCE to buy and sell RA as needed, given several limitations:

1. SJCE will not purchase more than expected need.
2. SJCE will stay in projected RA cost:
    - Currently projected: 2019: $43.5M; 2020: $26M; 2021: $26.5M; 2022: $26.5M
3. SJCE will strive to work with the most credit worthy counterparties.
4. SJCE will report purchases and sales to the ROC on a monthly basis.

Jim Ortbal motions to approve, Jeanne Solé seconds. Approved (6-0-1).

IV. Meeting Schedule and Agenda Items

The next meeting will be April 2, 2019 at 2:00 PM in T-1446.

V. Adjournment

Meeting adjourned at approximately 3:59 PM.

EXHIBIT: SJCE #85
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / Screenshot July 2019 RA -2025-04-11 073714
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

Screenshot July 2019 RA -2025-04-11 073714

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

M	N	O	Q	R	S	T	U	V
Pric	Contract Tot	Month	Year	Delivery Start Date	Delivery End Date	Date Executed	Technology	Resource ID
$ 6.75	$ 135,000.00	July	2019	July 1, 2019	July 31, 2019	10/30/2018		DUANE_1_PL1X3
$ 6.60	$ 309,540.00	July	2019	July 1, 2019	July 31, 2019	10/26/2018		WOLFSK_1_UNITA1
$ 6.50	$ 351,650.00	July	2019	July 1, 2019	July 31, 2019	10/26/2018		DELTA_2_PL1X4
$ 6.50	$ 143,000.00	July	2019	July 1, 2019	July 31, 2019	10/26/2018		DELTA_2_PL1X4
$ 6.50	$ 130,000.00	July	2019	July 1, 2019	July 31, 2019	10/26/2018		GEYS20_7_UNIT20
$ 6.50	$ 32,500.00	July	2019	July 1, 2019	July 31, 2019	10/26/2018		COLGAT_7_UNIT1
$ 6.50	$ 34,450.00	July	2019	July 1, 2019	July 31, 2019	10/30/2018		Multiple listed
$ 6.50	$ 6,500.00	July	2019	July 1, 2019	July 31, 2019	10/30/2018		Multiple listed
$ 6.50	$ 130,000.00	July	2019	July 1, 2019	July 31, 2019	4/21/2019		HIDSRT_2_UNITS
$ 6.00	$ 720,000.00	July	2019	July 1, 2019	July 31, 2019	4/26/2019		BASICE_2_UNITS
$ 5.92	$ 608,102.40	July	2019	July 1, 2019	July 31, 2019	10/26/2018		Multiple listed
$ 5.50	$ 302,500.00	July	2019	July 1, 2019	July 31, 2019	12/20/2018		TEMU_NOB_I_F_IMPRA
$ 5.25	$ 26,250.00	July	2019	July 1, 2019	July 31, 2019	4/19/2019		DELTA_2_PL1X4
$ 5.25	$ 84,000.00	July	2019	July 1, 2019	July 31, 2019	4/19/2019		COLGAT_7_UNIT 2
$ 4.50	$ 67,500.00	July	2019	July 1, 2019	July 31, 2019	n/a		
$ 4.00	$ 500,000.00	July	2019	July 1, 2019	July 31, 2019	9/17/2018		METEC_2_PL1X3
$ -	$ -	July	2019	July 1, 2019	July 31, 2019	10/26/2018		Multiple listed
$ -	$ -	July	2019	July 1, 2019	July 31, 2019	5/17/2019		Not listed
$ 4.34	**$ 3,580,992.40**							

EXHIBIT: SJCE #86
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / Screenshot September 2019 RA 2025-04-11 073952
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

Screenshot September 2019 RA 2025-04-11 073952

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

M	N	O	Q	R	S	T	U	V
Pric	Contract Tot	Month	Year	Delivery Start Date	Delivery End Date	Date Executed	Technology	Resource ID
6.60	$ 309,540.00	September	2019	September 1, 2019	September 30, 2019	10/26/2018		WOLFSK_1_UNITA1
6.50	$ 65,000.00	September	2019	September 1, 2019	September 30, 2019	10/26/2018		DELTA_2_PL1X4
6.50	$ 143,000.00	September	2019	September 1, 2019	September 30, 2019	10/26/2018		DELTA_2_PL1X4
6.00	$ 330,000.00	September	2019	September 1, 2019	September 30, 2019	12/20/2018		TEMU_NOB_I_F_IMPRA
6.00	$ 48,000.00	September	2019	September 1, 2019	September 30, 2019	4/29/2019		DELTA_2_PL1X4
6.00	$ 12,000.00	September	2019	September 1, 2019	September 30, 2019	4/29/2019		ADLIN_1_UNITS
5.92	$ 608,102.40	September	2019	September 1, 2019	September 30, 2019	10/26/2018		Multiple listed
5.50	$ 121,275.00	September	2019	September 1, 2019	September 30, 2019	7/17/2019		BURNYF_2_UNIT 1
5.50	$ 178,750.00	September	2019	September 1, 2019	September 30, 2019	7/17/2019		WSENGY_1_UNIT 1
4.50	$ (45,000.00)	September	2019	September 1, 2019	September 30, 2019	4/29/2019		DELTA_2_PL1X4
4.00	$ 500,000.00	September	2019	September 1, 2019	September 30, 2019	9/17/2018		METEC_2_PL1X3
1.50	$ (12,000.00)	September	2019	September 1, 2019	September 30, 2019	7/15/2019		
-	$ -	September	2019	September 1, 2019	September 30, 2019	10/26/2018		Multiple listed
-	$ -	September	2019	September 1, 2019	September 30, 2019	5/17/2019		Not listed
$ 3.78	**$ 2,258,667.40**							

EXHIBIT: SJCE #87
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé /
2019 RA Report_Revised 012324
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

2019 RA Report_Revised 012324

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

2019 RESOURCE ADEQUACY REPORT

March 2021

CALIFORNIA PUBLIC UTILITIES COMMISSION
ENERGY DIVISION

A digital copy of this report can be found at:

https://www.cpuc.ca.gov/RA/

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LIST OF ACRONYMS

AS	Ancillary Services	kW	Kilowatt
CAISO	California Independent System Operator	LCR	Local Capacity Requirement
CAM	Cost-Allocation Mechanism	LGIP	Large Generator Interconnection Procedures
CARB	California Air Resources Board	LOLP	Loss of Load Probability
CEC	California Energy Commission	LSE	Load Serving Entity
CCA	Community Choice Aggregator	LTPP	Long Term Procurement Plan
CHP	Combined Heat and Power	MCC	Maximum Cumulative Capacity
CPM	Capacity Procurement Mechanism	MOO	Must Offer Obligation
CPP	Critical Peak Pricing	MA	Month Ahead
CPUC	California Public Utilities Commission	MW	Megawatt
CSP	Competitive Solicitation Process	NERC	North American Reliability Corporation
DA	Direct Access	NQC	Net Qualifying Capacity
DG	Distributed Generation	PCIA	Power Charge Indifference Adjustment
DR	Demand Response	PMax	Maximum capacity of a resource
DRAM	Demand Response Auction Mechanism	PMin	Minimum capacity of a resource
ED	Energy Division	PRM	Planning Reserve Margin
EE	Energy Efficiency	QC	Qualifying Capacity
ELCC	Effective Load Carrying Capacity	QF	Qualifying Facility
EFC	Effective Flexible Capacity	RA	Resource Adequacy
ESP	Electricity Service Provider	RAR	Resource Adequacy Requirement
ExD	Exceptional Dispatch	RMR	Reliability Must Run
FERC	Federal Energy Regulatory Commission	RPS	Renewable Portfolio Standard
GHG	Greenhouse Gas	RUC	Residual Unit Commitment
HE	Hour Ending	SPD	Save Power Day
IOU	Investor Owned Utility	SFTP	Secure File Transfer Protocol
IV	Imperial Valley	TAC	Transmission Access Charge

EXECUTIVE SUMMARY

The Resource Adequacy (RA) program was developed in response to the 2001 California energy crisis. The program is designed to ensure that California Public Utilities Commission (CPUC or Commission) jurisdictional Load Serving Entities (LSEs)[1] have sufficient capacity to meet their peak load with a 15 percent reserve margin. The RA program began implementation in 2006 and continues to provide the energy market with sufficient forward capacity to meet peak demand and integrate renewables. This capacity includes system RA, local RA, and flexible RA, all of which are measured in megawatts (MWs). The CPUC sets the annual and monthly system, local, and flexible RA requirements for CPUC-jurisdictional LSEs.

This report provides a review of the CPUC's RA program, summarizing RA program experience during the 2019 RA compliance year. While this report does not make explicit policy recommendations, it provides information relevant to the currently open RA rulemakings (R.17-09-020 and R.19-11-009) and ongoing implementation of the RA program in California.

A key to establishing accurate RA procurement targets is accurate demand forecasts. The California Energy Commission (CEC) assesses the reasonableness of LSE-submitted forecasts, then makes demand side management adjustments, plausibility adjustments, and a prorated adjustment to each LSE's forecast to ensure that the total for all forecasts is within 1 percent of the CEC's overall service area forecast. The overall CEC-adjusted forecast for CPUC-jurisdictional LSEs had an expected peak in September 2019 of 41,336 MW, which represented a 1.9 percent increase from the peak forecast of 40,577 MW for 2018. The plausibility adjustments as a percentage of each month's aggregated year-ahead forecast ranged from -1.4 percent to 11.7 percent.

Each October, the RA program requires LSEs to make annual system, local, and flexible compliance showings for the coming year. For the system showing, LSEs must demonstrate that they have procured 90 percent of their system RA obligation for the five summer months. For the local showing, LSEs must demonstrate that they have

[1] Commission jurisdictional LSEs include Investor Owned Utilities (IOUs), Electricity Service Providers (ESPs), and Community Choice Aggregators (CCAs).

procured 100 percent of their local RA obligation for all twelve months. LSEs are also required to demonstrate that they have procured 90 percent of their flexible RA obligation for all twelve months. In addition to the annual RA requirement, the RA program has monthly requirements. On a month-ahead basis, LSEs must demonstrate they have procured 100 percent of their monthly system and flexible RA obligations. Additionally, on a monthly basis from July through December, the LSEs must demonstrate they have met 100 percent of their local obligation which is revised to reflect load migration.

In 2019, CPUC-jurisdictional LSEs were deficient by 495 MW in meeting their peak load RA obligations. The 2019 peak demand (for CPUC-jurisdictional LSEs, after net load migration adjustments) was forecasted to occur in September 2019 at 41,336 MW. The RA obligation for September, including a 15 percent planning reserve margin, totaled 47,882 MW and LSEs collectively procured 47,387 MW.

Although CPUC jurisdictional LSEs were deficient in meeting 2019 September Month Ahead RA obligations, the actual peak load occurred in August. The actual peak load for CAISO's Balancing Authority Area was 44,148 MW and occurred at 6pm on August 15, 2019.[2] This value includes both CPUC-jurisdictional and non-CPUC-jurisdictional LSEs with CPUC-jurisdictional LSEs serve approximately 90 percent of actual peak load, or about 39,733 MW.

CPUC-jurisdictional LSEs did not collectively meet all local RA requirements during the 2019 compliance year. The 2019 local RA procurement obligations for CPUC-jurisdictional LSEs totaled 21,935 MW. LSEs and CAISO procured a monthly minimum of 22,041 MW. Physical resources, cost allocation mechanism (CAM) resources, reliability must-run (RMR) resources, and demand response (DR) resources contributed to this total.

In 2019, total committed RA resources ranged from 30,947 MW in March to 47,565 MW in August. Bilateral contracting made up most of forward capacity procurement. However, CAM, RMR, and DR procurement, the costs and benefits of which are passed

[2] Load data is from CAISO's EMS system. CAISO reported system peak at 44,148 MW. See http://www.caiso.com/planning/Pages/ReliabilityRequirements/Default.aspx. The actual peak for CAISO is higher than the CPUC jurisdictional load because it includes CPUC non-jurisdictional load.

through to all customers by Transmission Access Charge (TAC) area, also contributed to meeting RA obligations. Between 84 and 93 percent of all committed RA capacity, including CAM, was procured by LSEs from unit-specific physical resources within the CAISO control area, 3 to 11 percent of capacity was from imports, and 3 to 4 percent was from DR resources. CAM and RMR resources consisted of 17 to 25 percent of total RA capacity procured. Resources procured by CAISO through its capacity procurement mechanism (CPM) made up 2 to 3 percent. In general, CAM procurement has continued to increase since 2011, RMR procurement decreased to one resource in 2011, but increased in 2018, and DR procurement has declined since 2013[3].

While new resources were added during 2019, the overall capacity that can be used to meet LSEs' RA requirements decreased due to retirement of 650 MW of older gas and cogeneration facilities. This was partially offset by 392 MW of new resources, but overall, 2019 saw a decrease in available capacity.

Because the RA program requires LSEs to acquire capacity to meet load and reserve requirements, the Commission issues citations or initiates enforcement actions when LSEs do not fully comply with RA program rules.[4] In total, the Commission issued ten citations for violations related to compliance year 2019 for a total of $9,553,046.

[3] The Utilities have anecdotally attributed the decline in Demand Response participation to the following: 1. Customer migration to the Demand Response Auction Mechanism (DRAM); 2. The frequency and length of dispatches; 3. The greater adoption of and migration to Time-of-Use (TOU) rates; 4. The change in the Availability Assessment Hours (AAH); and 5. The implementation of the Prohibited Resources policy (D.16-09-056).

[4] Due to either a procurement deficiency (i.e., the LSE did not meet its RA obligations) or filing-related violations of compliance rules (e.g., files late, or not at all).

1 INTRODUCTION

The Resource Adequacy (RA) program was developed in response to the 2001 California energy crisis. The program is designed to ensure that California Public Utilities Commission (CPUC or Commission) jurisdictional Load Serving Entities (LSEs)[5] have sufficient capacity to meet their peak load with a 15 percent reserve margin. The RA program began implementation in 2006 and continues to provide the energy market with adequate forward capacity to meet peak demand and integrate renewables. This capacity includes system RA, local RA, and flexible RA, all of which are measured in megawatts (MWs). The CPUC sets the annual and monthly system, local, and flexible RA requirements for CPUC-jurisdictional LSEs.

This report, produced annually on Staff's own motion, provides a review of the CPUC's RA program and summarizes RA program experience during the 2019 RA compliance year. It is designed to shed light on the current state of the RA program. While this report does not make explicit policy recommendations, it provides information relevant to the currently open RA rulemakings (R.17-09-020 and R.19-11-009) and ongoing implementation of the RA program in California.

1.1 Resource Adequacy Program Requirements

Monthly and annual system RA requirements are based on load forecast data filed annually by each LSE and adjusted by the California Energy Commission (CEC). Jurisdictional and non-jurisdictional LSEs must submit historical hourly peak load data for the preceding year, and monthly energy and peak demand forecasts for the coming compliance year based on a "best estimate approach" that are based on reasonable assumptions for load growth and customer retention. The CEC then adjusts the LSE-submitted load forecasts, which form the basis for the final LSE load forecasts used for year-ahead RA compliance. LSEs are also required to submit monthly load forecasts to the CEC that account for load migration throughout the compliance year.

[5] Commission jurisdictional LSEs include Investor Owned Utilities (IOUs), Electricity Service Providers (ESPs), and Community Choice Aggregators (CCAs).

To establish the year-ahead load forecast, the CEC first calculates each LSE's specific monthly coincidence factors[6] using the historic hourly load data filed by each LSE. The adjustment factors are calculated by comparing each LSE's historic hourly peak loads to the historic coincident California Independent System Operator (CAISO) hourly peak loads. These factors make each LSE's peak load forecast reflective of the LSE's contribution to total load when CAISO's load peaks. The CEC then reconciles the aggregate of the jurisdictional LSEs' monthly peak load forecasts against the CEC's monthly 1-in-2, weather normalized peak-load forecast, for each Investor-Owned Utility (IOU) service area. This reconciliation evaluates the reasonableness of the LSEs' forecasts. As part of the reconciliation, if the aggregate LSE forecasts differ significantly from CEC's forecasts for reasons other than load migration the CEC may adjust individual IOU service area forecasts. Additionally, as specified in D.05-10-042, the CEC makes adjustments to account for the impact of energy efficiency (EE) and distributed generation (DG). The sum of the adjusted forecasts must be within 1 percent of the CEC service area forecast. If the aggregated LSE forecasts diverge more than 1 percent from the CEC's monthly weather normalized forecasts, the CEC makes a pro-rata adjustment to reduce the divergence to below 1 percent.

The CEC uses the aggregated LSE forecasts to create monthly load shares for each transmission access charge (TAC) area, which Energy Division then uses to allocate demand response (DR), cost allocation mechanism (CAM), and reliability must run (RMR) RA credits. Flexible RA requirements are also allocated to LSEs using these 12 monthly load ratio shares. Local obligations were calculated using the load shares for August. The forecasts and allocations together determine both the annual and monthly system RA obligations.

1.2 Changes to the Resource Adequacy Program for 2019

In D.18-06-030, the Commission made the following changes to the RA program:

- Required all LSEs to participate in the year-ahead resource adequacy process in order to serve load in the subsequent compliance year.

[6] Adopted in D.12-06-025, Ordering Paragraph 4, available at http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/169718.PDF.

- Modified the resource adequacy measurement hours HE17-HE21 (4:00 p.m. – 9:00 p.m.) for each month of the year beginning in 2019.

- Allowed combined storage and demand response projects to be eligible to participate in the Resource Adequacy program.

2 LOAD FORECAST AND RESOURCE ADEQUACY PROGRAM REQUIREMENTS

Section 2 describes the yearly and monthly load forecast process and the resulting system, local, and flexible RA requirements for CPUC-jurisdictional LSEs. It also details the types of resources used by LSEs to meet those requirements.

2.1 Yearly and Monthly Load Forecast Process

RA requirements for 2019 were developed according to the following schedule. LSEs have been able to revise their April annual load forecast for load migration since 2012, and revised forecasts have been required starting in 2018.[7] The 2019 revised annual forecasts were due on August 17, 2018. These revised forecast values updated and informed the final year-ahead allocations, which were used in the year-ahead filing process. CPUC staff sent initial allocations to LSEs on August 10 and final allocations to LSEs on September 20, 2018.

LSEs file historical load information	**March 16, 2018**
LSEs file 2019 year-ahead load forecast	**April 20, 2018**
LSEs receive 2019 year-ahead RA obligations	**August 10, 2018**
Final date to file revised forecasts for 2019	**August 17, 2018**
LSEs receive revised 2019 RA obligations	**September 20, 2018**

The CPUC and CEC do not rely exclusively on year-ahead load forecasts because load migration can significantly affect LSE forecasts, particularly for small energy service providers (ESPs). During the compliance year, LSEs adjust their load forecasts on a monthly basis to account for load migration. This process is outlined in D.05-10-042.[8] As discussed in the RA Guide for the 2019 compliance year, LSEs must submit a revised

[7] D.17-06-027, available at http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M192/K027/192027253.PDF.

[8] D.05-10-042 available at http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/50731.PDF.

forecast prior to each compliance filing month.[9] These load forecast adjustments are solely for load migration between LSEs, not changing demographic or electrical conditions. Per D.10-06-036,[10] LSEs must submit any load forecast changes or adjustments at least 25 days before the due date of the month-ahead compliance filings.

LSEs submit these monthly forecasts to the CEC for evaluation; the CEC then reviews the revised forecasts and customer load migrating assumptions. The revised monthly load forecasts update the year-ahead forecast and inform monthly RA obligations. Energy Division also uses these monthly forecasts to recalculate load shares, which are then used to reallocate CAM and RMR credits on a quarterly basis. The revised load forecasts also inform the local true-up process discussed in Section 2.3.

2.1.1 Yearly Load Forecast Results

Table 1 shows the aggregate LSE submissions for 2019 and the adjustments that were made by the CEC across the three IOU service areas.[11] These adjustments include plausibility adjustments, demand side management adjustments, and a prorated adjustment to each LSE's forecast to ensure that the total for all forecasts is within one percent of the CEC's overall service area forecast. The forecast also includes a coincident adjustment that calculates each LSE's expected contribution towards the CAISO peak. The overall CEC-adjusted forecast for CPUC-jurisdictional LSEs had an expected peak in September 2019 of 41,336, which represented a 1.9 percent increase from the peak forecast of 40,577 MW for 2018.[12]

[9] Annual RA Filing Guides are available on the CPUC website: http://www.cpuc.ca.gov/General.aspx?id=6311.

[10] Available at http://docs.cpuc.ca.gov/PublishedDocs/PUBLISHED/FINAL_DECISION/119856.htm, Ordering Paragraph 6.

[11] Because the historical and forecast data submitted by participating LSEs contain market-sensitive information, results are presented and discussed in aggregate.

[12] The 2018 RA report can be found at: https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Utilities_and_Industries/Energy/Energy_Programs/Electric_Power_Procurement_and_Generation/Procurement_and_RA/RA/2018%20RA%20Report%20rev.pdf.

Table 1. 2019 Aggregated Load Forecast Data (MW) - Results of Energy Commission Review and Adjustment to the 2019 Year-Ahead Load Forecast

Element	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Submitted LSE Forecast	27,843	27,090	26,818	26,868	30,194	34,573	38,566	42,100	36,578	29,801	27,391	28,828
Adjustment for Plausibility and Migrating Load	(104)	31	(181)	1,510	1,803	3,884	2,606	(586)	4,784	3,962	137	(349)
EE/DG/DR Adjustment	(940)	(951)	(1,040)	(1,148)	(1,504)	(1,659)	(1,699)	(1,754)	(1,665)	(1,568)	(1,163)	(1,136)
Pro Rata Adjustment	1,427	1,688	3,165	4,787	4,037	4,779	2,760	4,683	3,443	3,493	3,176	1,729
Non-Coincident Peak Demand	**28,226**	**27,859**	**28,762**	**32,017**	**34,530**	**41,578**	**42,234**	**44,444**	**43,141**	**35,689**	**29,540**	**29,072**
Coincidence Adjustment	(1,571)	(1,788)	(2,879)	(3,368)	(2,470)	(2,883)	(2,180)	(3,729)	(1,805)	(1,811)	(2,268)	(1,304)
Final Load Forecast Used for Compliance	**26,655**	**26,072**	**25,883**	**28,649**	**32,060**	**38,694**	**40,054**	**40,714**	**41,336**	**33,878**	**27,272**	**27,768**

Source: CEC Staff.

2.1.2 Year-Ahead Plausibility Adjustments and Monthly Load Migration

Plausibility adjustments most commonly indicate mismatches between an LSE's own forecast assumptions and the CEC's assumptions regarding economic growth, responsiveness of load to weather conditions, and customer retention. Table 2 below presents the aggregate monthly plausibility adjustments for all LSEs from 2013 to 2019 and calculates the 2019 monthly plausibility adjustments as a percentage of the monthly year-ahead forecast for 2019.

In 2019, the CEC's plausibility adjustments decreased load for January, March, August, and December and increased load for all other months. The CEC found that all but one LSE required adjustments to their load forecast. This is a larger number of adjustments than in 2018, when 2 of 9 community choice aggregators (CCAs), 7 of 14 ESPs, and all IOUs required plausibility adjustments in at least one month. The 2019 monthly plausibility adjustments as a percentage of that month's aggregated year-ahead forecast ranged from -1.44 percent to 11.7 percent. Plausibility adjustments most commonly indicate mismatches between an LSE's own forecast assumptions and the CEC's

assumptions regarding economic growth, responsiveness of load to weather conditions, and customer retention or migration. CEC develops a reference estimate for each LSE based on historic loads and load migration data and makes an adjustment when the LSE's forecast is significantly different. IOU forecasts are also revised to account for differences between the CEC and the IOU forecasts of the total service area and aggregate estimates of departing load.

Table 2. CEC Plausibility Adjustments, 2013-2019 (MW)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2013	0	56	63	60	61	95	99	(985)	249	102	70	64
2014	61	67	69	74	77	78	81	(147)	89	88	79	71
2015	(218)	(355)	(51)	(126)	(7)	(298)	(205)	(481)	(311)	(307)	(260)	(199)
2016	(46)	(55)	(95)	(130)	(227)	(357)	(27)	(379)	84	(195)	(293)	80
2017	152	(98)	191	(869)	(401)	(820)	(888)	(1,462)	170	(431)	511	603
2018	776	894	1,053	2,523	4,864	3,906	4,460	3,633	5,286	3,257	2,722	2,635
2019	(104)	31	(181)	1,510	1,803	3,884	2,606	(586)	4,784	3,962	137	(349)
2019 Plaus. Adj./Load	-0.39%	0.12%	-0.70%	5.27%	5.62%	10.04%	6.51%	-1.44%	11.57%	11.70%	0.50%	-1.26%

Source: Year-ahead CEC load forecasts, 2013-2019.

Monthly load forecasts, adjusted for load migration, form the basis of monthly RA obligations. Table 3 shows the monthly total load forecasts and the monthly adjustments for 2019. There were generally only small net load migration adjustments from the year-ahead load forecast to the final monthly load forecasts used to calculate monthly RA obligations. The largest such adjustment, on a percentage basis, was an increase of 2.82 percent for February 2019. On a megawatt basis, the net monthly load migration adjustments ranged from -59 to 735 MW.

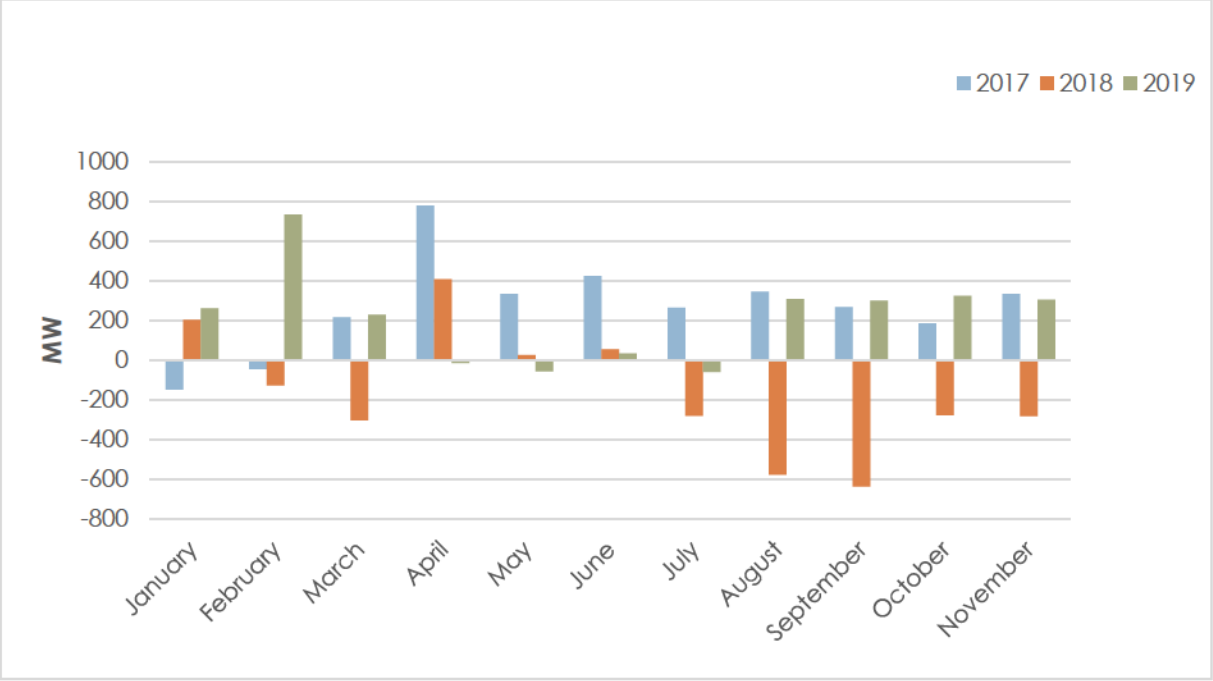
Table 3. Summary of Load Migration Adjustments in 2019 (MW)

Description	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Final YA Load Forecast	26,655	26,072	25,883	28,649	32,060	38,694	40,054	40,714	41,336	33,878	27,272	27,768
Monthly Adjustments	261	735	230	(14)	(56)	35	(59)	308	300	325	305	402
Final Forecasts in Monthly RA Filings	26,916	26,806	26,114	28,635	32,004	38,729	39,995	41,022	41,636	34,203	27,578	28,170
Monthly Adjustments/ Final YA Load Forecast	0.98%	2.82%	0.89%	-0.05%	-0.17%	0.09%	-0.15%	0.76%	0.73%	0.96%	1.12%	1.45%

Source: Load forecast adjustments submitted to the CEC and CPUC in 2019.

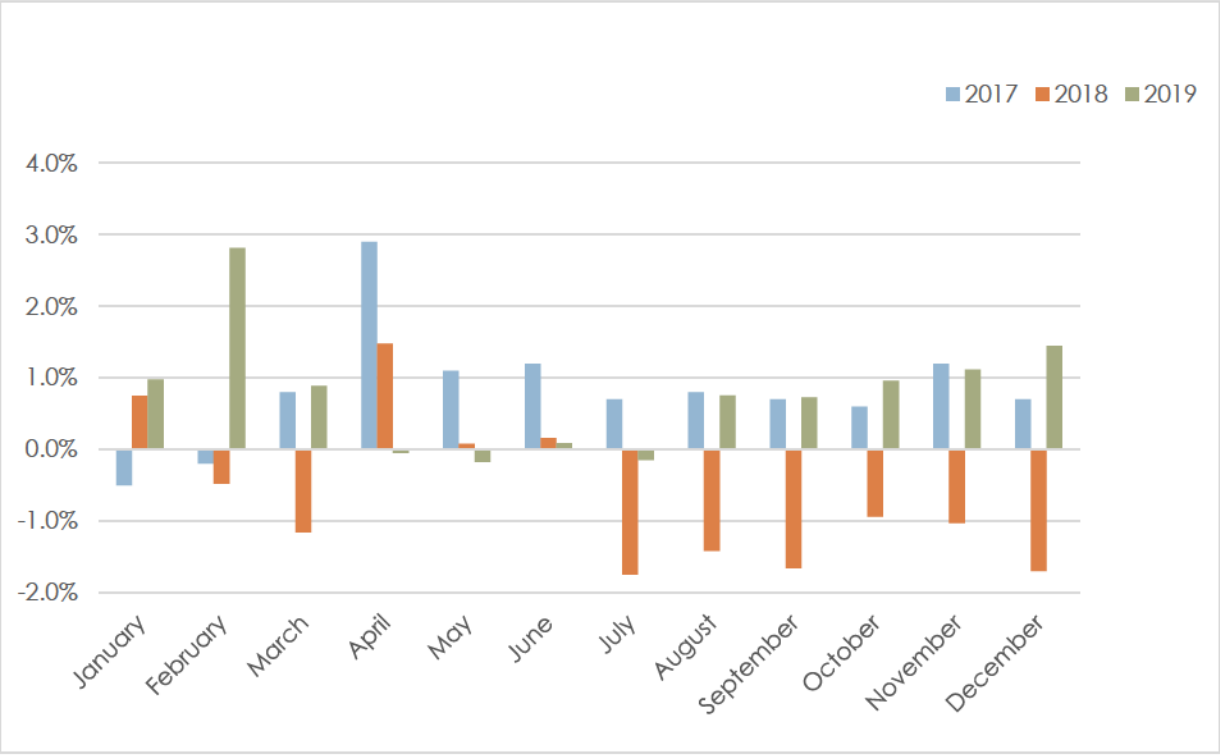
Net load migration should be close to zero, since it is defined as customers transferring directly from one LSE to another. Discrepancies in the adjustments made by LSEs gaining and losing customers, however, can cause overall load migration adjustments to deviate from zero. In recent years, the CPUC and CEC have worked to identify the reasons for these discrepancies and to encourage closer coordination between LSEs during forecast development. Figure 1 and Figure 2 illustrate the net monthly load migration between LSEs from 2017 through 2019. Load migration remained relatively low throughout this period, with monthly migration remaining below 800 MW and 3 percent of total load.

Figure 1. Net Load Migration Adjustments per Month (MW), 2016-2019



Source: Monthly forecast adjustments submitted by LSEs, 2016-2018.

Figure 2. Net Load Migration as Percentage of Total Forecasted Load, 2017-2019



Source: Monthly forecast adjustments submitted by LSEs, 2016-2018.

2.2 System RA Requirements for CPUC-Jurisdictional LSEs

CPUC-jurisdictional LSEs met their collective system RA requirements for every month of 2019 except September where 99 percent of requirements were met. For those months that were not deficient, the total MW of RA resources procured exceeded the total system Resource Adequacy Requirement (RAR) by 0.5 to 5.3 percent, depending on the month.[13] Table 4 shows the total CPUC-jurisdictional RA procurement for each month of 2019, broken down by physical resources within the CAISO's control area (including CAM resources), DR, capacity procurement mechanism (CPM), and RMR resources, imports, and the additional preferred local capacity requirement (LCR) credit for the Southern California Edison (SCE) TAC area. CAM resources are deducted from a non-IOU LSE's RA requirement, while IOUs receive an increase in their RA requirement that is offset by their showing the full CAM resources (on behalf of all LSEs' customers) in their RA filings. Physical resources include CAM resources, which are reported separately. RA obligations are reported here as the aggregate monthly load forecast plus the 15 percent planning reserve margin (PRM). DR resources, including Demand Response Auction Mechanism (DRAM) resources, are also reported with the 15 percent PRM applied.

[13] System requirements include a 15% Planning Reserve Margin above jurisdictional LSEs' aggregate monthly peak forecast.

Table 4. 2019 RA Filing Summary – CPUC-Jurisdictional Entities (MW)

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
RAR without DR,CAM, & RMR	30,954	30,827	30,031	32,930	36,805	44,539	45,995	47,176	47,882	39,334	31,714	32,396
CAM	7,621	7,642	7,617	7,668	7,701	7,742	7,649	7,706	7,731	7,670	7,740	7,790
Phys. Res. (w/ CAM)	29,221	28,182	27,511	30,693	33,332	39,894	39,051	41,330	40,530	35,388	29,344	30,925
Imports	1,999	1,788	1,895	1,409	2,235	3,192	4,901	3,968	4,737	2,190	1,332	866
DR plus 15% PRM	1,076	1,189	1,195	1,447	1,630	1,811	1,957	1,943	1,787	1,673	1,279	1,169
RMR	231	231	231	231	231	231	231	231	231	231	231	231
Pref. LCR Credit	66	111	114	69	73	88	84	93	103	84	93	103
CPM	0	0	0	0	0	0	0	0	0	0	0	0
Total	32,592	31,501	30,947	33,849	37,501	45,216	46,224	47,565	47,387	39,565	32,279	33,293
Total/RAR	105.3%	102.2%	103.1%	102.8%	101.9%	101.5%	100.5%	100.8%	99.0%	100.6%	101.8%	102.8%

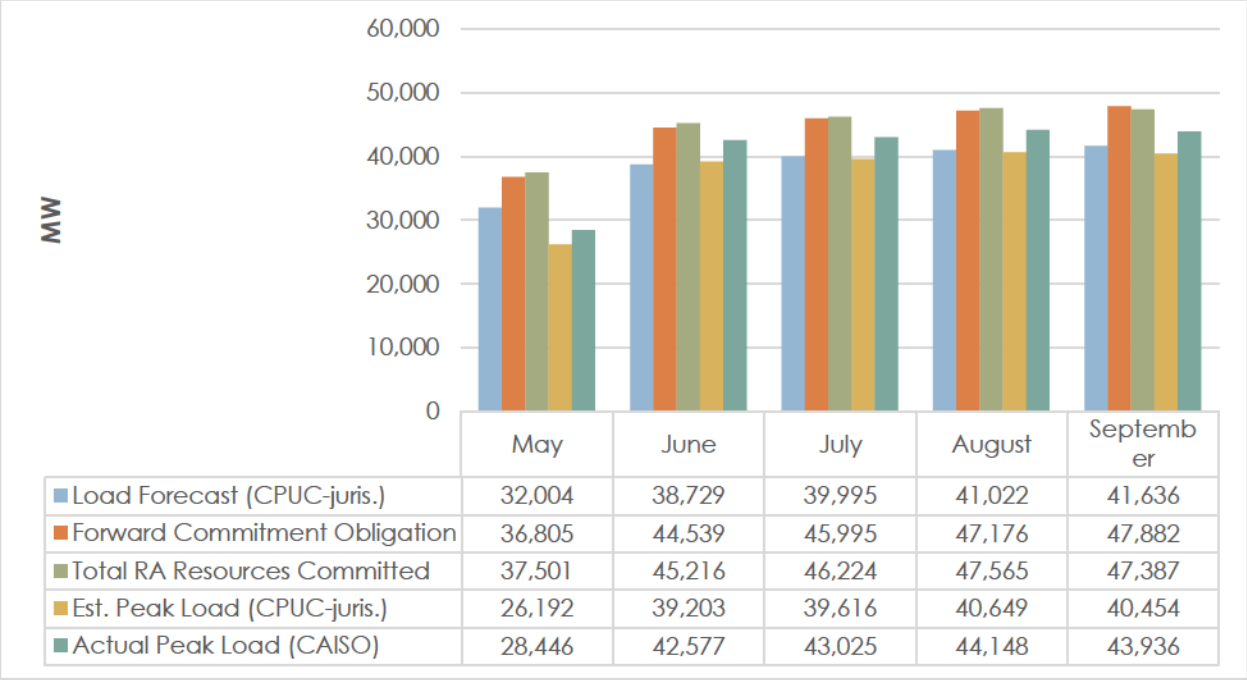
Source: LSE Monthly RA Filings.

In 2019, total committed RA resources ranged from 30,947 MW in March to 47,565 MW in August. Between 84 and 93 percent of all committed RA capacity, including CAM, was procured by LSEs from unit-specific physical resources within the CAISO control area, 3 to 11 percent of capacity was from imports, and 3 to 4 percent was from DR resources. CAM and RMR resources consisted of 17 to 25 percent of total RA capacity procured. These resources enabled CPUC-jurisdictional LSEs to meet between 99 and 101.9 percent of total procurement obligations in each summer month. The actual peak demand in CAISO of 44,148 MW, which includes CPUC-jurisdictional and non-CPUC jurisdictional LSEs, occurred on August 15, 2019; this was lower than the 2018 peak of 46,427 MW.[14] About 90 percent of 2019 actual peak load, or about 39,733, could be attributed to CPUC-jurisdictional LSEs.

[14] http://www.caiso.com/documents/californiaisopeakloadhistory.pdf

Figure 3 shows the 2019 total load forecast, procurement obligation (forecast plus PRM), and total committed RA capacity for CPUC-jurisdictional LSEs, compared with the CAISO-jurisdictional actual peak load. The difference between the forward commitment obligation and the total RA resources committed reflects the excess capacity committed to meet the monthly RA requirement. The CAISO jurisdictional peak can be higher than CPUC RA obligations and total RA committed because it includes non-CPUC jurisdictional load.

Figure 3. 2019 CPUC Load Forecast, RA Requirements, Total RA Committed Resources, and Actual Peak Load For Summer Months



	May	June	July	August	September
Load Forecast (CPUC-juris.)	32,004	38,729	39,995	41,022	41,636
Forward Commitment Obligation	36,805	44,539	45,995	47,176	47,882
Total RA Resources Committed	37,501	45,216	46,224	47,565	47,387
Est. Peak Load (CPUC-juris.)	26,192	39,203	39,616	40,649	40,454
Actual Peak Load (CAISO)	28,446	42,577	43,025	44,148	43,936

Source: CPUC RA Filings, CEC load forecasts, and CAISO EMS data.

2.3 Local RA Program – CPUC-Jurisdictional LSEs

The CPUC requires LSEs to file an annual local RA filing showing that they have met 100 percent of their local capacity requirement for each of the 12 months of the coming compliance year. Local RA requirements are developed through the CAISO's annual Local Capacity Technical Analysis, which identifies the capacity required in each local

area to meet energy needs using a 1-in-10 weather year and N-1-1 contingencies.[15] The results of the analysis are adopted in the annual CPUC RA decision and allocated to each LSE based on their load ratio in each TAC area during the month with the highest forecast peak load.

In D.18-06-030, the CPUC adopted the 2019 local RA obligations for the ten locally constrained areas (Big Creek/Ventura, LA Basin, San Diego-Imperial Valley (IV), Greater Bay Area, Humboldt, North Coast/North Bay, Sierra, Stockton, Fresno, and Kern). As in previous years, the following local areas were aggregated into "Other PG&E Areas" in 2019 for RA compliance: Humboldt, North Coast/North Bay, Sierra, Stockton, Fresno, and Kern.

2.3.1 Year-Ahead Local RA Procurement

Table 5 summarizes the 2019 local RA requirements and year-ahead procurement by CPUC-jurisdictional LSEs, including physical capacity procured by or on behalf of individual LSEs, CAM and RMR capacity, and local DR capacity. Procurement exceeded local RA obligations in three of the five local areas by 1.5 to 7.7 percent

[15] Local Capacity Requirement (LCR) studies and materials for 2019 and previous years are posted at http://www.caiso.com/informed/Pages/StakeholderProcesses/LocalCapacityRequirementsProcess.aspx.

Table 5. Local RA Procurement in 2019, CPUC-Jurisdictional LSEs

Local Areas in 2019	Total LCR	CPUC-Jurisdictional Local RAR	Minimum Physical Resources per Month	Local RMR & CAM Credit	Local DR	Minimum Procurement/ Local RAR
LA Basin	8,116	7,288	7,397	2,393	686	101.5%
Big Creek/Ventura	2,614	2,086	2,149	1,312	169	103.0%
San Diego-IV	4,026	4,027	3,818	940	34	94.8%
Greater Bay Area	4,461	3,747	4,037	872	116	107.7%
Other PG&E Areas	5,387	4,786	4,641	320	184	97.0%
Totals	24,604	21,935	22,041	5,837	1,189	100.00%

Source: 2019 Year Ahead RA filings.

2.3.2 Local and Flexible RA True-Ups

As part of the partial reopening of direct access in 2010, the Commission adopted a true-up mechanism in D.10-03-022 to adjust each LSE's local RA obligation to account for load migration. Since the true-up process was revised in D.14-06-050, there has been one mid-year reallocation per year.

The current true-up process requires LSEs to file revised load forecasts for the second half of the year (July to December), which the CEC uses to establish revised load ratios for those months. In turn, the CPUC uses the revised August load ratios to adjust each LSE's local capacity requirements. Since 2015, the true-up process has also included flexible RA requirements. The difference between the original allocations and the new requirements is allocated to LSEs as an incremental local and flexible RA requirement, which the LSEs must meet in their monthly compliance filings for July through December.

In the allocation cycle for 2019, LSEs submitted revised June-December forecasts to the CEC on March 17, 2019. After reviewing these values, the CEC revised the August load shares. Energy Division used the revised load shares to recalculate individual LSE local

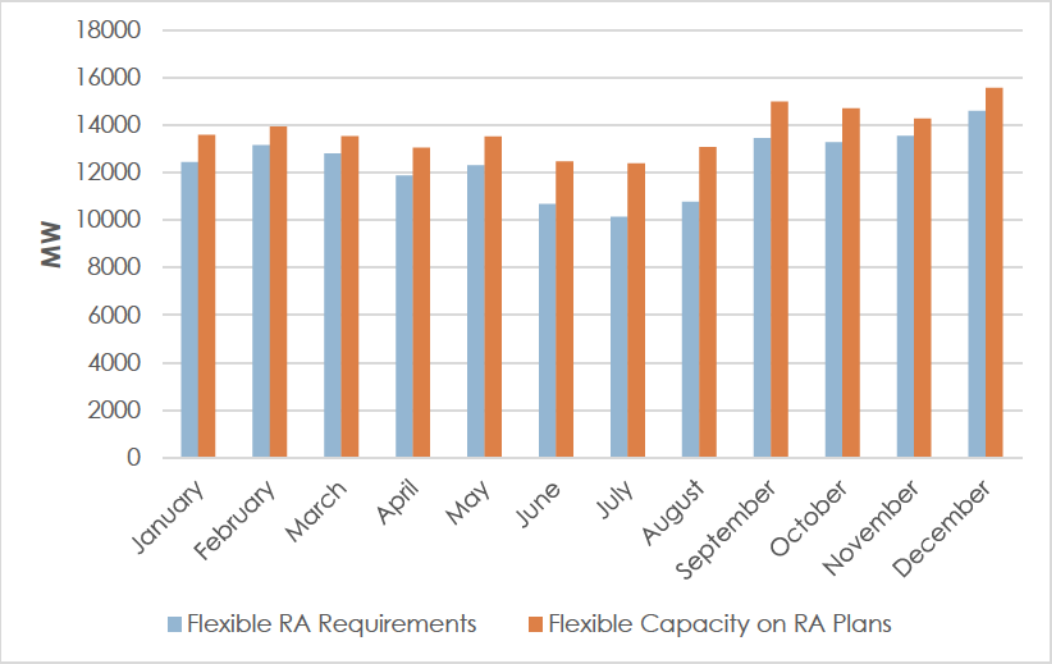
requirements, which were then sent to LSEs on April 12, 2019. LSEs were instructed to incorporate these incremental local and flexible allocations into their July to December RA month-ahead (MA) compliance filings. Through its review, Energy Division staff verified that each LSE met its reallocated local and flexible requirement for July to December.

2.4 Flexible RA Program – CPUC-Jurisdictional LSEs

The CPUC adopted a flexible RA requirement for LSEs beginning with the 2015 compliance year. LSEs must demonstrate that they have procured 90 percent of their monthly flexible capacity requirements in the year-ahead process and 100 percent of their flexible capacity requirements in the month-ahead process.[16] Flexible capacity needs are developed through CAISO's annual Flexible Capacity Study and are defined as the quantity of economically dispatched resources needed by CAISO to manage grid reliability during the largest three-hour continuous ramp in each month. Flexible resources must be able to ramp up or sustain output for 3 hours. Figure 4 shows the flexible capacity requirement and the flexible capacity shown on month-ahead RA plans by CPUC-jurisdictional LSEs for each month of 2019.

[16] D.13-06-024, available at http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M070/K423/70423172.PDF; D.14-06-050, available at http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M097/K619/97619935.PDF.

Figure 4. Flexible RA Procurement in 2019, CPUC-Jurisdictional LSEs



Source: 2019 RA filings.

3 RESOURCE ADEQUACY PROCUREMENT, COMMITMENT, AND DISPATCH

The RA program requires LSEs to enter into forward commitment capacity contracts with generating facilities. Only contracts that carry a "must-offer obligation" (MOO) are eligible to meet this RA obligation. The must-offer obligation requires owners of these resources to submit self-schedules or bids into the CAISO market, making these resources available for dispatch. In other words, the MOO commits these RA resources to CAISO market mechanisms. Prices for bilateral RA contracts are discussed in Section 3.1.

The CAISO utilizes these committed resources through its day ahead market, real time market, and Residual Unit Commitment (RUC) process. The CAISO also relies on out-of-market commitments (e.g., Exceptional Dispatch (ExD), CPM, and RMR contracts) to meet reliability needs that are not satisfied by the Day Ahead, Real Time, and RUC market mechanisms. Recent RMR and CPM designations are described in Sections 3.2 and 3.3.

Since 2007, the CPUC has authorized the IOUs to procure new generation resources when needed for grid reliability. The Cost Allocation Mechanism (CAM) allows the net costs of these resources to be recovered from all benefiting customers in the IOU's TAC area. Since 2015, the RA capacity of CAM resources has been allocated as an increase to the IOUs' RA requirements and a credit towards non-IOU LSEs' RA requirements, with the IOUs showing the resources in their RA filings. These CAM resources carry the same must-offer obligation as all other RA resources. Certain other resource types including combined heat and power (CHP) and DRAM resources are similarly allocated. Current CAM resources are summarized in Section 3.4.

3.1 Resource Adequacy Contract Price Analysis

Energy Division issued several data requests to all CPUC-jurisdictional LSEs requesting monthly capacity prices paid by (or to) LSEs for every RA capacity contract executed during 2018 and 2019 for use in calculating the Power Charge Indifference Adjustment (PCIA) RA adder and this RA price analysis. Since RA prices can vary by month, the

data request asked for specific monthly prices from each contract. All prices are reported in nominal dollars per kW-month.

Energy Division received responses from all LSEs. Data used in this analysis were restricted to contracts executed in 2018 or 2019 for delivery in 2019. The final data set consisted of 3,766 monthly contract values.

3.1.1 System Capacity Prices

Table 6 provides a summary of 2019 capacity prices.

Table 6. 2019 Capacity Prices

	2019 Capacity
Contracted Capacity (MW)	97,527
Percentage of total contracted MW in dataset	18%
Weighted Average Price ($/kW-month)	$3.46
Average Price ($/kW-month)	$3.63
Minimum Price ($/kW-month)	$0.12
Maximum Price ($/kW-month)	$15.25
85% of MW at or below ($/kW-month)	$4.93

Source: 2019 price data submitted by LSEs.

System capacity is comprised of resources that count only towards system capacity and those located in local areas that also count towards local RA requirements. Table 7 provides aggregated capacity prices for all responses, categorized as system-only or local capacity, either north or south of Path 26 (NP-26 and SP-26, respectively). The 2020 Net Qualifying Capacity list is used to identify resources' local area and Path 26 zone.[17]

[17] The 2020 Net Qualifying Capacity list can be found at https://www.cpuc.ca.gov/General.aspx?id=6311.

The data set represents 111,052 MW-months of capacity under contract. Of that capacity, 45 percent is located in the NP-26 zone, and 42 percent is located SP-26[18] and 12 percent is comprised of capacity imports to CAISO. The data set also shows that 71 percent of the total capacity is located in local areas, with the remaining 17 percent located in the CAISO System area.

The weighted average price for all capacity is $3.26/kW-month. The weighted average price for SP-26 capacity (including local and system RA) is $3.40/kW-month, which is about 3 percent lower than the NP-26 weighted average price of $3.51/kW-month.

The weighted average prices of local and system RA capacity are both $3.46/kW-month. System and local RA prices appear to be converging. The premium for local RA has decreased rapidly over that past few years from 40 percent above system-only capacity as reported in the 2017 RA Report, to 16 percent in the 2018 RA Report, and 7 percent in the 2019 report indicating that the market for system RA has tightened.

[18] Path 26 is defined in the WECC Path Rating Catalog, viewable at https://www.wecc.biz/Reliability/NDA/WECC_2016_Path_Rating_Catalog.pdf.

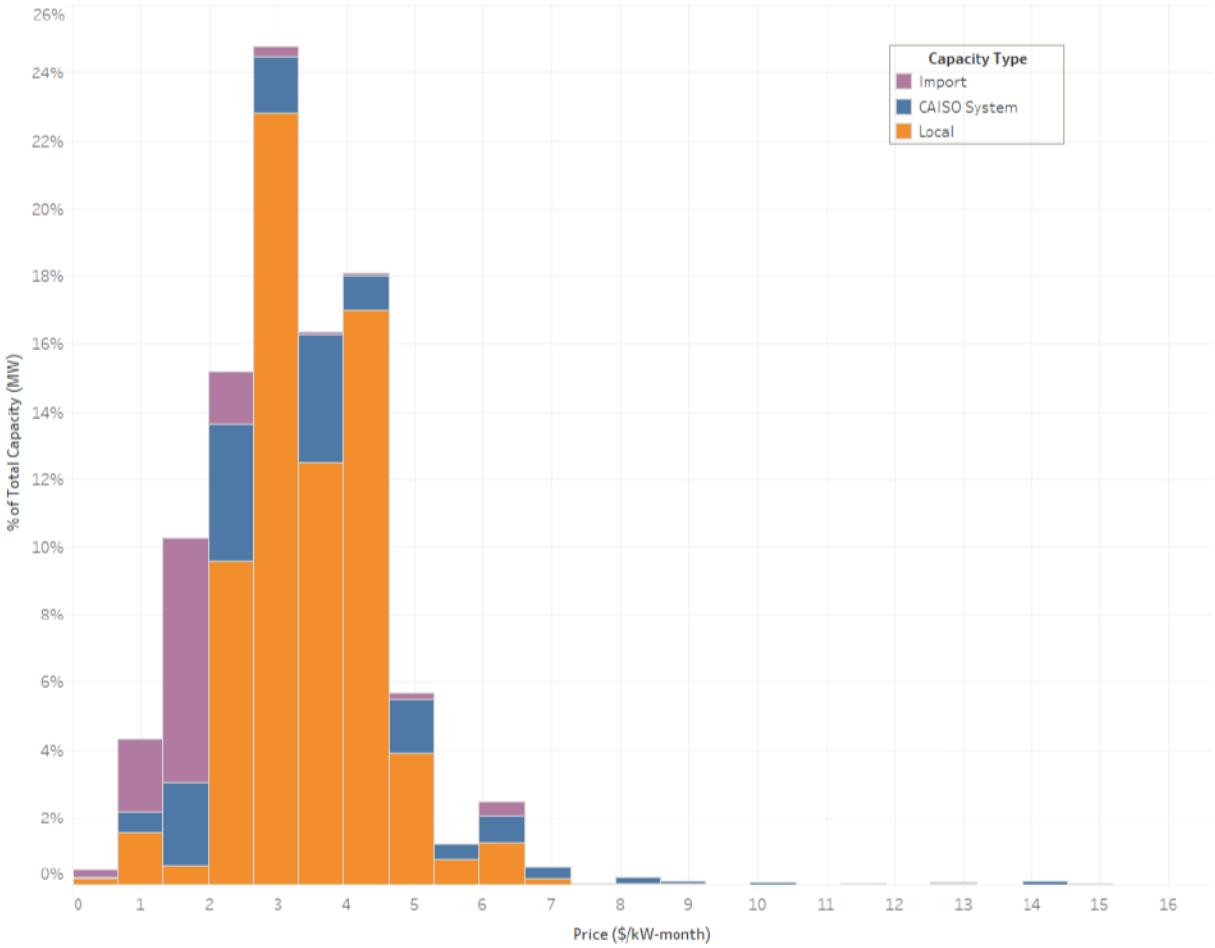
Table 7. Aggregated RA Contract Prices, 2019

	All RA				Local RA			CAISO System RA		
	Total	NP-26	SP-26	Import	**Subtotal**	NP26	SP26	**Subtotal**	NP26	SP26
Contracted Capacity (MW)	**111,052**	50,518	47,008	13,525	**78,394**	42,346	36,048	**19,133**	8,172	10,961
Percentage of Total Capacity in Data Set	**100%**	45%	42%	12%	**71%**	38%	32%	**17%**	7%	10%
Number of Monthly Values	**4,107**	2,183	1,583	341	**2,733**	1,688	1,045	**1,033**	495	538
Weighted Average Price ($/kW-month)	**$3.26**	$3.51	$3.40	$1.83	**$3.46**	$3.36	$3.57	**$3.46**	$4.29	$2.85
Average Price ($/kW-month)	**$3.49**	$3.91	$3.25	$1.91	**$3.58**	$3.66	$3.46	**$3.77**	$4.78	$2.83
Minimum Price ($/kW-month)	**$0.12**	$0.75	$0.12	$0.18	**$0.35**	$0.75	$0.35	**$0.12**	$0.95	$0.12
Maximum Price ($/kW-month)	**$15.25**	$15.25	$8.00	$6.50	**$15.25**	$15.25	$6.66	**$14.60**	$14.60	$8.00
85% of MW at or below ($/kW-month)	**$4.75**	$5.75	$4.25	$2.25	**$4.50**	$5.00	$4.25	**$6.50**	$9.00	$4.00

Source: 2019-2023 price data submitted by LSEs.

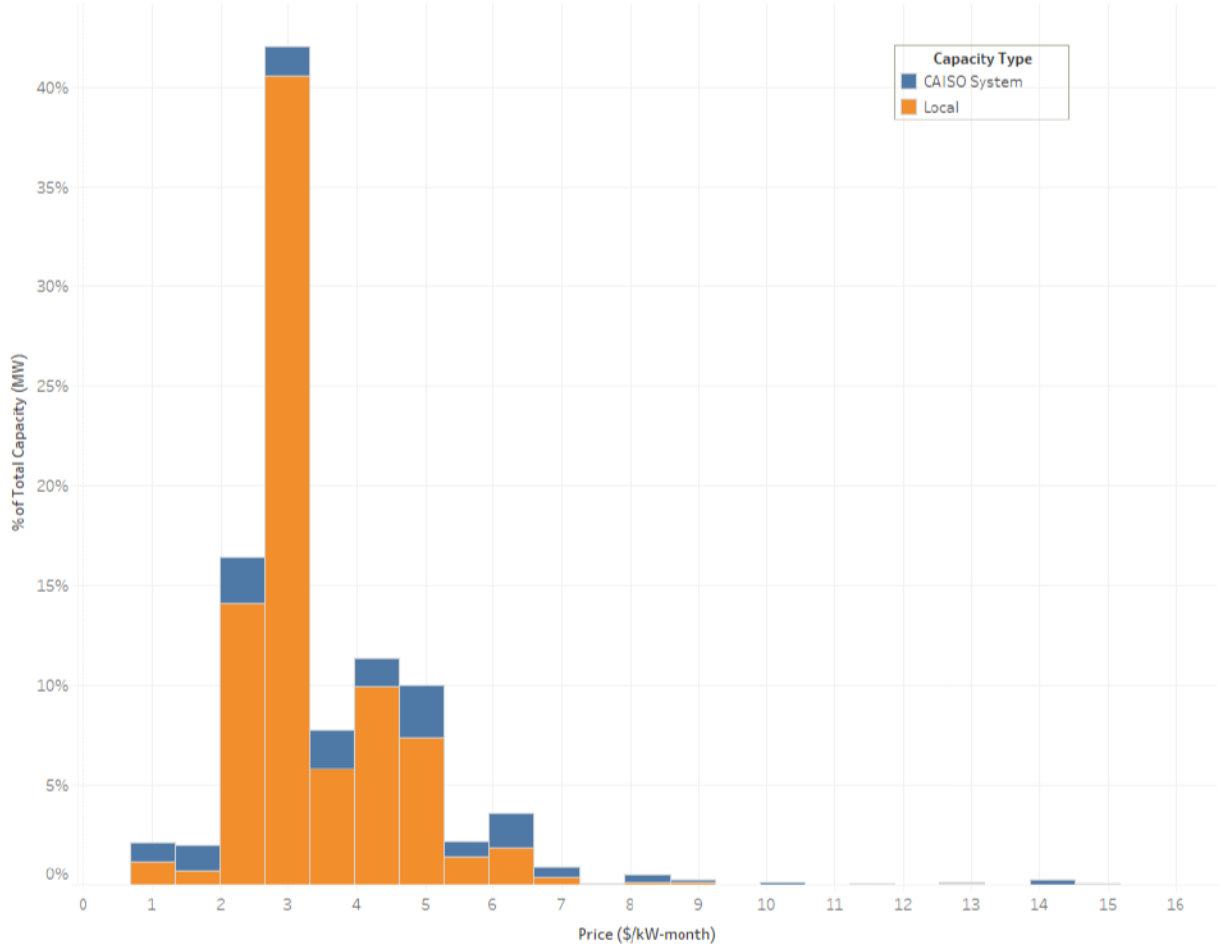
The price distribution of RA-only contracts for 2019 is shown in Figure 5, Figure 6, and Figure 7. These figures underscore the high percentage of RA contracts that are for local capacity.

Figure 5. Price Distribution for RA Capacity Contracts, 2019 Compliance Year



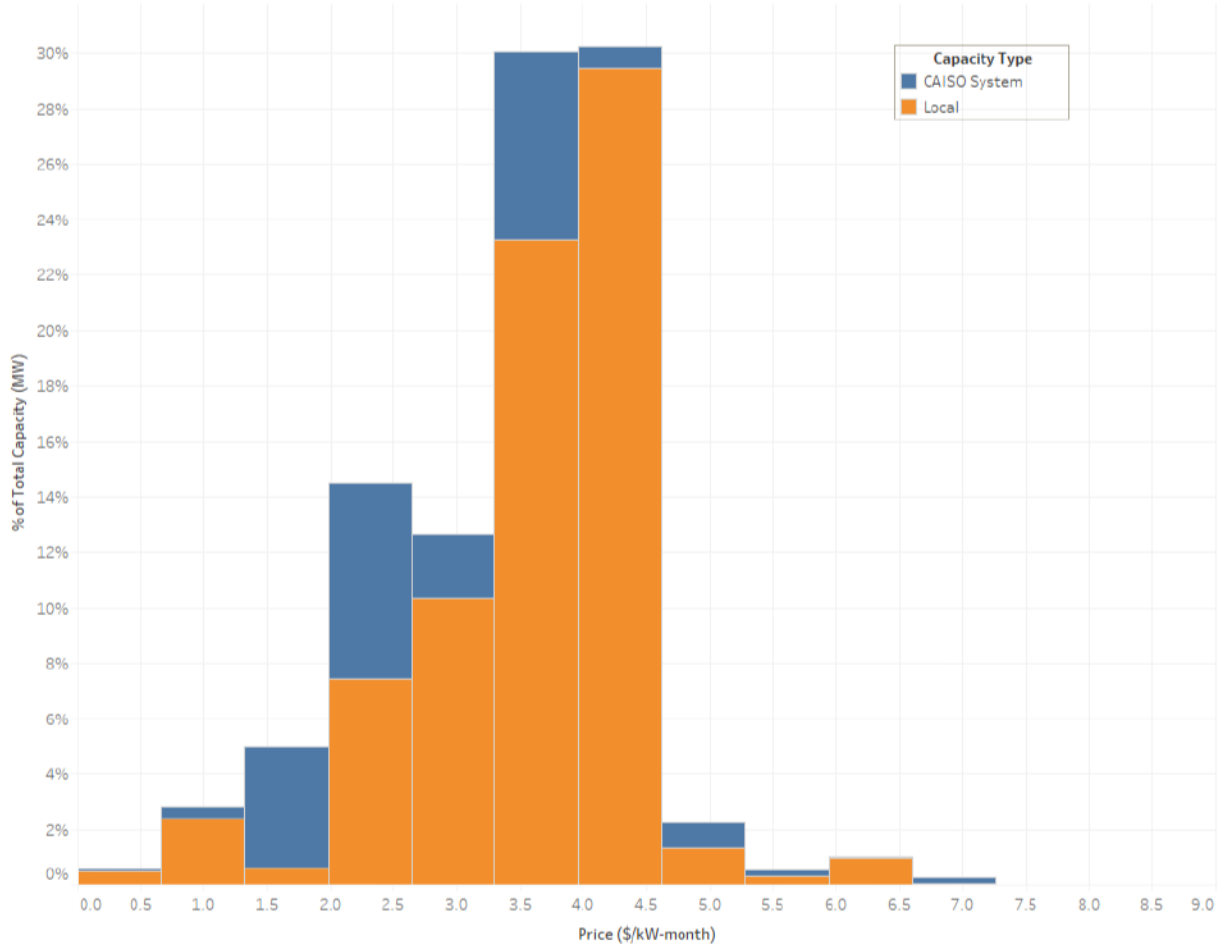
Source: 2019 price data submitted by LSEs.

Figure 6. Price Distribution for RA Capacity Contracts North of Path 26, 2019



Source: 2019 price data submitted by LSEs.

Figure 7. Price Distribution for RA Capacity Contracts South of Path 26, 2019



Source: 2019 price data submitted by the LSEs.

As noted above, the difference between NP-26 and SP-26 prices has narrowed. The price differential between peak and off-peak months also appears to have decreased. The monthly weighted average capacity prices are shown in Table 8 below.

Table 8. RA Capacity Prices by Month and Path 26 Zone, 2019

	Path 26 Zone	Contracted Capacity (MW)	Percentage of Total Capacity in Data Set	Weighted Average Price ($/kW-month)	Average Price ($/kW-month)	Minimum Price ($/kW-month)	Maximum Price ($/kW-month)	85th Percentile ($/kW-month)
Jan	North	3,403	3.49%	$2.93	$3.07	$0.95	$5.65	$4.00
	South	3,691	3.78%	$3.26	$2.99	$0.35	$4.75	$4.18
	Total	7,094	7.27%	$3.10	$3.03	$0.35	$5.65	$4.11
Feb	North	3,491	3.58%	$2.96	$3.06	$0.95	$5.65	$4.00
	South	4,250	4.36%	$3.10	$2.91	$0.35	$4.75	$4.15
	Total	7,741	7.94%	$3.04	$2.99	$0.35	$5.65	$4.01
Mar	North	3,228	3.31%	$2.94	$3.02	$0.95	$6.00	$4.00
	South	3,370	3.46%	$3.41	$3.02	$1.15	$4.75	$4.15
	Total	6,597	6.76%	$3.18	$3.02	$0.95	$6.00	$4.02
Apr	North	3,039	3.12%	$3.02	$3.13	$0.95	$6.00	$4.00
	South	3,947	4.05%	$3.21	$2.97	$0.35	$6.70	$4.10
	Total	6,986	7.16%	$3.13	$3.05	$0.35	$6.70	$4.00
May	North	3,785	3.88%	$3.09	$3.22	$1.00	$6.66	$4.00
	South	4,509	4.62%	$3.17	$3.05	$1.25	$6.66	$4.11
	Total	8,293	8.50%	$3.13	$3.14	$1.00	$6.66	$4.00
Jun	North	4,416	4.53%	$3.62	$3.91	$1.00	$7.00	$5.50
	South	4,401	4.51%	$3.37	$3.13	$0.12	$6.70	$4.15
	Total	8,817	9.04%	$3.49	$3.59	$0.12	$7.00	$5.00
Jul	North	5,070	5.20%	$3.97	$4.32	$1.00	$13.00	$6.45
	South	3,932	4.03%	$3.77	$3.50	$1.50	$6.70	$4.71
	Total	9,002	9.23%	$3.89	$4.02	$1.00	$13.00	$6.00
Aug	North	5,883	6.03%	$4.10	$4.45	$1.00	$9.50	$6.50
	South	3,919	4.02%	$3.77	$3.53	$1.25	$6.90	$4.75
	Total	9,803	10.05%	$3.97	$4.12	$1.00	$9.50	$6.00
Sep	North	5,513	5.65%	$4.38	$5.94	$1.00	$15.25	$9.00
	South	3,951	4.05%	$3.67	$4.37	$1.50	$8.00	$8.00

	Path 26 Zone	Contracted Capacity (MW)	Percentage of Total Capacity in Data Set	Weighted Average Price ($/kW-month)	Average Price ($/kW-month)	Minimum Price ($/kW-month)	Maximum Price ($/kW-month)	85th Percentile ($/kW-month)
	Total	9,463	9.70%	$4.08	$5.40	$1.00	$15.25	$9.00
	North	4,980	5.11%	$3.62	$3.71	$0.75	$7.45	$5.25
Oct	**South**	3,740	3.84%	$3.48	$3.12	$1.15	$5.50	$4.10
	Total	8,720	8.94%	$3.56	$3.47	$0.75	$7.45	$4.65
	North	4,358	4.47%	$3.25	$3.24	$0.95	$7.45	$4.53
Nov	**South**	3,810	3.91%	$3.42	$3.05	$1.00	$4.75	$4.10
	Total	8,167	8.37%	$3.33	$3.16	$0.95	$7.45	$4.18
	North	3,353	3.44%	$2.99	$3.27	$0.95	$7.45	$4.10
Dec	**South**	3,491	3.58%	$3.21	$3.08	$0.75	$4.75	$4.18
	Total	6,843	7.02%	$3.10	$3.19	$0.75	$7.45	$4.15

Source: 2019 price data submitted by LSEs.

3.1.2 Local Capacity Prices

Table 9 reports capacity prices by local capacity area. A CAISO system price for capacity outside of the local areas, excluding imports, is included for comparison. Contracts for unspecified local areas are listed under PG&E Unspecified Local. 2019 Weighted average prices for local areas range from $3.10/kW-month in Fresno to $5.63/kW-month in Humboldt, while 85th percentile prices ranged from $4.00/kW-month in the Bay Area and Big Creek/Ventura to $7.85/kW-month in North Coast/North Bay. These are significant increases over prices reported in prior years.

Table 9. Capacity Prices by Local Area, 2019

	Contracted Capacity (MW)	Percentage of Total Capacity in Data Set	Weighted Average Price ($/kW-month)	Average Price ($/kW-month)	Minimum Price ($/kW-month)	Maximum Price ($/kW-month)	85% of MW at or below ($/kW-month)
CAISO System	19,133	20%	$3.46	$3.77	$0.12	$14.60	$6.50
LA Basin	22,879	23%	$3.80	$3.68	$0.75	$13.00	$4.64
Big Creek-Ventura	12,347	13%	$3.63	$3.33	$0.35	$15.25	$4.00
San Diego-IV	4,788	5%	$3.46	$3.80	$1.00	$12.95	$4.50
Bay Area	26,974	28%	$3.14	$3.42	$0.95	$14.60	$4.00
Fresno	4,218	4%	$3.10	$3.31	$1.00	$8.50	$5.00
Humboldt	206	0%	$5.63	$5.46	$2.90	$6.50	$6.45
Kern	92	0%	$3.97	$4.05	$2.00	$6.00	$6.00
NCNB	917	1%	$4.28	$5.08	$3.00	$13.50	$7.85
Sierra	5,881	6%	$3.22	$3.30	$2.25	$9.00	$4.50
Stockton	54	0%	$4.05	$4.03	$2.00	$6.45	$5.65
PG&E Unspecified Local	39	0%	$3.63	$3.77	$1.72	$7.00	$5.20

Source: 2019 price data submitted by LSEs.

Table 10 shows weighted average and 85th percentile prices by month for each local area and for CAISO System resources not sited in a local area. Table indicates that while some local areas such as Kern and Big Creek-Ventura have significant price differences between January and August, others such as San Diego-IV and the Bay Area have relatively consistent prices throughout the year.

Table 10. Local RA Capacity Prices by Month, 2019

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
CAISO System	**Weighted Average**	$2.26	$2.24	$2.19	$2.37	$2.83	$3.42	$4.19	$4.44	$5.01	$3.33	$2.63	$2.82
	85th Percentile	$2.66	$2.80	$2.83	$3.50	$3.50	$4.50	$6.00	$6.00	$9.00	$4.65	$3.56	$3.53
LA Basin	**Weighted Average**	$3.81	$3.38	$3.73	$3.83	$3.38	$3.88	$4.10	$4.12	$4.15	$3.91	$3.93	$3.65

		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	85th Percentile	$4.25	$4.20	$4.25	$4.25	$4.26	$4.65	$4.75	$4.75	$4.66	$4.25	$4.25	$4.24
Big Creek-Ventura	Weighted Average	$2.48	$2.62	$3.31	$2.63	$3.23	$3.06	$4.08	$4.22	$4.14	$3.99	$3.93	$3.08
	85th Percentile	$4.00	$4.00	$4.00	$4.00	$4.00	$4.00	$4.50	$5.17	$4.23	$4.00	$4.00	$4.01
San Diego-IV	Weighted Average	$3.38	$3.31	$3.40	$3.39	$3.41	$3.42	$3.42	$3.44	$3.55	$3.98	$3.41	$3.40
	85th Percentile	$4.45	$4.45	$4.50	$4.50	$4.50	$4.65	$4.53	$4.74	$5.95	$4.70	$4.50	$4.50
Bay Area	Weighted Average	$2.91	$2.95	$3.07	$3.13	$3.09	$3.19	$3.38	$3.36	$3.28	$3.19	$3.09	$3.00
	85th Percentile	$4.00	$4.00	$4.00	$4.00	$4.00	$4.20	$5.25	$5.25	$4.64	$4.15	$4.00	$4.00
Fresno	Weighted Average	$3.07	$3.05	$2.57	$2.73	$2.94	$3.98	$3.35	$3.09	$3.99	$2.97	$2.67	$2.70
	85th Percentile	$3.12	$3.00	$2.90	$3.57	$3.51	$5.97	$5.92	$5.92	$6.05	$3.57	$3.93	$4.01
Humboldt	Weighted Average	$2.90	$2.90		$5.50	$5.50	$5.50	$6.08	$6.15	$5.50	$5.63	$5.50	$5.50
	85th Percentile	$2.90	$2.90		$5.50	$5.50	$5.50	$6.45	$6.50	$5.50	$5.93	$5.50	$5.50
Kern	Weighted Average		$2.00	$6.00	$2.28	$5.11	$6.00	$6.00	$6.00	$6.00	$6.00	$2.00	$6.00
	85th Percentile		$2.00	$6.00	$3.60	$5.55	$6.00	$6.00	$6.00	$6.00	$6.00	$2.00	$6.00
NCNB	Weighted Average	$3.54	$3.75	$3.66	$3.52	$3.90	$4.77	$5.68	$5.10	$5.17	$4.39	$3.62	$3.84
	85th Percentile	$4.50	$4.50	$4.50	$4.00	$6.00	$7.00	$8.04	$8.05	$12.95	$6.00	$4.75	$4.75
Sierra	Weighted Average	$3.00	$3.09	$3.11	$2.69	$2.75	$3.56	$3.89	$3.66	$3.07	$3.73	$2.70	$2.82
	85th Percentile	$4.30	$3.40	$3.65	$3.26	$3.49	$6.25	$6.45	$5.75	$4.33	$5.45	$3.26	$3.40
Stockton	Weighted Average	$3.40	$3.45	$4.24	$4.11	$3.49	$3.03	$3.23	$2.35	$2.12	$6.13	$4.30	$3.65
	85th Percentile	$5.16	$5.16	$5.16	$5.53	$5.16	$5.16	$5.16	$2.35	$2.30	$6.45	$5.16	$5.16

Source: 2018 price data submitted by LSEs.

3.1.3 Flexible Capacity Prices

Table 11 describes capacity prices for CAISO resources located outside of local areas. As seen in previous years, prices for flexible capacity are not higher than those for system capacity. The 2019 weighted average price for flexible capacity is $2.79/kW-month while it is $3.46/kW-month for system capacity.

Table 11. Aggregated Non-Local RA Contract Prices Excluding Imports, 2019

	Flexible Capacity	Non-Flexible Capacity	All CAISO System
Contracted Capacity (MW)	7,531	11,601	19,133
Percentage of Total Capacity in Data Set	39%	61%	100%
Weighted Average Price ($/kW-month)	$2.79	$3.46	$3.46
Average Price ($/kW-month)	$2.59	$3.77	$3.77
Minimum Price ($/kW-month)	$0.75	$0.12	$0.12
Maximum Price ($/kW-month)	$7.25	$14.60	$14.60
85% of MW at or below ($/kW-month)	$4.00	$6.50	$6.50

Source: 2019 price data submitted by LSEs.

3.2 CAISO Out of Market Procurement – RMR Designations

The CAISO performs RMR studies to determine whether resources are needed for reliability. Generating resources with existing RMR contracts must be re-designated by the CAISO for the next compliance year and presented to the CAISO Board of Governors for approval by October 1st of each year. Designations for new RMR contracts are more flexible and may arise at any time. RMR resources can be dispatched by the CAISO for reliability and are paid for by customers in the transmission area. D.06-06-064 authorized the CPUC to allocate the RMR benefits as an RMR credit that is applied towards RA requirements.

Pursuant to the stated policy preference of the Commission,[19] local RA requirements began to supplant RMR contracting in the 2007 compliance year and there was a significant decline in 2007 RMR designations. That trend continued through the 2011 compliance year, with only one remaining RMR contract.[20]

In 2017, for the 2018 compliance year, RMR designations increased dramatically. Four units received RMR Condition 2 designations. Calpine Corporation's Feather River Energy Center (45 MW) and Yuba City Energy Center (46 MW) received Condition 2 RMR contracts for Other PG&E Areas and Metcalf Energy Center (570 MW) received a Condition 2 RMR contract for the Bay Area. Dynegy Oakland's units 1, 2, and 3 were also designated to ensure local reliability in Oakland, California.

In 2018, for the 2019 compliance year, CAISO extended RMR contracts for three generating facilities: Calpine Corporation's Feather River Energy Center (45 MW) and Yuba City Energy Center (46 MW) and Dynegy Oakland, LLC's units 1, 2, and 3.

3.3 CAISO Out of Market Procurement – CPM Designations

CAISO implemented the Capacity Procurement Mechanism (CPM) effective April 1, 2011, to procure capacity to maintain grid reliability if there is:

- Insufficient local capacity area resources in an annual or monthly RA plan;
- Collective deficiency in local capacity area resources;
- Insufficient RA resources in an LSE's annual or monthly RA plan;
- A CPM significant event;
- A reliability or operational need for an exceptional dispatch CPM;
- Capacity at risk of retirement within the current RA compliance year that will be needed for reliability by the end of the calendar year following the current RA compliance year; and

[19] D.06-06-064, Section 3.3.7.1., Available at: http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/57644.DOC.

[20] Dynegy Oakland

- Cumulative flexible capacity deficiency in an annual or monthly RA plans.[21]

Eligible capacity is limited to resources that are not already under a contract to be an RA resource, are not under an RMR contract, and are not currently designated as CPM capacity. Eligible capacity must be capable of effectively resolving a procurement shortfall or a reliability concern.

Under the exceptional dispatch CPM, CAISO can procure resources for an initial term of 30 days. The term can be extended beyond the initial period if CAISO determines that the circumstances leading to exceptional dispatch continue to exist.

The CPM price is based on the going forward fixed costs of a reference resource. Since 2016, the CPM price has been determined by a Competitive Solicitation Process (CSP). The CPM tariff includes a soft offer cap initially set at $75.68/kW-year (or $6.31/kW-month) by adding a 20 percent premium to the estimated going-forward fixed costs for a mid-cost 550 MW combined cycle resource with duct firing, as estimated in a 2014 report by the California Energy Commission. However, a supplier may apply to FERC to justify a price higher than the soft offer cap prior to offering the resource into the competitive solicitation process or after receiving a capacity procurement mechanism designation by the ISO.[22] The Competitive Solicitation Process applies to all potential CPM designations. Table 12 shows CAISO's CPM designations for 2019.

[21] CAISO Reliability BPM, version 41, page 138. https://bpmcm.caiso.com/Pages/BPMDetails.aspx?BPM=Reliability%20Requirements.

[22] CAISO 2016 Fourth Quarter Market Issues and Performance Report, March, 2017, page 68, http://www.caiso.com/Documents/2016FourthQuarterReport-MarketIssuesandPerformanceMarch2017.pdf.

Table 12. CAISO CPM Designations for 2019

Resource ID	County	MW	CPM Type	Term (days)	Start Date	End Date	Est. Cap. Cost /kW-mth	Total Cost
HUMBPP_1_UNITS3	Humboldt	15	Local Reliability Issue	60	7/15/2019	9/13/2019	$6.31	$189,300
HUMBPP_6_UNITS	Humboldt	48.73	Local Reliability Issue	60	7/5/2019	9/3/2019	$6.31	$614,973
CSCGNR_1_UNIT 1	Santa Clara	7.95	Local Reliability Issue	60	5/23/2019	7/22/2019	$6.31	$59,630
DUANE_1_PL1X3	Santa Clara	130.1	Local Reliability Issue	60	5/23/2019	7/22/2019	$6.31	$1,158,516

Source: CPM Designation posted by CAISO at http://www.caiso.com/Pages/documentsbygroup.aspx?GroupID=33EB5656-7056-4B8E-87B2-3EA3D816DA62.

3.4 IOU Procurement for System Reliability and Other Policy Goals

This subsection discusses the different types of procurement that IOUs have been directed to perform for all LSEs, either by statute or Commission decision.

3.4.1 System Reliability Resources

D.06-07-029 adopted a process known as the Cost Allocation Mechanism, or CAM, which allows the Commission to designate IOUs to procure new generation for system reliability within an IOU's distribution service territory. Under CAM, all related costs and benefits are allocated to all benefiting customers, including bundled utility customers, direct access customers, and community choice aggregator customers. The LSEs serving these customers are proportionately allocated the capacity in each service territory, which is applied towards meeting LSEs' RA requirements. The LSEs receiving a portion of the CAM capacity pay only for the net cost of the capacity, which is the total cost of the power purchase contract price minus any energy revenues associated with the dispatch of the resource.

D.11-05-005 eliminated the IOUs' authority to elect or not elect to use CAM for new generation resources. In addition, the decision permitted CAM for utility-owned generation and allowed CAM to match the duration of the contract for the resource.

Table 13 provides the scheduling resource ID, the contract dates that the CAM was approved to cover, the authorized IOU, and August NQC values for all 2019 CAM

resources. The list includes all conventional generation resources subject to the CAM mechanism since its inception. Utility owned generation (UOG) remains a CAM resource while the generator is operational and thus has no CAM end date.

Table 13. CAM Reliability Resources as of 2019

Scheduling Resource ID	CAM Start Date	CAM End Date	Authorized IOU	August NQC*
ETIWND_6_GRPLND	7/17/2007	UOG	SCE	46
BARRE_6_PEAKER	7/19/2007	UOG	SCE	47
MIRLOM_6_PEAKER	7/19/2007	UOG	SCE	46
CENTER_6_PEAKER	7/20/2007	UOG	SCE	47
BARRE_6_PEAKER	8/1/2007	UOG	SCE	47
MNDALY_6_MCGRTH	8/1/2009	UOG	SCE	47.2
BUCKBL_2_PL1X3	8/1/2010	7/31/2020	SCE	490
VESTAL_2_WELLHD	1/16/2013	1/15/2023	SCE	49
COCOPP_2_CTG1	5/1/2013	4/30/2023	PG&E	200.3
COCOPP_2_CTG2	5/1/2013	4/30/2023	PG&E	199.7
COCOPP_2_CTG3	5/1/2013	4/30/2023	PG&E	199
COCOPP_2_CTG4	5/1/2013	4/30/2023	PG&E	199.7
WALCRK_2_CTG1	6/1/2013	5/31/2023	SCE	96
WALCRK_2_CTG2	6/1/2013	5/31/2023	SCE	96
WALCRK_2_CTG3	6/1/2013	5/31/2023	SCE	96
WALCRK_2_CTG4	6/1/2013	5/31/2023	SCE	96
WALCRK_2_CTG5	6/1/2013	5/31/2023	SCE	96.65
ELSEGN_2_UN1011	8/1/2013	7/31/2023	SCE	263
ELSEGN_2_UN2021	8/1/2013	7/31/2023	SCE	263.68
SENTNL_2_CTG1	8/1/2013	7/31/2023	SCE	103.76
SENTNL_2_CTG2	8/1/2013	7/31/2023	SCE	95.34
SENTNL_2_CTG3	8/1/2013	7/31/2023	SCE	96.85
SENTNL_2_CTG4	8/1/2013	7/31/2023	SCE	102.47
SENTNL_2_CTG5	8/1/2013	7/31/2023	SCE	103.81
SENTNL_2_CTG6	8/1/2013	7/31/2023	SCE	100.99
SENTNL_2_CTG7	8/1/2013	7/31/2023	SCE	97.06
SENTNL_2_CTG8	8/1/2013	7/31/2023	SCE	101.8
ESCNDO_6_PL1X2	5/1/2014	12/31/2039	SDG&E	48.71
ELKHIL_2_PL1X3	1/1/2016	12/31/2020	SCE	200
CHINO_2_APEBT1	12/31/2016	12/30/2026	SCE	20
ELCAJN_6_EB1BT1	02/21/2017	12/30/2099	SDG&E	7.5

Scheduling Resource ID	CAM Start Date	CAM End Date	Authorized IOU	August NQC*
ESCNDO_6_EB1BT1	03/06/2017	12/30/2099	SDG&E	10
ESCNDO_6_EB2BT2	03/06/2017	12/30/2099	SDG&E	10
ESCNDO_6_EB3BT3	03/06/2017	12/30/2099	SDG&E	10
PIOPIC_2_CTG1	6/1/2017	12/31/2037	SDG&E	106
PIOPIC_2_CTG2	6/1/2017	12/31/2037	SDG&E	106
PIOPIC_2_CTG3	6/1/2017	12/31/2037	SDG&E	106
MIRLOM_2_MLBBTA	7/1/2017	6/30/2027	SCE	10
MIRLOM_2_MLBBTB	7/1/2017	6/30/2027	SCE	10
SANTGO_2_MABBT1	10/1/2017	12/31/2026	SCE	2
CARLS1_2_CARCT1	12/1/2018	9/30/2038	SDG&E	422
CARLS2_1_CARCT1	12/1/2018	9/30/2038	SDG&E	105.5
GOLETA_6_ELLWOD	1/1/2019	12/31/2020	SCE	54
ORMOND_7_UNIT 2	1/1/2019	12/31/2020	SCE	750
TOTAL				**5430.53**

*NQC values are from the year the resource is listed under. NQC values can change monthly and annually.

3.4.2 QF/CHP Resources

D.10-12-035[23] adopted a Settlement for Qualifying Facilities and Combined Heat and Power (QF/CHP Settlement). The Settlement established the CHP program, which aims to have IOUs procure a minimum of 3,000 MWs over the program period and to reduce greenhouse gas (GHG) emissions consistent with the California Air Resources Board (CARB) climate change scoping plan. D.15-06-028 lowered the GHG emissions reductions target to 2.72 million metric tons.

The Settlement also established a cost allocation mechanism to be used to share the benefits and costs associated with meeting the CHP and GHG goals.[24] The adopted cost allocation mechanism was almost identical to the mechanism adopted in the long term procurement plan (LTPP) for reliability (D.06-07-029). The settlement allows for the net capacity costs of an approved CHP resource to be allocated to all benefiting customers,

[23] http://docs.cpuc.ca.gov/PublishedDocs/PUBLISHED/FINAL_DECISION/128624.htm

[24] CHP Program Settlement Agreement Term Sheet 13.1.2.2 http://docs.cpuc.ca.gov/PUBLISHED/GRAPHICS/124875.PDF.

including bundled, ESP, and CCA customers. The RA benefits associated with the CHP contract are also allocated to all customers paying the net capacity costs.[25] Table 14 below lists the CHP resources whose RA capacity was allocated as of 2019.

Table 14. 2019 CHP Resources Allocated for CAM as of 2019

Scheduling Resource ID	CAM Start Date	CAM End Date	August NQC*	Authorized IOU
KERNFT_1_UNITS	4/1/2012	11/30/2020	47	PG&E
SIERRA_1_UNITS	4/1/2012	11/30/2020	47	PG&E
DOUBLC_1_UNITS	4/1/2012	11/30/2020	47	PG&E
TANHIL_6_SOLART	12/1/2019	11/30/2026	9.92	PG&E
FRITO_1_LAY	11/1/2019	10/31/2026	0.08	PG&E
KERNRG_1_UNITS	10/1/2019	9/30/2026	0.2	PG&E
CALPIN_1_AGNEW	11/1/2012	4/18/2021	28	PG&E
OROVIL_6_UNIT	1/1/2014	10/14/2020	7.5	PG&E
OMAR_2_UNIT 1	1/1/2014	12/31/2020	77.25	PG&E
OMAR_2_UNIT 2	1/1/2014	12/31/2020	77.25	PG&E
OMAR_2_UNIT 3	1/1/2014	12/31/2020	77.25	PG&E
OMAR_2_UNIT 4	1/1/2014	9/30/2020	77.25	PG&E
LMEC_1_PL1X3	1/1/2014	12/31/2021	135	SCE
GILROY_1_UNIT	1/1/2014	12/31/2018	52.5	SCE
SYCAMR_2_UNIT 1	1/1/2014	12/31/2021	56.53	SCE
SYCAMR_2_UNIT 2	1/1/2014	12/31/2021	56.54	SCE
SYCAMR_2_UNIT 3	1/1/2014	12/31/2021	56.53	SCE
SYCAMR_2_UNIT 4	1/1/2014	12/31/2021	56.53	SCE
STOILS_1_UNITS	10/1/2014	7/31/2026	1.72	PG&E
SMPRIP_1_SMPSON	4/1/2015	5/31/2018	45.6	PG&E
BEARMT_1_UNIT	5/1/2015	4/30/2022	44.58	PG&E
SUNSET_2_UNITS	7/1/2015	12/31/2020	218	PG&E
BDGRCK_1_UNITS	5/1/2015	4/30/2022	36.29	PG&E
CHALK_1_UNIT	5/1/2015	4/30/2022	36.53	PG&E
MKTRCK_1_UNIT 1	5/1/2015	4/30/2022	35.96	PG&E
LIVOAK_1_UNIT 1	5/1/2015	4/30/2022	41.14	PG&E
TIDWTR_2_UNITS	7/1/2015	4/30/2022	22.75	PG&E
CHEVMN_2_UNITS	7/10/2014	12/31/2050	6.2	SCE

[25] Section 13.1.2.2 of the QF settlement states: "In exchange for paying a share of the net costs of the CHP Program, the LSEs serving DA and CCA customers will receive a pro-rata share of the RA credits procured via the CHP Program."

Scheduling Resource ID	CAM Start Date	CAM End Date	August NQC*	Authorized IOU
ARCOGN_2_UNITS	7/1/2015	6/30/2022	260.33	SCE
UNVRSY_1_UNIT 1	7/1/2015	6/30/2022	34.87	SCE
ETIWND_2_UNIT1	1/1/2016	12/31/2022	16.88	SCE
HINSON_6_CARBGN	6/1/2017	5/31/2021	29.56	SCE
HOLGAT_1_BORAX	7/1/2015	6/30/2022	13.66	SCE
TENGEN_2_PL1X2	7/1/2014	6/30/2021	37.62	SCE
SNCLRA_2_UNIT1	4/1/2016	3/30/2023	17.54	SCE
SNCLRA_2_UNIT	4/12/2018	3/31/2020	24.49	SCE
SAMPSN_6_KELCO1	6/1/2017	6/2/2022	3.27	SDGE
CHINO_6_CIMGEN	3/11/2018	3/10/2025	25.96	SCE
DEXZEL_1_UNIT	12/1/2015	3/31/2022	18.65	PG&E
ELKHIL_2_PL1X3	1/1/2016	12/31/2020	200	SCE
GRZZLY_1_BERKLY	8/1/2017	7/31/2024	24.57	PG&E
SNCLRA_2_HOWLNG	4/1/2017	10/31/2023	7.63	SCE
VESTAL_2_UNIT1	4/1/2017	3/31/2026	2.93	SCE
TOTAL			**2116.06**	

*NQC values are from the year the resource is listed under. NQC values can change monthly and annually.

3.4.3 DR Resources

D.14-12-024 authorized pilot DRAM auctions as a means for the IOUs to procure DR capacity from third party DR providers for delivery in 2016 and 2017. The pilot was later extended to 2018 and 2019. Capacity procured through DRAM is allocated to all customers similarly to that of CAM and CHP resources. Table 15 lists the DRAM capacity procured by the IOUs for 2019.

Table 15. 2019 DRAM Capacity Allocated for CAM

Scheduling Resource ID	CAM Start Date	CAM End Date	Authorized IOU	August NQC*
Multiple	1/1/2019	12/31/2019	PG&E	162.75
Multiple	1/1/2019	12/31/2019	SCE	176.04
Multiple	1/1/2019	12/31/2019	SDG&E	34.74
			TOTAL	**373.53**

*NQC values can vary by month.

Event-based DR resources are market-integrated and also treated as an RA credit. The costs for most DR programs are allocated through the distribution charge which means that these DR programs are paid for by bundled, direct access, and community choice aggregator customers. The exceptions are SCE's Smart Energy Program and rate-based programs such as SCE and PG&E's Critical Peak Pricing (CPP) programs. The RA credit associated with DR is based on capacity estimated using the CPUC-adopted Load Impact Protocols. The IOUs and third-party DR providers submit ex-ante load impact values associated with each market-integrated DR program on April 1st for the coming RA compliance year. Energy Division verifies and evaluates the ex-ante load impact values using the ex-post performance load impacts from the previous year and the programs' forecast assumptions. When the values are final, DR RA credits are posted on the CPUC's RA compliance website and then allocated to all LSEs for the coming compliance year.

Table 16 shows the total DR, CAM, and RMR credits allocated by TAC area from 2008 to 2020.

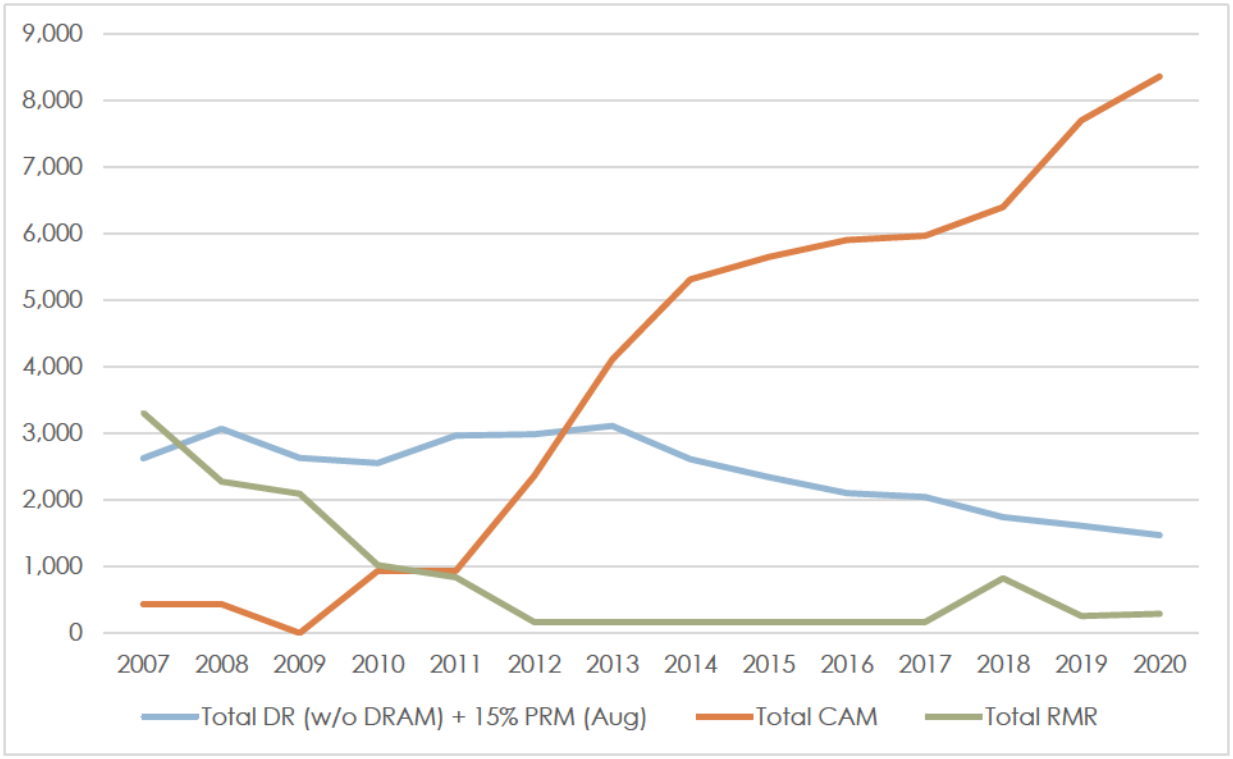
Figure 8 below illustrate the amounts and types of procurement credit that have been allocated since the beginning of the RA program. The graph reflects the decline in RMR units until 2018 and the increase in CAM units. DR RA credits have declined slightly since 2013. The total amount of capacity procured through DR, CAM, and RMR for August 2019 was 9,832 MW. This is about 20 percent of the total CPUC-jurisdictional LSE obligation for August 2019 (47,882 MW). In August 2019, total CAM procurement reached 7,706 MW whereas RMR procurement decreased from 826 MW in 2018 to 256 MW in 2019.

Table 16. DR, CAM, and RMR Allocations for August (MW)

		2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
DR	SCE	1,705	1,616	1,613	1,838	2,067	2,195	1583	1593	1480	1437	1215	1125	1031
	PG&E	1018	912	846	888	744	783	933	689	565	566	488	448	424
	SDG&E	346	104	97	241	177	135	96	63	60	42	40	39	17
	Total DR w/out DRAM (Aug)	**3,069**	**2,632**	**2,556**	**2,967**	**2,988**	**3,113**	**2,613**	**2,345**	**2,105**	**2,045**	**1,743**	**1,612**	**1,472**
CAM	SCE	436	436	936	936	1,529	2,763	3,477	3,583	3,848	3,702	4,091	4,742	5,535
	PG&E					703	1,351	1,790	2,020	2,008	1,868	1,897	1,989	1,848
	SDG&E					130		49	49	49	399	413	975	980

	Total CAM (Aug)	**436**	**436**	**936**	**936**	**2,362**	**4,114**	**5,316**	**5,652**	**5,905**	**5,969**	**6,401**	**7,706**	**8,363**
		2008	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**
RMR	SCE													75.63
	PG&E	1,303	1,263	709	527	165	165	165	165	165	165	826	256	214.2
	SDG&E	973	828	311	311									0
	Total RMR	**2,276**	**2,091**	**1,020**	**838**	**165**	**165**	**165**	**165**	**165**	**165**	**826**	**256**	**290**

Figure 8. RA Procurement Credit Allocation, 2006 – 2019 (RMR, August DR, and August CAM)



4 NET QUALIFYING CAPACITY

Qualifying Capacity (QC) represents a resource's maximum capacity eligible to be counted towards meeting the CPUC's RA Requirements prior to an assessment of its deliverability. The CPUC adopted QC counting conventions, which are computed based on the applicable resource type, in D.10-06-036[26] and has updated counting methodologies in subsequent decisions. The applicable data sets and data conventions are contained in the most recent adopted QC methodology manual.[27]

The QC methodology varies by resource type:

- The QC value of dispatchable resources is based on the most recent maximum capability (Pmax) test.
- Non-dispatchable hydro and geothermal resources receive QC values based on historical production.
- Combined heat and power (CHP) and biomass resources that can bid into the day ahead market, but are not fully dispatchable, receive QC values based on MW amount bid or self-scheduled into the day ahead market.
- Wind and solar QC values are based on effective load carrying capability (ELCC) modeling.

The CPUC executes a subpoena for settlement quality meter and bidding data from the CAISO and performs QC calculations for non-dispatchable resources annually. ELCC values are periodically updated.

After the QC values are calculated, the CAISO conducts a deliverability assessment to produce the annual Net Qualifying Capacity (NQC) value of each resource. When the QC for a resource exceeds the resource's deliverable capacity, the NQC is adjusted to the deliverable capacity value. The CAISO conducts deliverability assessments for both new and existing resources two to three times a year pursuant to the Large Generator Interconnection Procedures (LGIP).

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[26] http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/119856.htm (QC manual adopted as Appendix B).

[27] https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442455533.

After the CAISO has completed its deliverability study, it posts a draft NQC list and generators typically have three weeks to file comments with the CAISO and CPUC regarding the proposed NQC values. After the comment period, the values are updated, if needed, and a final NQC list is posted. This NQC list includes information on the local area, the zonal area, and the deliverability of each resource.

4.1 New Resources and Retirements in 2019

A total of 650 MW of capacity retired in 2019 including the 493 MW Redondo Unit 7. While this was partially offset by 392 MW of new resources, overall 2019-2020 saw a decrease in available capacity.

Table 17 and Table 18 list the new and retiring facilities for 2019. Net dependable capacity, the amount of deliverable capacity as determined by the CAISO, is also listed for new facilities. Generators are increasingly coming online as energy-only facilities with no NQC value or in phases with the initial NQC value well below the planned capacity. Solar and wind generators also have NQC values well below net dependable capacity since their NQC is based on ELCC modeling. For example, in 2019, the net dependable capacity of new facilities was about 1,505 MW which was over three times greater than the assigned NQC values.

Table 17. New NQC Resources Online in 2019

Resource ID	Resource Name	Technology	NQC	Net Dependable Capacity
BGSKYN_2_ASPSR2	Antelope Solar 2 San Pablo	Solar PV	27	100
BGSKYN_2_BS3SR3	Big Sky Solar 3	Solar PV	5.4	20
CALFTS_2_CFSSR1	California Flats Solar South	Solar PV	40.5	150
DAIRLD_1_MD2BM1	Madera Digester Genset 2	Biogas	0	0.8
DSFLWR_2_WS2SR1	Willow Springs 2	Solar PV	27	100
FRNTBW_6_SOLAR1	Frontier Solar	Solar PV	5.4	20
IVSLR2_2_SM2SR1	Silver Ridge Mount Signal 2	Solar PV	40.5	150
RATSKE_2_NROSR1	North Rosamond Solar	Solar PV	40.5	150
RECTOR_2_TFDBM1	Two Fiets Dairy Digester	Biogas	0	0.8
REDMAN_6_AVSSR1	Antelope Valley Solar	Solar PV	0.81	3
RNDSBG_1_HZASR1	Hazel A	Solar PV	0.81	2.99
SANLOB_1_OSFBM1	HZIU Kompogas SLO	Biogas	0	0.85

SCHNDR_1_OS2BM2	Open Sky Digester Genset 2	Biogas	0	0.8
SLRMS3_2_SRMSR1	SILVER RIDGE MOUNT SIGNAL 3	Solar PV	67.5	250
STROUD_6_WWHSR1	Winter Wheat Solar Farm	Solar PV	0	1.5
SUNSLR_1_SSVSR1	Sunshine Valley Solar 1	Solar PV	22.95	100
SUNSPT_2_WNASR1	Windhub Solar A	Solar PV	5.4	20
TX-ELK_6_ECKSR2	Eagle Creek	Solar PV	0	3
VALTNE_2_AVASR1	Valentine Solar	Solar PV	27	100
VOYAGR_2_VOYWD 1	Voyager 1	Wind	27.53	131.1
WRGTSR_2_WSFSR1	Wright Solar Freeman	Solar PV	54	200
		Total	**392.3**	**1504.84**

Source: 2019-2020 NQC lists posted to the CAISO website.[28]

Table 18. Resources Retired in 2019

Resource ID	Resource Name	Technology	NQC	Status
CHINO_6_SMPPAP	AltaGas Pomona Energy	Cogeneration	22.78	Retired
DINUBA_6_UNIT	Dinuba Energy, Inc.	Biomass	4.07	Mothballed
GOLETA_6_GAVOTA	Point Arguello Pipeline Company	Cogeneration	0	Retired
GRNLF1_1_UNITS	Greenleaf 1	Cogeneration	49.2	Retired
KANAKA_1_UNIT	Kanaka	Hydro	0.64	Retired
KRAMER_1_KJ5SR5	Kramer Junction 5	Solar Thermal	13.44	Retired
KRAMER_1_SEGSR3	Kramer Junction 3	Solar Thermal	13.44	Retired
KRAMER_1_SEGSR4	Kramer Junction 4	Solar Thermal	13.44	Retired
KRAMER_1_SEGSR6	Luz Solar Partners Ltd., VI, LP	Solar Thermal	15.68	Retired
KRAMER_1_SEGSR7	Luz Solar Partners Ltd., VII, LP	Solar Thermal	15.68	Retired
OTAY_6_LNDFL5	Otay 5	Biogas	0	Retired
OTAY_6_LNDFL6	Otay 6	Biogas	0	Retired
OTAY_6_UNITB1	Otay Landfill Units Aggregate	Biogas	2.13	Retired
PTLOMA_6_NTCCGN	AEI MCRD Steam Turbine	Cogeneration	2.46	Retired
REDOND_7_UNIT 7	Redondo Gen Sta. Unit 7	Steam Turbine	493.24	Retired
SAUGUS_2_TOLAND	Toland Landfill gas to Energy Project	Biogas	0	Retired
VALLEY_5_RTS044	North Island QF	Solar PV	3.58	Retired

[28] See http://www.caiso.com/planning/Pages/ReliabilityRequirements/Default.aspx and http://www.caiso.com/planning/Pages/ReliabilityRequirements/ReliabilityRequirementsArchive.aspx.

	Total	**649.78**

Source: CAISO Announced Retirement and Mothball list.[29]

A summary of the current status of plants subject to CEC siting review and under construction, which may eventually be added to California's resource pool, is available on the CEC website.[30]

4.2 Aggregate NQC Values 2015 through 2020

Table 19 shows aggregate NQC values from the CAISO NQC lists for 2015 through 2020.[31] The total 2020 NQC (as reported on the CAISO NQC list) increased by 560 MW from the 2019 NQC list. The number of resources on the NQC list continued to grow as demand response resources were integrated into the CAISO market. There also may be a change in NQC for facilities that began operation in the previous year, but not in time to receive an August NQC value or for facilities that come online in phases and receive an initial NQC value for partial capacity.

Table 19. Final NQC Values for 2015-2020

Year	Total NQC (MW)	Total Number of Scheduling Resource IDs	Net NQC Change (MW)	Net Gain in CAISO IDs on List
2015	52,996	802	-	-
2016	53,173	972	177	170
2017	55,871	1,097	2,698	125
2018	49,389	1,198	-6,482	101
2019	48,429	1,684	-960	486
2020	48,989	1,961	560	277
2015-20			**-4,007**	**1,159**

Source: NQC lists from 2015 through 2020.

[29] http://www.caiso.com/Documents/AnnouncedRetirementAndMothballList.xlsx

[30] https://ww2.energy.ca.gov/sitingcases/alphabetical_cms.html.

[31] Note that MW changes in NQC lists do not align with the calendar year changes described in section 4.1 since the NQC list for each year is prepared in the fall of the previous year.

5 COMPLIANCE WITH RA REQUIREMENTS

5.1 Overview of the RA Filing Process

The RA filing process requires compliance documents to be submitted by the LSEs, load forecasting to be performed by the CEC, supply plan validation to be performed by the CAISO, and DR, local RA, CAM, and RMR allocations to be performed by Energy Division. Additionally, the Energy Division evaluates each RA filing submission and continually works with LSEs to improve the RA administration process.

As in previous years, Energy Division hosted a workshop to discuss general compliance rules as well as to highlight changes in procedures and filing rules new to the 2019 compliance year. The workshop, RA guide, and templates were designed to assist LSEs in demonstrating compliance with the RA program.

The final 2019 filing guide[32] and templates were made available to LSEs in September 2018. Changes were made to implement the new RA rules adopted in D.18-06-030. As in previous years, the CPUC required all filings to be submitted simultaneously to the CAISO and CEC.

5.2 Compliance Review

CPUC staff, in coordination with the CEC and CAISO, reviewed all compliance filings received in accordance with the following comprehensive RA program procedures:

- Verifying timely arrival of the filings,
- Matching resources listed against those of the NQC list,
- Confirming compliance with local area and Path 26 requirements[33],
- Verifying matching supply plans, and;
- Requesting corrections from LSEs.

[32] See https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442459140.

[33] The Path 26 requirement was removed in June 2019 with Commission approval of D.19-06-26.

A crucial step in this process relies on CAISO collection and organization of supply plans submitted by scheduling coordinators for generators. Energy Division verifies compliance, approves compliant filings, and sends an approval letter to each LSE (noncompliant filings are discussed in the Subsections 5.3 and 5.4).

5.3 Enforcement and Compliance

The essence of the RA program is mandatory LSE acquisition of capacity to meet load and reserve requirements. The short timeframes in which the CPUC, CAISO, and CEC staff must verify that adequate capacity has been procured and, if necessary, complete backstop procurement requires filings to arrive on time and to be accurate. Non-compliance occurs if an LSE files with a procurement deficiency (i.e., insufficient capacity to meet its RA obligations), does not file at all, files late, or does not file in the manner required. These types of non-compliance generally lead to enforcement actions or citations by the CPUC. The CAISO does not typically need to engage in backstop procurement for collective and CPUC-jurisdictional LSE procurement deficiencies, although this might be expected to occur more frequently if the CPUC did not strictly enforce RA program compliance.

5.4 Enforcement Actions in the 2012 through 2019 Compliance Years

Pursuant to Commission Resolution E-4195,[34] D.11-06-022, and D.14-06-050, Energy Division refers potential violations to the CPUC's Consumer Protection and Enforcement Division (CPED), which pursues enforcement cases related to the RA program on behalf of the Commission.

Table 20 summarizes enforcement actions and citations taken by the Commission since 2012. From 2012 through 2019, the Commission issued 61 citations for violations and took no enforcement action, for a total penalty of $15,241,944. In 2018, ten citations were

[34] See: http://docs.cpuc.ca.gov/PUBLISHED/FINAL_RESOLUTION/93662.htm.

issued for penalties of $2,596,739. In 2019, twenty-six citations were issued for penalties of $9,553,046.[35]

Table 20. Enforcement Summary Pursuant to the RA Program Since 2012

Compliance Year	Citations Issued	LSEs Cited	Citation Penalties	Enforcement Cases	LSEs Enforced	Enforcement Penalties
2012	4	Glacial Energy of CA, Shell Energy, SDG&E, Direct Energy Business	$14,600	0	0	0
2013	5	SDG&E, Commerce Energy, 3 Phases, Liberty Power (2)	$26,500	0	0	0
2014	1	3 Phases	$5,000	0	0	0
2015	6	3 Phases (2), Commerce Energy (2), EDF Industrial, Glacial Energy	$38,000	0	0	0
2016	3	Tiger Natural Gas, Glacial Energy, Shell Energy	$13,500	0	0	0

[35] For a list of all penalties, please see: https://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Safety/Utility_Enforcement/UEB%20Energy%20Citations%20--%20Updated%20Oct%2007%202020.pdf

For waivers, please see: https://www.cpuc.ca.gov/General.aspx?id=6442465461

2017	6	Commercial Energy of Montana (2), CleanPowerSF, Southern California Edison, Direct Energy Business, Tiger Natural Gas	$150,110	0	0	0
2018	10	AmericanPowerNet Management, Just Energy Solutions (5), Direct Energy Business, Pilot Power Group, Pioneer Community Energy (2)	$2,596,739	0	0	0
2019	26	Just Energy Solutions (11), Pioneer Community Energy, Valley Clean Energy (2), East Bay Community Energy, San Jose Clean Energy, Agera Energy (3), Commercial Energy (7)	$9,553,046	0	0	0
Total	61		$15,241,944	0	0	0

6 APPENDIX

2019 List of CPUC Jurisdictional LSEs

1. Pacific Gas & Electric
2. Southern California Edison
3. San Diego Gas & Electric
4. 3 Phases Renewables Inc.
5. American PowerNet Management
6. Apple Valley Clean Energy
7. Just Energy Solutions, Inc.
8. Commercial Energy of Montana
9. Constellation New Energy Inc.
10. City of Solana Beach / Solana Energy Alliance
11. Calpine Power America-CA, LLC
12. Clean Power Alliance of Southern California
13. CleanPowerSF
14. Direct Energy Business, LLC
15. East Bay Community Energy
16. EDF Industrial Power Services, LLC
17. King City Community Power
18. Agera Energy LLC
19. Lancaster Choice Energy
20. Liberty Power Holdings, LLC
21. Monterey Bay Community Power Authority
22. Marin Clean Energy
23. Calpine Energy Solutions, LLC
24. Peninsula Clean Energy Authority
25. Pioneer Community Energy
26. Pilot Power Group, Inc.
27. Pico Rivera Innovative Municipal Energy
28. Redwood Coast Energy Authority
29. Rancho Mirage Energy Authority
30. Shell Energy North America
31. San Jose Clean Energy

32. San Jacinto Power
33. Sonoma Clean Power Authority
34. Silicon Valley Clean Energy Authority
35. Tiger Natural Gas, Inc.
36. The Regents of the University of California
37. Valley Clean Energy Alliance

EXHIBIT: SJCE #88
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / 2019 Final Calculation of the PCIA Market Price Benchmarks
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

2019 Final Calculation of the PCIA Market Price Benchmarks

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

Calculation of the 2019 True Up and Forecast 2020 Market Price Benchmarks for the Power Charge Indifference Adjustment

R. 17-06-026

November 1, 2019

Pursuant to Decision (D) 19-10-001, Energy Division issues the following calculation for the Power Charge Indifference Adjustment (PCIA) Forecast adders and True Up adders to be used as inputs in utilities 2020 Energy Resource Recovery Account (ERRA) Forecast Updates in November 2019. The PCIA includes the Market Price Benchmarks include the Energy Index, the Renewable Portfolio Standard (RPS) Adder, and the Resource Adequacy (RA) Adder, as defined in the decision.[1] D.19-10-001 directed Energy Division to complete the calculation of these values by the first business day in November each year, and to make the results available to interested parties. The results of these calculations are shown in the tables below.

Table 1. Market Price Benchmarks Used in PCIA

2019 Final Adders				
		PG&E	SDG&E	SCE
RA Adder ($/kW-month)	System RA	$2.77		
	Local RA	$3.19	$3.46	$3.72
	Flexible RA	$2.78		
RPS Adder ($/MWh)		$16.44		

2020 Forecast Adders				
		PG&E	SDG&E	SCE
Energy Index[2] ($/MWh)	On Peak	$36.88	$37.61	$37.61
	Off Peak	$29.93	$29.56	$29.56
RA Adder ($/kW-month)	System RA	$4.59		
	Local RA	$4.11	$4.15	$4.30
	Flexible RA	$4.41		
RPS Adder ($/MWh)		$17.35		

[1] D.19-10-001 at 7

[2] The Energy Index forecast adder is a calculated value based on Platts values; the final values are 2019 actual energy prices.

Market Price Benchmarks

The calculation of the PCIA was established in D.11-12-018 and has most recently been refined in D.19-10-001.[3] A PCIA vintage, or a utilities' Indifference Amount for a given year, is equivalent to a utility's vintage Total Portfolio costs, less the vintage Market Value. Market Value is defined in D.19-10-001 as "the estimated financial value, measured in dollars, that is attributed to a utility portfolio of energy resources for the purpose of calculating the Power Charge Indifference Adjustment for a given year." D.19-10-001 defines Market Price Benchmarks as "estimates of the value per unit (not total portfolio value) associated with three principal sources of value in utility portfolios (energy, resource adequacy, and renewable energy)."[4] Market Price Benchmarks are multiplied by the relevant portfolio volume as part of the overall calculation of Market Value. The Forecasted Adders are components used in utilities' calculation of the 2020 PCIA Market Price and intended to reduce uncertainty in the indifference amount and True up Adders are used to adjust the 2019 forecast Adders for actual 2019 values.

RA Adder

The RA Adder is the Market Price Benchmark that reflects the estimated value of each unit of capacity in a utility portfolio that can be used to satisfy Resource Adequacy obligations, as dollar value per kilowatt-year ($/kW-year). The RA Adder has three subcomponents, reflecting each type of RA product required for compliance with the RA program: system, local, and flexible.[5]

- The Forecast RA Adder for system, flexible, and local RA were calculated using the volume-weighted average of all IOU, Community Choice Aggregator (CCA), and Electric Service Provider (ESP) RA-only market transactions executed in the fourth quarter of 2018, and the first through third quarter of 2019 for delivery in 2020. The annual Forecast RA Adder ($/kW-year) is the sum of the monthly weighted average of the relevant transactions. Note that the time periods of data collected for the calculation of the Forecasted local RA Adder and Final Local RA adder will change in 2021 and again in 2022 and beyond.[6]

- The Final RA Adder for system, flexible, and local is calculated using the volume-weighted average of all IOU, CCA, and ESP RA-only market transactions executed in 2018 and first through third quarter of 2019 for delivery in 2019.

RPS Adder

The RPS Adder is the Market Price Benchmark that reflects the estimated incremental value of each unit of RPS-eligible energy that is attributable to the fact of that eligibility, in $/MWh.

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[3] The methodology of calculating the PCIA was mandated D.11-12-018 COL 3 and Resolution E-4475. Explanation of the changes to the methodology can be found in Appendix 1 of D. 18-10-019.
[4] D.19-10-001 at 6
[5] D.19-10-001 at 7
[6] D.19-10-001, Attachment A, at 1-2

Both the forecast and the final adder are based on transactions of bundled renewable energy credits (RECs) of the portfolio content Category 1 (PCC1)[7] and Index-plus[8] transactions.

- The Forecast RPS Adder was calculated using the volume weighted average of all IOU, CCA, and ESP market transactions using only PCC1 index-plus contracts executed in the fourth quarter of 2018 and the first through third quarter of 2019 for delivery in 2020.[9]

- The Final RPS Adder was calculated using the volume weighted average of all IOU, CCA, and ESP market transactions using only PCC 1 index-plus contracts executed in year 2018 and the first through third quarter of 2019 for delivery in year 2019.

Energy Index

Energy Index is the Market Price Benchmark that reflects the estimated market value of each unit of energy in a utility portfolio, in dollar value per megawatt hour ($/MWh). The Energy Index was previously referred to as "Brown Power Index," adder or benchmark.[10]

- The Energy Index was calculated using Platts-ICE Forward Curve-Electricity market data from the period of October 1 through October 31 for on peak and off-peak power prices for 2020 NP15 and SP15. The 2020 monthly average of on peak and off-peak market value per megawatt for the NP15 and SP15 were determined and used to calculate the 2020 average price per megawatt hour. Using these averages, the IOUs will calculate the final Energy Index to be used in the 2020 Forecasted ERRA Proceeding.

- There is no Energy Index used in the true up process. Revenue is trued up for year 2019 based on the realized net CAISO revenues for all PCIA-eligible resources, including revenues received through CAISO's Capacity Procurement Mechanism (CPM), if any. The realized revenues are recorded to the vintaged resources' respective vintaged Portfolio Allocation Balancing Account (PABA) subaccount and become an offset to the actual costs recorded in those subaccounts. The year-end over- or under-collection in the vintaged PABA subaccounts for 2019 are included in the vintaged PCIA rate calculation for 2020. The true up process is addressed as part of the annual ERRA Forecast proceeding.

[7] D.11-12-052 defines PCC1 as Facilities with First Point of Interconnection within a California Balancing Authority (CBA) or with Generation Scheduled into a CBA
[8] Index -plus refers to contracts for the market index price of energy plus a REC bid premium
[9] D.19-10-001 at 7
[10] D.19-10-001 at 7

EXHIBIT: SJCE #89
CPUC PROCEEDING: K.19-03-024
SPONSOR/WITNESS: SJCE/ Jeanne Solé / Revolving Credit Agt
DATE IDENT. 4/22/25 RECD. 4/22/25
ALJ: GERALD F. KELLY

Revolving Credit Agt

in Support of the Appeal of City of San José, administrator of San José Clean Energy, to Citation E-4195-0052 issued on February 27, 2019 by Consumer Protection and Enforcement Division Before the Public Utilities Commission of the State of California

City of San Jose
Office of the City Clerk

FEB 2 7 2019

☐ ACCEPTED
☐ REJECTED

ORIGINAL

REVOLVING CREDIT AGREEMENT

dated as of November 1, 2018

between

CITY OF SAN JOSE, CALIFORNIA

and

BARCLAYS BANK PLC

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REVOLVING CREDIT AGREEMENT

This REVOLVING CREDIT AGREEMENT (as amended, modified or supplemented from time to time, this *"Agreement"*) is entered into as of November 1, 2018, between CITY OF SAN JOSE, CALIFORNIA (the *"City"*) and BARCLAYS BANK PLC (together with its successors and assigns, the *"Bank"*).

PRELIMINARY STATEMENTS

WHEREAS, pursuant to the hereinafter defined Ordinance No. 30028, the City established a community-wide electricity program known as "San Jose Clean Energy" (as more fully described herein and defined below as the "*Community Energy Program*"); and

WHEREAS, the City wishes to obtain credit from the Bank hereunder and the Bank is willing, upon the terms and subject to the conditions set forth below, to provide such credit to the City for use for the Community Energy Program as described herein; and

WHEREAS, all obligations of the City to repay the Bank for Credit Extensions (as defined herein) made by the Bank under the Commitment (as defined herein), and interest thereon, are created under and will be evidenced by this Agreement and the Note, and will be secured by a pledge of and lien on Revenues (as defined herein), subject only to amounts required to be paid by the City pursuant to the terms of Power Purchase Agreements (as defined herein) executed by the City, which will not be subject to such lien, and any Permitted Senior Liens (as defined herein), which generally consists of amounts received and accrued by the City with respect to the Community Energy Program, and not the General Fund of the City or any other revenues or moneys of the City deposited in the City's General Fund;

NOW, THEREFORE, in consideration of the foregoing recitals and other consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce the Bank to extend to the City the Commitment, the City and the Bank hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. The following terms, as used herein, have the following meanings:

"Affiliate" means as to any Person, any other Person which, directly or indirectly, is in control of, is controlled by, or is under common control with, such Person. A Person shall be deemed to control another Person if the controlling Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other Person, whether through the ownership of voting securities, by contract or otherwise.

"Aggregate Annual Debt Service Requirement" means, for any date the same is to be determined:

(i) prior to December 31, 2022, an amount equal to the principal of, and interest on, the Total Outstandings and any other Debt payable from Revenues or Net Revenues which is required to be paid during the next four (4) quarter period commencing on such date; and

(ii) on and after December 31, 2022, an amount equal to the principal of, and interest on, the Total Outstandings and any other Debt payable from Revenues or Net Revenues which is required to be paid during the next four (4) quarter period commencing on such date *less* amounts then on deposit in the Operating Reserve Account in an amount up to, but not to exceed, $20,000,000.

"Agreement" means this Revolving Credit Agreement, between the City and the Bank, as amended and supplemented from time to time in accordance with the terms hereof.

"Applicable Spread" means a rate per annum equal to 2.10%.

"Authority" means the City of San Jose Financing Authority, a public body, corporate and politic, duly organized and existing under the laws of the State.

"Authorized Officer" means any person authorized from time to time in writing by the City to perform a designated act or execute a designated document.

"Availability Period" means, with respect to (i) the agreement of the Bank to issue Letters of Credit for the account of the City pursuant to the terms and conditions hereof, the period from and including the Effective Date to and excluding the Commitment Termination Date, and (ii) the agreement of the Bank to extend Loans pursuant to the terms and conditions hereof, the period from the Effective Date to and excluding the Loan Facility Scheduled Termination Date.

"Available Commitment" means an initial amount equal to $50,000,000 and thereafter such initial amount adjusted from time to time as follows: (a) downward in an amount equal to any Loan made to, and an amount equal to the L/C Obligations related to any Letter of Credit issued for the account of, the City under the Commitment; (b) prior to the Loan Facility Scheduled Termination Date only, upward in an amount equal to the principal amount of any Loan made to the City under the Commitment that is repaid or prepaid in the manner provided herein; (c) upward in an amount equal to the principal amount equal to the L/C Obligations related to any Letter of Credit issued for the account of the City under the Commitment that is repaid, prepaid, expires or terminates, as applicable, in the manner provided herein; (d) downward in an amount equal to any reduction thereof effected pursuant to Section 2.05 hereof; (e) downward to the Letter of Credit Sublimit on the Loan Facility Scheduled Termination Date; and (f) downward to zero upon the Commitment Termination Date in accordance with the terms hereof; *provided, that,* after giving effect to any of the foregoing adjustments the Available Commitment shall never exceed (i) $50,000,000 from the Effective Date to but excluding Loan

Facility Scheduled Termination Date, and (ii) $35,000,000 from and after the Loan Facility Scheduled Termination Date.

"Bail-In Action" means the exercise by a resolution authority of any write-down or conversion power existing from time to time (including, without limitation, any power to amend or alter the maturity of eligible liabilities of an institution under resolution or amend the amount of interest payable under such eligible liabilities or the date on which interest becomes payable, including by suspending payment for a temporary period and together with any power to terminate and value transactions) under, and exercised in compliance with, any laws, regulations, rules or requirements in effect in the United Kingdom relating to the transposition of the Bank Recovery and Resolution Directive, as amended from time to time, including but not limited to, the Banking Act 2009 as amended from time to time, and the instruments, rules and standards created thereunder, pursuant to which our obligations (or those of our affiliates) can be reduced (including to zero), cancelled or converted into shares, other securities, or other obligations of ours or any other person.

"Bank" has the meaning set forth in the introductory paragraph hereof.

"Borrowing" means a borrowing of Loans from the Bank pursuant to Section 2.01 hereof.

"Borrowing Date" has the meaning set forth in Section 2.02 hereof.

"Business Day" means any day, other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the laws of, or are in fact closed in, New York, New York or San Jose, California, and if such day relates to a Loan, any day that is also a London Banking Day.

"Cash Collateralize" means, to pledge and deposit with or deliver to the Bank, as collateral for L/C Obligations or any other Obligations, (a) cash or deposit account balances, (b) backstop letters of credit entered into on terms, from issuers and in amounts satisfactory to the Bank, and/or (c) if the Bank shall agree, in its sole discretion, other credit support, in each case, in Dollars and in such amount as the Bank may reasonably require, and pursuant to documentation in form and substance reasonably satisfactory to the Bank. *"Cash Collateral"* shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Change in Law" means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any Law, rule, regulation or treaty, (b) any change in any Law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (the "Basel Committee"), or any

successor or similar authority, or the United States or foreign regulatory authorities, in each case pursuant to the regulatory standards established by the Basel Committee with respect to bank capital adequacy, stress testing and market liquidity risk and commonly referred to as "Basel III," shall in each case be deemed to be a *"Change in Law"*, regardless of the date enacted, adopted or issued.

"City" has the meaning set forth in the introductory paragraph hereof.

"City's Account" means an account of the City of which the City informs the Bank in writing and which the Bank confirms in writing and telephonic notice.

"Commercial Paper" means the commercial paper notes authorized to be issued by the Authority pursuant to that certain Trust Agreement, dated as of January 1, 2004, between the Authority and Wells Fargo Bank, National Association, as trustee, as amended, restated, extended, supplemented or otherwise modified in writing from time to time.

"Commitment" means the Bank's obligation to (a) make Loans to the City pursuant to Section 2.01 and (b) issue Letters of Credit for the account of the City pursuant to Section 2.03. Subject at all times to Sections 2.05 and 7.02 heroef, the Commitment from and after the (x) Effective Date to but excluding the Loan Facility Scheduled Termination Date shall be $50,000,000, (y) Loan Facility Scheduled Termination Date and at all times thereafter shall be $35,000,000.

"Commitment Fee" has the meaning set forth in Section 2.08(a) hereof.

"Commitment Fee Rate" means (i) with respect to the Bank's commitment to make Loans to the City pursuant to Section 2.01, a rate per annum equal to 0.65% and (ii) with respect to the Bank's commitment to issue Letters of Credit for the account of the City pursuant to Section 2.03, a rate per annum equal to 1.05%; *provided*, that, in each case, upon the occurrence, and at all times during the continuation, of an Event of Default, the Commitment Fee Rate shall increase four percent (4.0%) per annum above the Commitment Fee Rate otherwise in effect.

"Commitment Termination Date" shall mean the earlier of:

(a) the Scheduled Termination Date; and

(b) the date the Commitment is reduced to zero pursuant to Section 2.05 or Section 7.02 hereof.

"Community Energy Program" means the Community Choice Aggregation program in the City called "San Jose Clean Energy," established under Title 26, Community Energy, of the City's Municipal Code, as amended, supplemented or otherwise modified from time to time.

"Community Energy Aggregation Act" means Assembly Bill No. 117, Chapter 838, signed into law on September 24, 2002, as codified in Sections 218.3, 366, 394, 395.25, 331.1, 366.2 and 381.1 of the Public Utilities Code of the State of California.

"Community Energy Program Commercial Paper" means Commercial Paper issued by the Authority to establish the Community Energy Program, in the aggregate principal amount not to exceed at any time $10,000,000.

"Costs of Issuance" means all items of expense directly or indirectly payable by or reimbursable to the City relating to the authorization, execution and delivery of this Agreement, the Note and the Letters of Credit, including fees, charges, disbursements and and expenses of attorneys, financial advisors, accounting firms, consultants and other professionals, and fees and charges for the preparation, execution and delivery of this Agreement, the Note and the Letters of Credit. Notwithstanding anything in the foregoing to the contrary, in no event shall the Costs of Issuance exceed an aggregate amount equal to $225,000.

"Credit Extension" means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

"Debt" of any Person means at any date, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business and not more than ninety (90) days past due, (d) all obligations of such Person as lessee under capital leases, (e) all Debt of others secured by a lien on any asset of such Person, whether or not such Debt is assumed by such Person, (f) all Guarantees by such Person of Debt of other Persons and (g) all obligations of such Person under any Swap Contract.

"Debtor Relief Laws" means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.

"Debt Service Coverage Ratio" means, on any date the same is to be determined, the ratio of (i) Net Revenues collected by the City during the four (4) fiscal-quarter period most recently ended on or before such date, to (ii) the Aggregate Annual Debt Service Requirement as of such date.

"Default Rate" means, for any day, a rate of interest per annum equal to the sum of the Prime Rate in effect on such day plus four percent (4.00%).

"Designated Jurisdiction" means any country or territory to the extent that such country or territory itself is the subject of any Sanction.

"Dodd-Frank Act" means the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, as enacted by the United States Congress, and signed into law on July 21, 2010, and all statutes, rules, guidelines or directives promulgated thereunder.

"Dollar" and *"$"* mean lawful money of the United States.

"Effective Date" means November 27, 2018, subject to the satisfaction or waiver by the Bank of the conditions precedent set forth in Section 3.01 hereof.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Event of Default" has the meaning set forth in Section 7.01 of this Agreement.

"Excess Interest" has the meaning specified in Section 2.12 hereof.

"Financing Documents" means this Agreement, the Note and any and all future renewals and extensions or restatements of, or amendments or supplements to, any of the foregoing permitted hereunder and thereunder.

"Fitch" means Fitch Ratings and its successors and assigns.

"FRB" means the Board of Governors of the Federal Reserve System of the United States, together with any successors thereof.

"Full Utilization Date" means December 31, 2019.

"GAAP" has the meaning set forth in Section 1.02 hereof.

"Governmental Authority" means the government of the United States of America or any other nation or any political subdivision thereof or any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or European Central Bank), or any arbitrator, mediator or other Person with authority to bind a party at law.

"Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Debt or other obligation payable or performable by another Person (the *"primary obligor"*) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Debt or other obligation of the payment or performance of such Debt or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Debt or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Debt or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Debt or other obligation of any other Person, whether or not such Debt or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Debt to

obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term *"Guarantee"* as a verb has a corresponding meaning.

"Honor Date" has the meaning set forth in Section 2.03(c) hereof.

"ISP" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

"Interest Payment Date" means each of (i) the first Business Day of each calendar month, (ii) the date on which any principal amount of the related Loan or L/C Obligation, as applicable, is paid or prepaid, for any reason, and (iii) the Commitment Termination Date.

"Laws" means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

"Lending Office" means the office of the Bank to which notices of Borrowings hereunder shall be given by the City and to which payments of amounts due hereunder shall be made, which is set forth in Section 9.01 hereof.

"L/C Credit Extension" means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the increase of the amount thereof.

"L/C Document" means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by the Bank and/or the City relating to such Letter of Credit.

"L/C Obligations" means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.03. For all purposes of this Agreement, if on any date of determination, a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"Letter of Credit" means any standby letter of credit issued hereunder.

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the Bank.

"Letter of Credit Expiration Date" means the earlier of (i) the date on which the Bank declares its obligation to make Credit Extensions terminated under Section 7.02 hereof and (ii) day that is thirty (30) days prior to the Scheduled Termination Date then in effect (or, if such day is not a Business Day, the next preceding Business Day).

"Letter of Credit Fee" has the meaning specified in Section 2.03(g) hereof.

"Letter of Credit Sublimit" means an amount equal to the lesser of (a) $35,000,000 and (b) the Commitment. The Letter of Credit Sublimit is part of, and not in addition to, the Commitment.

"*LIBOR*" means the fluctuating rate of interest per annum equal to the London Interbank Offered Rate (or a comparable or successor rate which is approved by the Bank), as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Bank from time to time) as determined for each Business Day at or about 11:00 a.m., London time, two (2) London Banking Days prior to the date in question, for Dollar deposits with a one-month term, as adjusted from time to time in the Bank's commercially reasonable discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs. If such rate (i) is not available at such time for any reason or if it is unlawful to fund Loans using such rate, then the rate will be a successor rate mutually agreed upon by the City and the Bank, and until such successor rate shall be so agreed upon, the Prime Rate, or (ii) is less than zero, such rate shall be deemed zero for purposes of this Agreement.

"*LIBOR Rate*" means a fully floating rate per annum equal to the sum of LIBOR, plus the Applicable Spread; *provided, however*, that immediately upon the occurrence of an Event of Default (and without the requirement for any notice to be given with respect thereto) and during the continuation of such Event of Default, *"LIBOR Rate"* shall mean the Default Rate.

"LIBOR Reset Date" means the first (1st) Business Day of each calendar month.

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).

"Loan" has the meaning specified in Section 2.01 hereof.

"Loan Facility Scheduled Termination Date" means November 26, 2021.

"Loan Notice" means a notice in writing of a Borrowing pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit B attached hereto, or such other form as may be approved by the Bank (including any form on an electronic platform or electronic transmission system as shall be approved by the Bank), appropriately completed and signed by an Authorized Officer.

"Loan Sublimit" means an amount equal to the lesser of (a) $20,000,000 and (b) the Commitment. The Loan Sublimit is part of, and not in addition to, the Commitment.

"London Banking Day" means any day on which dealings in U.S. Dollar deposits are conducted by and between banks in the London interbank eurodollar market.

"Margin Stock" has the meaning ascribed to such term in Regulation U promulgated by the FRB, as now and hereafter from time to time in effect.

"Material Adverse Effect" means: (a) a material impairment of the ability of the City to perform its obligations (financial or otherwise) under any Financing Document; (b) a material impairment of the ability of the City to pay its obligations as they come due under any one (1) or more Power Purchase Agreements with a notional amount or amounts, in the aggregate, of $20,000,000 or more concurrently outstanding; (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the City of any Financing Document; (d) a material adverse effect upon the legality, validity, binding effect or enforceability against the City of any one (1) or more Power Purchase Agreements with a notional amount or amounts, in the aggregate, of $20,000,000 or more concurrently outstanding that would have a material adverse effect on Net Revenues; or (e) a material adverse effect on the rights, interests, security or remedies of the Bank with respect to this Agreement or any other Financing Document or the Ordinances.

"Maximum Interest Rate" means the maximum rate of interest on the relevant obligation permitted by applicable law, if any.

"Minimum Collateral Amount" means, at any time, with respect to Cash Collateral provided in accordance with the provisions of Section 2.13(a)(i) or 2.13(a)(ii), an amount or stated amount equal to 105% of the Outstanding Amount of all L/C Obligations.

"Moody's" means Moody's Investors Service and its successors and assigns.

"Net Revenues" means, for any period the same is to be determined, the Revenues for such period less all Operation and Maintenance Expenses during such period, including, without limitation, amounts required to be paid by the City pursuant to the terms of Power Purchase Agreements during such period.

"Note" means that certain Note dated the Effective Date of the City, in favor of the Bank, evidencing the outstanding Loans and any Unreimbursed Amounts made by the Bank and substantially in the form of Exhibit A hereto.

"Notice of Loan Prepayment" means a notice of prepayment with respect to a Loan which shall be substantially in the form of Exhibit C or such other form as may be approved by the Bank (including any form on an electronic platform or electronic transmission system as shall be approved by the Bank), appropriately completed and signed by an Authorized Officer.

"Obligations" means the obligations of the City under this Agreement to repay (i) all Loans, all L/C Obligations, and the Note, together with interest thereon, pursuant to and in accordance with this Agreement and the Note, (ii) all fees, and (iii) all expenses and charges payable or reimbursable hereunder to the Bank (including, without limitation, any amounts to reimburse the Bank for any advances or expenditures by it under any of such documents) and all other payment obligations of the City to the Bank arising under or in relation to this Agreement or the other Financing Documents, in each, case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent, and howsoever evidenced, held or acquired.

"OFAC" means the United States Department of Treasury Office of Foreign Assets Control.

"Operation and Maintenance Expenses" means the reasonable and necessary costs paid or incurred by City for maintaining and operating the Community Energy Program, including, without duplication, costs of electric energy and power purchased, costs of transmission and fuel supply, in each case under Power Purchase Agreements, and including all reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Community Energy Program in good repair and working order, and including all administrative costs of City that are charged directly or apportioned to the maintenance and operation of the Community Energy Program, such as salaries and wages of employees, overhead, insurance, taxes (if any) and insurance premiums, and including all other reasonable and necessary costs of the City such as fees and expenses of an independent certified public accountant and consultants, and including City's share of the foregoing types of costs of any electric properties co-owned with others, excluding in all cases depreciation, replacement and obsolescence charges or reserves therefore and amortization of intangibles and extraordinary items computed in accordance with GAAP or other bookkeeping entries of a similar nature and further excluding any repayment obligations under loans to the Community Energy Program from the City or the Authority. Operation and Maintenance Costs shall include all amounts required to be paid by City under take or pay contracts.

"Operating Reserve Account" has the meaning set forth in Section 4.11 hereof.

"Ordinance No. 30028" means that certain Ordinance No. 30028 adopted by the City Council passed for publication of title on the 7th day of November, 2017, and given final reading and adopted by the Council of the City on the 28th day of November, 2017.

"Ordinance No. 30121" means that certain Ordinance No. 30121 passed for publication of title on the 19th day of June, 2018, and given final reading and adopted by the Council of the City on the 26th day of June, 2018.

"Ordinances" means Ordinance No. 30028 and Ordinance No. 30121.

"Other Credit Agreement" means any credit agreement, bank agreement, covenant agreement, purchase agreement, loan agreement or reimbursement agreement to which the City or the Authority is or may hereafter become a party (other than this Agreement) that is secured by or payable from Revenues or Net Revenues, entered into by the City with another Person for the purpose of, or related to, (i) providing working capital or (ii) extending credit to or for the City with respect to any one (1) or more Power Purchase Agreements with a notional amount or amounts, in the aggregate, of $20,000,000 or more concurrently outstanding. Notwithstanding anything in the foregoing to the contrary, in no event shall any agreement between the Community Energy Program and the City and/or the Authority relating to the Community Energy Program Commercial Paper constitue an "Other Credit Agreement."

"Outstanding Amount" means (a) with respect to Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Loans, as the case may be, occurring on such date; and (b) with respect to any L/C Obligations on any date, the aggregate amount of such L/C Obligations on such date after giving effect to any L/C Credit Extension occurring on such date and any other changes in the aggregate amount of the L/C Obligations as of such date, including as a result of any reimbursements by the City of Unreimbursed Amounts.

"Patriot Act" has the same meaning given such term in Section 9.14.

"Permitted Senior Lien" means any Lien on the Revenues for the benefit of a Person solely to secure the payment of amounts payable by the City to such Person pursuant to the terms of any Power Purchase Agreement which is on a basis senior to the Lien securing the Obligations to the Bank hereunder.

"Person" means an individual, a corporation, a partnership, an association, a trust, a Governmental Authority or any other entity or organization of whatever nature.

"PGE" means Pacific Gas and Electric Company, a California corporation.

"PGE Agreement" means that certain Community Choice Aggregator (CCA) Service Agreement by and between the City and PGE, dated March 5, 2018, as the same may be amended and modified from time.

"Potential Event of Default" means any condition or event which, with the giving of notice or lapse of time, or both, would, unless cured or waived, become an Event of Default.

"Power Products" has the meaning set forth in Title 26 of the City's Municipal Code.

"Power Purchase Agreement" has the meaning set forth in Title 26 of the City's Municipal Code.

"Prime Rate" means means, for any day, the rate of interest in effect for such day as publicly announced from time to time by the Bank as its *"prime rate."* The *"prime rate"* is a rate set by the Bank based upon various factors including the Bank's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such rate announced by the Bank shall take effect at the opening of business on the day specified in the public announcement of such change.

"Rating Agencies" means Fitch, Moody's and S&P.

"Regulation D" means Regulation D of the FRB, as in effect from time to time.

"Regulation U" means Regulation U of the FRB, as in effect from time to time.

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates.

"Revenues" means, for any period, all amounts collected and accrued by the City with respect to the Community Energy Program during such period, together with income, earnings and profits therefrom.

"S&P" means S&P Global Ratings and its successors and assigns.

"Sanction(s)" means any international economic sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

"Scheduled Termination Date" means November 27, 2023, or such later date as may be established pursuant to Section 9.04 hereof.

"Start-Up Costs" means all costs and expenses of the Community Energy Program other than (i) Costs of Issuance and (ii) costs of electric energy or power purchased for the Community Energy Program.

"State" means the State of California.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, total return swaps, credit derivative transactions, forward rate transactions, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, cap transactions, floor transactions, collar transactions, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the

terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a *"Master Agreement"*), including any such obligations or liabilities under any Master Agreement. For the avoidance of doubt, "Swap Contracts" shall not include commodity swaps or commodity options.

"Threshold Amount" means (i) from and including the Effective Date to but not including the Full Utilization Date, an amount equal to two million dollars ($2,000,000) and (ii) from and including the Full Utilization Date and at all times thereafter, an amount equal to five million dollars ($5,000,000).

"Total Outstandings" means the aggregate Outstanding Amount of all Loans and L/C Obligations; *provided*, that, for the purpose of calculating the Debt Service Coverage Ratio only, after the Full Utilization Date, Total Oustandings shall include an additional amount equal to the principal amount of all outstanding Debt payable from the Community Energy Program to the City or Authority.

"UCC" means the Uniform Commercial Code in effect in the State of California from time to time.

"UCP" means the Uniform Customs and Practice for Documentary Credits in effect from time to time.

"United States" and *"U.S."* mean the United States of America.

"Unreimbursed Amount" has the meaning specified in Section 2.03(c) hereof.

(c) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms as used in this Agreement or the Note refer to this Agreement or the Note as from time to time amended and supplemented. Any reference herein to a particular Section or Article shall, unless otherwise indicated, refer to the appropriate section or article of this Agreement. Except where the context otherwise requires, words importing the singular number shall include the plural number and vice versa, and words importing persons shall include firms, associations, corporations, districts, agencies and bodies.

Section 1.02. Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with generally accepted accounting principles as in effect from time to time (*"GAAP"*).

Section 1.03. Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; *provided, however*, that with respect to any Letter of Credit that, by its terms or the terms of any L/C Document related thereto, provides for one or more automatic increases

in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

Section 1.04. UCC Terms. Terms defined in the UCC in effect on the Effective Date and not otherwise defined herein shall, unless the context otherwise indicates, have the meanings provided by those definitions. Subject to the foregoing, the term "UCC" refers, as of any date of determination, to the UCC then in effect.

ARTICLE II

THE COMMITMENT

Section 2.01. Loans. Subject to the terms and conditions set forth herein, the Bank agrees to make loans (individually, a *"Loan"* and collectively, the *"Loans"*) to the City from time to time, on any Business Day during the Availability Period, in an aggregate amount not to exceed at any time the lesser of the Loan Sublimit and the Commitment, for the purpose of establishing and furthering the Community Energy Program; *provided, however,* that after giving effect to any Borrowing, the (x) Total Outstandings shall not exceed the Commitment, subject to any reductions thereof pursuant to the terms hereof, and (y) the Outstanding Amount of the Loans shall not exceed the Loan Sublimit; *provided further*, until the Community Energy Program has incurred Debt payable to the City and/or the Authority on a combined basis in an aggregate principal amount equal to $10,000,000, no Loans shall be used, directly or indirectly, to fund Start-Up Costs. Subject to the other terms and conditions hereof, the City may borrow under this Section 2.01, prepay under Section 2.04, and reborrow under this Section 2.01. Each Loan shall bear interest as set forth in Section 2.07 hereof.

Section 2.02. Borrowings of Loans. (a) Each Borrowing shall be made upon the City's irrevocable notice to the Bank, which may be given by (A) telephone or (B) a Loan Notice; *provided* that any telephonic notice must be confirmed immediately by delivery to the Bank of a Loan Notice. Each such Loan Notice must be received by the Bank not later than 4:00 p.m. (New York City time) on the third (3rd) Business Day immediately preceding the requested date of any Borrowing (the *"Borrowing Date"*). Each Borrowing shall be in the principal amount of $250,000 or a whole multiple of $50,000 in excess thereof. Each Loan Notice (whether telephonic or written) shall specify (i) the requested date of the Borrowing (which shall be a Business Day) and (ii) the principal amount of the Loan to be borrowed.

(b) Following receipt of a Loan Notice, upon satisfaction of the applicable conditions set forth in Section 3.02 (and, if such Borrowing is the initial Borrowing, Section 3.01), the Bank shall make the requested funds available to the City by wire transfer of such funds to the City's Account.

(c) The obligation of the City to repay the Loans and L/C Obligations, together with interest thereon, shall be evidenced by this Agreement, and City hereby declares (i) this Agreement to be a "Credit Facility" within the meaning of Chapter 4.40 of Title 4 of the City's

Municipal Code, and (ii) the Bank a "Credit Provider" within the meaning of Chapter 4.40 of Title 4 of the City's Municipal Code.

(d) The Obligations shall be secured and payable in accordance with the provisions of Section 2.14 hereof.

Section 2.03. Letters of Credit.

(a) *The Letter of Credit Commitment.* (i) Subject to the terms and conditions set forth herein, the Bank agrees (A) from time to time on any Business Day during the period from the Effective Date until the Letter of Credit Expiration Date, to issue Letters of Credit in Dollars for the account of the City, and to amend Letters of Credit previously issued by it, in accordance with Section 2.03(b) hereof, and (B) to honor drawings under the Letters of Credit; *provided* that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (x) the Total Outstandings shall not exceed the Commitment and (y) the Outstanding Amount of the L/C Obligations shall not exceed the Letter of Credit Sublimit. Each request by the City for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the City that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, the City's ability to obtain Letters of Credit shall be fully revolving, and accordingly the City may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) The Bank shall not be under any obligation to issue any Letter of Credit if:

(A) the expiry date of the requested Letter of Credit would occur more than twelve (12) months after the date of issuance or last extension, unless the Bank has approved such expiry date;

(B) the expiry date of the requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless the Bank has approved such expiry date;

(C) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the Bank from issuing the Letter of Credit, or any Law applicable to the Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Bank shall prohibit, or request that the Bank refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon the Bank with respect to the Letter of Credit any restriction, reserve or capital requirement (for which the Bank is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon the Bank any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which the Bank in good faith deems material to it;

(D) the issuance of the Letter of Credit would violate one or more policies of the Bank applicable to letters of credit generally;

(E) except as otherwise agreed by the Bank, the Letter of Credit is in an initial stated amount less than $500,000;

(F) the Letter of Credit is to be denominated in a currency other than Dollars; or

(G) the Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder.

(iii) The Bank shall be under no obligation to amend any Letter of Credit if (A) the Bank would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(b) *Procedures for Issuance and Amendment of Letters of Credit.* (i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the City delivered to the Bank in the form of a Letter of Credit Application, appropriately completed and signed by an Authorized Officer of the City. Such Letter of Credit Application may be sent by fax transmission, by United States mail, by overnight courier, by electronic transmission using the system provided by the Bank, by personal delivery or by any other means acceptable to the Bank. Such Letter of Credit Application must be received by the Bank not later than 4:00 p.m. (New York City time) at least five (5) Business Days (or such later date and time as the Bank may agree in a particular instance in its sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the Bank: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; and (H) such other matters as the Bank may require. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to the Bank (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); (3) the nature of the proposed amendment; and (4) such other matters as the Bank may require. Additionally, the City shall furnish to the Bank such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any L/C Documents, as the Bank may require.

(ii) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the Bank will also deliver to the City a true and complete copy of such Letter of Credit or amendment.

(c) *Drawings and Reimbursements.* Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the Bank shall notify the City thereof. Not later than 4:00 p.m. (New York City time) on the date of any payment by the Bank under a Letter of Credit (each such date, an *"Honor Date"*), the City shall reimburse the Bank in

an amount equal to the amount of such drawing. If the City fails to so reimburse the Bank by such time on the Honor Date for such drawing, the amount equal to the amount of the unreimbursed drawing (the "*Unreimbursed Amount*") shall bear interest at the LIBOR Rate. Any notice given by the Bank pursuant to this Section 2.03(c) may be given by telephone if immediately confirmed in writing; *provided* that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(d) *Obligations Absolute*. The obligation of the City to reimburse the Bank for each drawing under each Letter of Credit shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Financing Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the City may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the Bank or any other Person, whether in connection with this Agreement or by such Letter of Credit, the transactions contemplated hereby or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, endorsement, certificate or other document presented under or in connection with such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) waiver by the Bank of any requirement that exists for the Bank's protection and not the protection of the City or any waiver by the Bank which does not in fact materially prejudice the City;

(v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(vi) any payment made by the Bank in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under, such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable;

(vii) any payment by the Bank under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the Bank under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or

any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, the City.

The City shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with the City's instructions or other irregularity, the City will immediately notify the Bank. The City shall be conclusively deemed to have waived any such claim against the Bank and its correspondents unless such notice is given as aforesaid.

(e) *Role of the Bank.* The Bank and the City agree that, in paying any drawing under a Letter of Credit, the Bank shall not have any responsibility to obtain any document (other than any sight or time draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. The City hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; *provided, however*, that this assumption is not intended to, and shall not, preclude the City's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Bank, any of its Related Parties nor any correspondent, participant or assignee of the Bank shall be liable or responsible for any of the matters described in Section 2.03(d) hereof. In furtherance and not in limitation of the foregoing, the Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Bank shall not be responsible for the validity or sufficiency of any instrument transferring, endorsing or assigning or purporting to transfer, endorse or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. The Bank may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication (*"SWIFT"*) message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(f) *Applicability of ISP and UCP; Limitation of Liability.* Unless otherwise expressly agreed by the Bank and the City when a Letter of Credit is issued the rules of the ISP shall apply to each standby Letter of Credit. Notwithstanding the foregoing, the Bank shall not be responsible to the City for, and the Bank's rights and remedies against the City shall not be impaired by, any action or inaction of the Bank required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the Law or any order of a jurisdiction where the Bank or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(g) *Letter of Credit Fees.* The City shall pay to the Bank a Letter of Credit fee (the *"Letter of Credit Fee"*) equal to 1.75% per annum times the daily amount available to be drawn under such Letter of Credit; *provided*, that upon the occurrence, and at all times during the continuation, of an Event of Default, the Letter of Credit Fee shall increase to 5.75% per annum times the daily amount available to be drawn under such Letter of Credit. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.03. Letter of Credit Fees shall be (A) due and payable on the first Business Day of each January, April, July and October, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand and (B) computed on a quarterly basis in arrears. The City shall also be responsible for the fees and miscellaneous handling charges in connection with the issuance of each Letter of Credit as set forth in the related Letter of Credit Application.

(h) *Letter of Credit Application Fee.* Upon the Bank's receipt of any Letter of Credit Application, the Bank shall invoice and the City shall pay to the Bank an application fee of $600 in immediately available funds, which such fee shall be fully earned by the Bank and non-refundable.

(i) *Conflict with City Documents.* In the event of any conflict between the terms hereof and the terms of any L/C Document, the terms hereof shall control.

Section 2.04. Prepayments.

(a) *Optional.* The City may, upon notice to the Bank pursuant to delivery to the Bank of a Notice of Loan Prepayment, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty subject to Section 8.05; *provided* that, unless otherwise agreed by the Bank (A) such notice must be received by Bank not later than 4:00 p.m. (New York City time) five (5) Business Days prior to any date of prepayment and (B) any prepayment of Loans shall be in a minimum principal amount of $1,000,000 or such lesser amount equal to the total outstanding principal amount of such Loan if the total outstanding principal amount thereof is less than $1,000,000. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the City, the City shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of principal shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 8.05.

(b) *Mandatory.*

(i) *Outstandings.* If for any reason at any time the (a) Total Outstandings at any time exceed the Commitment, (b) the L/C Obligations exceed the L/C Sublimit or (c) the Loans exceed the Loan Sublimit, in each case, as applicable, the City shall, without notice, prepay Loans (together with all accrued but unpaid interest thereon) and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; *provided, however,* that the City shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.04(b)(i) unless, after the prepayment of the

Loans, the Total Outstandings exceed the Commitment at such time. For the avoidance of doubt, the Minimum Collateral Amount shall not apply to the Cash Collateral required under this Section 2.04(b)(i) unless an Event of Default has occurred and is continuing.

(ii) *Application of Mandatory Prepayments.* Prepayments made pursuant to this Section 2.04(b), *first,* shall be applied to the outstanding Loans, and, *second,* shall be used to Cash Collateralize the remaining L/C Obligations; and, in the case of prepayments under the Commitment required pursuant to clause (i) of this Section 2.04(b), the amount remaining, if any, after the prepayment in full of all Loans outstanding at such time and the Cash Collateralization of the remaining L/C Obligations in full (the sum of such prepayment amounts, cash collateralization amounts and remaining amount being, collectively, the *"Reduction Amount"*) may be retained by the City for use in the ordinary course of its business. Upon the drawing of any Letter of Credit that has been Cash Collateralized, the funds held as Cash Collateral shall be applied (without any further action by or notice to or from the City that has provided Cash Collateral) to reimburse the Bank.

All prepayments under this Section 2.04(b) shall be subject to Section 8.05, but otherwise without premium or penalty, and shall be accompanied by interest on the principal amount prepaid through the date of prepayment.

Section 2.05. Termination or Reduction of Commitment.

(a) *Optional.* (i) The City may, upon notice to the Bank, terminate the Commitment, the Loan Sublimit or the Letter of Credit Sublimit or from time to time permanently reduce the Commitment, Loan Sublimit or the Letter of Credit Sublimit; *provided* that (i) any such notice shall be received by the Bank not later than 4:00 p.m. (New York City time) five (5) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of $5,000,000 or any whole multiple of $1,000,000 in excess thereof and (iii) City shall not terminate or reduce the (A) Commitment if, after giving effect thereto and to any concurrent prepayments hereunder, the Total Outstandings would exceed the Commitment, (B) Letter of Credit Sublimit if, after giving effect thereto and to any concurrent prepayments or Cash Collateralizations hereunder, the Outstanding Amount of L/C Obligations not fully Cash Collateralized hereunder would exceed the Letter of Credit Sublimit or (C) Loan Sublimit if, after giving effect thereto and to any concurrent prepayments hereunder, the Outstanding Amount of Loans not repaid hereunder would exceed the Loan Sublimit. Failure by the City to designate in the notice required under this Section 2.05(a)(i) whether the Commitment, Loan Sublimit or L/C Sublimit is to be permanently reduced shall be deemed to be a permanent reduction in the Commitment.

(ii) The City hereby agrees to pay to the Bank a Reduction and Termination Fee (as defined below) in connection with any permanent reduction to, or termination or replacement of, the Commitment, the Loan Sublimit or the L/C Sublimit by the City prior to the first (1st) anniversary of the Effective Date, in an amount equal to the product of (1) the applicable Commitment Fee Rate in effect on the date of such permanent reduction or termination or replacement, (2) the amount of such permanent reduction, termination or replacement of the

Commitment, Loan Sublimit or L/C Sublimit, as applicable, and (3) a fraction, the numerator of which is equal to the number of days from and including the date of such termination or replacement to and including the first (1st) anniversary of the Effective Date, and the denominator of which is 360 (the *"Reduction and Termination Fee"*), payable on the date of such termination or replacement; *provided*, that no Reduction and Termination Fee shall be payable by the City if the Commitment is terminated or permanently reduced, as applicable, prior to the first (1st) anniversary of the Effective Date after (i) the Bank requests any amount or amounts necessary to compensate the Bank or its holding company, as the case may be, pursuant to Section 8.01 hereof, (ii) (x) the Bank obtains knowledge of a pending Bail-In Action that the Bank reasonably expects to occur prior to the Scheduled Termination Date or (y) the occurrence of a Bail-In Action or (iii) if the long-term credit rating assigned to the Bank by any of Moody's, Fitch or S&P is reduced below "A3" (or its equivalent) by Moody's, "A-" (or its equivalent) by S&P or "A-" (or its equivalent) by Fitch, respectively.

(b) *Letter of Credit Sublimit.* If after giving effect to any reduction or termination of the Commitment under this Section 2.05, the Letter of Credit Sublimit exceeds the Commitment at such time, the Letter of Credit Sublimit, as the case may be, shall be automatically reduced by the amount of such excess.

Section 2.06. Repayment of Loans. The City shall repay to the Bank, on the earlier of (i) the Loan Facility Scheduled Termination Date and (ii) the Commitment Termination Date, the aggregate principal amount of Loans outstanding on such date, together with accrued interest thereon. Subject at all times to Section 2.13 hereof, the City shall repay to the Bank on the Commitment Termination Date all other Obligations payable hereunder.

Section 2.07. Interest and Default Rate.

(a) *Interest.* Subject to the provisions of subsection (b) below, each Loan shall bear interest on the outstanding principal amount thereof from the applicable Borrowing Date at a rate per annum equal to the LIBOR Rate. The LIBOR Rate shall be effective (i) from the (A) Borrowing Date with respect to any Borrowing and (B) Honor Date with respect to any Unreimbursed Amount of L/C Obligations, in each case to but not including the immediately succeeding LIBOR Reset Date and (ii) thereafter, be effective for the period from and including the immediately succeeding LIBOR Reset Date to but not including the next succeeding LIBOR Reset Date.

(b) *Default Rate.* (i) While any Event of Default exists, the City shall pay interest on all outstanding obligations of the City hereunder (including, without limitation, all Loans) at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.

(ii) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(c) *Interest Payments.* Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein.

Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any bankruptcy or insolvency proceeding.

Section 2.08. Fees.

(a) *Commitment Fee.* The City shall pay to the Bank a commitment fee (the "*Commitment Fee*") equal to the sum of:

(i) an amount equal to the product of (A) the Commitment Fee Rate applicable to the Bank's obligation to make Loans to the City pursuant to Section 2.01 hereof and (B) the greater of (x) zero and (y) the lesser of the Loan Sublimit and $15,000,000, as applicable, *less* all Loans outstanding and

(ii) an amount equal to the product of (A) the Commitment Fee Rate applicable to the Bank's obligation to issue Letters of Credit for the account of the City pursuant to Section 2.03 hereof and (B) the greater of (x) zero and (y) the lesser of the L/C Sublimit and $35,000,000, as applicable, *less* all L/C Obligations outstanding,

in each case as from time to time in effect and computed on the basis of a year of 360 days and the actual number of days elapsed. For the avoidance of doubt, the Commitment Fee shall not apply to the Outstanding Amount of Loans or the amount available to be drawn under outstanding Letters of Credit. The Commitment Fee shall accrue at all times during the Availability Period, including at any time during which one or more of the conditions in Article III is not met, and shall be due and payable within thirty (30) calendar days of the first Business Day of each January, April, July and October commencing with the first such date to occur after the Effective Date, and on the Commitment Termination Date. The Commitment Fee shall be calculated quarterly in arrears, and if there is any change in the Commitment Fee Rate during any quarter, the daily actual amount shall be computed and multiplied by the Commitment Fee Rate separately for each period during such quarter that each such Commitment Fee Rate was in effect. The Bank shall provide an invoice to the City stating the Commitment Fees due for each quartlery period in arrears on the first Business Day of each January, April, July and October.

(b) *Amendment Fees.* The City hereby agrees to pay to the Bank, on the date of each amendment to this Agreement or any other Financing Document, a non-refundable fee equal $5,000, plus, in each case, the reasonable fees and expenses of counsel to the Bank in an amount to be agreed upon by the parties prior to the making of such amendment. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

(c) *California Debt and Investment Advisory Commission Fees.* On or before the thirtieth (30th) day immediately following the Effective Date, the City shall have reimbursed the Bank for the fees paid by the Bank to the California Debt and Investment Advisory Commission in connection with this Agreement, if any.

(d) *Other Fees.* The City shall pay to the Bank such other fees as set forth in Sections 2.03(a), 2.03(h), 8.02(a) and 9.03 hereof and all other fees provided for in this

Agreement. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

Section 2.09. Computation of Interest and Fees. All computations of fees and interest shall be made on the basis of a year of three hundred sixty (360) days, and actual days elapsed. Interest shall accrue on each Loan (including any Unreimbursed Amount of an L/C Obligation deemed to be a Loan under Section 2.03(c) hereof) for the day on which such Loan is made, and shall not accrue for the day on which the Loan or such portion is paid, *provided* that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.11(a), bear interest for one day. Each determination by the Bank of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

Section 2.10. Evidence of Debt. The Borrowings made from the Bank shall be evidenced by one or more accounts or records maintained by the Bank in the ordinary course of business. The accounts or records maintained by the Bank shall be conclusive absent manifest error of the amount of the Borrowings made from the Bank by the City and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the City hereunder to pay any amount owing with respect to the Obligations. The Loans shall be evidenced by the Note to be issued on the Effective Date, initially registered in the name of, and payable to, the Bank and otherwise duly completed. The Bank may attach schedules to the Note and endorse thereon the date, amount and maturity of Loans and payments with respect thereto.

Section 2.11. Payments. All payments to be made by the City shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. If any payment to be made by the City shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be. All payments hereunder to the Bank shall be made by wire transfer of funds to the following account: Barclays Bank PLC, ABA #026002574, Account #050019104, Reference: City of San Jose Clean Energyor as otherwise set forth in the invoice from the Bank for such payment.

Section 2.12. Maximum Interest Rate. If the rate of interest payable hereunder shall exceed the Maximum Interest Rate for any period for which interest is payable, then, to the extent permitted by law, (a) interest at the Maximum Interest Rate shall be due and payable with respect to such interest period, and (b) interest at the rate equal to the difference between (i) the rate of interest calculated in accordance with the terms hereof and (ii) the Maximum Interest Rate (the *"Excess Interest"*), shall be deferred until such date as the rate of interest calculated in accordance with the terms hereof ceases to exceed the Maximum Interest Rate, at which time City shall pay to the Bank, with respect to amounts then payable to the Bank that are required to accrue interest hereunder, such portion of the deferred Excess Interest as will cause the rate of interest then paid to the Bank to equal the Maximum Interest Rate, which payments of deferred Excess Interest shall continue to apply to such unpaid amounts hereunder until the earlier of (i) the date of payment in full of all obligations of the City hereunder (other than Excess Interest which has not been recaptured) and on which this Agreement is no longer in effect, and (ii) the date on which all deferred Excess Interest is fully paid to the Bank. Notwithstanding the

foregoing, on the date on which no obligation of the City hereunder remains unpaid, to the extent permitted by law, the City shall pay to Bank a fee equal to any accrued and unpaid Excess Interest.

Section 2.13. Cash Collateral.

(a) *Certain Credit Support Events.* If (i) as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, or (ii) the City shall be required to provide Cash Collateral pursuant to the terms hereof, the City shall immediately following any request by the Bank, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount except as otherwise provided for herein. Additionally, if the Bank notifies the City at any time that the Outstanding Amount of all L/C Obligations at such time exceeds the Letter of Credit Sublimit then in effect, then within ten (10) Business Days after receipt of such notice, the City shall provide Cash Collateral for the Outstanding Amount of the L/C Obligations in an amount not less than the amount by which the Outstanding Amount of all L/C Obligations exceeds the Letter of Credit Sublimit.

(b) *Grant of Security Interest.* The City hereby grants to (and subjects to the control of) the Bank and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as Cash Collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.13(c). If at any time the Bank determines in good faith that Cash Collateral is subject to any right or claim of any Person other than the Bank, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the City will, promptly upon demand by the Bank, pay or provide to the Bank additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in one or more blocked, non-interest-bearing deposit accounts at the Bank. The City shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) *Application.* Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.13 or Sections 2.03, 2.05 or 9.01 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.

(d) *Release.* Cash Collateral (or the appropriate portion thereof) provided to secure obligations shall be released promptly following the determination by the Bank that there exists excess Cash Collateral; *provided, however,* (A) any such release shall be without prejudice to, and any disbursement or other transfer of Cash Collateral shall be and remain subject to, any other Lien conferred under the Financing Documents and the other applicable provisions of the Financing Documents, and (B) the Person providing Cash Collateral and the Bank may agree that Cash Collateral shall not be released but instead held to support future anticipated obligations.

Section 2.14. Payment and Security for Obligations. (a) The Obligations of the City under this Agreement shall be limited obligations, payable solely from the Revenues and amounts on deposit in the Operating Reserve Account.

(b) As security for the Obligations, the City hereby grants to the Bank a (i) pledge of and lien on Revenues subject only to amounts required to be paid by the City pursuant to the terms of the Power Purchase Agreements, which shall not be subject to such Lien, and any Permitted Senior Liens and (ii) pledge of and first-priority lien on all investment property, securities entitlements and money in the Operating Reserve Account.

(c) The pledge created pursuant to paragraph (b) of this Section 2.14 is created in accordance with and pursuant to the provisions of Title 4 of the City's Municipal Code.

(d) Subject to the requirements and limitations of applicable Law and taking into account other available money specifically authorized by the City Council and allocated and appropriated to the payment of Obligations, the City agrees that it will take such actions, including, without limitation, under the PGE Agreement, as are necessary or required so as to enable the City to include (and collect) in the invoices of PGE all amounts necessary to timely pay to the Bank the Obligations when due.

ARTICLE III

CONDITIONS PRECEDENT TO BORROWINGS

Section 3.01. Conditions to Initial Borrowing; Authority; Enforceability. This Agreement shall become binding on the parties hereto upon the satisfaction of the following conditions precedent (all Financing Documents and other documents to be delivered to the Bank pursuant to this Section 3.01 shall be subject to prior approval as to form and substance by the Bank, with delivery by the Bank of its signature page to this Agreement evidencing the Bank's acknowledgement that the conditions set forth in this Section 3.01 have been satisfied, unless otherwise waived in writing):

(a) receipt by the City and the Bank of counterparts hereof signed by each of the parties hereto;

(b) receipt by the Bank of an opinion of Jones Hall, A Professional Law Corporation, counsel to the City, in a form satisfactory to the Bank, covering such matters relating to the transactions contemplated hereby or by the Financing Documents as the Bank may reasonably request;

(c) receipt by the Bank of copies of resolutions of the City authorizing the execution, delivery and performance of this Agreement and the Note and the consummation of the transactions contemplated hereby;

(d) receipt by the Bank of executed copies of each Financing Document and certified copies of each of the Ordinances and the PGE Agreement;

(e) receipt by the Bank of a certificate of an Authorized Officer certifying that (i) each of the City's representations and warranties contained in Article IV hereof is true and correct on and as of the date of such certificate and (ii) no Potential Event of Default or Event of Default has occurred and is continuing;

(f) receipt by the Bank of a certificate of an Authorized Officer certifying as to the authorization and signatures of the officers of the City who are authorized to execute and deliver this Agreement and the Note;

(g) receipt by the Bank of a Form W-9 duly executed by the City;

(h) receipt by the Bank of all unaudited financials of the Community Energy Program prepared prior to the Effective Date, if any;

(i) the City shall have entered into at least two (2) Power Purchase Agreements on or prior to the Effective Date, and the Bank shall have received certified copies of each Power Purchase Agreement in effect as of the Effective Date; and

(j) receipt by the Bank of all opinions, certificates and other documents it may reasonably request relating to the existence of the City, the authority for and the validity of this Agreement and each other Financing Document, and any other matters relevant hereto or thereto, all in form and substance satisfactory to the Bank.

Section 3.02. Conditions to All Credit Extensions. The obligation of the Bank to honor any request for a Credit Extension is subject to the following conditions precedent:

(a) The representations and warranties of the City contained in each of Article IV hereof, and which are contained in any document furnished at any time under or in connection herewith or therewith, shall in each case be true and correct on and as of the date of such Credit Extension, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they shall be true and correct as of such earlier date.

(b) No Potential Event of Default or Event of Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds thereof.

(c) The Bank shall have received a Loan Notice or Letter of Credit Application, as applicable, in accordance with the terms, conditions and requirements hereof.

(d) After giving effect to the proposed Credit Extension, the Total Outstandings shall not exceed the Commitment and, for any Credit Extension to occur on

or after the fourth (4th) anniversary of the Effective Date, the City shall be in compliance with Section 5.14(b) hereof on a *pro forma* basis giving effect to such Credit Extension.

(e) Such Credit Extension shall not violate any order, judgment or decree of any court or authority of competent jurisdiction or any provision of law as then in effect.

(f) The Bank shall have received, in form and substance satisfactory to it, such other assurances, certificates, documents or consents related to the foregoing as the Bank reasonably may require.

Each Loan Notice, application for any Letter of Credit and application for amendment to a Letter of Credit submitted by the City shall be deemed to be a representation and warranty that the conditions specified in Sections 3.02(a) and (b) hereof have been satisfied on and as of the date of the applicable Borrowing.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF THE CITY

City hereby represents and warrants as follows:

Section 4.01. Organization, Powers, Etc. The City (a) is a political subdivision of the State validly organized and existing under and by virtue of the laws of the State and (b) has full power and authority to execute (or adopt, as the case may be), deliver and perform its obligations under this Agreement and the other Financing Documents and to borrow hereunder. The Community Energy Program is an "Electric Service Provider" under the Community Energy Aggregation Act and has the full power and authority to offer electrical service to customers within its service territory. Except for all permits, licenses and approvals for the operation of the Community Energy Program yet to be obtained, the City is qualified to operate the Community Energy Program in each jurisdiction in which the nature of the business conducted by it makes such qualification necessary and has full power and authority to own its properties and carry on its business as now conducted. The City has duly adopted the Ordinances, and the Ordinances together with the relevant provisions of the City's Municipal Code affected thereby remain in full force and effect on the Effective Date.

Section 4.02. Authorization, Absence of Conflicts, Etc. The execution, delivery and performance of this Agreement and the other Financing Documents and the making of the Borrowings and the issuance of Letters of Credit as contemplated hereunder (a) have been duly authorized by the City, (b) do not and will not conflict with, or result in a violation of, any provision of law, including the Community Energy Aggregation Act, the City's Municipal Code or any order, rule or regulation of any court or Governmental Authority and (c) do not and will not conflict with, result in a violation of or constitute a default under, the Community Energy Aggregation Act and the City's Municipal Code, or any other ordinance, resolution, agreement or instrument to which the City is a party or by which the City or any of its property is bound.

Section 4.03. Governmental Consent or Approval. The execution, delivery and performance of this Agreement and the other Financing Documents and the making of the Borrowings contemplated hereunder do not and will not require registration with, or the consent or approval of, or any other action by, any Governmental Authority other than those which have been made or given and are in full force and effect.

Section 4.04. Binding Obligation. This Agreement and the other Financing Documents are legal, valid and binding obligations of the City, enforceable against the City in accordance with their respective terms except as enforcement thereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and subject to equitable principles in the event that equitable remedies are sought.

Section 4.05. Litigation. Except as disclosed in writing to the Bank prior to the Effective Date, there is no action or investigation pending with service of process accomplished against the City or, to the knowledge of the City Attorney or City Manager, threatened in writing against the City or the Community Energy Program before any court, administrative agency or arbitrator which (i) in the reasonable opinion of the City Attorney is with merit and if determined adversely would have a Material Adverse Effect or (ii) relates to the execution, delivery, validity, enforceability or performance by the City of any Financing Document or the validity of the Ordinances.

Section 4.06. Financial Condition. The audited financial statements of the City for the fiscal year ended June 30, 2017, plus the unaudited quarterly statements for each of the City and the Community Energy Program, if any, for the current fiscal year, copies of which have been furnished to the Bank have been prepared in conformity with GAAP (except as noted therein) and fairly present, in all material respects, the financial condition of the City and the Community Energy Program, as applicable, as of the dates thereof and there has been no material adverse change in the business or affairs of the City and the Community Energy Program, as applicable, since the date the last such report was so furnished to the Bank.

Section 4.07. Power Purchase Agreements; PGE Agreement. (a) *Power Purchase Agreement.* Each Power Purchase Agreement executed and delivered on or prior to the Effective Date, constitutes a legal, valid and binding agreement of the City, enforceable against the City according to its terms except as enforcement thereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and subject to equitable principles in the event that equitable remedies are sought.

(b) *PGE Agreement.* The PGE Agreement constitutes a legal, valid and binding agreement of the City, enforceable against the City according to its terms except as enforcement thereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and subject to equitable principles in the event that equitable remedies are sought.

Section 4.08. Amendments. None of the Financing Documents have been amended except by such amendments or supplements as have been delivered to the Bank prior to the

execution of this Agreement. The Ordinances have not been amended, supplemented, modified, rescinded or repealed and remain in full force and effect as of the date hereof.

Section 4.09. Security. (a) The Obligations of the City under this Agreement are limited obligations, payable solely from the Revenues and amounts on deposit in the Operating Reserve Account.

(b) The Obligations are secured by (i) a pledge of and lien on Revenues subject only to amounts required to be paid by the City pursuant to the terms of the Power Purchase Agreements, which shall not be subject to such Lien, and any Permitted Senior Liens (ii) a valid and enforceable first-priority pledge of and lien on all investment property, securities entitlements and money held in the Operating Reserve Account, in each case in favor of the Bank.

(c) The pledge created pursuant to Section 2.14(b) of this Agreement is created in accordance with and pursuant to the provisions of Title 4 of the City's Municipal Code and.

(d) Subject to the requirements and limitations of applicable Law and taking into account other available money specifically authorized by the City Council and allocated and appropriated to the payment of Obligations, the City has taken such actions, including, without limitation, under the PGE Agreement, as are necessary or required so as to enable the City to include (and collect) in the invoices of PGE all amounts necessary to timely pay to the Bank any Obligations when due.

Section 4.10. No Defaults. No default by the City has occurred and is continuing in the payment of the principal of or premium, if any, or interest on any Debt that is secured by or payable from Revenues including, without limitation, regularly scheduled payments on Swap Contracts. No bankruptcy, insolvency or other similar proceedings pertaining to the City or any agency or instrumentality of the City are pending or presently contemplated. No Potential Event of Default or Event of Default has occurred and is continuing hereunder. No "default" or "event of default" has occurred and is continuing by the City under and as defined in (i) any of the other Financing Documents or (ii) any one (1) or more Power Purchase Agreements with a notional amount or amounts, in the aggregate, of $20,000,000 or more concurrently outstanding. The City is not presently in default under any material agreement to which it is a party which could reasonably be expected to have a Material Adverse Effect. The City is not in violation of any material term of the organizational documents or authorizing legislation applicable to the City or any material term of any bond indenture or agreement to which it is a party or by which any of its Property is bound which could reasonably be expected to result in a Material Adverse Effect.

Section 4.11. Operating Reserve Account. The City has created a deposit account identified in Schedule 4.11 attached hereto (the *"Operating Reserve Account"*) and such account is and shall at all times be maintained and segregated from all other funds and accounts of the City.

Section 4.12. No Violation of Maximum Interest Rate. Neither this Agreement nor the Note provide for any payments that would violate any applicable law regarding permissible maximum rates of interest.

Section 4.13. No Proposed Legal Changes. Except as disclosed in writing to the Bank prior to the Effective Date, there is no (i) amendment, or to the best knowledge of the City, proposed amendment certified for placement on a statewide ballot, to the Constitution of the State or any published administrative interpretation of the Constitution of the State or any State law, or any proposition or referendum (or proposed proposition or referendum) or other ballot initiative or any legislation that has passed either house of the State legislature, or any published judicial decision interpreting any of the foregoing, or (ii) ordinance of the City or any proposition or referendum (or proposed proposition or referendum) or other ballot initiative or any legislation that has passed the City Council, or any published judicial decision interpreting any of the foregoing, in each case, the effect of which could reasonably be expected to adversely affect the validity, enforceability, security for, or priority of payment of the Obligations or the ability of the City to perform its obligations under this Agreement or the other Financing Documents to which the City is a party.

Section 4.14. Compliance. The City is in substantial compliance with all laws, ordinances, orders, rules and regulations applicable to it, except to the extent noncompliance could not reasonably be expected to have a material adverse effect on the operations of the City or which might materially adversely affect the ability of the City to comply with its obligations hereunder or under the other Financing Documents to which it is a party or in connection with the transactions contemplated hereby or thereby.

Section 4.15. Environmental Laws. The City has not received notice to the effect that its operations are not in compliance with any of the requirements of applicable federal, state or local environmental, health and safety statutes and regulations or are the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which non-compliance or remedial action could reasonably be expected to result in a material adverse effect with respect to the assets, financial condition, properties, business or operations of the City, the performance of the obligations of the City under this Agreement or the other Financing Documents to which the City is a party or the security for, or priority of payment of, the Obligations.

Section 4.16. Margin Stock. The City is not engaged in the business of extending credit for the purpose of purchasing or carrying Margin Stock, and no portion of the proceeds of any Loan will be used to purchase or carry any such Margin Stock or to extend credit to others for the purpose of purchasing or carrying any such Margin Stock.

Section 4.17. Taxes. The City has filed all Federal, state and other material tax returns and reports required to be filed with respect to the Community Energy Program, the non-filing of which could reasonably be expected to result in a Material Adverse Effect, and has paid all Federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon the Community Energy Program or the City's properties, income or assets related to the Community Energy Program otherwise due and payable, except those which are

being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against the City with respect to the Community Energy Program that would, if made, have a Material Adverse Effect.

Section 4.18. ERISA. The City does not maintain or contribute to, and has not maintained or contributed to, any "employee benefit plans" that are subject to Title IV of ERISA.

Section 4.19. Incorporation of Representations and Warranties by Reference. The City hereby makes to the Bank the same representations and warranties as are set forth by it in each Financing Document (in the form existing on the date of execution and delivery hereof) to which it is a party, which representations and warranties, as well as the related defined terms contained therein, are hereby incorporated herein by reference for the benefit of the Bank with the same effect as if each and every such representation and warranty and defined term were set forth herein in its entirety and were made as of the date hereof. No amendment to such representations and warranties or defined terms made pursuant to any Financing Document shall be effective to amend such representations and warranties and defined terms as incorporated by reference herein without the prior written consent of the Bank.

Section 4.20. Immunity. The City is not entitled to raise the defense of immunity (whether sovereign, governmental or otherwise) in connection with any legal proceedings to enforce or collect upon the obligations of the City under this Agreement or the transactions contemplated hereby, including, without limitation, the payment of the Obligations; *provided,* however, that the procedural requirements applicable to commencing an action and exercising remedies against the City differ from those provisions and requirements applicable to individuals and non-governmental entities.

Section 4.21. Anti-Terrorism Laws. The City is not in violation of any Laws relating to terrorism or money laundering (*"Anti-Terrorism Laws"*), including Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (the *"Executive Order"*), and the Patriot Act.

The City is not any of the following:

(i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, the Executive Order;

(iii) a Person with which the Bank is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law;

(iv) a Person that commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; or

(v) a Person that is named as a "specially designated national and blocked person" on the most current list published by the Office of Foreign Asset Control (*"OFAC"*) or any list of Persons issued by OFAC pursuant to the Executive Order at its official website or any replacement website or other replacement official publication of such list.

Section 4.22. No Existing Right to Accelerate. No Person, including, without limitation, any credit facility provider or liquidity provider, either of which provides credit enhancement or liquidity support to any Debt of the City that is secured by or payable from Net Revenues, or any holder of Debt of the City that is secured by or payable from Net Revenues, has a right under any resolution, indenture, or supplemental indenture relating to any such Debt of the City or under any other document or agreement relating to any Debt of the City, to cause an acceleration of such Debt, or to otherwise declare the principal of and interest on any such Debt to be immediately due and payable, prior to its maturity.

ARTICLE V

AFFIRMATIVE COVENANTS OF THE CITY

City agrees that, so long as the Bank has any Commitment hereunder or any amount payable hereunder remains unpaid:

Section 5.01. Reports, Certificates and Other Information.

(a) *Notice of Default.* Promptly upon any Authorized Officer obtaining knowledge of the occurrence of a Potential Event of Default or Event of Default or notice thereof, and in any event within ten (10) days thereafter, the City will provide to the Bank the written statement of an Authorized Officer setting forth in reasonable detail the nature of such event and the action which the City proposes to take with respect thereto;

(b) *Annual Reports.* Within two hundred seventy (270) days after the end of each fiscal year of the City, the City will deliver to the Bank financial statements (which delivery shall be deemed to have occurred upon such financial statements becoming available at http://www.sanjosecleanenergy.org/) consisting of a statement of net position of the Community Energy Program as at the end of such fiscal year and a statement of revenues and expenses and a statement of cash flows of the Community Energy Program for such fiscal year, together with all in reasonable detail and accompanied by an unqualified opinion of a nationally recognized independent certified public accounting firm stating that such financial statements have been prepared in accordance with GAAP consistently applied, accompanied by a letter from an Authorized Officer addressed to the Bank, substantially in the form of Exhibit D hereto, (x) stating that no Potential Event of Default or Event of Default has occurred, or if such an event has occurred, indicating the nature of such event and the action which the City proposes to take with respect thereto and (y) demonstrating compliance with Sections 5.14 and 5.15 hereof as of the end of such fiscal year;

(c) *Quarterly Reports*. Within forty five (45) days after the end of each fiscal quarter of the City, the City will deliver to the Bank (i) financial statements (which delivery shall be deemed to have occurred upon such financial statements becoming available at http://www.sanjosecleanenergy.org/ and notice of such posting having been provided to the Bank) consisting of a statement of net position of the Community Energy Program as at the end of such fiscal quarter and a statement of revenues and expenses and a statement of cash flows of the Community Energy Program for such fiscal year, (ii) the aggregate principal amount of Community Energy Program Commercial Paper outstanding on such date and (iii) statistics on number of consumers enrolled in Community Energy and energy-usage statistics therefor, the foregoing together accompanied by a letter from an Authorized Officer addressed to the Bank, substantially in the form of Exhibit D attached hereto, (x) stating that no Potential Event of Default or Event of Default has occurred, or if such an event has occurred, indicating the nature of such event and the action which the City proposes to take with respect thereto and (y) demonstrating compliance with Sections 5.14 and 5.15 hereof as of the end of such fiscal quarter;

(d) *Notice of Adverse Change*. As soon as possible after an Authorized Officer acquires knowledge of the occurrence thereof, the City will notify the Bank of (i) the filing of a complaint against the City involving the Community Energy Program with service of process completed in any court or administrative agency, where the amount claimed is in excess of the Threshold Amount, or (ii) any other event which, in the reasonable judgment of the City, is likely to have a Material Adverse Effect;

(e) *Power Purchase Agreement Defaults*. Promptly upon any Authorized Officer obtaining knowledge of the occurrence of (i) an event of default or notice thereof or (ii) any condition or event which, with the giving of notice or lapse of time, or both, would, unless cured or waived, become an event of default, in each case, caused by the City under any one (1) or more Power Purchase Agreements with a notional amount or amounts, in the aggregate, of $20,000,000 or more concurrently outstanding, and in any event within five (5) days thereafter, the City will provide to the Bank the written statement of an Authorized Officer setting forth the reasonable detail of such event and the action which the City proposes to take with respect thereto;

(f) *Operating Reserve*. Within fifteen (15) days after the end of each calendar month after the Full Utilization Date, the City shall provide the Bank with a statement indicating the amount of funds on deposit in the Operating Reserve Account; and

(g) *Other Information*. The City will provide to the Bank such other information respecting the business, affairs, financial condition or operations of the City, as the Bank may from time to time reasonably request.

Section 5.02. Inspections; Discussion. The City will permit the Bank, or its representatives, at any reasonable time during normal business hours and from time to time at the request of the Bank and at its expense (to the extent that City has the legal ability to permit access thereto): to visit and inspect the properties of the City relating to the operations of the Community Energy Program; to examine and make copies of and take abstracts from the records

and books of account of the City with respect to the Community Energy Program; and to discuss the affairs, finances and accounts of the City with the appropriate officers of the City; *provided, however,* that if required by the City, the Bank shall, as a condition to being permitted by the City to make or conduct any such visit, inspection, examination or discussion, certify to the City that the same is being made or conducted solely in order to assist the Bank in evaluating its Commitment. The Bank agrees that all information obtained by it as a result of any such visit, inspection, examination or discussion is confidential and, except as otherwise provided in Section 9.06 hereof, shall not be made public or divulged to third parties, except with the prior written consent of the City or as compelled by law.

Section 5.03. Reserved.

Section 5.04. Preservation of Pledge. The City will take any and all actions necessary or reasonably requested by the Bank to maintain the pledge described in Sections 2.14 and 4.09 hereof.

Section 5.05. Taxes and Liabilities. The City will pay all its indebtedness and obligations promptly and in accordance with their terms and pay and discharge or cause to be paid and discharged promptly all taxes, assessments and governmental charges or levies imposed upon it or upon its income and profits, or upon any of its property, real, personal or mixed, or upon any part thereof, before the same shall become in default, except those indebtednesses, obligations, taxes, assessments or governmental charges or levies which the City shall in good faith contest by proper legal proceedings if the City shall in all such cases have set aside on its books adequate (in City's sole discretion) reserves with respect thereto.

Section 5.06. Ratings. The City will at all times maintain at least one long-term, unenhanced rating on its general-obligation bonded indebtedness by any of Moody's or S&P.

Section 5.07. Incorporation of Covenants. The covenants of the City set forth in each of the other Financing Documents to which the City is a party are hereby incorporated by reference in this Agreement for the benefit of the Bank. To the extent that any such incorporated provision permits any Person to waive compliance with or consent to such provision or requires that a document, opinion, report or other instrument or any event or condition be acceptable or satisfactory to any Person, for purposes of this Agreement, such compliance shall be waived, or such provision shall be consented to, only if it is waived or consented to, as the case may be, by the Bank and such document, opinion, report or other instrument shall be acceptable or satisfactory to the Bank. No amendment to such covenants (or the defined terms relating thereto) made pursuant to the Financing Documents shall be effective to amend such incorporated covenants without the prior written consent of the Bank.

Section 5.08. Disclosure to Participants. The City shall permit the Bank to disclose any information received by the Bank in connection herewith including, without limitation, the financial information described in Section 5.01 hereof, to any participant or assignee as described in Section 9.05 hereof.

Section 5.09. Further Assurances. From time to time hereafter, the City will execute and deliver such additional instruments, certificates or documents, and will take all such actions as the Bank may reasonably request, for the purposes of implementing or effectuating the provisions of the Financing Documents and this Agreement or for the purpose of more fully perfecting or renewing the rights of the Bank with respect to the rights, properties or assets subject to such documents (or with respect to any additions thereto or replacements or proceeds thereof or with respect to any other property or assets hereafter acquired by the City which may be deemed to be a part thereof).

Section 5.10. Existence, Etc. City will maintain its existence and the existence of the Community Energy Program. The City will preserve and keep in force and effect all licenses, permits, franchises and qualifications necessary to the proper conduct of its operations and the operations of the Community Energy Program. The City will not amend any organizational document or any agreement governing the operations or management of the City or the Community Energy Program in a manner that could reasonably be expected to result in a Material Adverse Effect.

Section 5.11. Maintenance of Properties. To the extent necessary to maintain the financial condition of the Community Energy Program, the City will maintain, preserve and keep its property in good repair, working order and condition (ordinary wear and tear excepted).

Section 5.12. No Different or More Restrictive Terms. The City shall not, directly or indirectly, enter into or otherwise consent to any Other Credit Agreement, which such Other Credit Agreement provides the counterparty thereto with additional or more restrictive events of default than are provided to the Bank in this Agreement without the prior written consent of the Bank.

Section 5.13. Application of Loan Proceeds. The City shall use Credit Extensions (i) in the case of Letters of Credit, to secure payments due under Power Purchase Agreements, (ii) in the case of Loans, to purchase energy for the Community Energy Program and to secure payments due under Power Purchase Agreements, (iii) also in the case of Loans, for payment of Start-Up Costs related to the Community Energy Program in an amount not to exceed $5,000,000, and (iv) to pay Costs of Issuance; *provided*, that in no event shall any portion of any Credit Extension be used to pay, or in the case of Letters of Credit, to support, the principal of or interest on Commercial Paper or any other Debt payable from the Community Energy Program to the City.

Section 5.14. Debt Service Coverage Ratio. (a) Commencing with the fiscal quarter ended March 31, 2020 and as of the last day of each fiscal quarter ended thereafter, the Debt Service Coverage Ratio shall be not less than 2.00 to 1.

(b) For each date of any proposed Credit Extension, the Debt Service Coverage Ratio shall be not less than 2.00 to 1 on each such date.

Section 5.15. Operating Reserve Requirement. From and including: (a) August 31, 2019, to but excluding November 15, 2019, the City shall at all times during such period maintain not

less than $10,000,000 in the Operating Reserve Account; (b) November 15, 2019, to but excluding the Full Utilization Date, the City shall at all times during such period maintain not less than $15,000,000 in the Operating Reserve Account; and (c) the Full Utilization Date and thereafter, the City shall at all times maintain $20,000,000 in the Operating Reserve Account.

Section 5.16. Operating Reserve Account. The City shall (i) maintain the Operating Reserve Account at all times; (ii) deposit all Net Revenues into the Operating Reserve Account to the extent necessary to comply with Section 5.15 hereof; and (iii) segregate the Operating Reserve Account and amounts on deposit therein from all other funds and accounts of the City.

ARTICLE VI

NEGATIVE COVENANTS OF THE CITY

City agrees that, so long as the Commitment is outstanding hereunder or any amount payable hereunder remains unpaid, it will not:

Section 6.01. Compliance with Laws, Etc. Violate any Laws, rules, regulations, or governmental orders to which it is subject, which violation involves a reasonable likelihood of having a Material Adverse Effect.

Section 6.02. Other Debt. Incur, assume or permit to exist any (i) Debt with a claim to payment from the Net Revenues without written consent of the Bank or (ii) Debt payable from the Community Energy Program to the City or the Authority that would exceed an aggregate principal amount of $10,000,000.

Section 6.03. Amendments. Except as otherwise permitted herein or expressly consented to in writing by the Bank, (i) consent or agree to, or permit any rescission of or amendment to, or otherwise take any action under or in connection with any one (1) or more Power Purchase Agreements (x) each with product delivery term(s) on an individual basis of more than one hundred eighty (180) days and (y) with a notional amount or amounts, in the aggregate, of $20,000,000 or more concurrently outstanding that is reasonably expected to have a material adverse effect on Net Revenues; (ii) consent or agree to or permit any rescission of or amendment to or otherwise take any action under or in connection with the PGE Agreement which will in any manner materially impair or materially adversely affect the rights of the City thereunder or the City's ability to pay any of its obligations owed to the Bank hereunder or the security for the Obligations hereunder; (iii) agree to the amendment of any document such that the security for or payments hereunder are materially impaired or reduced or the security for or priority of the Obligations is materially adversely affected; or agree to any amendment of any document which will materially adversely affect City's ability to pay any of the Obligations hereunder or the security for the Obligations hereunder or the rights or obligations of the Bank in respect thereof; or (iv) amend the City's Municipal Code, by ordinance or any other way, in any way which would have a Material Adverse Effect.

Section 6.04. Waiver of Immunity. Assert or claim the defense of immunity (whether sovereign, governmental or otherwise) in connection with any legal proceedings to enforce or collect upon the obligations of the City under this Agreement or the transactions contemplated hereby or thereby, including, without limitation, the payment of the Obligations; *provided*, however, that the procedural requirements applicable to commencing an action and exercising remedies against the City differ from those provisions and requirements applicable to individuals and non-governmental entities.

Section 6.05. Offering Documents. Refer to the Bank in any offering document or make any changes in reference to the Bank in any offering document without the Bank's prior written consent thereto.

Section 6.06. Liens on Revenues or Operating Reserve Account. Create, suffer to exist or permit (i) any Lien on the Revenues other than Permitted Senior Liens and any other Liens created hereunder for the benefit of Bank to secure the payment of the Loans and the other Obligations and (ii) any Lien on amounts on deposit in the Operating Reserve Account other than Liens created hereunder.

Section 6.07. Expenditures from Operating Reserve Account. Release any moneys, securities or entitlements held in the Operating Reserve Account without the prior written consent of the Bank.

Section 6.08. Federal Reserve Board Regulations. Use any portion of the proceeds of a Loan for the purpose of carrying or purchasing any Margin Stock nor incur any Debt which is to be reduced, retired or purchased by the City out of such proceeds.

Section 6.09. Repayment of Obligations to the City or the Authority. Use, or caused to be used, directly or indirectly:

(i) Any portion of the Revenues or Net Revenues for the payment of Debt payable from the Community Energy Program to the City or the Authority, unless (A) the amount held in the Operating Reserve Account is, and after such payment will remain, equal to or in excess of $20,000,000, (B) the Debt Service Coverage Ratio is not less than 2.00 to 1 as of the last day of the fiscal quarter most recently ended and (C) no Event of Default has occurred and is continuing; or

(ii) The proceeds of a Credit Extension for the payment of any principal amount of, or interest on, the Community Energy Program Commercial Paper or any debt obligation of the City that is secured by or payable from Net Revenues.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.01. Events of Default. The occurrence of any of the following events (whatever the reason for such event and whether voluntary, involuntary, or effected by operation of Law) shall be an "*Event of Default*" hereunder, unless waived in writing by Bank:

(a) City shall (i) fail to pay the principal of, or interest on, any Loan or any L/C Obligation or deposit any funds as Cash Collateral in respect of L/C Obligations when the same shall become due and payable in accordance with its terms or (ii) fail to pay any other amount due and owing hereunder within three (3) Business Days of when due;

(b) Any representation, warranty, certification or statement made by the City in this Agreement or in any other Financing Document or in any certificate, financial statement or other document delivered pursuant to this Agreement or any other Financing Document shall (in any such case) have been incorrect or untrue in any materially adverse respect when made or deemed to have been made;

(c) City shall default in the due performance or observance of any term, covenant or agreement contained in Sections 5.01, 5.03, 5.06, 5.10, 5.13 or 5.16 hereof or in Article VI hereof;

(d) City shall default in the due performance or observance of any term, covenant or agreement contained in Sections 5.14 or 5.15 hereof, and such default shall remain unremedied for sixty (60) days after the earlier of (i) written notice thereof shall have been given to the City by the Bank or (ii) the date on which the Director of the Community Energy Program or the Director of Finance of the City, or, in each case, any other Person acting in such capacity or as deputy thereto, first becomes aware of such default;

(e) City shall default in the due performance or observance of any term, covenant or agreement contained herein other than those set forth in clause (a), (c) or (d) of this Section 7.01 and such default, if capable of being remedied, shall remain unremedied for thirty (30) days after the earlier of (i) written notice thereof shall have been given to the City by the Bank or (ii) the date on which the Director of the Community Energy Program or the Director of Finance of the City, or, in each case, any other Person acting in such capacity or as deputy thereto, first becomes aware of such default;

(f) Any material provision of any of the Financing Documents or the Ordinances shall cease to be valid and binding, or the City or any Governmental Authority shall contest any such provision or the City or any agent or trustee on behalf of the City, shall deny that it has any or further liability under any of the Financing Documents or the Ordinances;

(g) (i) City shall admit in writing its inability to pay its debts generally as they become due, or shall become insolvent within the meaning of Section 101(32) of the United States Bankruptcy Code; or (ii) either City or a governmental authority of competent jurisdiction shall declare a moratorium on the payment of the City's Debts or apply for, consent to or acquiesce in the appointment of a trustee, custodian, liquidator or receiver for City or any substantial part of its property, or shall take any action to authorize or effect any of the foregoing; or (iii) in the absence of any such application, consent or acquiescence, a trustee, custodian, liquidator or receiver shall be appointed for City or for a substantial part of its property or revenues and shall not be discharged within a period of sixty (60) days; or (iv) any governmental authority having jurisdiction over City shall make a finding or ruling or shall enact or adopt legislation or issue an executive order or enter a judgment or decree which results in a debt moratorium, debt restructuring, or comparable extraordinary restriction on repayment when due and payable of the principal of or interest on the debts of the City; or (v) any bankruptcy, reorganization, debt arrangement or other proceeding under any bankruptcy or insolvency law or any dissolution or liquidation proceeding shall be instituted by or against the City (or any action shall be taken to authorize or effect the institution by it of any of the foregoing) and if instituted against it, shall be consented to or acquiesced in by it, or shall not be dismissed within a period of sixty (60) days or an order for relief shall be granted;

(h) City shall default in the due performance or observance of any material term, covenant or agreement contained in any other Financing Document (other than an Event of Default set forth in Section 7.01(i)(B) hereof) and the same shall not have been cured within any applicable cure period;

(i) (A) City shall fail to pay when due and payable any principal of or interest on any Debt secured by or payable from Revenues or Net Revenues, and such failure shall continue beyond any applicable period of grace specified in any underlying indenture, contract or instrument providing for the creation of or concerning such Debt secured by or payable from Revenues or Net Revenues; or pursuant to the provisions of such indenture, contract or instrument providing for the creation of or concerning such Debt secured by or payable from Revenues or Net Revenues, the maturity of such Debt secured by or payable from Revenues or Net Revenues shall have been accelerated or required to be prepaid prior to the maturity thereof; or (B) the City shall fail to pay when due and payable any amount due and owing under any Power Purchase Agreement pursuant to which the City purchases Power Products, unless the City disputes such payment in good faith, and such failure shall continue beyond any applicable period of grace specified in the Power Purchase Agreement or beyond such good-faith dispute, or any other event shall occur and shall continue after the applicable grace period, if any, specified in the Power Purchase Agreement;

(j) One or more final, unappealable judgments or orders for the payment of money in excess of the Threshold Amount shall be rendered against the City and such judgment or order shall continue unsatisfied and unstayed for a period of 60 days which judgment is payable from Revenues or Net Revenues;

(k) The long-term unenhanced ratings by any of Moody's, Fitch or S&P on any general-obligation bonded indebtedness of the City shall be withdrawn or suspended (but excluding withdrawals or suspensions if the rating agency stipulates in writing that the rating action is being taken for non-credit related reasons) or reduced below "A1" (or its equivalent) by Moody's, "A+" (or its equivalent) by S&P or "A+" (or its equivalent) by Fitch, respectively;

(l) Any "event of default" under (and as defined in) any Other Credit Agreement or under the documents governing the Community Energy Program Commercial Paper shall occur and be continuing under such Other Credit Agreement or under the documents governing the Community Energy Program Commercial Paper; or

(m) PGE shall default in the performance of the PGE Agreement and the City shall have failed, within thirty (30) days after the occurrence of such default, to exercise the remedies available to it under the PGE Agreement;

(n) A Material Adverse Effect shall occur with respect to the Community Energy Program or the City's ability to repay Obligations under this Agreement; or

(o) Dissolution or termination of the existence of the City or the Community Energy Program.

Section 7.02. Consequences of an Event of Default. If an Event of Default specified in Section 7.01 hereof shall occur and be continuing, the Bank may take one or more of the following actions at any time and from time to time (regardless of whether the actions are taken at the same or different times):

(a) declare the Commitment and the obligation of the Bank to make Credit Extensions to be terminated, whereupon such Commitment and obligation shall be terminated;

(b) by written notice to the City, declare the outstanding amount of the Obligations and all other obligations of the City under this Agreement to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived, and an action therefor shall immediately accrue;

(c) require that the City Cash Collateralize the L/C Obligations (in an amount equal to the Minimum Collateral Amount with respect thereto);

(d) at the expense of the City, cure any Event of Default or event of nonperformance hereunder or under any other Financing Document; *provided, however,* that the Bank shall have no obligation to effect such a cure; and

(e) exercise, or cause to be exercised, any and all remedies as it may have under the Financing Documents and as otherwise available at Law and at equity;

provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the City under the Bankruptcy Code of the United States, the obligation of the Bank to make Credit Extensions shall automatically terminate and the unpaid principal amount of all outstanding Loans and Unreimbursed Amounts of L/C Obligations and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the City to Cash Collateralize the L/C Obligations as set forth in Section 7.02(c) hereof, in each case without further act of the Bank.

Section 7.03. Solely for the Benefit of Bank. The rights and remedies of the Bank specified herein are for the sole and exclusive benefit, use and protection of the Bank, and the Bank is entitled, but shall have no duty or obligation to the City or any other Person or otherwise, to exercise or to refrain from exercising any right or remedy reserved to the Bank hereunder or under any of the other Financing Documents.

Section 7.04. Discontinuance of Proceedings. In case the Bank shall proceed to invoke any right, remedy or recourse permitted hereunder or under the other Financing Documents and shall thereafter elect to discontinue or abandon the same for any reason, the Bank shall have the unqualified right so to do and, in such event, the City and the Bank shall be restored to their former positions with respect to the Obligations, the Financing Documents and otherwise, and the rights, remedies, recourse and powers of the Bank hereunder shall continue as if the same had never been invoked.

ARTICLE VIII

CHANGE IN CIRCUMSTANCES

Section 8.01. Increased Costs. (a) *Increased Costs Generally.* If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, the Bank;

(ii) subject the Bank to any taxes on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on the Bank or the London interbank market any other condition, cost or expense affecting this Agreement or any Loans made by the Bank or any Letter of Credit;

and the result of any of the foregoing shall be to increase the cost to the Bank with respect to this Agreement, any Loan, or the making, maintenance or funding of any Loan, or to increase the cost to the Bank of issuing or maintaining any Letter of Credit (or of maintaining its obligation to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by the

Bank hereunder (whether of principal, interest or any other amount) then, upon request of the Bank, the City will pay to the Bank such additional amount or amounts as will compensate the Bank for such additional costs incurred or reduction suffered.

(b) *Capital Requirements.* If the Bank determines that any Change in Law affecting the Bank or the Bank's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on the Bank's capital or liquidity or on the capital or liquidity of the Bank's holding company, if any, as a consequence of this Agreement, the Commitment, the Letters of Credit issued by the Bank, or the Loans made by the Bank to a level below that which the Bank or the Bank's holding company, if any, could have achieved but for such Change in Law (taking into consideration the Bank's policies and the policies of the Bank's holding company, if any, with respect to capital adequacy), then from time to time City will pay to the Bank such additional amount or amounts as will compensate the Bank or the Bank's holding company, if any, for any such reduction suffered.

(c) *Certificates for Reimbursement.* Promptly upon obtaining knowledge of the expected occurrence of any event specified in subsections (a) or (b) of this Section 8.01, the Bank shall use commercially reasonable efforts to deliver to the City a certificate describing the expected occurrence of any such event specified in subjection (a) or (b) of this Section, 8.01 and the anticipated date upon which the Bank would make such demand upon the City. Such certificate of the Bank shall be conclusive absent manifest error. The City shall pay the Bank the amount shown as due on any such certificate within thirty (30) days after receipt thereof unless otherwise stated therein and unless all obligations due and owing under this Agreement are paid in full prior to the date on which any increased cost related to any event referred to in paragraphs (a) or (b) of this Section 8.01 are imposed upon the Bank or participant pursuant to Section 9.05 hereof; *provided* that subject to the following proviso, any increased costs in excess of the product of twenty basis points (0.20%) and the Commitment shall be paid by the City to the Bank within ninety (90) calendar days of the date the Bank makes demand therefor on the City; *provided further* that to the extent a particular amount of increased costs in excess of the product of twenty basis points (0.20%) and the Commitment is expected to be an ongoing obligation of the City (a *"Recurring Increased Cost"*), as determined by the Bank in a written notice from the Bank to the City, then after the first payment of such Recurring Increased Costs pursuant to the immediately preceding provision, subsequent payments of such Recurring Increased Costs shall be due and payable within thirty (30) days of the date the Bank makes demand therefor.

(d) *Delay in Requests.* Failure or delay on the part of the Bank to demand compensation pursuant to the foregoing provisions of this Section shall not constitute a waiver of the Bank's right to demand such compensation; *provided* that City shall not be required to compensate the Bank pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than ninety (90) days prior to the date that the Bank notifies City of the Change in Law giving rise to such increased costs or reductions and of the Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the ninety (90) day period referred to above shall be extended to include the period of retroactive effect thereof).

Section 8.02. Net of Taxes, Etc.

(a) *Taxes*. Any and all payments to the Bank by the City hereunder shall be made free and clear of and without deduction for any and all taxes, levies, imposts, deductions, charges or withholdings imposed as a result of a Change of Law, and all liabilities with respect thereto, excluding taxes imposed on or measured by the net income or capital of the Bank by any jurisdiction or any political subdivision or taxing authority thereof or therein solely as a result of a connection between the Bank and such jurisdiction or political subdivision, other than a connection resulting solely from executing, delivering or performing its obligations or receiving a payment under, or enforcing, this Agreement (all such non-excluded taxes, levies, imposts, deductions, charges, withholdings and liabilities being hereinafter referred to as *"Taxes"*). If as a result of a Change of Law, the City shall be required by law to withhold or deduct any Taxes imposed by the United States or any political subdivision thereof from or in respect of any sum payable hereunder to the Bank, (i) the sum payable shall be increased as may be necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 8.02), the Bank receives an amount equal to the sum it would have received had no such deductions been made, (ii) City shall make such deductions and (iii) City shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law. If City shall make any payment under this Section 8.02 to or for the benefit of the Bank with respect to Taxes and if the Bank shall claim any credit or deduction for such Taxes against any other taxes payable by the Bank to any taxing jurisdiction in the United States then the Bank shall pay to the City an amount equal to the amount by which such other taxes are actually reduced; *provided* that the aggregate amount payable by the Bank pursuant to this sentence shall not exceed the aggregate amount previously paid by the City with respect to such Taxes. In addition, the City agrees to pay any present or future stamp, recording or documentary taxes and, if as a result of a Change of Law, any other excise or property taxes, charges or similar levies that arise under the laws of the United States of America, the State or the State of New York from any payment made hereunder or from the execution or delivery or otherwise with respect to this Agreement (hereinafter referred to as *"Other Taxes"*). The Bank shall provide to the City within a reasonable time a copy of any written notification it receives with respect to Other Taxes owing by the City to the Bank hereunder *provided* that the Bank's failure to send such notice shall not relieve City of its obligation to pay such amounts hereunder.

(b) *Indemnity*. To the extent permitted by law, the City shall indemnify the Bank for the full amount of Taxes and Other Taxes including any Taxes or Other Taxes imposed by any jurisdiction on amounts payable under this Section 8.02 paid by the Bank or any liability (including penalties, interest and expenses) arising therefrom or with respect thereto, whether or not such Taxes or Other Taxes were correctly or legally asserted; *provided* that City shall not be obligated to indemnify the Bank for any penalties, interest or expenses relating to Taxes or Other Taxes incorrectly paid by the Bank or arising from the Bank's gross negligence or willful misconduct. The Bank agrees to give notice to the City of the assertion of any claim against the Bank relating to such Taxes or Other Taxes as promptly as is practicable after being notified of such assertion; *provided* that the Bank's failure to notify City promptly of such assertion shall not relieve City of its obligation under this Section 8.02. Payments by the City pursuant to this indemnification shall be made within thirty (30) days from the date the Bank makes written demand therefor, which demand shall be accompanied by a certificate describing in reasonable detail the basis thereof. The Bank agrees to repay to the City any refund (including that portion of any interest that was included as part of such refund and including any credit or deduction for

such Taxes or Other Taxes against any other taxes payable by the Bank to any taxing jurisdiction in the United States) with respect to Taxes or Other Taxes paid by the City pursuant to this Section 8.02 received by the Bank for Taxes or Other Taxes that were paid by the City pursuant to this Section 8.02 and to contest, with the cooperation and at the expense of the City, any such Taxes or Other Taxes which the City reasonably believes not to have been properly assessed.

(c) *Notice.* Within thirty (30) days after the date of any payment of Taxes or Other Taxes by the City, the City shall furnish to the Bank, the original or a certified copy of a receipt evidencing payment thereof. To the extent permitted by law, the City shall compensate the Bank for all reasonable losses and expenses sustained by the Bank as a result of any failure by the City to so furnish such copy of such receipt.

(d) *Survival of Obligations.* The obligations of the City under this Section 8.02 shall survive the termination of this Agreement.

Section 8.03. Illegality. If the Bank determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for the Bank or its Lending Office to make, maintain or fund any Borrowing whose interest is determined by reference to LIBOR, or to determine or charge interest rates based upon LIBOR, or any Governmental Authority has imposed material restrictions on the authority of the Bank to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by the Bank to the City, any obligation of the Bank to make Loans shall be suspended until the Bank notifies City that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, the City shall, upon demand from the Bank, prepay all Loans, either on next succeeding LIBOR Reset Date therefor, if the Bank may lawfully continue to maintain such Loans to such day, or immediately, if the Bank may not lawfully continue to maintain such Loans. Upon any such prepayment, the City shall also pay accrued interest on the amount so prepaid.

Section 8.04. Inability to Determine Rates. If the Bank determines that for any reason in connection with any request for a Loan that (a) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and a one-month period, (b) adequate and reasonable means do not exist for determining the LIBOR for any requested in connection with an existing or proposed Loan, or (c) LIBOR does not adequately and fairly reflect the cost to the Bank of funding the Loans, the Bank will promptly so notify City. Thereafter, the obligation of the Bank to make or maintain Loans shall be suspended, until the Bank revokes such notice. Upon receipt of such notice, the City may revoke any pending request for a Borrowing of Loans.

Section 8.05. Compensation for Losses. Upon demand of the Bank from time to time, the City shall promptly compensate the Bank for and hold the Bank harmless from any loss, cost or expense incurred by it as a result of:

(a) any payment or prepayment of any Loan, the interest on which is determined by reference to LIBOR on a day other than the LIBOR Reset Date (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise); or

(b) any failure by the City (for a reason other than the failure of the Bank to make a Loan) to prepay or borrow any Loan on the date or in the amount notified by the City;

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained. The City shall also pay any customary administrative fees charged by the Bank in connection with the foregoing.

For purposes of calculating amounts payable by the City to the Bank under this Section 8.05, the Bank shall be deemed to have funded each Loan made by it at LIBOR for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Loan was in fact so funded.

Section 8.06. Survival. All of the City's obligations under this Article VIII shall survive termination of the Commitment and repayment of all other obligations of the City hereunder.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Notices. Except as otherwise specifically provided herein, all notices, requests and other communications hereunder shall be in electronic, telephonic or written form (including bank wire, telegram, telecopier or similar writing) and shall be given to the party to whom addressed, at its address or telephone or telecopier number set forth below, or such other address or telephone or telecopier number as such party may hereafter specify for the purpose by notice to the other parties. Each such notice, request or communication shall be effective (a) if given by telephone, when given to the number indicated below to a person which the transmitting party reasonably believes to be an authorized representative of the party to whom the notice is directed (which, in the case of the City, shall be any Authorized Officer), (b) if given by telecopy or other electronic means, when such communication is transmitted to the appropriate address and the appropriate answerback is received, (c) if given by mail, 3 days after such communication is deposited in the United States mail with first class postage prepaid, addressed as aforesaid or (d) if given by any other means, when delivered at the appropriate address; *provided* that notices to the Bank under Article II shall not be effective until received:

If to the City, to:

City of San Jose, California
200 East Santa Clara Street, 13th Floor
San Jose, California 95113
Attention: Lori Mitchell
Telephone: 408-535-4880
Email: lori.mitchell@sanjoseca.gov

With a copy to:

City of San Jose, California
200 East Santa Clara Street, 13th Floor
San Jose, California
Attention: Julia Cooper
Telephone: 408-535-7001
Email: Julia.cooper@sanjose.gov

If to the Bank for Loans:

Barclays Bank PLC
1301 6th Avenue
New York, New York 10019
Attention: Loan Operations
Telephone: (212) 320-7564
Fax: (917) 522-0569
Email: XrausLoanOps5@barcap.com and
liquiditydraw@barclayscapital.com

If to the Bank for the application for a Letter of Credit:

Barclays Bank PLC, New York Branch
745 Seventh Avenue
19th Floor
New York, New York 10019
Attention: Letters of Credit Department
Email: xraLetterofCredit@barclays.com

If to the Bank for all other purposes:

Barclays Bank PLC
745 Seventh Avenue
19th Floor
New York, New York 10019
Attention: Cassandra Bolz
Telephone: 212-526-3974
Email: Cassandra.bolz@barclays.com

All notices given by telephone, telecopier or other electronic means shall be confirmed by written notice mailed as promptly as practicable thereafter.

Section 9.02. No Waivers. No failure or delay by the Bank in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Section 9.03. Expenses; Documentary Taxes; Indemnification. (a) City shall pay (i) the reasonable fees of counsel for the Bank (not to exceed $70,000), in connection with the initial negotiation, preparation and execution of this Agreement and the other Financing Documents, (ii) the reasonable fees of counsel for the Bank in connection with any any waiver or consent hereunder or any amendment hereof or any Potential Event of Default, alleged Potential Event of Default or Event of Default hereunder and (iii) if an Event of Default occurs, all out-of-pocket expenses incurred by the Bank, including the reasonable fees and disbursements of counsel, in connection with such Event of Default and collection, bankruptcy, insolvency and other enforcement proceedings resulting therefrom. If and to the extent permitted by applicable law, the City shall indemnify the Bank against any transfer taxes, documentary taxes, assessments or charges made by any Governmental Authority by reason of the execution and delivery of this Agreement. In no event shall City have any obligation for any fees or expenses incurred by the Bank in connection with any assignment made or participation granted pursuant to Section 9.05 hereof.

(b) The City hereby agrees to indemnify the Bank and hold the Bank harmless from and against any and all liabilities, losses, damages, costs and expenses of any kind, including, without limitation, the reasonable fees and disbursements of counsel, which may be incurred by the Bank in connection with any investigative, administrative or judicial proceeding relating to or arising out of this Agreement or any other Financing Document or any actual or proposed use of proceeds of Loans hereunder (including any refusal by the Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit); *provided* that the Bank shall not have the right to be indemnified hereunder for its own gross negligence or willful misconduct as determined by a court of competent jurisdiction.

Section 9.04. Amendments and Waivers. Any provision of this Agreement or Note may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the City and the Bank.

Section 9.05. Successors and Assigns; Participations; Information. (a) This Agreement is binding on the City's and the Bank's successors and assignees. The City agrees that it may not assign this Agreement without the Bank's prior consent. The Bank may sell participations in or assign the Loans, and may exchange information about City (including, without limitation, any information regarding any hazardous substances) with actual or potential participants or assignees. If a participation is sold or the Loans are assigned, the purchaser will have the right of set-off against the City; *provided, however,* that (i) no such participation by any such participant shall in any way affect the obligations of the Bank hereunder; and (ii) with respect to any participation, the City shall be required to deal only with the Bank with respect to any matters under this Agreement and the other Financing Documents and no such participant shall be entitled to enforce any provision hereunder against the City. The City agrees that each participant shall be entitled to the benefits of Sections 8.01, 8.02 and 8.03 hereof to the same extent as if it were the Bank hereunder; *provided, however*, that a participant shall not be entitled to receive any greater payment under Sections 8.01 and 8.02 than the Bank would have been entitled to receive with respect to the participation sold to such participant, unless the sale of the participation to such participant is made with City's prior written consent.

(b) *Certain Pledges.* In addition to the rights of the Bank set in subsection (a) of this Section 9.05, the Bank may at any time pledge or assign a security interest in all or any portion of its rights or interests under this Agreement (including under its Note, if any) to secure obligations of the Bank or an Affiliate of the Bank, including any pledge or assignment to secure obligations to a Federal Reserve Bank or to any state or local governmental entity or with respect to public deposits; *provided* that no such pledge or assignment shall release the Bank from any of its obligations hereunder or substitute any such pledgee or assignee for the Bank as a party hereto.

(c) The City authorizes the Bank to disclose to any participant or assignee (each, a "*Transferee*") and any prospective Transferee such financial and other information in the Bank's possession concerning City which has been delivered to the Bank pursuant to this Agreement or which has been delivered to the Bank by the City in connection with the Bank's credit evaluation of the City prior to entering into this Agreement.

Section 9.06. Counterparts; Integration. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement constitutes the entire agreement and understanding between the parties hereto and, except with respect to the other documents and agreements referred to herein, supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof.

Section 9.07. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of New York; *provided*, that the power and authority of the City to execute, deliver and perform its obligations under this Agreement shall be governed by the Laws of the State; *provided, however*, that the power and authority of the City to enter into any and all Power Purchase Agreements and such agreements themselves are governed by the laws of the State unless otherwise provided therein.

Section 9.08. Jurisdiction; Venue; Waiver of Jury Trial. (a) With respect to any suit, action or proceeding relating to, or arising from, this Agreement, each party hereto irrevocably submits to the nonexclusive jurisdiction of the courts of the State of California and the federal courts located in the State of California and agrees that any such suit, action or proceeding shall be had and maintained in the courts of the State of California or the federal courts located in the State of California.

(b) With respect to any suit, action or proceeding relating to this Agreement, to the fullest extent permitted by applicable law, each party to this Agreement waives any right it may have to trial by jury. IF AND TO THE EXTENT THAT THE FOREGOING WAIVER OF THE RIGHT TO A JURY TRIAL IS UNENFORCEABLE FOR ANY REASON IN SUCH FORUM, EACH OF THE PARTIES HERETO HEREBY CONSENTS TO THE ADJUDICATION OF ALL CLAIMS PURSUANT TO JUDICIAL REFERENCE AS PROVIDED IN CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638, AND THE JUDICIAL REFEREE SHALL BE EMPOWERED TO HEAR AND DETERMINE ALL ISSUES IN SUCH REFERENCE, WHETHER FACT OR LAW. EACH OF THE PARTIES HERETO REPRESENTS THAT EACH HAS REVIEWED THIS WAIVER AND CONSENT AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS AND CONSENTS TO JUDICIAL REFERENCE FOLLOWING CONSULTATION WITH LEGAL COUNSEL ON SUCH

MATTERS. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT OR TO JUDICIAL REFERENCE UNDER CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 638 AS PROVIDED HEREIN.

Section 9.09. Payments Set Aside. To the extent that any payment by or on behalf of the City is made to the Bank, or the Bank exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Bank in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding, bankruptcy or insolvency or otherwise, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred.

Section 9.10. Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Financing Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Bank, regardless of any investigation made by the Bank or on its behalf and notwithstanding that the Bank may have had notice or knowledge of any Potential Event of Default at the time of any Credit Extension, and shall continue in full force until the Commitment Termination Date.

Section 9.11. Severability. If any provision of this Agreement or the other Financing Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Financing Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 9.12. No Advisory or Fiduciary Relationship. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof, the Note), the City acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) (i) the services regarding this Agreement provided by the Bank and any Affiliate thereof are arm's-length commercial transactions between City, on the one hand, and the Bank and its Affiliates, on the other hand, (ii) City has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) City is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the Note; (b) (i) the Bank and its Affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor (municipal, financial or otherwise), agent or fiduciary for City or any other Person and (ii) neither the Bank nor any of its Affiliates has any obligation to the City with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the Note; and (c) the Bank and its Affiliates may be engaged in a broad range of transactions that involve interests that differ from

those of the City, and neither the Bank nor any of its Affiliates has any obligation to disclose any of such interests to the City. To the fullest extent permitted by law, the City, hereby waives and releases any claims that it may have against the Bank or any of its Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

Section 9.13. Electronic Execution of Certain Documents. The words "delivery," "execute," "execution," "signed," "signature," and words of like import in any Financing Document or any other document executed in connection herewith shall be deemed to include facsimile signatures and signatures in portable document format (i.e., a PDF) , the electronic matching of assignment terms and contract formations on electronic platforms approved by the Bank, or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable Law.

Section 9.14. USA Patriot Act. The Bank hereby notifies City that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the *"Patriot Act"*), it is required to obtain, verify and record information that identifies City, which information includes the name and address of the City and other information that will allow the Bank to identify City in accordance with the Patriot Act. The City agrees to, promptly following a request by the Bank, provide all such other documentation and information that the Bank requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act.

Section 9.15. Acknowledgement and Consent to Bail-In of EEA Financial Institutions. (a) The City acknowledges and agrees that notwithstanding any other term of this Agreement or any other agreement, arrangement or understanding with the Bank, any liability arising under or in connection with this Agreement (including, without limitation, any liability arising out of or in connection with the Letter of Credit) may be subject to Bail-In Action and the City accepts to be bound by the effect of:

(i) any Bail-In Action in relation to such liability, including (without limitation):

(A) a reduction, in full or in part, of any amount due in respect of any such liability;

(B) a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, the City; and

(C) a cancellation of any such liability; and

(ii) a variation of any term of this Agreement or a Letter of Credit to the extent necessary to give effect to Bail-In Action in relation to any such liability.

(b) Promptly upon obtaining knowledge of any expected occurrence of a Bail-In Action, the Bank shall use commercially reasonable efforts to deliver to the City notice thereof describing (i) the expected occurrence of such Bail-In Action, including in reasonable detail the anticipated effects thereof on the Bank and the City, and their respective obligations under this Agreement, and (ii) the anticipated date of such Bail-In Action.

[SIGNATURE PAGES TO FOLLOW]

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

CITY OF SAN JOSE, CALIFORNIA

By: _____
Name: Julia H. Cooper
Title: Director of Finance

APPROVED AS TO FORM:

By: _____
Name: Karin M. Murabito
Title: Senior Deputy City Attorney

BARCLAYS BANK PLC

By: _____

Name: Cassandra Bolz

Title: Authorized Signatory for and on behalf of Barclays Bank PLC

EXHIBIT A

FORM OF NOTE

Not to exceed $50,000,000 November 27, 2018

FOR VALUE RECEIVED, the undersigned CITY OF SAN JOSÉ, CALIFORNIA (the *"City"*), hereby promises to pay to BARCLAYS BANK PLC, or its registered assigns (the *"Bank"*), in accordance with the provisions of the Agreement (as hereinafter defined), the principal outstanding amount of all Unreimbursed Amounts related to Letters of Credit and each Loan from time to time made by the Bank to the City, in each case under that certain Revolving Credit Agreement, dated as of November 1, 2018 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the *"Agreement;"* the terms defined therein being used herein as therein defined), between the City and the Bank, in accordance with the terms of the Agreement.

The City promises to pay interest on the unpaid principal amount of each Loan and Unreimbursed Amount from the date of such Loan or Honor Date, as applicable, until such principal amount is paid in full, at such interest rates and at such times as provided in the Agreement. All payments of principal and interest shall be made to the Bank in Dollars in immediately available funds at the Bank's Lending Office. If any amount is not paid in full when due hereunder, such unpaid amount shall bear interest, to be paid upon demand, from the due date thereof until the date of actual payment (and before as well as after judgment) computed at the per annum rate set forth in the Agreement.

This Note referred to in the Agreement, is entitled to the benefits thereof and may be prepaid in whole or in part subject to the terms and conditions provided therein. The Loans made by the Bank and Unreimbursed Amounts shall be evidenced by one or more loan accounts or records maintained by the Bank in the ordinary course of business. The Bank may also attach schedules to this Note and endorse thereon the date, amount and maturity of its Loans and Unreimbursed Amounts and payments with respect thereto.

The Bank, for itself, its successors and assigns, hereby waives diligence, presentment, protest and demand and notice of protest, demand, dishonor and non-payment of this Note.

Delivery of an executed counterpart of a signature page of this Note by fax transmission or other electronic mail transmission (*e.g.*, "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Note.

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK; *PROVIDED*, THAT THE POWER AND AUTHORITY OF THE CITY TO EXECUTE, DELIVER AND PERFORM ITS OBLIGATIONS UNDER THIS NOTE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA.

CITY OF SAN JOSE, CALIFORNIA

By:_____
Name: _____
Title: _____

LOANS AND PAYMENTS WITH RESPECT THERETO

DATE	AMOUNT OF LOAN MADE	AMOUNT OF PRINCIPAL OR INTEREST PAID THIS DATE	OUTSTANDING PRINCIPAL BALANCE THIS DATE	NOTATION MADE BY

EXHIBIT B

FORM OF LOAN NOTICE

Date: _____, 201_

To: Barclays Bank PLC
745 Seventh Avenue, 19th Floor
Attention: Cassandra Bolz
Telephone: 212-526-3974
Email: Cassandra.bolz@barclays.com

Ladies and Gentlemen:

Reference is made to that certain Revolving Credit Agreement, dated as of November 1, 2018 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the *"Agreement"*) (the terms defined therein being used herein as defined in the Agreement), between City of San Jose, California (the *"City"*), and Barclays Bank PLC (the "*Bank*").

The undersigned hereby requests a Borrowing of Loan:

1. On _____ (a Business Day).

2. In the amount of $_____.

3. The proceeds of the Borrowing shall be applied to:

[Start-Up Costs]

[purchase energy for the Community Energy Program]

[secure payments due under Power Purchase Agreements]

4. To the account set forth below in the Agreement.

The Borrowing requested herein complies with the proviso to the first sentence of Section 2.01 of the Agreement.

City hereby represents and warrants that the conditions specified in Section 3.02 of the Agreement shall be satisfied on and as of the date of the Borrowing requested herein.

Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (*e.g.*, "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this notice.

CITY OF SAN JOSE, CALIFORNIA

By:_____
Name: _____
Title: _____

EXHIBIT C

FORM OF NOTICE OF LOAN PREPAYMENT

TO: Barclays Bank PLC, as lender (the *"Bank"*)

RE: Revolving Credit Agreement, dated as of November 1, 2018, by and between City of San Jose, California (the *"City")* and the Bank (as amended, modified, extended, restated, replaced, or supplemented from time to time, the *"Credit Agreement"*; capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement)

DATE: [Date]

The City hereby notifies the Bank that on _____[1] pursuant to the terms of Section 2.04 (Prepayments) of the Credit Agreement, the City intends to optionally prepay the Loan in the following amount(s): $_____[2]

---

1 Specify date of such prepayment.

2 Any prepayment shall be in a principal amount of $1,000,000 or a whole multiple of $500,000 in excess thereof (or if less, the entire principal amount thereof outstanding).

Delivery of an executed counterpart of a signature page of this notice by fax transmission or other electronic mail transmission (e.g. *"pdf"* or *"tif"*) shall be effective as delivery of a manually executed counterpart of this notice.

CITY OF SAN JOSE, CALIFORNIA

By:_____
Name: _____
Title: _____

EXHIBIT D

FORM OF COMPLIANCE CERTIFICATE

Financial Statement Date: _____, ____

To: Barclays Bank PLC, as Bank

Ladies and Gentlemen:

Reference is made to that certain Revolving Credit Agreement, dated as of November 1, 2018 (as amended, restated, extended, supplemented or otherwise modified in writing from time to time, the *"Agreement"*)(the terms defined therein being used herein as defined in the Agreement), between City of San Jose, California (the *"City"*), and Barclays Bank PLC, (the *"Bank"*).

The undersigned Authorized Officer hereby certifies as of the date hereof that he/she is the _____ of the City, and that, as such, he/she is authorized to execute and deliver this Certificate to the Bank on the behalf of the City, and that:

[1. The financial statements required by Section 5.01(b) of the Agreement and having been posted to http://www.sanjosecleanenergy.org/) fairly represent the consolidated financial condition of the Borrower in accordance with GAAP (subject to year-end adjustments) as of the dates and for the periods covered thereby.]

[1. The financial statements required by Section 5.01(c) of the Agreement and being furnished to you concurrently with this certificate fairly represent the consolidated financial condition of the Borrower in accordance with GAAP (subject to year-end adjustments) as of the dates and for the periods covered thereby.]

2. The undersigned has reviewed and is familiar with the terms of the Agreement and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial or otherwise) of the City during the accounting period covered by the attached financial statements.

3. A review of the activities of the City during such period has been made under the supervision of the undersigned with a view to determining whether during such period the City performed and observed all its obligations under the Agreement and the Note, and

[select one:]

[to the best knowledge of the undersigned during such fiscal period, the City performed and observed each covenant and condition of the Agreement and the Note applicable to it, and no Potential Event of Default or Event of Default has occurred and is continuing.]

--or--

[the following covenants or conditions have not been performed or observed and the following is a list of each such Potential Event of Default or Event of Default and its nature and status:]

4. The representations and warranties of the City contained in Article IV of the Agreement, and/or any representations and warranties of the City that are contained in any document furnished at any time under or in connection with the Agreement and the Note, are true and correct on and as of the date hereof.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of _____, ____.

CITY OF SAN JOSE, CALIFORNIA

By:_____
Name:_____
Title:_____

[CITY TO PROVIDE CALCULATIONS FOR BANK'S REVIEW]

SCHEDULE 4.11

OPERATING RESERVE ACCOUNT

Bank Name - Wells Fargo Bank, N.A.
ABA - 121000248
Beneficiary Account Name - Trust Wire Clearing
Beneficiary Account Number - 091000019
SubAccount Name - City of SJCE - Operating Reserve AC
SubAccount Number – 10183203

BARCLAYS

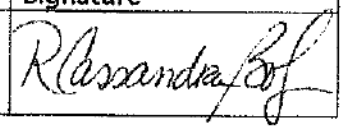
CERTIFICATE OF AUTHORITY TO THIRD PARTIES
AUTHORISED SIGNATORIES OF BARCLAYS BANK PLC

I certify that:

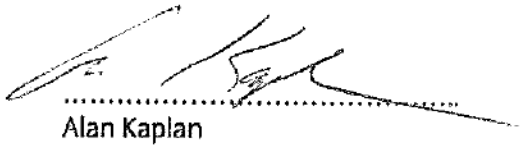
(a) Cassandra Bolz a Barclays Group employee of Director level corporate grade; and

(b) the power of attorney, a certified copy of which is attached, has not been revoked in respect of the person named in paragraph (a) above; and

(c) the signature set out below is a true specimen of the signature of the person named in paragraph (a) above.

Full Name	Corporate Grade	Signature
Cassandra Bolz	Director	

By the authority of the Board, this Certificate is conclusive evidence that the person named in this certificate is authorised to act as an Attorney of Barclays Bank PLC in accordance with the attached power of attorney.



Alan Kaplan
Managing Director
Barclays Bank PLC
Date: October 10, 2018

POWER OF ATTORNEY

BARCLAYS BANK PLC AUTHORISED SIGNATORIES

1. By this POWER OF ATTORNEY made by Deed on 29 March 2018, we, **BARCLAYS BANK PLC**, a company incorporated in the United Kingdom and registered in England and Wales (registered number 01026167), whose registered office is situated at 1 Churchill Place, London E14 5HP (the '**Company**'), APPOINTS:

   All employees of the Company and any of its subsidiaries, who are of Director Grade or above and engaged in the ordinary course of business of the Company, jointly and severally as our true and lawful attorneys (each an 'Attorney') for and in our name and on our behalf:

   (a) to consider, settle, approve, sign, execute, deliver and/or issue all agreements, documents, certificates, instruments and similar (whether as a deed or not) (each a '**Document**') and take any steps or do anything which the Attorney considers desirable in connection with the ordinary course of the business of the Company, at all times acting in line with the Procedures appended to this Power of Attorney; and

   (b) to take all actions and to execute any additional Document as the Attorney may think fit to give effect to the arrangements referred to in the Documents described in paragraph (a) above.

2. By this Deed we ratify and confirm, and agree to ratify and confirm, any act of the Attorney undertaken in good faith pursuant to this Deed.

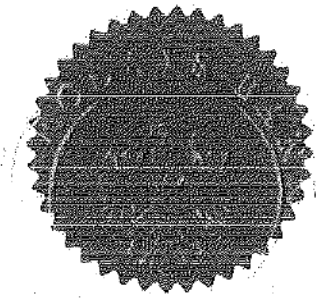
3. This Power of Attorney shall become effective on 1 April 2018 and remain in force for 12 months from that date.

4. This Power of Attorney, with effect from 1 April 2018, revokes and replaces the authority granted by a similar power of attorney granted on 1 September 2017.

5. This Power of Attorney and any non-contractual dispute or claim arising out of or in connection with it, shall be governed and construed in accordance with the laws of England and Wales, to the jurisdiction of whose courts the Company exclusively submits by executing this Deed and the Attorney exclusively submits by purporting to act under its terms.

This Deed has been, and has been witnessed as, duly executed and delivered on the day and year first written above.

The Common Seal of
BARCLAYS BANK PLC
was affixed in the Execution of this Deed
in the presence of:



.....
Assistant Secretary of Barclays Bank PLC
Authorised Sealing Officer

RECEIVED
San Jose City Clerk
OTC
2019 FEB -8 PM 3:08

City of San José Contract/Agreement Transmittal Form

Route Order

TO: ☐ City Attorney
☐ City Manager
■ City Clerk **OR** Return to Dept. (circle one)

Attached / Completed

■ Insurance Certificates / Waivers
■ Business Tax Certificate
■ Contacted Clerk re: Form 700
☐ Supplemental Memorandums (if applicable): Select One

Electronically Signed

☐ Electronically Signed: No
☐ Audit Trail Attached (if applicable)

Type of Document: New Contract

■ Type of Contract: Other

REQUIRED INFORMATION FOR ALL CONTRACTS:

Existing GILES # 664282-000

Contractor: Barclays Bank PLC

Address: 745 Seventh Avenue, 19th Floor, New York, NY, 10019

Phone: 212-526-3974 Email: cassandra.bolz@barclays.com

Contract Description: Revolving Credit Agreement between the City of San José (for Community Energy) and Barclays Bank.

Term Start Date: 11/1/18 Term End Date: 12/31/22 Extension: Select one

Method of Procurement: N/A RFB, RFP or RFQ No.: _____ Date Conducted: _____

Agenda Date (if applicable): _____ Agenda Item No.: _____

Resolution No.: _____ Ordinance No.: 30028

Original Contract Amount: Varies Amount of Increase/Decrease: _____

Option #: ___ of ___ Option Amount: _____ Updated Contract Amount: _____

Fund/Appropriation: 501-78-300241-4052

Form 700 Required: No

Business Tax Certificate No.: _____ Expiration Date: _____

Department: Community Energy

Department Contact Name/Phone: Jeannette Mestaz-Romero/ 408-535-3828

Notes:

Department Director Signature: _____
Date

Office of the City Manager Signature: _____
Date