

# Board of Directors

# Meeting

# Agenda

Date: December 12, 2024

Time: 6:00 p.m.

Location: SMUD Headquarters Building, Auditorium

6201 S Street, Sacramento, California



Powering forward. Together.





## **AGENDA**

### **SACRAMENTO MUNICIPAL UTILITY DISTRICT BOARD OF DIRECTORS MEETING SMUD HEADQUARTERS BUILDING AUDITORIUM – 6201 S STREET SACRAMENTO, CALIFORNIA**

***December 12, 2024 – 6:00 p.m.***

*Virtual Viewing or Attendance:*

Live video streams (view-only) and indexed archives of meetings are available at:  
[http://smud.granicus.com/ViewPublisher.php?view\\_id=16](http://smud.granicus.com/ViewPublisher.php?view_id=16)

**Zoom Webinar Link: [Join SMUD Board of Directors Meeting Here](#)**

**Webinar/Meeting ID:** 160 761 7261

**Passcode:** 429777

**Phone Dial-in Number:** 1-669-254-5252 or 1-833-568-8864 (Toll Free)

*Verbal Public Comment:*

Members of the public may provide verbal public comment by:

- Completing a sign-up form at the table outside of the meeting room and giving it to SMUD Security.
- Using the “Raise Hand” feature in Zoom (or pressing \*9 while dialed into the telephone/toll-free number) during the meeting at the time public comment is called. Microphones will be enabled for virtual or telephonic attendees when the commenter’s name is announced.

*Written Public Comment:*

Members of the public may provide written public comment on a specific agenda item or on items not on the agenda (general public comment) by submitting comments via email to [PublicComment@smud.org](mailto:PublicComment@smud.org) or by mailing or bringing physical copies to the meeting. Email is not monitored during the meeting. Comments will not be read into the record but will be provided to the Board and placed into the record of the meeting if received within two hours after the meeting ends.

Call to Order.

a. Roll Call.

1. Approval of the Agenda.

2. Committee Chair Reports.

- a. Committee Chair report of December 10, 2024, Finance & Audit Committee
- b. Committee Chair report of December 11, 2024, Policy Committee

**Item 5 was reviewed by the November 6, 2024, Finance and Audit Committee. Items 6 and 7 were reviewed by the December 10, 2024, Finance and Audit Committee. Item 8 was reviewed by the December 11, 2024, Policy Committee. Items 9a and 9b were reviewed by the November 6, 7 and 19, 2024, Finance and Audit Committee.**

***Comments from the public are welcome when these agenda items are called.***

**Consent Calendar:**

3. Approve Board member compensation for service rendered at the request of the Board (pursuant to Resolution No. 23-06-02) for the period of November 16, 2024, through December 12, 2024.
4. Approval of the minutes of the meeting of November 21, 2024.
5. Adopt **SMUD's Pay Schedule and Special Compensation** items for employees pursuant to California Code of Regulations, Title 2, sections 570.5 and 571(b). **Finance and Audit Committee 11/6. (Jose Bodipo-Memba)**
6. Authorize the Chief Executive Officer and General Manager to negotiate and execute a sole source contract with **Electric Power Research Institute (EPRI)** to provide market and technical services to SMUD for the five-year period from January 1, 2025, through December 31, 2029, for a not-to-exceed amount of \$6 million. **Finance and Audit Committee 12/10. (Lora Anguay)**
7. Certify November 5, 2024, election results from the County of Sacramento and the County of Placer electing **Brandon D. Rose** to serve as **SMUD's Director for Ward 1** and from the County of Sacramento electing **Rob Kerth** to serve as **SMUD's Director for Ward 5** for the four-year term beginning January 1, 2025. **Finance and Audit Committee 12/10. (Laura Lewis)**
8. Accept the monitoring report for **Strategic Direction SD-11, Public Power Business Model. Policy Committee 12/11. (Laura Lewis)**

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**Discussion Calendar:**

9. Adopt the following:
  - a. **2025 Budget** which, among other things, establishes:
    - An Operations and Maintenance Budget of \$1,463.9 million (including Public Goods Charge of \$104.8 million);
    - A Debt Service budget of \$205.4 million;
    - A Capital and Reserve Budget of \$612 million; and
    - Authorized contingencies.

- b. Declaration of Intent to Issue Debt to create \$400 million of additional bonding authority to reimburse for qualifying capital expenditures, and Official Intent to reimburse for 2025, 2024 and 2023 capital expenditures from bond proceeds, which is required to maintain tax-exempt financing capability.

**Finance and Audit Committee 11/6, 11/7, and 11/19. (Scott Martin)**

**Presenter: Jennifer Restivo**

- 10. Discuss possible merit increase to the Chief Executive Officer and General Manager's base salary and/or performance bonus, pursuant to the Chief Executive Officer and General Manager's employment contract. **Closed Session 10/15 and 12/10. (President Herber)**

**Presenter: President Herber**

\* \* \* \* \*

**Public Comment:**

- 11. Items not on the agenda.

**Board and CEO Reports:**

- 12. Directors' Reports.
- 13. President's Report.
- 14. CEO's Report.
  - a. Board Video

**Summary of Board Direction**

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**FOLLOWING ADJOURNMENT OF THE FOREGOING SMUD BOARD OF DIRECTORS MEETING, THE SPECIAL MEETINGS OF THE FOLLOWING JOINT POWERS AGENCIES WILL CONVENE:**

**NORTHERN CALIFORNIA ENERGY AUTHORITY  
NORTHERN CALIFORNIA GAS AUTHORITY NUMBER 1  
SACRAMENTO MUNICIPAL UTILITY DISTRICT FINANCING AUTHORITY**

\* \* \* \* \*

**Board Committee Meetings and Special Meetings of the Board of Directors are held at the SMUD Headquarters Building, 6201 S Street, Sacramento**

December 10, 2024	Finance and Audit Committee and Special SMUD Board of Directors Meeting	Auditorium*	6:00 p.m.
December 11, 2024	Policy Committee and Special SMUD Board of Directors Meeting	Auditorium	6:00 p.m.
January 14, 2025	Finance and Audit Committee and Special SMUD Board of Directors Meeting	Auditorium	6:00 p.m.
January 15, 2025	Policy Committee and Special SMUD Board of Directors Meeting	Auditorium	6:00 p.m.

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**Regular Meetings of the Board of Directors are held at the SMUD Headquarters Building, 6201 S Street, Sacramento**

January 16, 2025	Auditorium*	6:00 p.m.
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*\*The Auditorium is located in the lobby of the SMUD Headquarters Building, 6201 S Street, Sacramento, California.*

*Members of the public shall have up to three (3) minutes to provide public comment on items on the agenda or items not on the agenda, but within the jurisdiction of SMUD. The total time allotted to any individual speaker shall not exceed nine (9) minutes.*

*Members of the public wishing to inspect public documents related to agenda items may click on the Information Packet link for this meeting on the [smud.org](http://smud.org) website or may call 1-916-732-7143 to arrange for inspection of the documents at the SMUD Headquarters Building, 6201 S Street, Sacramento, California.*

**ADA Accessibility Procedures:** Upon request, SMUD will generally provide appropriate aids and services leading to effective communication for qualified persons with disabilities so that they can participate equally in this meeting. If you need a reasonable auxiliary aid or service for effective communication to participate, please email [Toni.Stelling@smud.org](mailto:Toni.Stelling@smud.org), or contact by phone at 1-916-732-7143, no later than 48 hours before this meeting.





**DRAFT**

**RESOLUTION NO. \_\_\_\_\_**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

That this Board hereby approves Board member compensation for service rendered at the request of the Board (pursuant to Resolution No. 23-06-02) for the period of November 16, 2024, through December 12, 2024.



# DRAFT

Sacramento, California

November 21, 2024

The Board of Directors of the Sacramento Municipal Utility District met in regular session simultaneously in the Auditorium of the SMUD Headquarters Building at 6201 S Street, Sacramento, and via virtual meeting (online) at 6:00 p.m.

Roll Call:

Presiding: President Herber

Present: Directors Rose, Bui-Thompson, Fishman, Kerth, Tamayo, and Sanborn

Present also were Paul Lau, Chief Executive Officer and General Manager; Joe Schofield, Deputy General Counsel and Assistant Secretary, other members of SMUD's executive management; and SMUD employees and visitors.

Vice President Fishman shared the 2030 Climate Action Tip.

President Herber called for approval of the agenda. Director Sanborn moved for approval of the agenda, Director Kerth seconded, and the agenda was unanimously approved.

Director Bui-Thompson, Chair, presented the report on the Strategic Development Committee meeting held on November 12, 2024.

Director Tamayo, Chair, presented the report on the Policy Committee meeting held on November 13, 2024.

Director Kerth, Chair, presented the report for the Finance & Audit Committee meeting held on November 19, 2024.

Director Rose, Chair, presented the report for the Energy Resources & Customer Services Committee meeting held on November 20, 2024.

President Herber then called for public comment for items on the agenda, but none was forthcoming.

President Herber then addressed the consent calendar consisting of Items 3 through 10. Director Tamayo moved for approval of the consent

calendar, Director Kerth seconded, and Resolution Nos. 24-11-01 through 24-11-08 were unanimously approved.

**RESOLUTION NO. 24-11-01**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

That this Board hereby approves Board member compensation for service rendered at the request of the Board (pursuant to Resolution No. 23-06-02) for the period of October 16, 2024, through November 15, 2024.

Approved: November 21, 2024

INTRODUCED: DIRECTOR TAMAYO				
SECONDED: DIRECTOR KERTH				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON	X			
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

**RESOLUTION NO. 24-11-02**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board accepts the monitoring report for **Strategic Direction SD-17, Enterprise Risk Management**, substantially in the form set forth in **Attachment A** hereto and made a part hereof.

Approved: November 21, 2024

INTRODUCED: DIRECTOR TAMAYO				
SECONDED: DIRECTOR KERTH				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON	X			
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

**Attachment A  
to Resolution No. 24-11-02**

**SACRAMENTO MUNICIPAL UTILITY DISTRICT**

**OFFICE MEMORANDUM**

**TO:** Board of Directors

**DATE:** October 29, 2024

**FROM:** Claire Rogers *CR 10/29/24*

**SUBJECT: Audit Report No. 28007756  
Board Monitoring Report; SD-17: Enterprise Risk Management**

Internal Audit Services (IAS) received the SD-17 *Enterprise Risk Management* 2024 Annual Board Monitoring Report and performed the following:

- Selected a sample of statements and assertions in the report for review.
- Interviewed report contributors and verified the methodology used to prepare the statements in our sample.
- Validated the reasonableness of the statements in our sample based on the data or other support provided to us.

During the review, nothing came to IAS' attention that would suggest the items sampled within the SD Board Monitoring report did not fairly represent the source data available at the time of the review.

CC:

Paul Lau

# Board Monitoring Report 2024

## SD-17, Enterprise Risk Management



### 1. Background

Strategic Direction 17 states that:

Effectively balancing and managing risk to further SMUD's policies and business goals is a core value of SMUD.

Therefore:

SMUD will implement and maintain an integrated enterprise risk management process that identifies, assesses, prudently manages, and mitigates a variety of risks facing SMUD, including financial, supply, operational, physical and cyber security, climate change, legal, legislative and regulatory, and reputational risk.

### 2. Executive summary

**SMUD is in compliance with SD-17 Enterprise Risk Management.** SMUD strategically manages risk to proactively reduce the chance of loss and take advantage of opportunities that support SMUD's mission. In addition, as presented to the Policy Committee in June 2024, SMUD is maturing its risk management framework and reporting structure, the results of which will be presented to the Board in 2025 through Policy Committee updates ahead of the next Annual Monitoring Report.

In preparation for the 2024 Annual Monitoring Report, staff interviewed and surveyed management to determine current risk levels. Enterprise risks are assessed by impact, likelihood and velocity to determine residual risk, or the risk remaining after mitigations and internal controls have been implemented.

Overall, SMUD's residual risk exposure has remained steady at medium/high. In many cases, the probability or potential impact of an adverse event increased, but SMUD leveraged its risk framework successfully to introduce new controls or mitigations that allowed the residual risk level to stay the same.

Summarized below is the current Residual Risk Exposure over a three-year period.

			Nov. 2022	Nov. 2023	Nov 2024
✓	“Red”:	Extremely High Residual Exposure	0	0	0
✓	“Orange”:	High Residual Exposure	6	5	5
✓	“Yellow”:	Medium Residual Exposure	39	40	41
✓	“Green”:	Low Residual Exposure	38	40	39
✓	“Blue”:	Extremely Low Residual Exposure	0	0	0
			83	85	85

Although the counts remain the same from 2023 to 2024, we had two changes to risk levels:

- Business agility – Changed from “Yellow” or medium to “Green” or low
- Demand response – Changed from “Green” or low to “Yellow” or medium

- Employee Safety was incorrectly categorized as “Green” or low in 2023 SD-17 Monitoring Report and has been corrected to “Yellow” or medium in 2024.

Staff continues to implement risk mitigation strategies to balance residual risk exposures. There are currently 46 risks, shown in the last two lines of the table, which are within the risk management goal.

Current Residual Risk Exposure	Risk Management Goal	Number of Risks
Orange “high”	Yellow “medium”	5
Yellow “medium”	Green “low”	34
Yellow “medium”	Yellow “medium”	7
Green “low”	Green “low”	39

Changes to SMUD’s risk landscape this year include increased cyber events, physical security concerns, disruptive technology, global and political unrest, supply chain shortages, and continued unprecedented weather events. SMUD is focused on building resiliency measures into our enterprise risk management practices to be better able to monitor and respond to hazards or uncertainties and adapt to a rapidly changing risk landscape.

### 3. Additional Supporting Information

#### A. 2024 Risk Management Highlights

In 2024, ERM continued to:

- support the organization by facilitating risk conversations, supporting special projects, and providing a uniform risk framework
- enhance cross-functional discussion and thorough understanding of major risk issues by leveraging five committees, including the Enterprise Risk Oversight Committee (EROC), Risk Champions Network (RCN), Trading Operations Risk Committee (TORC), Zero Carbon Plan Steering Committee, and the Three Lines Working Team

In terms of new efforts, ERM began a refresh of its risk framework to better anticipate and accommodate our changing risk landscape. Internal Audit Services and KPMG, a global consulting firm, completed a maturity assessment of SMUD’s Enterprise Risk Management program in April 2024 to identify potential areas for improvement. Results from the maturity assessment were presented to the Policy Committee in June 2024. SMUD incorporated several changes into how we manage enterprise risk in support of their recommendations. To that end, SMUD:

- realigned the Enterprise Risk Management function with Strategy to create the new Enterprise Strategy & Risk team under the Chief Financial Officer
- hired and onboarded a new Enterprise Risk Program Manager
- aligned and coordinated commodity risk reporting with overall enterprise risk reporting on a quarterly basis
- continued to support decision-making during the enterprise prioritization, planning and budget process.
- Created a plan for further ERM enhancements and implementation of KPMG recommendations in 2025

In addition, SMUD completed several efforts in 2024 to reduce the impact of risk in the areas of reliability, safety and supply chain. Highlights of those efforts are provided below.

### ***Contractor Code of Conduct***

In 2024, staff implemented a new Contractor Code of Conduct to help mitigate supply chain risk and continue providing a safe, reliable and sustainable grid for the future. The Code of Conduct outlines how staff will recruit contractors – and their employees and subcontractors – who share SMUD's vision. With their collaboration, SMUD is aiming to create a supply chain that collectively contributes to building a greener, more sustainable future. The Code of Conduct outlines specific guidelines that ensures compliance with; laws, rules and regulations, labor and human rights, environmental and social, health and safety, diversity, equity, inclusion and belonging, and ethics and compliance.

### ***CrowdStrike Response***

In July 2024, SMUD was one of many entities affected by a worldwide CrowdStrike information technology (IT) outage, which impacted Microsoft Windows applications. Staff acted promptly to alert support teams and communicate the cause and the solution. IT teams moved swiftly, prioritizing our most important systems and working through the night to bring systems back online. Due to our internal teams' hard work and dedication, systems were back online quickly, and we were fully recovered in a matter of days, without having to pay for external recovery specialist services. The incident demonstrated the successful operation of our controls around business continuity, which is an Enterprise Risk.

### ***Storm Response Team***

For a second year in a row, extreme weather interrupted power to thousands of SMUD customers as strong wind gusts persisted for several hours in February 2024. However, preparations completed over the prior year significantly improved our speed of restoration and accuracy of estimated restoration times. SMUD was able to provide customers with new status information, letting them know when crews were scheduled to restore their power and when crews arrived on site. More staff was placed in the field by leveraging pre-existing contracts, training meter and substation staff to respond to damage reports and calling on retired annuitants. We used new technologies and processes to synthesize the data coming back to rapidly build a restoration schedule and were able to track and beat the schedule over the recovery period. This storm provided a first test of the improvements we implemented last year and showed significant impact to our customers' experiences. We will continue to build on these successes and iteratively enhance the processes for next year.

### ***Supply Chain Enhancements***

Several enhancements were completed in 2024 to reduce the impact of supply chain shortages on SMUD's operations. Staff held regular recurring business review and demand planning meetings across several operational areas primarily focused on construction, material, and equipment contractors. Staff also implemented two multi-million bulk purchasing efforts, the first to bring on additional substation resources at 200 million and the second to decrease the cost and lead times of transformers at 250 million.

### ***Insurance Recovery***

To mitigate the financial impact of business disruption risks such as asset outages, SMUD has commercial insurance policies. In 2024, SMUD completed collections on two large insurance claims. We received final settlement of the Consumnes Power Plant (CPP) business interruption claim resulting in recovery of an additional \$88.9 million in 2024, for a total claim recovery of \$152 million (equipment loss and business interruption). This year SMUD also finished collecting the \$7.5 million insurance payout for the Station A fire in 2021. These funds offset prior costs and will support lower rate increases going forward.

## B. Benchmarking

North Carolina State University's (NCSU) Enterprise Risk Management Initiative and Protiviti continue to jointly publish benchmark information. The joint study, 2024 & 2034 Executive Perspectives on Top Risks, provides insight for short-term and long-term risks from 1,443 global board members and executives from across several industries.

Overall, the study found that risks are becoming increasingly interrelated and pose significant challenges to current business models and the ability of modern organizations to be resilient and agile. As the risks associated with the pandemic subside, concerns around several emerging risks and uncertainty in the world is causing risk exposure to rise. Today's executive concerns continue to be focused on cybersecurity, third-party, talent and workforce management, and political and economic uncertainty, but the emerging risks associated with disruptive technologies, climate change, and regulatory changes are changing how risk is managed. Specific to the energy and utility industry, executives are most focused on the operational risks around cybersecurity, supply chain and weather-related risks, but found that their organizations were becoming more adaptable and better able to respond to events. In addition to operational concerns, the risks associated with regulatory and legislative changes ranked high for energy and utility leaders. Attachment B compares SMUD's top enterprise risks to the top 10 Energy and Utility risks identified in NCSU and Protiviti study.

## C. Risk Focus Areas & Global Risk Trends

As described in last year's SD-17 Annual Report, SMUD leaders selected 16 risk focus areas in 2023. Risk focus areas have a high potential to impact the achievement of SMUD's goals and strategic objectives in the upcoming year and are therefore areas of emphasis for our risk committees and investment decisions. This year, SMUD added two risks, Changing Customer Expectations and Grid Infrastructure and Operational Adequacy, for a total of 18 risk focus areas.

Attachment A outlines each risk focus area and the actions that have been taken to address these risks. Provided below is a synopsis of increasing global risk since the 2023 Board update that may cause risk focus areas to trend upward. These changes are also examples of the type of information tracked and reported by SMUD's risk management functions.

Global risk trends impacting SMUD's 2023-2024 risk focus areas:

- **Political and Regulatory Uncertainty:** There are potential effects of the upcoming November elections on the energy industry, specifically related to grant funding and regulation changes. Moreover, at the State level there are ever-evolving regulations as California manages the energy transition. This creates a level of uncertainty that deserves attention. Reliably delivering zero carbon power in an increasingly interconnected energy landscape will require coordination and collaboration between federal and state policy makers, regulators, owners, and operators.
- **Climate Change and Severe Weather:** Climate change continues to pose some of the biggest areas of uncertainty. Four characteristics make it especially impactful amongst other risks. That is its global nature, its long-term consequences, the fact that it is potentially irreversible, and the almost overwhelming uncertainty surrounding its progression and effects.
- **Third-Party and Supply Chain Risk:** Uncertainty around supply chain issues in the energy and utility industry has diminished since its peak during the pandemic. However, concerns remain high given how the energy industry's value chain is highly service, feedstock, parts, and equipment oriented. Disruptions related to global events such as

geopolitical tensions or labor strikes at the Ports threaten to inhibit a utility's ability to secure the equipment needed to maintain existing and build new infrastructure. Additionally, there is risk in testing new business models working with untested partners as the grid is modernized.

- **Physical and Cybersecurity Threats:** An increasingly modernized grid creates a larger physical and digital footprint, which in turn elevates exposure to physical and cybersecurity threats. On a national scale, there are an increasing number of reports of both physical and cybersecurity attacks against utilities from domestic terrorists. Lastly, while the recent acceleration of artificial intelligence provides prospective benefits, it also likely adds another dimension for use by bad actors.
- **Changing Customer Expectations:** Customer preferences are changing at a faster rate than they have in the past due to the prevalence of social media and more granular segmentation data. Additionally, customers continue to be impacted by the inflationary pressures introduced during the pandemic, which can increase energy bill burden, especially for certain communities. Lastly, as technological advances continue to accelerate, organizations are under more and more pressure to meet customers' evolving needs.

Staff reviews available enterprise risk-related information, including global risk trends such as those above, and incorporates new risk issues and/or expands existing risk issues where appropriate.

## D. Looking forward

In 2025, ERM will work with leaders to refresh the enterprise risk management framework. The refreshed framework will include improvements in standardization, prioritization, aggregation and interconnectedness of risks as recommended by KPMG. Included in the refreshed framework will also be a discussion of emerging risks impacting the organization.

## 4. Challenges

Today's risk environment is increasingly becoming more complex, interconnected and crisis-driven. How we manage risk will need to evolve in response. As we refresh the enterprise risk management framework, we will be challenged to look holistically across the organization to identify and mitigate risk cross-functionally. Moving to an approach that identifies and manages risk both from a top-down and bottom-up perspective will improve risk governance across the enterprise, our ability to identify and manage emerging risks, and provide management with improved quantitative tools to make resource decisions.

## 5. Recommendation

It is recommended that the Board accept the Monitoring Report for SD-17, Enterprise Risk Management.

## 6. Appendix

## 2023-2024 Risk Focus Areas

Attachment A

Risk Category	Risk	Year on Year Changes			Risk Trend	Target	Risk Mitigation Activity
		2022	2023	2024			
Operational: Process	Business continuity and disaster recovery	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>	<span style="color: black;">⬇</span>	<span style="color: green;">●</span>	<p>In 2024 staff completed several mitigations to improve SMUD's ability to respond to business disruptions including:</p> <ul style="list-style-type: none"> <li>• implementing a new Business Continuity Management (BCM) Solution,</li> <li>• transitioning 100% of Business Impact Analysis (BIAs) from Excel into the new BCM, and</li> <li>• and initiated a process to validate and catalog all technology applications.</li> </ul> <p>SMUD's continuity plans and disaster recovery capabilities were tested this past year with the CrowdStrike event and controls are functioning as currently designed.</p> <p>Staff anticipate this risk decreasing in 2025 due to completion of the Enterprise Continuity Management (ECM) roll-out.</p>
Financial	Commodity costs: energy commodity	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>	<span style="color: black;">➡</span>	<span style="color: yellow;">●</span>	<p>The Trading Oversight Risk Committee (TORC) continues to monitor changes and report to the Enterprise Risk Oversight Committee (EROC) as appropriate. One highlight of the year is the Northern California Energy Authority (NCEA) Commodity Prepay Restructuring, which will save SMUD an average of \$5.6M a year for six years. Another highlight is our recent modification to a power procurement directive, which used a data-driven approach to help reduce cost exposure while still protecting SMUD from market and supply fluctuations.</p>
Operational: Process	Control center	<span style="color: orange;">●</span>	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>	<span style="color: black;">➡</span>	<span style="color: green;">●</span>	<p>Efforts to replace the Primary Control Center continue. Staff completed land acquisition and pre-construction planning and procurement and anticipate completing California Environmental Quality Act (CEQA) documentation in the near future. Design and site work are set to begin in 2025.</p>

## 2023-2024 Risk Focus Areas

Attachment A

Risk Category	Risk	Year on Year Changes			Risk Trend	Target	Risk Mitigation Activity
		2022	2023	2024			
Strategic	Changing customer expectations	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>	<span style="color: black;">↑</span>	<span style="color: green;">●</span>	<p>SMUD continued to deliver on the needs of our customers in 2024, focusing on customer relations, outreach, education, customer technology enhancements and awareness to achieve a carbon-free future by 2030 that our customers can equitably participate in. There were several notable customer-facing accomplishments:</p> <ul style="list-style-type: none"> <li>• Proactively enrolled all residential customers (over 330,000) with an SMS-capable phone number in outage text alerts.</li> <li>• Expanded outage reporting to two-way text, making it easier than ever for customers to report their power outage.</li> <li>• Launched new features in My Energy Tools, including new 'Bill Compare' and 'Bill Forecast' tools. Expanded Residential Energy Management program, including many new enrollments in 2024.</li> <li>• Launched new contact center technologies, including multi-language translation on smud.org in eight languages, to enhance capabilities to support our customers.</li> <li>• Commercial Portal self-service launched by year-end.</li> <li>• Expansion of Community Impact Plan efforts including neighborhood electrification and workforce development activities</li> <li>• Increased lobby days from 1 to 3 days per month, connecting customers with resources and assistance</li> </ul>
Operational: System	Cybersecurity	<span style="color: orange;">●</span>	<span style="color: orange;">●</span>	<span style="color: orange;">●</span>	<span style="color: black;">↑</span>	<span style="color: yellow;">●</span>	<p>Globally, cybersecurity risks are increasing due to legacy infrastructure, increased reliance on third parties, and unintentional exposure from lack of awareness and continual threats on systems and assets from nation-states and bad actors. SMUD's cybersecurity mitigation activities are reported to the Policy Committee through the SD-16 and presented in closed session.</p>

## 2023-2024 Risk Focus Areas

Attachment A

Risk Category	Risk	Year on Year Changes			Risk Trend	Target	Risk Mitigation Activity
		2022	2023	2024			
Operational: System	Data privacy	🟡	🟡	🟡	➡	🟡	SMUD continues to see demand for SMUD customer data to be used and shared for additional purposes and programs, including customer personally identifiable information (PII). Requests for such data have come from internal programs, state agencies and vendors. SMUD's Data Sharing Policy and Process are in place to provide request tracking and approval to ensure that all sharing of PII is authorized and performed using a secure transfer mechanism.
Operational: Process	Grid infrastructure & operational adequacy	██████████	🟡	🟡	➡	🟡	<p>Significant grid improvements and new capacity projects in 2024, include:</p> <ul style="list-style-type: none"> <li>• Significant progress in the design and construction of 5 transmission substations.</li> <li>• Completed 30 substation upgrades for reliability and capacity, compared to 21 in 2023.</li> <li>• Completed many significant reliability projects within the Upper American River Project including control upgrades, replacement of critical parts, switchgear, an emergency generator upgrade and recreation facility improvements.</li> <li>• Significant reliability projects at our thermal plants include inspections and equipment overhauls, Cosumnes Power Plant (CPP) steam turbine generator line relay replacement and thermal transition studies.</li> <li>• Significant projects with our gas pipeline assets including the cathodic protection remediation project and the Franklin pipe replacement project.</li> <li>• Developed formal Asset Management Program and Strategy for power generation assets to improve work management, reduce risk and prioritize long term strategies.</li> </ul>

## 2023-2024 Risk Focus Areas

Attachment A

Risk Category	Risk	Year on Year Changes			Risk Trend	Target	Risk Mitigation Activity
		2022	2023	2024			
Operational: Process	Grid infrastructure T&D	<span style="color: orange;">●</span>	<span style="color: orange;">●</span>	<span style="color: orange;">●</span>		<span style="color: yellow;">●</span>	<p>Staff continues to implement ongoing transmission and distribution (T&amp;D) asset maintenance and multi-year replacement strategies using a risk-based approach, considering the assets' impacts to safety, load serving capability, reliability and regulatory compliance requirements.</p> <p>The 2025 capital portfolio includes completion of multi-year projects that are in flight and the start of projects to replace or upgrade substation transformers, circuit breakers and switchgear. The portfolio also includes funding for our ongoing pole replacement and cable replacement programs.</p>
Operational: Process	Employee safety	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>		<span style="color: green;">●</span>	<p>Within SMUD operations, the health and safety of our employees, contractors and the public continue to be a primary focus. Safe work practices and hazard mitigation are deeply integrated in SMUD that reduce both the frequency and severity of incidents. We continue to follow the requirements outlined in the California Division of Occupational Safety and Health (Cal/OSHA) Injury Illness &amp; Prevention Program (IIPP) and other required regulations. Key areas of risk mitigation measures include defined safety responsibilities for all personnel, adherence to OSHA regulatory compliance obligations, safety communications, hazard assessments, accident/exposure investigations, hazard corrective actions, safety training, and recordkeeping. In addition, SMUD continues to operate an industry leading, behavior-based safety program called Safely Conducted Observations Reduce Common Hazards (SCORCH).</p>
Operational: Process	Physical asset security	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>		<span style="color: green;">●</span>	<p>Facilities and Security Operations continue to address an increasing number of unauthorized encampments, trespass, and/or related vandalism incidents in or at our substations and other facilities as reported to the Board monthly. Staff continue to work with law enforcement and Sacramento County to address safety concerns of employees, the public, and our facilities. We are evaluating the use of robots, drones and AI to assist security personnel and reduce exposure.</p>

## 2023-2024 Risk Focus Areas

Attachment A

Risk Category	Risk	Year on Year Changes			Risk Trend	Target	Risk Mitigation Activity
		2022	2023	2024			
Operational: Process	Power generation asset reliability	<span style="color: green;">●</span>	<span style="color: green;">●</span>	<span style="color: green;">●</span>		<span style="color: green;">●</span>	Staff has established processes to manage unexpected disruption to power generation and/or non-performance from power and gas contractual assets that threaten to cause partial or complete cessation of the day-to-day bulk power operations of SMUD. Staff continues to assess the reliability of SMUD's assets and performs standard maintenance and rebuilds where necessary to meet SMUD's current and future needs. In addition, staff continues to acquire critical long lead spare equipment and identify appropriate renewables resources in support of SMUD's zero carbon goals. See renewables projects for additional information.
External	Regulatory/legislative mandates	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>		<span style="color: green;">●</span>	Staff continues to monitor and stay apprised of all regulatory/legislative mandates that have the potential to impact SMUD. SMUD anticipates this risk increasing in 2025 due to the potential effects of the upcoming November elections on the energy industry, specifically related to grant funding and regulation changes. At the State level, staff continue to monitor potential state mandates that impact SMUD's zero carbon strategy.
Strategic	Renewable projects	<span style="color: black;">●</span>	<span style="color: yellow;">●</span>	<span style="color: yellow;">●</span>		<span style="color: green;">●</span>	<p>In 2024, staff continued to identify appropriate resources to meet SMUD's needs and move SMUD closer towards the achievement of its zero carbon goals. Planned diversification of proven clean technologies and new technologies and business model evaluations ensure that the right projects and programs are selected to meet SMUD's goals in a reliable and affordable manner.</p> <p>SMUD continues to see risk increase in the renewable portfolio related to supply chain, land acquisition, development timelines, and cost. SMUD worked to alleviate these risks in 2024 by implementing a new land screening process and several portfolio management enhancements that work to proactively identify and mitigate risk.</p> <p>In 2025, staff will continue the development of the renewable portfolio and has received prioritization from the organization to execute those projects.</p>

## 2023-2024 Risk Focus Areas

Attachment A

Risk Category	Risk	Year on Year Changes			Risk Trend	Target	Risk Mitigation Activity
		2022	2023	2024			
External	Severe weather (incl wind, heat, lightning, capacity)	●	●	●	➡	●	<p>Climate change increases the frequency, intensity, and impacts of extreme weather events. These impacts have a high potential to impact SMUD's goals and operations. SMUD has conducted lessons learned after events and used those lessons to make process changes and plan for future events. Staff continues to conduct tabletop exercises for a number of hazard events such as storms, wildfires, heat waves, and gas pipeline to name a few. Doing so helps SMUD proactively identify gaps and address them, preparing SMUD for future events.</p>
Operational: People	Strategic workforce planning: critical positions	●	●	●	➡	●	<p>Staff conduct a bi-annual enterprise-wide role analysis to anticipate and mitigate risks of near-term and future workforce gaps. SMUD's Organizational Effectiveness team facilitates the strategic workforce planning program, enabling senior leaders and team members to analyze workforce data and consider several criteria to identify key roles, including impact on strategy, turnover, cost of turnover, level of effort to backfill, operational impact, customer service impact, and performance variability.</p> <p>In Q2 2024 we identified 7% of SMUD roles, or 57 total, as key roles and documented the rationale for selection as key. In Q3 we developed action plans to address workforce gaps in key roles.</p> <p>Action plans encompass 79 different solutions to mitigate current and future risks associated with the key roles. Action plans range in complexity – some are relatively simple where there a role has a single incumbent and requires knowledge transfer and cross training. Action plans can be much more complex. For example, in 2023 SMUD launched a robust Field Leader Program to address challenges in the transition from field to office. Action plans may identify the need for a new role. For example, in Energy Trading and Contracts, we're developing a new Market Performance Analytics role to help address the increased volatility of commodities markets.</p>

## 2023-2024 Risk Focus Areas

Attachment A

Risk Category	Risk	Year on Year Changes			Risk Trend	Target	Risk Mitigation Activity
		2022	2023	2024			
							While senior leadership drives the action plans, completing them involves support from Compensation & Classification, Talent Management, Labor Relations, Career Development & Learning and Regional Workforce Development teams. The Organizational Effectiveness team monitors progress and reports on the status of action plans quarterly. Due to the action plans being strategic and long-range in nature, staff will continue to facilitate progress and tracking through 2025. Also in 2025, staff will ask senior leaders to identify significant changes that requires reassessing key roles.
Operational: Process	Supply chain	🟡	🟡	🟡	⬆️	🟢	<p>The supply chain risk management program matured in 2024. Staff held regular recurring business review and demand planning meetings across several operational areas primarily focused on construction, material, and equipment contractors, including line transmission and distribution, substations, material planning, fleet, power generation, and facilities. These meetings were expanded to include additional areas with professional service and technology contractors during 2024. Staff established bulk purchasing agreements, new business service levels and replacement stock to reduce costs and lead procurement times.</p> <p>While efforts to mitigate this risk have improved operations, the risk trend is still increasing due to the considerable demand on transformers nationally and the amount needed by SMUD to meet regional growth and maintain a safety inventory.</p> <p>In 2024 and beyond, an opportunity area to focus on is third party risk management, in particular spending time managing performance and critical third-party relationships across all categories. Staff has developed updated solicitation and contract information including updated performance scorecards and procedures to support this effort. Supply chain staff recommends involving senior leadership in this process for the top suppliers measured by spend and criticality annually.</p>

## 2023-2024 Risk Focus Areas

Attachment A

Risk Category	Risk	Year on Year Changes			Risk Trend	Target	Risk Mitigation Activity
		2022	2023	2024			
Strategic	Transportation sector electrification/Unmanaged electrification	●	●	●	↑	●	<p>SMUD has investigated the question of what electrification of buildings and transport will do to our grid for more than a decade. We continually improve our assessment approach as new data, forecasts, and technology change. This assessment process helps us plan for expected growth in a manageable way, to reduce the risk of us delaying connection of new electric loads. In addition, the assessment enables us to have a clear picture of the potential impacts in an unmanaged and a managed world. Mitigations implemented in 2024 include:</p> <ul style="list-style-type: none"> <li>• "Call SMUD First" campaign which is driving conversations earlier between SMUD and the customer to help support infrastructure planning.</li> <li>• Geospatially map where we have clusters of Electric Vehicle (EV) adoption aligned with overloaded transformers to help prioritize where infrastructure upgrades may need to be made.</li> <li>• Work with the Electric Power Research Institute (EPRI) through their EVs2Scale2030 initiative to utilize their tools and help support more standardization of processes across utilities.</li> <li>• Panel and grid innovation opportunities to support more electrification while optimizing grid and customer infrastructure investments.</li> </ul> <p>In 2025, staff plans to operationalize managed charging from a pilot to a program and update the Integrated Distributed Resource Plan (iDRP), which will refine our EV estimates and support our next iteration of the Integrated Resource Plan (IRP).</p>
External	Wildfire	●	●	●	→	●	<p>SMUD has made considerable effort in completion of the Wildfire Mitigation Plan to reduce ignition risk in our service area, transmission line corridors and the Upper American River Project. These measures include vegetation management, response plans and exercises, emerging technologies and defensive maintenance.</p>

**TOP 10 ENTERPRISE RISKS COMPARED TO SMUD'S ENTERPRISE RISK CATEGORIES**  
**Specific to Energy and Utilities Industry**

Benchmarking Information indicates that SMUD's risks are consistent with other energy and utilities; one indicator that we are aligned in our understanding of risks facing our industry.

North Carolina State ERM Initiative and Protiviti Top 10 Enterprise Risks, abbreviated		SMUD's Corresponding Risks	SMUD's Current Residual Risk Exposure
Specific to Energy and Utilities Industry			
1	Cyber threats	<b>Operational risk:</b> Cybersecurity	
2	Regulatory changes and scrutiny	<b>External risk:</b> Legislative and regulatory	
3	Catastrophic natural disasters and weather	<b>External risk:</b> Climate change Wildfire Severe weather	The current residual risk exposure ranges from medium to high 
4	Ability to attract, develop and retain top talent	<b>Operational risk:</b> Strategic workforce agility Competitive workforce total rewards Diversity, equity, inclusion and belonging Change management	
5	Supply chain	<b>Operational risk:</b> Supply chain	

**TOP 10 ENTERPRISE RISKS COMPARED TO SMUD'S ENTERPRISE RISK CATEGORIES**  
**Specific to Energy and Utilities Industry**

North Carolina State ERM Initiative and Protiviti Top 10 Enterprise Risks, abbreviated		SMUD's Corresponding Risks	SMUD's Current Residual Risk Exposure
Specific to Energy and Utilities Industry			
6	Outsourced risks	<b>Operational risk:</b> Supply chain	
7	Climate change and other sustainability policies, regulations, and disclosure requirements	<b>Strategic risk:</b> 2030 Zero Carbon Plan  <b>External risk:</b> Legislative and regulatory	
8	Economic conditions	<b>Financial risk:</b> Interest rate Commodity Project execution  <b>Operational risk:</b> Strategic workforce agility  <b>External risk:</b> Legislative and regulatory Economic business agility	
9	Interest rates	<b>Financial risk:</b> Interest rate Energy commodity Capital availability/cashflow Liquidity Wholesale credit default	
10	Legacy IT infrastructure	<b>Operational risk:</b> Technology Systems Infrastructure Applications Support  <b>Strategic risk:</b> Changing Customer Expectations	

**RESOLUTION NO. 24-11-03**

**WHEREAS**, in June 2024, SMUD issued Request for Proposals No. Doc4621886315 (RFP) to solicit qualified contractors to provide vegetation management – utility line clearance services; and

**WHEREAS**, twenty-two (22) proposals received in response to the RFP were evaluated; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

**Section 1.** As a result of such examination, **Utility Tree Service, LLC, Mountain F. Enterprises, Inc., Community Tree Service, LLC, Rancho Tree Service, Greentek Services, LLC, and Asomeo Environmental Restoration Industry, LLC**, are hereby determined and declared to be the six highest evaluated responsive proposers to provide vegetation management – utility line clearance services.

**Section 2.** The Chief Executive Officer and General Manager, or his designee, is authorized, on behalf of SMUD, to negotiate and award contracts to **Utility Tree Service, LLC, Mountain F. Enterprises, Inc., Community Tree Service, LLC, Rancho Tree Service, Greentek Services, LLC, and Asomeo Environmental Restoration Industry, LLC**, (collectively, the **Contracts**) to provide vegetation management – utility line clearance services for a period of three years from November 22, 2024, to November 21, 2027, with two optional one-year extensions, for a total aggregate contract not-to-exceed amount of \$250,000,000.

**Section 3.** The Chief Executive Officer and General Manager, or his designee, is authorized to make future changes to the terms and conditions of the **Contracts** that, in his prudent judgment: (a) further the primary purpose of

the **Contracts**; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized contract amounts and applicable contingencies.

Approved: November 21, 2024

INTRODUCED: DIRECTOR TAMAYO				
SECONDED: DIRECTOR KERTH				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON	X			
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

**RESOLUTION NO. 24-11-04**

**WHEREAS**, Governmental Accounting Standards Board (GASB) codification section Re10 Regulated Operations allows the deferral of operating revenues from the current period to a future period as a regulatory liability for rate-making purposes; and

**WHEREAS**, this deferral will i) help offset \$20 million of future Community Impact Plan expenditures through 2028 and is in line with the plan to offset additional 2030 Zero Carbon Plan spending for pilots and programs, ii) use \$60 million for future unplanned increases in Commodity expenditures through 2030 that will have a negative impact to net income and provide reserves to cover large fluctuations in the commodity market that may have a significant financial impact on SMUD, and iii) help offset \$41 million of onetime expenditures not identified during the annual budget process; and

**WHEREAS**, the deferral will help mitigate risks that may occur from unforeseen or onetime events that may have a significant financial impact on SMUD, such as, but not limited to, catastrophic events, wildfire costs, and additional 2030 Zero Carbon Plan expenditures; and

**WHEREAS**, providing reserves should level out the impact of future cost increases on ratepayers; and

**WHEREAS**, standard or default accounting practices would be to recognize the revenues and expenses in the accounting period incurred; and

**WHEREAS**, pursuant to GASB codification section Re10 Regulated Operations, for ratemaking purposes, it would be appropriate to match the expenses with the revenues so that the revenue is recognized in the same period in which the amount is expended and will, therefore, more accurately reflect revenues and expenses in the same period; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

That this Board authorizes SMUD's Accountant to defer recognition of \$121 million of 2024 operating revenues to offset the following: 1) \$20 million future Community Impact Plan expenditures through 2028; 2) \$60 million for

future unexpected increases in Commodity expenditures through 2030; and 3)  
\$41 million for future onetime specific expenditures in order to match such  
expenditures in the appropriate accounting period for ratemaking purposes.

Approved: November 21, 2024

INTRODUCED: DIRECTOR TAMAYO				
SECONDED: DIRECTOR KERTH				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON	X			
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

**RESOLUTION NO. 24-11-05**

**WHEREAS**, the **California Energy Commission (CEC)** mandates continuously escalating procurement of renewable energy by load-serving entities in California under the **Renewables Portfolio Standard (RPS)**; and

**WHEREAS**, by Resolution No. 21-04-04, adopted on April 15, 2021, this Board revised **Strategic Direction SD-9, Resource Planning**, to align with SMUD's **2030 Zero Carbon Plan** goal of zero greenhouse gas (GHG) emissions in SMUD's energy supply by 2030, reflecting a more aggressive target than the state's **RPS** requirements; and

**WHEREAS**, in 2023, SMUD received non-binding indicative offers from **Pattern Energy, LLC (Pattern)** for the **Hatchet Ridge Wind Project** and **SunZia Wind Project** (collectively, **Projects**) for renewable wind power; and

**WHEREAS**, SMUD performed an evaluation of the market and determined that the **Projects** provided superior value and key solutions compared to available alternatives; and

**WHEREAS**, the **Power Purchase Agreements (PPAs)** for the **Projects** were offered by **Pattern** as a package deal and are therefore contingent upon one another; and

**WHEREAS**, SMUD and **Hatchet Ridge Wind, LLC** (parent company is **Pattern**), negotiated a mutually beneficial **PPA** for the **Hatchet Ridge Wind Project** under which SMUD will purchase 101.2 MW of energy, capacity attributes, and Portfolio Content Category 1 Renewable Energy Credits (PCC1 RECs), for a term of seven (7) years, at an annual approximate cost of \$24 million; and

**WHEREAS**, the **Hatchet Ridge Wind Project** is an existing wind facility in Northern California interconnected to the **California Independent System Operator Corporation (CAISO)** grid; and

**WHEREAS**, the **PPA** start date is December 14, 2025, and will support SMUD's compliance requirements for **RPS**; and

**WHEREAS**, the price and other terms proposed in the **PPA** are commercially reasonable and benefit SMUD's ratepayers; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

**Section 1.** The Chief Executive Officer and General Manager, or his delegate, is authorized to negotiate and execute the **Hatchet Ridge Wind Project Power Purchase Agreement** for a 7-year term for 101.2 MW of renewable wind power at an annual approximate cost of \$24 million, substantially in the form of **Attachment B**.

**Section 2.** The Chief Executive Officer and General Manager, or his delegate, is authorized to make future changes to the terms and conditions of the contract that, in his prudent judgment: (a) further the primary purpose of the contract; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized contract amounts and applicable contingencies.

Approved: November 21, 2024

INTRODUCED: DIRECTOR TAMAYO				
SECONDED: DIRECTOR KERTH				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON	X			
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

**RENEWABLE POWER PURCHASE AND SALE AGREEMENT****COVER SHEET**

**Seller:** Hatchet Ridge Wind, LLC

**Buyer:** Sacramento Municipal Utility District (SMUD)

**Description of Facility:** A wind-powered electricity generating facility with a nameplate capacity of 101.2 MW, as described in Exhibit A, as such facility may be modified under the terms of this Agreement.

**Milestones:**

<b>Milestone</b>	<b>Date for Completion</b>
<b>Expected Contract Start Date</b>	12/14/2025
<b>Guaranteed Contract Start Date</b>	12/31/2025
<b>Outside Contract Start Date</b>	2/1/2026

**Delivery Term:** The period for Product delivery will be from the Contract Start Date through December 1, 2032.

**Guaranteed Capacity:** 101.2 MW.

**Contract Price:** \$ [REDACTED] /MWh (flat) with no escalation.

**Expected Energy:** [REDACTED] MWh per Contract Year.

**Product:**

- Delivered Energy
- Green Attributes/Renewable Energy Credits (Portfolio Content Category 1) attributable to the Delivered Energy
- Capacity Attributes

**Scheduling Coordinator:** Seller/Seller Third Party.

**Pre-CSD Security and Performance Security**

Pre-CSD Security: \$ [REDACTED] /kW of Guaranteed Capacity.

Performance Security: \$ [REDACTED] /kW of Guaranteed Capacity.

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## **Exhibits**

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Exhibit N	Sample Settlements Worksheet

## RENEWABLE POWER PURCHASE AND SALE AGREEMENT

This Renewable Power Purchase and Sale Agreement (“**Agreement**”) is entered into as of \_\_\_\_\_, 2024 (the “**Effective Date**”), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a “**Party**” and jointly as the “**Parties**.”

### RECITALS

WHEREAS, Seller owns and operates the Facility; and

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

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

### ARTICLE 1 DEFINITIONS

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

“**Accepted Compliance Costs**” has the meaning set forth in Section 3.12.

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

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

“**Agreement**” has the meaning set forth in the Preamble and includes any Exhibits, schedules and any written supplements hereto, the Cover Sheet, and any designated collateral, credit support or similar arrangement between the Parties.

“**Approved Meter**” means a CAISO-approved revenue quality meter or meters, together with a CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy produced by the Facility net of Electrical Losses and Station Use.

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

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

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

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

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

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

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

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

**“CAISO Operating Instruction”** has the same meaning as “Operating Instruction” as defined in the CAISO Tariff.

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

**“California Renewables Portfolio Standard”** or **“RPS”** means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

**“Capacity Attribute”** means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with the Installed Capacity that may be used to satisfy resource adequacy obligations, including Resource Adequacy Benefits and Non-Resource Adequacy Capacity.

**“Capacity Attribute Shortfall”** means, for any calendar month, the difference, expressed in kW, between (i) the Guaranteed Capacity Attributes, *minus* (ii) the Capacity Attributes of the

Facility that are delivered to Buyer with respect to such month, *minus* (iii) any Deemed Delivered Capacity Attributes with respect to such month.

**“Capacity Attribute Damage Amount”** has the meaning set forth in Section 3.8(f)(i).

**“Capacity Attributes Guarantee Date”** shall mean the date that, in the CAISO’s determination, the Facility is capable of delivering Capacity Attributes to Buyer.

**“Capacity Replacement Price”** means (a) the price actually paid for any replacement Capacity Attributes purchased by Buyer to mitigate Capacity Attribute Shortfall, plus costs reasonably incurred by Buyer in purchasing such replacement Capacity Attributes, or (b) absent a purchase of any replacement Capacity Attributes, the prevailing market price for such Capacity Attributes. The Buyer shall determine such market price by averaging quotes from (3) unaffiliated brokers; *provided, however,* if three (3) broker quotes are not available to Buyer after making commercially reasonable efforts to obtain such quotes, then the Capacity Replacement Price shall be determined by averaging quotes provided by Buyer from two (2) unaffiliated brokers.

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

**“CEC Certification and Verification”** means that the CEC has certified that the Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Energy generated by the Facility qualifies as generation from an Eligible Renewable Energy Resource.

**“Change of Control”** means any circumstance in which (a) in respect of Buyer, the Person that has ultimate control over Buyer ceases to have such ultimate control, and (b) in the case of Seller, the Ultimate Parent ceases to have control over Seller; provided that, for the avoidance of doubt, it shall not be a Change of Control of Seller if the Ultimate Parent, itself or together with other Persons that would meet the requirements of the definition of Permitted Transferee, retains either (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of Seller or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in Seller, or (b) the right to direct the policies or operations of Seller.

**“Compliance Actions”** has the meaning set forth in Section 3.12.

**“Compliance Expenditure Cap”** has the meaning set forth in Section 3.12.

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

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

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

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

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

**“Contract Year”** means a period of twelve (12) consecutive months, with the first Contract Year commencing on the Contract Start Date and each subsequent Contract Year commencing on the anniversary of the Contract Start Date.

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

**“Cover Sheet”** means the cover sheet to this Agreement.

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

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

**“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, 19-02-022, 20-06-002, 20-06-031, and any other existing or subsequent decisions, resolutions or rulings related to the resource adequacy program or any successor program, as may be amended from time to time by the CPUC.

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

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

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

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

(c) a curtailment ordered by a Transmission Provider due to scheduled or unscheduled maintenance on the Transmission Provider’s transmission facilities that prevents (i) Buyer from receiving or (ii) Seller from delivering Energy at the Delivery Point; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the Participating Transmission Owner.

**Curtailment Period** means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation or deliveries of Delivered Energy from the Facility pursuant to a Curtailment Order. Curtailment Period shall not include periods during which Seller reduces generation as a result of a Market Curtailment Period.

**Damage Payment** means the dollar amount that equals the amount of the Pre-CSD Security as set forth on the Cover Sheet less the amount of any Delay Damages paid by Seller to Buyer hereunder.

**Day-Ahead Forecast** means a non-binding estimate of the hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, for each hour of the immediately succeeding day, based upon, at Seller's option, (i) the CAISO VER forecast or (ii) a forecast prepared by the Third-Party Forecast Vendor using an industry-standard methodology that utilizes the potential generation of the Facility as a function of Available Capacity, wind speed and direction, wind turbine power curves and other pertinent data for the period of time, consistent with Prudent Operating Practice; provided that, for the avoidance of doubt, market conditions and pricing shall not be factored in such determination of the potential generation of the Facility.

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

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

**Deemed Delivered Capacity Attributes** has the meaning set forth in Section 3.8(e).

**Deemed Delivered Energy** means the amount of Energy, expressed in MWh, that the Facility would have produced and delivered to the Delivery Point, but that is not produced by the Facility and delivered to the Delivery Point due to Seller's reduction of generation during a Market Curtailment Period, which shall be (i) determined by Seller in a commercially reasonable manner using an industry-standard methodology that calculates the potential generation of the Facility delivered to the Delivery Point as a function of available capacity, actual meteorological conditions on the Site, including wind speed and direction, and wind turbine power curves and other pertinent data for the period of time, consistent with Prudent Operating Practice (with supporting information provided to Buyer), and (ii) accepted by Buyer, which acceptance shall not be unreasonably withheld or delayed.

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

**Deficient Month** has the meaning set forth in Section 4.8(e).

**Delay Damages** means an amount equal to (a) the Pre-CSD Security amount required hereunder, divided by (b) three hundred sixty five (365).

**Delay Damages Payment** has the meaning set forth in Exhibit B.

**“Delivered Energy”** means, in any Settlement Interval or Settlement Period, as applicable, (i) the Energy produced by the Facility and delivered to the Delivery Point as measured in MWh by the Approved Meter, net of all Electrical Losses and Station Use; *plus* (ii) all Replacement Energy delivered as part of prospectively delivered Replacement Product pursuant to Section 4.7(b)(i).

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

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

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

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

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

**“Electrical Losses”** means all transmission or transformation losses between the Facility and the Delivery Point, other than losses that are financially settled by Seller.

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

**“Energy”** means electrical energy, measured in MWh.

**“Energy Replacement Damages”** has the meaning set forth in Exhibit E.

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

**“Excess MWh”** has the meaning set forth in Section 3.3(d).

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

**“Expected Energy”** means the quantity of Delivered Energy (with associated Green Attributes) that Seller expects to be able to deliver to Buyer during each Contract Year in the quantity specified on the Cover Sheet.

**“Facility”** means the energy generating facility described on the Cover Sheet and in Exhibit A.

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

**“Fitch”** means Fitch Ratings Ltd., or its successor.

**“Floor Price”** means zero dollars per MWh (\$0/MWh); *provided*, for any period during which Seller is eligible to obtain and is actually obtaining PTCs, Floor Price shall mean the

Negative PTC Value; *provided further*, the Floor Price may be set lower than the amount set forth in this definition pursuant to Section 4.3(c).

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

**“Forced Facility Outage”** means an unexpected failure of one or more components of the Facility or any outage on the Transmission System that prevents Seller from making power available at the Delivery Point and that is not the result of a Force Majeure Event.

**“Future Environmental Attributes”** means any and all generation attributes (other than Green Attributes or Renewable Energy Incentives) under the RPS regulations and/or under any and all other international, federal, regional, state or other Law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now, or in the future, to the generation of electrical energy by a wind generation facility as opposed to from a conventional generation resource.

**“Gains”** means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Contract Term, and includes the value of Green Attributes and Capacity Attributes.

**“Governmental Authority”** means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO and WREGIS; *provided, however*, that “Governmental Authority,” as such term is used in this Agreement in connection with Seller’s obligations to comply with Law or bear Taxes, shall not include Buyer to the extent that Buyer’s acts or omissions would impose incremental burdens on Seller or Seller’s performance under this Agreement or limit or deprive Seller of any of Seller’s rights or benefits under this Agreement.

**“Green Attributes”** means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the Delivered Energy. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of

altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) investment or production tax credits associated with the construction or operation of the Facility and other financial incentives associated therewith, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits.

**"Green Tag"** means a certificate or other instrument recognized by a Governmental Authority, with one Green Tag representing the Green Attributes associated with one (1) MWh of Energy generated by the Facility.

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

**"Guaranteed Capacity"** has the meaning set forth on the Cover Sheet.

**"Guaranteed Capacity Attributes"** means all Capacity Attributes available from the Facility, expressed in kW, subject to reductions that may result from Planned Outages, Forced Facility Outages (not caused by Seller's fault or negligence), System Emergencies, Curtailment Orders, Force Majeure Event, or operation of the Facility consistent with the Operating Restrictions and Prudent Operating Practice.

**"Guaranteed Contract Start Date"** has the meaning set forth on the Cover Sheet.

**"Guaranteed Energy Production"** has the meaning set forth in Section 4.7(a).

**"Imbalance Energy"** means the amount of Energy, in any given Settlement Period or Settlement Interval, by which the amount of Delivered Energy deviates from the amount of Scheduled Energy.

**"Indemnifiable Event"** has the meaning set forth in Section 16.1(a).

**"Indemnified Party"** has the meaning set forth in Section 16.1(a).

**"Indemnifying Party"** has the meaning set forth in Section 16.1(a).

**"Installed Capacity"** means the nameplate capacity of the Facility at the point of interconnection (which point of interconnection is specified in the Interconnection Agreement), as evidenced by a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit G hereto.

**"Inter-SC Trade"** has the meaning set forth in the CAISO Tariff.

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

**“Interconnection Facilities”** means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the PTO’s Transmission System in order to meet the terms and conditions of this Agreement.

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

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

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

**“Letter(s) of Credit”** means one or more irrevocable, standby letters of credit (a) issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- with an outlook designation of “stable” from S&P or A3 with an outlook designation of “stable” from Moody’s, and (b) in a form substantially similar to the letter of credit set forth in Exhibit I, or as otherwise reasonably acceptable to the Party that is the beneficiary of the Letter of Credit.

**“Licensed Professional Engineer”** means either (i) DNV Energy USA, Inc., (ii) the independent engineer retained by the Lenders, or on their behalf under customary terms and conditions, in connection with a financing of the Facility, which engineer, or employee or principal thereof (a) is licensed to practice engineering in California, (b) has training and experience in the power industry specific to the technology of the Facility, (c) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Facility or of a manufacturer or supplier of any equipment installed at the Facility other than as the independent engineer for the Lenders, and (d) is licensed in an appropriate engineering discipline for the required certification being made, or (iii) a person acceptable to Buyer in its reasonable judgment.

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

**“Losses”** means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., NP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

**“Lost Output”** has the meaning set forth in Exhibit E.

**“Low Wind Period”** A period of time during which the Facility is expected to average hourly generation less than twenty seven (27) MWh.

**“Market Curtailment Period”** means the period of time, as measured using current Settlement Intervals, during which both the LMP in the Day-Ahead Market and the LMP in the Real-Time Market at the Delivery Point are less than the Floor Price; *provided* that the Market Curtailment Period shall also include the time required for the Facility to ramp down to implement such curtailment and ramp up following such curtailment in accordance with the Operating Restrictions.

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

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

**“MW”** means megawatts measured in alternating current.

**“MWh”** means megawatt-hour measured in alternating current.

**“NERC”** means the North American Electric Reliability Corporation or any successor entity.

**“Negative PTC Value”** means the amount, on a dollar per MWh basis, equal to the PTC value that Seller is eligible to earn in respect of Delivered Energy from the Facility at the time of calculation, *multiplied by* negative one (-1).

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

**“Non-RA Capacity Termination”** has the meaning set forth in Section 2.5(a).

**“Non-Resource Adequacy Capacity”** means the resource adequacy benefits of a unit/resource that is qualified to provide resource adequacy (including Resource Adequacy Benefits) to Buyer in accordance with the resource adequacy rules established by the CAISO and the CPUC or the Buyer’s governing board, as applicable, but which resource adequacy benefits have not been committed to any other entity for Resource Adequacy Benefits counting purposes

as part of a Supply Plan or for other applicable compliance reporting. For the avoidance of doubt, Non-Resource Adequacy Capacity is utilized by Buyer to serve as a supporting resource to firm Buyer's self-scheduled export transactions from the CAISO Balancing Authority Area, in order for such Non-Resource Adequacy Capacity to meet Buyer's resource adequacy obligations to its customers, as set by Buyer's governing board.

**“Notice”** shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service or electronic communication (including email or other electronic means).

**“Operating Restrictions”** means the operational characteristics of the Facility set forth in Exhibit L.

**“Outside Contract Start Date”** has the meaning set forth on the Cover Sheet; *provided*, the Outside Contract Start Date may be extended on a day-for-day basis for each day of delay to Contract Start caused by Buyer breach of or default under this Agreement.

**“Owner”** has the meaning set forth in Section 2.2.

**“Pacific Prevailing Time”** means the prevailing standard time or daylight savings time, as applicable, in the Pacific time zone.

**“Participating Transmission Owner”** or **“PTO”** means an entity that owns, operates and maintains the Transmission System or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities where the Facility is interconnected. For purposes of this Agreement, the Participating Transmission Owner is set forth in Exhibit A.

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

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

**“Performance Measurement Period”** has the meaning set forth in Section 4.7(a).

**“Performance Security”** means, at Seller's option (i) cash (ii) a Letter of Credit, and/or (iii) a surety bond, in the amount set forth on the Cover Sheet.

**“Permitted Extension”** has the meaning set forth in Exhibit B.

**“Permitted Transferee”** means an entity that satisfies, or is controlled by another Person that satisfies, the following requirements:

(a) A tangible net worth plus unfunded capital commitments of not less than one █ or a Credit Rating of at least █ from S&P, █ from Fitch, or █ from Moody's; and

(b) At least [REDACTED] years of experience in the ownership and operations of power generation facilities with an aggregate nameplate capacity of at least [REDACTED], or has retained a third-party with such experience to operate the Facility.

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

**“Planned Outage”** means an outage or derate that has been scheduled by Seller in advance of one or more of the Facility’s components that results in a reduction of the ability of the Facility to produce Energy and is consistent with Prudent Operating Practice.

**“Portfolio Content Category 1”** or **“PCC1”** means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

**“Pre-CSD Security”** means, at Seller’s option (a) cash and/or (b) a Letter of Credit, in the amount set forth on the Cover Sheet.

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

**“Production Tax Credits”** or **“PTCs”** means production tax credit under Section 45 of the Internal Revenue Code as in effect from time-to-time throughout the Delivery Term or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind or other renewable energy resources for which Seller, as the owner of the Facility, is eligible.

**“Project”** has the same meaning as “Facility”.

**“Prudent Operating Practice”** means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the utility-scale wind energy industry for facilities of similar size, type and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to accomplish results consistent with Law, reliability, safety, environmental protection, applicable codes, and standards of economy and expedition. Prudent Operating Practice is not necessarily defined as the optimal standard practice method or act to the exclusion of others, but rather refer to a range of actions reasonable under the circumstances.

**“PTC Amount”** means the amount, on a dollar per MWh basis, equal to the Production Tax Credits that Seller would have earned in respect of energy from the Facility at the time, grossed up on an after tax basis at the then-highest marginal combined federal and state corporate tax rate, but failed to earn as a result of Market Curtailment Period or Buyer breach or default.

**“QRE”** has the meaning set forth for “Qualified Reporting Entity” in the WREGIS Operating Rules.

**“Real-Time Forecast”** has the meaning set forth in Section 4.4(e).

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

**“REC Price”** means the prevailing market price (expressed in \$/MWh) for RECs meeting the requirements for Portfolio Content Category 1, determined by Buyer in a commercially reasonable manner by averaging quotes from three (3) unaffiliated brokers; *provided, however*, if three (3) broker quotes are not available to Buyer after making commercially reasonable efforts to obtain such quotes, then the REC Price shall be determined by averaging quotes provided by Buyer from two (2) unaffiliated broker.

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

**“Recurring Certificate Transfers”** has the meaning set forth in the WREGIS Operating Rules.

**“Remedial Action Plan”** has the meaning in Section 2.5.

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

**“Renewable Energy Incentives”** means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that are not a Green Attribute or a Future Environmental Attribute.

**“Replacement Energy”** means energy produced by a facility other than the Facility that, at the time delivered to Buyer, qualifies under Public Utilities Code 399.16(b)(1), and has green attributes that have the same or comparable value as the energy produced by the Facility.

**“Replacement Green Attributes”** means Renewable Energy Credits meeting the RPS requirements for Portfolio Content Category 1.

**“Replacement Product”** means (a) Replacement Energy and (b) Replacement Green Attributes provided pursuant to Section 4.7.

**“Resource-Specific System Resource”** has the meaning set forth in the CAISO Tariff.

**“Resource Adequacy Benefits”** means the rights and privileges attached to the Capacity Attributes available from the Facility that satisfy any entity’s resource adequacy obligations, as those obligations are set forth in the CAISO Tariff or CPUC Decisions and any subsequent

CAISO Tariff or CPUC ruling or decision and shall include any local, zonal or otherwise locational attributes associated with the Facility, if any.

“**Resource Data Template**” has the meaning set forth in the CAISO Tariff.

“**S&P**” means the Standard & Poor’s Financial Services, LLC (a subsidiary of The McGraw-Hill Companies, Inc.) or its successor.

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

“**Scheduled Energy**” means the Energy from the Facility that clears under the applicable CAISO market based on the final Schedule developed in accordance with this Agreement, the operating procedures developed by the Parties pursuant to this Agreement, and the applicable CAISO Tariff, protocols and Scheduling practices.

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

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

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

“**Serial Defect**” means failures or malfunctions of the Facility, or any portion thereof, arising from a failure or malfunction of no less than fifteen percent (15%) of the same or similar Facility equipment (or any portion thereof).

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

“**Settlement Interval**” has the meaning set forth in the CAISO Tariff.

“**Settlement Period**” has the meaning set forth in the CAISO Tariff, which as of the Effective Date is the period beginning at the start of the hour and ending at the end of the hour.

“**Shared Facilities Agreement**” has the meaning set forth in Section 6.3.

“**Site**” means the real property on which the Facility is or will be located, as further described in Exhibit A, and as may be updated by Seller no later than sixty (60) days after Seller’s

delivery of the final certificate stating the Installed Capacity, substantially in the form attached as Exhibit G hereto.

**“Station Use”** means:

(a) The Energy produced by the Facility that is used within the Facility to power the lights, motors, control systems and other electrical loads that are necessary for operation of the Facility; and

(b) The Energy produced by the Facility that is consumed within the Facility’s electric energy distribution system as losses.

**“Supply Plan”** has the meaning set forth in the CAISO Tariff.

**“System Emergency”** means any condition that: (a) requires, as determined and declared by a Transmission Provider, automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability, and (b) directly affects the ability of any Party to perform under any term or condition in this Agreement, in whole or in part.

**“Tax”** or **“Taxes”** means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

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

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

**“Third-Party Forecast Vendor”** means (a) ENFOR A/S, UL Services Group LLC, Underwriters Laboratories LLC, Vaisala Group, Meteologica S.A., or (b) any other reputable third-party vendor that is registered to do business in California, experienced in providing and verifying wind energy generation forecasts, and not an Affiliate of Seller.

**“Transmission Provider”** means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point, including CAISO and the Participating Transmission Owner.

**“Transmission System”** means the transmission facilities operated by the Transmission Provider(s), now or hereafter in existence, which provide energy transmission service upstream to or downstream from the Delivery Point.

**“Ultimate Parent”** means Pattern Energy Group LP.

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

**“WREGIS Certificate Deficit”** has the meaning set forth in Section 4.8(e).

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

**“WREGIS Operating Rules”** means those operating rules and requirements adopted by WREGIS as of October 2022, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

## 1.2 Rules of Interpretation.

In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

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

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

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

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

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

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

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

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

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

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

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

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

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

## ARTICLE 2 TERM; CONDITIONS PRECEDENT

### 2.1 **Contract Term.**

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions and any contract term extension provisions set forth herein (“**Contract Term**”).

(b) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. In addition, the confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, all indemnity obligations shall remain in full force and effect for one (1) year following termination of this Agreement, all audit rights shall remain in full force and effect for three (3) years following the termination of this Agreement, and Buyer’s obligation to return to Seller the Pre-CSD Security and/or Performance Security less any amounts drawn in accordance with this Agreement shall remain in full force and effect following the termination of this Agreement.

2.2 **Buyer Extension Offer.** No later than one (1) year prior to the conclusion of the Delivery Term, Seller may make a one-time good faith offer to Buyer, delivered via written Notice to Buyer (“**Extension Offer**”), to purchase the Product following end of the Contract Term. Such Extension Offer shall (i) include Seller’s proposed delivery term, contract price, and payment settlement mechanics; and (ii) specify that all other terms of such Extension Offer shall be materially similar as the terms set forth in this Agreement, other than any terms that Seller may

specifically set forth in such Extension Offer. If Buyer accepts such Extension Offer, in its sole discretion, within one (1) month following receipt of such Extension Offer, Seller and Buyer shall negotiate the terms of a binding agreement consistent with such Extension Offer for a period of three (3) months, during which period Seller shall not enter into any binding agreement with a third party for the sale of the output of the Facility. If the Parties have not executed a binding agreement consistent with such Extension Offer within such three (3) month period, either Party may elect to discontinue negotiations at any time thereafter, and Seller shall be free to enter into an agreement with one or more third parties for the purchase and sale of the output of the Facility, or any portion thereof, following the end of the Delivery Term. .

**2.3     Obligations Prior to Delivery Term.** Prior to commencement of the Delivery Term, Seller shall complete each of the following:

- (a) Seller shall have delivered to Buyer a certificate from a Licensed Professional Engineer substantially in the form of Exhibit G;
- (b) A Meter Service Agreement for CAISO Metered Entities (as defined in the CAISO Tariff) between CAISO and Seller shall have been executed and delivered and be in full force and effect, and a copy of such agreement delivered to Buyer;
- (c) An Interconnection Agreement between Seller and the PTO shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;
- (d) All applicable regulatory authorizations, approvals and permits for the operation of the Facility have been obtained (or if not obtained, applied for and reasonably expected to be received within ninety (90) days) and all conditions thereof have been satisfied and shall be in full force and effect;
- (e) Seller has received the CEC Certification and Verification for the Facility;
- (f) Installed Capacity equal to one hundred percent (100%) of the Guaranteed Capacity has been completed and is ready to produce and deliver Product to Buyer, as stated in the certificate in the form of Exhibit G delivered pursuant to clause (a) of this Section 2.3;
- (g) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements pursuant to the WREGIS Operating Rules (that are reasonably capable of being completed prior to the Contract Start Date under the WREGIS Operating Rules), including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system;
- (h) Seller has delivered the Performance Security to Buyer in accordance with Section 8.8; and

(i) Seller has paid Buyer for all Delay Damages due and owing under this Agreement, if any.

Upon request from Seller from time to time, Buyer shall confirm in writing the completion of those of the foregoing conditions that have been completed by Seller as of such request.

**2.4 Status Updates.** The Parties agree time is of the essence in regard to the Agreement. From the Effective Date and continuing until the Contract Start Date, Seller shall notify Buyer promptly upon learning of any condition that will, or would reasonably be expected to, prevent the Contract Start Date from occurring as of the Expected Contract Start Date. Seller shall also provide Buyer with any reasonably requested documentation (subject to availability and confidentiality restrictions) directly related to any such delay or expected delay within ten (10) Business Days of receipt of such request.

**2.5 Outside Contract Start Date.**

(a) If, due to a Permitted Extension, Contract Start is not achieved by the Outside Contract Start Date (as it may be extended), either Party may terminate this Agreement upon Notice to the other Party, it shall not be an Event of Default by either Party, and neither Party shall have any liability to the other Party except for those obligations that survive termination as described in Section 2.1(b).

(b) If Contract Start is not achieved by the Guaranteed Contract Start Date, as it may be extended due to a Permitted Extension, for reasons other than a Permitted Extension, either Party may terminate this Agreement upon Notice to the other Party, it shall not be an Event of Default by either Party, and neither Party shall have any liability to the other Party except for the payment by Seller, as liquidated damages, of the full amount of the Pre-CSD Security less any Delay Damages (as described in Exhibit B) paid as of the date of such termination, if any, and those obligations that survive termination as described in Section 2.1(b).

**ARTICLE 3**  
**PURCHASE AND SALE**

**3.1 Sale of Product**

(a) Subject to the terms and conditions of this Agreement, during the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all the Product produced by or associated with the Installed Capacity of the Facility. The sale by Seller and purchase by Buyer of Delivered Energy hereunder shall be for resale. Subject to Buyer's obligations to pay for Deemed Delivered Energy, Buyer has no obligation to purchase from Seller any Product that is not or cannot be delivered to the Delivery Point as a result of any circumstance, including, an outage of the Facility, a Force Majeure Event, or a Curtailment Order.

(b) Remarketing Rights. During the Delivery Term, Buyer will have exclusive rights to offer, bid, or otherwise submit the Product, or any component thereof, from the Facility after the Delivery Point for resale into the market or to any third party, and retain and receive any and all related revenues. Seller shall use good faith efforts to work with Buyer to finalize

remarketing arrangements that will allow Buyer to remarket Product to third parties during the Delivery Term if Buyer so desires; *provided* that Buyer shall reimburse Seller for any reasonable and material costs associated with such efforts and any remarketing or reselling of Product, and Seller shall incur no liabilities pursuant to the terms of any remarketing arrangement in excess of what Seller would bear or incur, as applicable, under the terms of this Agreement had such remarkedeted Product not been remarkedeted.

**3.2     Sale of Green Attributes.** During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all of the Green Attributes.

**3.3     Compensation.**

(a)     Delivered Energy. For each MWh of Delivered Energy in each Settlement Period or Settlement Interval, as applicable, Buyer shall pay Seller [REDACTED]



(b)     Deemed Delivered Energy. For each Settlement Period or Settlement Interval, as applicable, during the Delivery Term, Buyer shall pay Seller the Contract Price for each MWh of Deemed Delivered Energy. In addition, during the period (if any) in which Seller is receiving the PTC for the Delivered Energy, Buyer shall also pay the PTC Amount for all Deemed Delivered Energy. Notwithstanding the foregoing, Seller shall receive no compensation from Buyer, including for the PTC Amount, for Deemed Delivered Energy to the extent that Seller is required to reduce delivery of Delivered Energy as a result of any Curtailment Period.

(c)     Excess Deliveries. [REDACTED]



(d)     Excess Settlement Interval Deliveries. If, during any Settlement Interval, Seller delivers Product amounts to Buyer, as measured by the amount of Delivered Energy, in excess of the product of the Guaranteed Capacity and the duration of the Settlement Interval, expressed in hours (“**Excess MWh**”), then Buyer shall not be obligated to pay for any such Excess MWh and Buyer shall receive any RECs associated with Excess MWh. If the LMP in the Real-

Time Market at the Delivery Point is negative for a Settlement Interval with Excess MWh, Seller shall pay Buyer an amount equal to the product of (i) the absolute value of the LMP in the Real-Time Market at the Delivery Point, *times* (ii) Excess MWh for such Settlement Interval.

**3.4    Imbalance Energy.** Buyer and Seller recognize that from time to time the amount of Delivered Energy will deviate from the amount of Scheduled Energy. Seller shall be responsible for all CAISO costs, and shall be entitled to all CAISO revenues, associated with Imbalance Energy.

**3.5    Ownership of Renewable Energy Incentives.** Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller's sole expense, in Seller's efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

**3.6    Future Environmental Attributes.**

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. The Parties shall promptly notify each other upon becoming aware of the existence of Future Environmental Attributes and, subject to the final sentence of this Section 3.6(a), in such event, Buyer shall have the exclusive right to claim such Future Environmental Attributes by providing Notice to Seller. If Buyer provides such Notice, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller's receipt of Notice from Buyer of Buyer's intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or its operations unless the Parties have agreed on all necessary terms and conditions relating to such alteration and Buyer has agreed to reimburse Seller for all costs associated with such alteration.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.6(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) the determination of any additional costs to be borne by Buyer, as set forth above; *provided*, that the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

**3.7    Reserved.**

**3.8    Capacity Attributes.**

(a) From and after the Capacity Attributes Guarantee Date, Seller sells, grants, pledges, assigns and otherwise commits to Buyer all of the Capacity Attributes.

(b) Subject to the provisions of this Section 3.8 and Section 3.12, throughout the Delivery Term, Seller shall perform all commercially reasonable actions necessary to ensure that the Facility is eligible to provide Capacity Attributes at the Delivery Point. From and after the Capacity Attributes Guarantee Date, subject to the provisions of this Section 3.8 and Section 3.12, Seller hereby covenants and agrees to transfer all Capacity Attributes to Buyer. Seller shall not commit or encumber any portion of the Facility so as to prevent it from serving as Buyer's Supporting Resource (as defined in the CAISO Scheduling Infrastructure Business Rules) and delivering the Guaranteed Capacity Attributes.

(c) Subject to Section 3.12, for the duration of the Delivery Term, Seller shall use good faith efforts, including as set forth in this Section 3.8(c), to comply with requirements in connection with Non-Resource Adequacy Capacity that (i) are instituted by the governing body of Buyer or the CAISO, and (ii) differ from CAISO or CPUC rules applicable to Resource Adequacy Benefits. Seller shall provide to Buyer an attestation, in a form reasonably acceptable to Buyer, stating that Buyer has procured the Capacity Attributes.

(d) Subject to the provisions of this Section 3.8, at Buyer's reasonable request, Seller shall execute such documents and instruments and take all steps and actions as may be reasonably required to effect recognition and transfer of the Capacity Attributes as belonging to Buyer; provided that no such request may impose any material additional third-party costs (other than those reimbursed by Buyer pursuant to Section 3.12) or obligations on Seller, or reduce Seller's compensation hereunder.

(e) Buyer acknowledges that it may be required to take action and obtain certain rights at the Delivery Point in order to make use of the Capacity Attributes, as may be required under applicable Law. If applicable, Seller shall use commercially reasonable efforts to support Buyer's efforts to (i) obtain any rights that Buyer is required to obtain, or (ii) take any other actions that Buyer is required to take, in each case in order for Buyer to make use of the Capacity Attributes, and in each case as may be required under Applicable Law and as may change from time to time. Buyer's failure to obtain or maintain any rights or capacities, or take any other actions, necessary to receive or utilize the Capacity Attributes, for reasons other than a Seller failure under this Agreement, shall not be a Seller breach hereunder; any Capacity Attributes, expressed in kW, not delivered to Buyer due to such failure of Buyer shall be defined as "**Deemed Delivered Capacity Attributes**". In addition, if any action or inaction of the governing board of Buyer (x) prevents Seller from delivering any Capacity Attributes to Buyer using commercially reasonable efforts consistent with and limited to Seller's obligations hereunder with respect to Capacity Attributes as of the Effective Date, or (y) disqualifies the Facility from providing Capacity Attributes to Buyer, in whole or in part, all such undelivered or ineligible Capacity Attributes shall constitute Deemed Delivered Capacity Attributes.

(f) From and after the Capacity Attributes Guarantee Date, for any calendar month in which there is a Capacity Attribute Shortfall greater than zero (0) kW

(i) Seller shall be liable for liquidated damages (“**Capacity Attribute Damage Amount**”) in the amount of [REDACTED]

**3.9 CEC Certification and Verification.** Prior to CSD Seller shall provide Buyer with evidence that the Facility has obtained CEC Certification and Verification. Seller shall provide to the CEC all information necessary to maintain CEC Certification and Verification for the Facility throughout the Delivery Term.

Subject to the terms of this Section 3.9 and Section 3.12, Seller shall ensure that throughout the Delivery Term, the Product meet the criteria defined by the CEC Renewables Portfolio Standard Eligibility Guidebook for PCC-1.

**3.10 Non-Modifiable Terms.**

(a) Eligibility. 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) Applicable 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.

(c) Transfer of Renewable Energy Credits. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the renewable energy credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028 or the California Energy Commission’s *Renewables Portfolio Standard Eligibility Guidebook*, which may be modified by subsequent decisions of the California Public Utilities Commission, updates by the California Energy 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.

(d) Tracking of RECs in WREGIS. 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.

(e) Each of Buyer and Seller acknowledge that this Agreement does not conform to the non-modifiable standard contract term requirements of CPUC decisions 08-04-009, 08-08-028, 10-03-021, 13-11-024, or any successor CPUC decisions thereto. Buyer represents that deliveries of Product under this Agreement are not required to comply with such requirements.

3.11 **California Renewables Portfolio Standard**. Upon request of Buyer, Seller shall provide records or other information reasonably required to demonstrate that the Product has been conveyed and delivered in accordance with the terms and conditions of this Agreement, including, subject to Section 3.12, scheduling or delivery information necessary to meet the requirements of the California Renewables Portfolio Standard for the Product. Subject to Section 3.12, Seller represents and warrants the Product meets the requirements set forth in PUC Code 399.16(b)(1) and the RPS compliance requirements for Portfolio Content Category 1 as set forth in CPUC Decision 11-12-052.

3.12 **Compliance Expenditure Cap**. Notwithstanding anything herein to the contrary, if Seller establishes to Buyer's reasonable satisfaction that a change in Law occurring after the Effective Date has increased Seller's cost above the cost that could reasonably have been contemplated as of the Effective Date to take all actions to comply with Seller's obligations under the Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable), the items listed below, then the Parties agree that the maximum amount of costs and expenses Seller shall be required to bear during any Contract Year shall be capped at [REDACTED]

[REDACTED] ("**Compliance Expenditure Cap**")

- (a) CEC Certification and Verification;
- (b) Green Attributes;
- (c) WREGIS; and
- (d) Capacity Attributes.

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

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

Buyer will have ninety (90) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof, for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.12 within ninety (90) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the

subject of the Notice, and Seller shall have no further obligations to take, and no liability for a failure to take, such Compliance Actions for the remainder of the Term

*; provided, however,* that Buyer shall have the right to reconsider Compliance Actions that have been rejected or waived pursuant to this paragraph at any time; *provided further*, upon Buyer's written request in connection with such reconsideration, Seller shall provide Notice to Buyer with an updated estimate of the anticipated out-of-pocket expenses to take the reconsidered Compliance Action. Within ninety (90) days after Buyer's receipt of Seller's Notice, Buyer shall agree to reimburse Seller for the Accepted Compliance Costs or waive Seller's obligation to take the reconsidered Compliance Actions, or any part thereof, for which Buyer does not agree to reimburse Seller; *provided*, if Buyer does not reply within such ninety (90) day period Buyer shall be deemed to have waived Seller's obligation to take such Compliance Actions.

If Buyer agrees to reimburse Seller for the Accepted Compliance Costs, then Seller shall take such Compliance Actions covered by the Accepted Compliance Costs as agreed upon by Buyer and Buyer shall reimburse Seller for Seller's actual costs to effectuate the Compliance Actions, not to exceed the Accepted Compliance Costs, within sixty (60) days from the time that Buyer receives an invoice and documentation of such costs from Seller. If Buyer agrees to reimburse Seller for the Accepted Compliance Costs for less than all of the costs that exceed the Compliance Expenditure Cap, Seller shall only be obligated to take the Compliance Actions covered by the Accepted Compliance Costs.

Notwithstanding anything else in this Agreement, any incremental costs to Seller in excess of Fifteen Thousand Dollars (\$15,000) per year to comply with requirements regarding Capacity Attributes (including Non-Resource Adequacy Capacity) established by Buyer, or any Person vested with the authority under applicable Law to require Buyer to procure resource adequacy or other such products, over and above Seller's costs to comply with CAISO and/or CPUC requirements as to Resource Adequacy Benefits as of the Effective Date ("**Buyer Capacity Compliance Costs**"), shall be excluded from the Compliance Expenditure Cap. If Buyer desires Seller to comply with any requirements regarding Capacity Attributes (including Non-Resource Adequacy Capacity) that differ from CAISO and/or CPUC requirements as described in the prior sentence, Buyer shall be responsible for payment of all such Buyer Capacity Compliance Costs.

The terms and conditions of this Section 3.12 with respect to Seller expenses in excess of the Compliance Expenditure Cap shall apply, *mutatis mutandis*, to all Buyer Capacity Compliance Costs.

Notwithstanding anything else in this Agreement: (i) Seller shall be under no obligation to take any action to comply with such requirements as could reasonably be expected to have a material adverse impact upon Seller's ability to own, operate, or maintain the Facility; and (ii) if at any time, pursuant to (a) the then-current CAISO Tariff, (b) the rules or regulations of Buyer or any Person vested with the authority under applicable Law to require Buyer to procure resource adequacy or other such products, or (c) other applicable Law, the transfer and/or delivery to Buyer of Non-Resource Adequacy Capacity associated with the Facility is not permitted, then: Seller shall have no further obligation hereunder to deliver Non-Resource Adequacy Capacity to Buyer; Seller shall not be required to incur any costs or expenses in connection with delivery of Non-Resource Adequacy Capacity to Buyer; such non-delivery of Non-Resource Adequacy Capacity

to Buyer shall not be a breach, default or Event of Default hereunder; and Seller shall have no liability to Buyer as a result of such non-delivery of Non-Resource Adequacy Capacity.

The term “commercially reasonable efforts” as used in Section 3.10 means efforts consistent with and subject to this Section 3.12.

## **ARTICLE 4** **OBLIGATIONS AND DELIVERIES**

### **4.1     Delivery.**

(a)     Energy. Subject to the terms and conditions of this Agreement, Seller shall make available and Buyer shall accept all Delivered Energy on an as-generated, instantaneous basis. Seller shall be responsible for the delivery of Delivered Energy by securing such arrangements with CAISO, the PTO, and any other Transmission Provider as are necessary in connection therewith.

(b)     Green Attributes. Seller hereby provides and conveys all Green Attributes as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product.

### **4.2     Title and Risk of Loss.**

(a)     Energy. Title to and risk of loss related to the Delivered Energy shall pass and transfer from Seller to Buyer at the Delivery Point.

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

### **4.3     Scheduling Coordinator Responsibilities.**

(a)     Seller as Scheduling Coordinator for the Facility. Seller shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for the delivery of the Product at the Delivery Point. Seller shall not be responsible for any charges or fees associated with the Product that are assessed by the CAISO after the Delivery Point.

[REDACTED]; *provided*, to the extent Seller does curtail deliveries of Energy, Buyer shall pay for Deemed Delivered Energy pursuant to Section 3.3(b); and to the extent Seller does not curtail deliveries of Energy, Seller shall be compensated for Delivered Energy pursuant to Section 3.3(a), and such Delivered Energy shall not be considered to be Deemed Delivered Energy.

(i) Subject to Sections 3.8(c), 3.8(d), 3.8(e), 3.12, and 4.3(a) above, (x) Seller shall follow the requirements prescribed by the CAISO to bid the Facility generation into the Day-Ahead Market and the Real-Time Market in a manner that permits Buyer's use of the Capacity Attributes for Non-Resource Adequacy Capacity (or similar) purposes, including such requirements to establish an appropriate designation (if any) at the Contract Start Date and maintain such designation throughout the Delivery Term, and (y) Seller's failure to appropriately bid or schedule the Facility generation into the CAISO which causes a limitation on Buyer's ability to use the associated Capacity Attributes for Non-Resource Adequacy Capacity (or similar) purposes shall be a Seller breach of the PPA.

(b) Floor Price. Buyer shall have the right to adjust the Floor Price on a monthly basis; *provided, however,* that Buyer shall not have the right to set the Floor Price at a price that is higher than zero dollars per MWh (\$0/MWh); *provided*, during any period when Seller is eligible to obtain and is actually obtaining PTCs, Buyer shall not have the right to set the Floor Price at a price that is higher than the Negative PTC Value. In the event that Seller elects to repower the Facility, Seller shall provide to Buyer (x) non-binding estimates of (i) the PTC value that Seller anticipates will be available from the Facility, and (ii) the PTC Amount, in each case in \$/MWh, for each remaining calendar year of the Delivery Term, and (y) within fifteen (15) Business Days following the later of (x) publication of any change to the PTC value in the Federal Register, and (y) determination of any change to the "Energy Communities" adder via Notice 2024-48, in each case available from the Facility, such updated PTC value and updated PTC Amount. Seller shall provide to Buyer non-binding PTC values (\$/MWh) and PTC Amounts (\$/MWh) on a yearly basis if the Facility becomes PTC eligible.

(c) Costs and Revenues. Seller shall be responsible for all costs associated with transmission, scheduling and delivery of Product up to the Delivery Point. Seller shall be responsible for all CAISO costs up to the Delivery Point (including penalties, Imbalance Energy charges, and other charges) and shall be entitled to all CAISO revenues (including credits, Imbalance Energy payments, and other payments), including costs and revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product Scheduled or delivered from the Facility.

(d) Master File and Resource Data Template. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master File and Resource Data Template (or successor data systems) for this Facility consistent with this Agreement. Neither Party shall change such data without the other Party's prior written consent. At least once per Contract Year, Seller shall review and confirm that the data provided for the CAISO's Master File and Resource Data Template (or successor data systems) for this Facility remains consistent with the actual operating characteristics of the Facility and update such data as appropriate.

4.4 Forecasting. Seller shall provide the forecasts described below at its sole expense and in a format reasonably acceptable to Buyer (or Buyer's designee). Seller shall use reasonable efforts to provide forecasts that are consistent with the information actually known by Seller at the time the forecasts are submitted and, to the extent not inconsistent with the requirements of this Agreement, shall prepare such forecasts, or cause such forecasts to be prepared, in accordance with Prudent Operating Practice. Notwithstanding the provisions of Sections 4.4(a), (b), and (c), Seller and Buyer acknowledge that Buyer does not require the submission of Supply Plans by Seller, and

Buyer is not required to submit Resource Adequacy Plans (as defined in the CAISO Tariff) or match such Resource Adequacy Plans to Supply Plans in order to receive or utilize Capacity Attributes or Non-Resource Adequacy Capacity.

(a) Annual Forecast of Available Capacity. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the compliance deadline for the annual Supply Plan (which is currently the last Business Day of October that is prior to commencement of the year for the annual Supply Plan) for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of each month's Available Capacity, by hour, and Seller's projection of scheduled maintenance for the following calendar year in a form reasonably requested by Buyer.

(b) Annual Forecast of Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the compliance deadline for the annual Supply Plan (which is currently the last Business Day of October that is prior to commencement of the year for the annual Supply Plan) for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of each month's average-day Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit D, or as reasonably requested by Buyer.

(c) Monthly Forecast of Energy and Available Capacity. No less than thirty (30) days before the Contract Start Date, and thereafter ten (10) Business Days before the compliance deadline for each monthly Supply Plan during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, and Available Capacity for each day of the following month in a form reasonably requested by Buyer.

(d) Daily Forecast of Available Capacity. By 9:05 AM Pacific Prevailing Time each day on the day immediately preceding the date of delivery, Seller shall provide Buyer with (i) a non-binding forecast of its best estimate of Available Capacity and (ii) the Day-Ahead Forecast, in each case, for each hour of the immediately succeeding day.

(e) Real-Time Forecasts. During the Delivery Term, Seller shall notify Buyer of any changes to the Day-Ahead Forecast resulting from changes of five (5) MW or more in available Guaranteed Capacity, or when the hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, differs by more than five (5) MWh, as applicable, of the amount set forth in the Day-Ahead Forecast, in each case, due to Forced Facility Outage or Force Majeure Event (such update, the "Real-Time Forecast"), as soon as reasonably possible, but no later than sixty (60) minutes prior to the deadline for submitting Schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. If the available Guaranteed Capacity or, if applicable, the hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, changes by at least five (5) MW or five (5) MWh, as applicable, due to Forced Facility Outage or Force Majeure Event as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts shall be prepared by the Third-Party Forecast Vendor and shall contain information regarding the

beginning date and time of the event resulting in the change in Guaranteed Capacity or hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use reasonable efforts to notify Buyer of such outage within ten (10) minutes of becoming aware of the Forced Facility Outage. Seller shall inform Buyer as soon as reasonably practicable of any developments that will affect either the duration of such outage or the availability of the Facility during or after the end of such outage. These real-time forecasts shall be communicated by email to Buyer unless Buyer requests an alternative method of communications reasonably acceptable to Seller.

#### **4.5      Dispatch Down/Curtailment.**

(a)    General. Seller agrees to reduce deliveries of the Energy produced by the Facility by the amount and for the period set forth in any Curtailment Order; provided that Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Facility set out in the Operating Restrictions.

**4.6      Reduction in Delivery Obligation.** For the avoidance of doubt, and in no way limiting Section 3.1 or Exhibit E:

(a)    Facility Maintenance. Seller shall be permitted to reduce deliveries of Product during any Planned Outage; *provided* that during each period from June 1 to September 30, unless during a Low Wind Period, Seller shall not schedule any non-emergency maintenance of the Facility which reduces the energy generation capability of the Facility by more than ten percent (10%) unless (i) such maintenance is required to avoid an emergency or damage to the Facility or the Interconnection Facilities, (ii) such maintenance is necessary to maintain equipment warranties or is otherwise in accordance with equipment manufacturer recommendations and cannot reasonably be scheduled outside such period, (iii) such maintenance is in connection with a Force Majeure Event, (iv) such maintenance is required by applicable Law, the requirements of a Transmission Provider and/or any other applicable Governmental Authority, or Prudent Operating Practice, (v) such maintenance is required for safety reasons, or (vi) the Parties agree otherwise in writing. On or before December 1<sup>st</sup> of each year, Seller shall provide Buyer with the scheduled maintenance for the Facility for the next calendar year.

(b)    Forced Facility Outage. Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage and shall keep Buyer reasonably informed of any developments that will affect either the duration of the outage or the availability of the Facility during or after the end of such outage.

(c)    System Emergencies and other Events. Seller shall be permitted to reduce deliveries of Product (i) during any period of System Emergency, (ii) pursuant to a Curtailment Order, (iii) during a Market Curtailment Period, (iv) during any Force Majeure Event, (v) due to Prudent Operating Practice, (vi) due to Buyer's failure to perform, or (vii) otherwise pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff or as may be required under a Shared Facilities Agreement. Notwithstanding anything in this Agreement to the

contrary, Seller may, in its sole discretion, sell and deliver some or all of the Product during any Market Curtailment Period to one or more third-party buyers to the extent that Seller may do so in compliance with Law and Prudent Operating Practice.

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

(e) Real-Time Curtailment. Seller shall be permitted to reduce deliveries of Product during any period when the LMP in the Real-Time Market is less than the Floor Price; *provided*, that if some amount of the Day-Ahead Forecast has been awarded a Day-Ahead Schedule, Seller shall not reduce the Delivered Energy, pursuant to this clause, below the amount of the Day-Ahead Forecast that has been awarded a Day-Ahead Schedule, and any such reduction shall not be included in a Market Curtailment Period. Illustrative settlement examples during the foregoing events are provided in Exhibit N.

#### 4.7 Guaranteed Energy Production.

(a) Seller shall be required to deliver to Buyer no less than the Guaranteed Energy Production (as defined below) in each period of two (2) consecutive Contract Years during the Delivery Term (such that the first Performance Measurement Period comprises Contract Years 1 and 2, the second Performance Measurement Period comprises Contract years 2 and 3 and so on) (“**Performance Measurement Period**”). “**Guaranteed Energy Production**” means an amount of Product for each Performance Measurement Period, as measured in MWh, equal to [REDACTED]

[REDACTED]. The calculation will be performed once each Contract Year, beginning with the second anniversary of the Contract Start Date. Seller shall be excused from achieving the Guaranteed Energy Production during any Performance Measurement Period only to the extent of any Forced Facility Outage (provided Seller has followed Prudent Operating Practices), Force Majeure Events, System Emergencies, Buyer’s failure to perform, Curtailment Periods and Market Curtailment Periods. If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall (i) pay Buyer Energy Replacement Damages calculated in accordance with Exhibit E, or (ii) in lieu of paying some or all of the Energy Replacement Damages, at Seller’s discretion, provide Replacement Product retrospectively pursuant to and subject to the requirements of Section 4.7(b)(ii).

(b) Seller shall be permitted to deliver Replacement Product (i) prospectively during any Performance Measurement Period if Seller reasonably anticipates that delivery of such Replacement Product is necessary to achieve the Guaranteed Energy Production for such Performance Measurement Period, or (ii) retrospectively during the Contract Year immediately following any Performance Measurement Period in accordance with Section 4.7(a) above; *provided*, Seller’s right to deliver Replacement Product shall be expressly subject to Buyer’s prior written acceptance of Seller’s proposed delivery schedule for such Replacement Product; *provided further*, Replacement Product shall be delivered to at Seller’s election, the Delivery Point or the California-Oregon Border (COB) trading hub. Seller shall provide Notice to Buyer of any proposed delivery of Replacement Product, including a proposed schedule of such deliveries, at least thirty (30) days prior to the proposed delivery of such Replacement Product and, solely with respect to retrospective Replacement Product, at least thirty (30) days after the conclusion of any

Performance Measurement Period with respect to which Seller proposes to deliver retrospective Replacement Product. If the Parties cannot reach agreement on a schedule of deliveries, Seller shall have no right to deliver, and Buyer shall have no obligation to pay for, the proposed Replacement Product.

**4.8    WREGIS.** Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Delivered Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. Seller shall transfer such Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall satisfy its obligations pursuant to Section 3.10(d) and Section 4.2(b) by fulfilling its obligations under Sections 4.8(a) through (f) below.

(a) Prior to the Contract Start Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("Seller's WREGIS Account"), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using Recurring Certificate Transfers from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("Buyer's WREGIS Account"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account. Buyer shall be responsible for all expenses associated with establishing and maintaining Buyer's WREGIS account.

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

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Delivered Energy for such calendar month. Subject to delivery of Replacement Product, Seller shall ensure that no WREGIS Certificates are transferred to Buyer's WREGIS Account unless they are the result of Delivered Energy reflected in the Facility's metered data.

(d) Due to the approximately fourteen (14) day delay in the creation of WREGIS Certificates relative to the timing of invoice payment under Section 8.2, Buyer shall make an invoice payment for a given month in accordance with Section 8.2 notwithstanding that the WREGIS Certificates may not have been formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.8. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A “**WREGIS Certificate Deficit**” means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Delivered Energy for the same calendar month (“**Deficient Month**”). If any WREGIS Certificate Deficit is caused, or the result of any action or inaction, by Seller, then the amount of Delivered Energy in the Deficient Month shall be reduced on a pro rata basis across all Settlement Periods in such Deficient Month by the amount of the WREGIS Certificate Deficit for purposes of calculating Buyer’s payment to Seller under Article 8 and the Guaranteed Energy Production for the applicable Performance Measurement Period; provided, however, that such adjustment shall not apply to the extent that after the ninety (90) days attributed to the delay in the creation of WREGIS Certificates for such Deficient Month, Seller either (x) resolves the WREGIS Certificate Deficit within an additional one hundred eighty (180) days or (y) provides Replacement Green Attributes within an additional one hundred eighty (180) days (i) upon a schedule reasonably acceptable to Buyer and (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller refuses to provide reimbursement. If the amount of Delivered Energy in the Deficient Month is reduced in accordance with the prior sentence and neither (x) nor (y) of the prior sentence apply, Buyer shall pay Seller for any Delivered Energy that is delivered by Seller without corresponding WREGIS Certificates at a price equal to the lesser of (i) the Contract Price, or (ii) the LMP in the Day-Ahead Market at the Delivery Point, and for purposes of the Guaranteed Energy Production, Delivered Energy is reduced by the amount of the WREGIS Certificate Deficit for the applicable Performance Measurement Period. Without limiting Seller’s obligations under this Section 4.8, if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, Delivered Energy shall not be reduced pursuant to this Section 4.8(e) and the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause and enable Seller to transfer to Buyer’s WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Delivered Energy in the same calendar month.

4.9 **Standard of Care.** Seller shall be responsible for designing, installing, operating, and maintaining the Facility (including all associated costs) in accordance with all applicable Law, and shall comply with all applicable WECC, RC West, FERC and NERC requirements, and with Prudent Operating Practice, including applicable interconnection and telemetering requirements set forth in the Interconnection Agreement.

Seller shall ensure that: (a) operation and maintenance of the Project is conducted in a safe manner in accordance with the Interconnection Agreement and Prudent Industry Practice; and (b) any governmental authorizations and permits required for the operation thereof are maintained. Consistent with (a) above, Seller shall ensure that any necessary and commercially reasonable repairs are made to the Facility.

Seller acknowledges receipt of SMUD’s Principles of Renewable Energy Development as expressed in Exhibit M, attached and incorporated herein. Seller shall use commercially reasonable efforts to abide by the project-specific obligations identified in the “Communities Benefits Plan” as further described in Exhibit M, to the extent applicable to and feasible for the Facility as reasonably determined by Seller.

## ARTICLE 5

### TAXES

5.1 **Allocation of Taxes and Charges.** Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and delivery of Product to Buyer, that are imposed on Product prior to the Delivery Point. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of the Product that are imposed on Product at and from the Delivery Point (other than withholding or other Taxes imposed on Seller's income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party's responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, the exempted Party shall provide the other Party with all necessary documentation within thirty (30) days after the Effective Date to evidence such exemption or exclusion. If the exempted Party does not provide such documentation, then such Party shall indemnify, defend, and hold harmless the other Party from any liability with respect to Taxes from which the exempted Party claims it is exempt.

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

## ARTICLE 6

### MAINTENANCE OF THE FACILITY

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

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

6.3 **Shared Facilities.** The Parties acknowledge and agree that certain of the Interconnection Facilities, Seller's rights and obligations under the Interconnection Agreement and Seller's rights and obligations under transmission service agreements with a Transmission Provider, may at some point be subject to certain shared facilities and/or co-tenancy agreements ("**Shared Facilities Agreements**") to be entered into among two or more of Seller, the Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which

certain Interconnection Facilities, interconnection service and/or transmission service may be subject to joint ownership and/or shared maintenance and operation arrangements.

## **ARTICLE 7** **METERING**

7.1 **Metering**. Seller shall measure the amount of Delivered Energy produced by the Facility using an Approved Meter. The Approved Meter shall be installed at the switching station PG&E's Pit #3 – Round Mountain 230 kV Line and maintained at Seller's cost. If the Approved Meter is inaccurate, Seller will cause such meter to be promptly corrected in accordance with Prudent Operating Practice and CAISO requirements. Seller will be responsible for any costs, fines or penalties, including imbalance charges as a result of the inaccurate meter. The meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified or relocated. In the event that Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Approved Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO the meter data applicable to the Facility and all inspection, testing and calibration data and reports. Seller, or Seller's Scheduling Coordinator, shall cooperate with Buyer to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface – Settlements (MRIS-S) (or its successor).

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

## **ARTICLE 8** **INVOICING AND PAYMENT; CREDIT**

8.1 **Invoicing**. Seller shall deliver an invoice to Buyer no later than fifteen (15) Business Days after the end of the prior monthly delivery period; *provided* that Seller's failure to deliver an invoice to Buyer by such deadline shall not be a breach hereunder. Each invoice shall provide Buyer (a) records of metered data, including metering and CAISO transaction data sufficient to document and verify the amount of Delivered Energy for each Settlement Period during the preceding month, including the amount of Delivered Energy as set forth in the first CAISO settlement statement for the prior month that includes meter data from the Approved Meter, the applicable Contract Price, deviations between the Scheduled Energy and the Delivered Energy, the LMP in the Real-Time Market at the Delivery Point for each Settlement Period; (b) hourly meter data, plus any additional data as may be reasonably required by Buyer for compliance with CPUC reporting obligations, including pursuant to the CPUC's Energy Division Portfolio Content Category Classification Review Handbook (or successor publication); (c) a statement of

the quantity of WREGIS Certificates transferred during the prior month; (d) access to any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy of any amount; and (e) be in a reasonable format covering the services provided in the preceding month determined in accordance with the applicable provisions of this Agreement.

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

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

**8.4 Payment Adjustments; Billing Errors.** Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5, there is determined to have been a meter inaccuracy sufficient to require a payment adjustment, or if CAISO recalculates amounts due or owing in respect of prior periods. If the required adjustment is in favor of Buyer, Buyer’s monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer’s next monthly invoice. Other than recalculations by CAISO, adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the non-erring Party received Notice thereof.

**8.5 Billing Disputes.** A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within ten (10) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned 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 but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **Netting of Payments.** The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all undisputed amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and E, interest, and payments or credits, including pursuant to Section 4.3(c), shall be netted so that only the excess amount remaining due shall be paid by the Party who owes the remaining amount.

8.7 **Seller's Pre-CSD Security.** To secure its obligations under this Agreement, Seller shall deliver Pre-CSD Security to Buyer within forty-five (45) days after the Effective Date. Seller shall maintain the Pre-CSD Security in full force and effect. Upon the earlier of (A) Seller's delivery of the Performance Security, or (B) sixty (60) days after termination of this Agreement, Buyer shall return the Pre-CSD Security to Seller, less the amounts drawn in accordance with this Agreement. If and to the extent that any portion of the Pre-CSD Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain a Credit Rating of at least "A-" by S&P or "A3" by Moody's, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Contract Start Date, (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, or (iv) becomes Bankrupt, Seller shall have ten (10) Business Days to post substitute collateral that meets the requirements set forth in the definition of Pre-CSD Security. Seller shall have no obligation to replenish the Pre-CSD Security following any draws thereon by Buyer. Seller's maximum liability for an Event of Default or failure to perform its obligations hereunder prior to the Contract Start Date shall be capped at the amount of the Pre-CSD Security, less any amounts collected by Buyer prior to such Event of Default or failure to perform.

8.8 **Seller's Performance Security.** To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Contract Start Date. Seller shall maintain the Performance Security in full force and effect until the following have occurred: (A) the Delivery Term has expired or terminated early; and (B) all payment obligations of the Seller arising under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security. If and to the extent that any portion of the Performance Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain a Credit Rating of at least "A-" by S&P or "A3" by Moody's, (ii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, or (iii) becomes Bankrupt, Seller shall have ten (10) Business Days to post substitute collateral that meets the requirements set forth in the definition of Performance Security.

## **8.9 Financial Statements.**

(a) If requested, Buyer shall provide to Seller (i) within one hundred twenty (120) days following the end of each fiscal year during the Contract Term, a copy of Buyer's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year during the Contract Term, a copy of Buyer'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 or International Financial Reporting Standards ("IFRS"); provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certifications, such unavailability shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification, and delivery of the statements.

## **8.10 Buyer's First Priority Security Interest in Cash or Cash Equivalent Collateral.**

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

Upon or any time after the occurrence of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Pre-CSD Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.10 and the provisions of Article 12):

- (a) Exercise any of its rights and remedies with respect to the Pre-CSD Security or Performance Security, as applicable, including any such rights and remedies under Law then in effect;
- (b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Pre-CSD Security or Performance Security, as applicable; and
- (c) Liquidate all Pre-CSD Security or Performance Security, as applicable then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

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

## ARTICLE 9 NOTICES

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

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

## ARTICLE 10 FORCE MAJEURE

### 10.1 **Definition.**

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

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic, or pandemic, including COVID-19 (but only to the extent that new governmental rules or mandates related to COVID-19 are implemented that were not in place as of the Effective Date); landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; acts or failure to act by a Governmental Authority; war; blockade; civil insurrection; riot; civil disturbance; Serial Defect; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "Force Majeure Event" does not include (i) economic conditions that render a Party's performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including Buyer's ability to buy Energy at a lower price, or Seller's ability to sell Energy generated by the Facility at a higher price, than the Contract Price); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement; (iv) a Curtailment Order, except to the extent that a Curtailment Order is caused by an event that otherwise qualifies as a Force Majeure Event; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) except as the Guaranteed Contract Start Date may be extended as a result of a Permitted Extension, Seller's inability to achieve Contract Start following the Guaranteed Contract Start Date.

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

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

**10.4 Termination Following Force Majeure Event.** If a Force Majeure Event has occurred after the Contract Start Date that has caused either Party to be unable to perform its material obligations hereunder, and has continued for a consecutive twelve (12) month period, then

the non-claiming Party may terminate this Agreement upon Notice to the other Party experiencing the Force Majeure Event; *provided* that if Seller is the Party claiming such Force Majeure Event and such Force Majeure Event cannot reasonably be cured within such twelve (12) month period, then Seller may provide a plan to Buyer, which must be acceptable to Buyer in its reasonable discretion, to cure such Force Majeure Event within an additional consecutive six (6) month period and Buyer may not terminate this Agreement due to such Force Majeure Event unless Seller has not resumed performance of its material obligations hereunder upon the expiration of such additional consecutive six (6) month period. Upon any such termination, the non-claiming Party shall have no liability to the Party claiming Force Majeure Event, save and except for those obligations specified in Section 2.1(b).

## ARTICLE 11 DEFAULTS; REMEDIES; TERMINATION

### 11.1 **Events of Default.** An “Event of Default” shall mean,

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

(i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within five (5) Business Days after Notice thereof;

(ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such representation or warranty is not corrected within thirty (30) days after Notice thereof; provided, that this thirty (30) day period shall be extended by up to an additional sixty (60) days if (a) the breach cannot reasonably be cured within the thirty (30) day period despite diligent efforts, (b) the default is capable of being cured within the additional sixty (60) day period, and (c) the Defaulting Party commences the cure within the original thirty (30) day period and is at all times thereafter diligently and continuously proceeding to cure the breach;

(iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) and such failure is not remedied within thirty (30) days after Notice thereof; provided, that this thirty (30) day period shall be extended by an additional sixty (60) days if (a) the breach cannot reasonably be cured within the thirty (30) day period despite diligent efforts, (b) the default is capable of being cured within the additional sixty (60) day period, and (c) the Defaulting Party commences the cure within the original thirty (30) day period and is at all times thereafter diligently and continuously proceeding to cure the breach;

(iv) failure by such Party to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 as applicable;

(v) such Party becomes Bankrupt;

(vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Sections 14.1, 14.2, 14.3, or 14.4, as appropriate; or

(vii) 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 by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

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

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

(ii) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, or (2) a replacement surety bond (solely with respect to the Performance Security), or (3) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

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

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time; or

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

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

(a) to send Notice, designating a day, no earlier than the day such Notice is deemed to be received and no later than twenty (20) days after such Notice is deemed to be received, as an early termination date of this Agreement (“**Early Termination Date**”) that terminates this Agreement (the “**Terminated Transaction**”) and ends the Contract Term effective as of the Early Termination Date;

(b) to accelerate all amounts owing between the Parties, and to collect as liquidated damages (i) the Damage Payment (in the case of an Event of Default by Seller occurring before the Contract Start Date) or (ii) the Termination Payment calculated in accordance with Section 11.3 below (in the case of any other Event of Default by Seller after the Contract Start Date or by Buyer throughout the Contract Term);

(c) to withhold any payments due to the Defaulting Party under this Agreement;

(d) to suspend performance; and

(e) to exercise any other right or remedy available at Law or in equity, including specific performance or injunctive relief, except to the extent such remedies are expressly limited under this Agreement;

provided, that payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party’s sole and exclusive remedy for the Terminated Transaction and the Event of Default related thereto. Notwithstanding any other provision of this Agreement, Seller’s sole and aggregate liability under or arising out of a termination of this Agreement prior to the Contract Start Date shall be limited to the amount required to be posted as Pre-CSD Security pursuant to Section 8.7, less any amounts collected by Buyer prior to such Early Termination Date.

**11.3 Termination Payment.** The termination payment (“**Termination Payment**”) for a Terminated Transaction shall be the aggregate of all Settlement Amounts plus any or all other amounts due to the Non-Defaulting Party netted into a single amount. If the Non-Defaulting Party’s aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement, the net Settlement Amount shall be zero. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties (which shall not include Affiliates of the Non-Defaulting Party) supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages; provided, however, that any lost Capacity Attributes and Green Attributes shall be deemed direct damages covered by this Agreement. Without prejudice to the Non-Defaulting Party’s duty to mitigate, the Non-Defaulting Party shall not have to enter into replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (b) the Damage Payment or Termination Payment described in Section 11.2 or this Section 11.3 (as applicable) is a reasonable and appropriate approximation of such damages, and (c) the Damage Payment or

Termination Payment described in Section 11.2 or this Section 11.3 (as applicable) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

**11.4 Notice of Payment of Termination Payment.** As soon as practicable after a Terminated Transaction, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

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

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

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

## **ARTICLE 12** **LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES**

**12.1 No Consequential Damages.** EXCEPT TO THE EXTENT PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

**12.2 Waiver and Exclusion of Other Damages.** THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. ALL LIMITATIONS OF LIABILITY CONTAINED IN THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, THOSE PERTAINING TO THE PARTIES' LIMITATION OF LIABILITY AND THE PARTIES' WAIVER OF CONSEQUENTIAL DAMAGES, SHALL APPLY EVEN IF THE

REMEDIES FOR BREACH OF WARRANTY PROVIDED IN THIS AGREEMENT ARE DEEMED TO “FAIL OF THEIR ESSENTIAL PURPOSE” OR ARE OTHERWISE HELD TO BE INVALID OR UNENFORCEABLE.

NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, IF THERE IS AN EARLY TERMINATION DATE PRIOR TO THE CONTRACT START DATE, THE TOTAL LIABILITY OF SELLER UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT REQUIRED TO BE POSTED AS PRE-CSD SECURITY PURSUANT TO SECTION 8.7, LESS ANY AMOUNTS COLLECTED BY BUYER PRIOR TO SUCH EARLY TERMINATION DATE.

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

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

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8(e), 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B AND EXHIBIT E, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

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

## ARTICLE 13

### REPRESENTATIONS AND WARRANTIES; AUTHORITY

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

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

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

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

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

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

(a) Buyer is a municipal utility district, duly organized, validly existing and in good standing under the Laws of the State of California and the rules, regulations and orders of, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Buyer. All persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with applicable Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on Buyer's performance under this Agreement. The execution, delivery and performance of this Agreement by Buyer has been duly

authorized by all necessary action on the part of Buyer and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of Buyer or any other party to any other agreement with Buyer.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

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

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

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

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

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

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and any contracts to which it is a party and in material compliance with any Law.

## **ARTICLE 14 ASSIGNMENT**

14.1 **General Prohibition on Assignments**. Except as provided below, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without the written consent of the other Party, which consent shall not be unreasonably withheld. Any direct or indirect Change of Control of a Party (whether voluntary or by operation of Law) will be deemed an assignment and will require the prior written consent of the other Party, except as provided in Section 14.3. Any assignment made without required written consent, or in violation

of the conditions to assignment set out below, shall be null and void. The assigning Party shall be responsible for the other Party's costs associated with the preparation, review, execution, and delivery of documents in connection with any assignment of this Agreement, including without limitation reasonable attorneys' fees.

**14.2 Collateral Assignment.** Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility without the consent of Buyer. In connection with any financing or refinancing of the Facility by Seller, Buyer will, upon request, cooperate with Seller and provide a consent to collateral assignment, estoppel and/or similar instrument in favor of the financing parties providing financing to the Facility with reasonable terms and conditions consistent with customary industry practice.

**14.3 Permitted Assignment.** Notwithstanding Section 14.1, and in addition to its rights set forth in Section 14.2, Seller may at any time, without the prior written consent of Buyer, transfer or assign this Agreement (including by a Change of Control) (i) to an Affiliate of Seller, (ii) in connection with a tax equity financing (regardless of whether a Change of Control results from such tax equity financing), or (iii) as part of the sale or transfer of all or substantially all of the membership interests, equity, or assets of an Affiliate of Seller. Seller may also, without the prior written consent of Buyer, transfer or assign this Agreement (including by a Change of Control) to a Permitted Transferee.

**14.4 Buyer Assignment.** At any time during the Contract Term, upon not less than thirty (30) days' written Notice to Seller, Buyer may request that Seller enter into negotiations to permit Buyer to enter into a limited assignment of a portion of Buyer's rights and obligations under this Agreement to J. Aron and Company, LLC ("J. Aron"). Following any such Notice from Buyer, (a) Seller, Buyer and J. Aron shall negotiate in good faith the execution of a limited assignment agreement based on the form attached hereto as Exhibit J, and (b) if requested by Seller, Seller and Buyer shall negotiate in good faith an indemnity and/or a legal opinion, to be provided by Buyer for the benefit of Seller in connection with such limited assignment agreement, in form and substance satisfactory to Seller. For the avoidance of doubt, Buyer shall remain responsible for all of its obligations under this Agreement, including those related to all Product that may be assigned to J. Aron under any limited assignment agreement, including (i) the obligation to pay for all Product and (ii) any and all damages, costs and expenses of Seller associated with such assignee's failure to take or pay for any such Product as contemplated by this Agreement. In no event shall any assignment by Buyer to J. Aron purport to limit any rights of Seller under, or cause Seller to incur any additional obligations, costs, or risks under, this Agreement.

## **ARTICLE 15 DISPUTE RESOLUTION**

**15.1 Venue.** The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Agreement shall be brought in the federal courts of the United States or, if such federal courts refuse jurisdiction notwithstanding the Parties' agreement, then in the courts of the State of California, in either case sitting in the County of San Francisco, California.

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

## ARTICLE 16 INDEMNIFICATION

### 16.1 **Indemnification.**

(a) Each Party (the “**Indemnifying Party**”) agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees, attorneys, representatives and agents (collectively, the “**Indemnified Party**”) from and against all third-party claims, demands, losses, liabilities, penalties, and expenses and expert witness fees (collectively “**Indemnifiable Event**”), to the extent such Indemnifiable Event arises out of, results from, or is caused by any of the following: (a) the negligent act or omission, recklessness or willful misconduct of the Indemnifying Party, its Affiliates, its or their directors, officers, employees, agents, subcontractors, and anyone directly or indirectly employed by the Indemnifying Party or any of its subcontractors or anyone that they control; or (b) any violation of applicable Law by the Indemnifying Party, in each case in connection with this Agreement. Upon the Indemnified Party’s written request, the Indemnifying Party, at its own expense, must defend any suit or action that is subject to the Indemnifying Party’s indemnity obligations.

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

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

Notwithstanding the preceding sentence if the settlement consists solely of a monetary payment by the Indemnifying Party, such settlement shall not require the consent of the Indemnifying Party. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

## **ARTICLE 17** **INSURANCE**

### **17.1    Insurance.**

(a)    General Liability. Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance against claims for personal injury (including bodily injury and death) and property damage with a limit of liability of One Million Dollars (\$1,000,000) per occurrence, and a general aggregate of not less than Two Million Dollars (\$2,000,000) for combined bodily injury and property damage; and (ii) an umbrella insurance policy in a minimum limit of liability of Five Million Dollars (\$5,000,000). The amounts of liability insurance described in this Article 17 may be satisfied by primary insurance or by any combination of primary and excess/umbrella insurance. Such insurance shall contain standard cross-liability and severability of interest provisions such that each person is protected in the same manner as though a separate policy has been issued to each but nothing therein shall operate to increase the insurance company's liability beyond the amount the insurance company would have been liable if only one Person or interest had been named as insured. The liability insurance policies referenced in this Article 17 shall (x) provide an endorsement waiving rights of subrogation against Buyer, (y) name Buyer as additional insured on all required liability insurance (except workers compensation), and (z) be primary to any insurance of Buyer that may apply to such occurrence, accident or claim and no "other insurance" provision shall be applicable to Buyer or any additional insureds, by virtue of having been named an additional insured under any policy of insurance.

(b)    Workers Compensation and Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars (\$1,000,000) providing statutory benefits as required by Law (if any exposure exists) for injury, sickness, disability or death of the employees.

(c)    Business Auto Liability Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars (\$1,000,000) combined single limit. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired motor vehicles in the performance of the Agreement.

(d)    Property Insurance. Seller shall maintain or cause to be maintained property insurance covering the Facility against physical loss or damage, including coverage for natural perils including but not limited to flood, earthquake, windstorm, severe convective storm, and wildfire, all with limits in accordance with industry standard recognizing that natural perils may

be subject to a lower sublimit. Coverage will be on an “all-risk” basis including mechanical and electrical breakdown.

(e) Documentation. Before commencing work under this Agreement, Seller’s broker or agent shall provide certificates of insurance verifying that at least the minimum insurance coverages required above are in effect with additional insured, waiver of subrogation and any other policy provisions or endorsements include, as applicable. Acceptance of the evidence of coverage by Buyer shall not relieve or decrease the extent to which Seller may be held responsible for payment of damages resulting from Seller’s services or operations pursuant to this Agreement, nor shall it be deemed a waiver of Buyer’s rights to insurance coverage hereunder. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Seller from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

## ARTICLE 18 CONFIDENTIAL INFORMATION

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

18.2 **Duty to Maintain Confidentiality.** Except as permitted in this Article 18, neither Party shall disclose Confidential Information to a third party, except upon the written consent of the Disclosing Party. Confidential Information will retain its character as Confidential Information but may be disclosed by the recipient (the “**Receiving Party**”) if and to the extent such disclosure is required (a) to be made by any requirements of Law, (b) pursuant to an order of a court or (c) in order to enforce or implement this Agreement. If the Receiving Party becomes legally compelled (by interrogatories, requests for information or documents, subpoenas, summons, civil investigative demands, or similar processes or otherwise in connection with any litigation or to comply with any applicable Law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange, control area or independent system operator rule) to disclose any Confidential Information of the disclosing Party (the “**Disclosing Party**”), Receiving Party shall provide Disclosing Party with prompt notice so that Disclosing Party, at its sole expense, may seek an appropriate protective order or other appropriate remedy.

18.3 **Irreparable Injury; Remedies.** Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages may be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach may cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in Law, in equity or otherwise, Disclosing Party will be entitled to seek injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

18.4 **Permitted Disclosures.** Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by either Party to such Party's counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, Affiliates or actual or prospective owners, investors, lenders, directors, underwriters, contractors, suppliers or others involved in the construction, operation and financing transactions and arrangements for a Party or its affiliates, or any of its or their agents, consultants or trustees, so long as the Person to whom Confidential Information is disclosed agrees in writing to be bound by the confidentiality provisions of this Article 18 to the same extent as if it were a Party, or is bound by substantially similar confidentiality requirements.

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

## ARTICLE 19 MISCELLANEOUS

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

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

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

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

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

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

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

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

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

**19.10 Change in Electric Market Design.**

(a) If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such

negotiations in good faith. If Buyer and Seller are unable, within sixty (60) days after delivery of such request, to agree upon changes to this Agreement or to resolve issues relating to changes to this Agreement, then any Party may submit issues pertaining to changes to this Agreement to the dispute resolution process set forth in Article 15. Notwithstanding the foregoing, (i) a change in cost shall not in and of itself be deemed to render this Agreement or any of the provisions hereof incapable of being performed or administered, or constitute, or form the basis of, a Force Majeure Event, and (ii) all of unaffected provisions of this Agreement shall remain in full force and effect during any period of such negotiation or dispute resolution.

*[Signatures on following page]*

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

**Hatchet Ridge Wind, LLC**

By: \_\_\_\_\_

Name:

Title:

**Sacramento Municipal Utility District**

By: \_\_\_\_\_

Name:

Title:

## **EXHIBIT A** **FACILITY DESCRIPTION**

Except as otherwise provided in the Agreement, Seller shall not make any alteration or modification to the Facility which results in a change to the Guaranteed Capacity or the anticipated output of the Facility without Buyer's prior written consent; *provided*, Seller shall be permitted to repower the Facility during the Contract Term so long as Seller continues to be obligated to deliver the Guaranteed Energy Production and Capacity Attributes associated with the Guaranteed Capacity during such repower; upon any such repower that changes the Installed Capacity, Seller shall deliver an updated certificate in the form of Exhibit G.

**Facility Name:** Hatchet Ridge Wind Project

**Site Map:**

[to be provided]

**Site Location:** Shasta County, CA

**Technology:** Utility Scale Wind Technology

**Guaranteed Capacity:** 101.2 MW

**Delivery Point:** CAISO Price Node POD\_HATRDGE\_2\_WIND-APND

**Participating Transmission Owner:** Pacific Gas and Electric Company

**EXHIBIT B**  
**CONTRACT START DATE**

1. **Reserved.**
2. **Contract Start.** “**Contract Start**” means the condition existing when (i) Seller has fulfilled all of the conditions in Section 2.3 of the Agreement and (ii) Seller has confirmed to Buyer in writing that Contract Start has been achieved.

The “**Contract Start Date**” shall be the date on which Contract Start is achieved.

- a. Seller shall use good faith efforts to cause the Contract Start Date to occur by the Guaranteed Contract Start Date. Seller shall notify Buyer at least thirty (30) days before the anticipated Contract Start Date.
  - b. If Seller does not anticipate achieving Contract Start by the Guaranteed Contract Start Date, Seller may elect to extend the Guaranteed Contract Start Date by paying Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Contract Start Date. If Seller elects to extend the Guaranteed Contract Start Date, on or before the date that is five (5) Business Days prior to the then-current Guaranteed Contract Start Date, Seller shall provide Notice and payment to Buyer of the Delay Damages for the number of days of extension to the Guaranteed Contract Start Date (“**Delay Damages Payment**”); *provided* such Delay Damages Payment may, at Seller’s option, be in the form of cash or an irrevocable, standby letter of credit issued by a U.S. commercial bank, or a foreign bank with a U.S. branch, with such bank having a Credit Rating of at least A- with an outlook designation of “stable” from S&P or A3 with an outlook designation of “stable” from Moody’s, which letter of credit Buyer may draw on to receive such Delay Damages Payment. If Seller achieves Contract Start prior to the Guaranteed Contract Start Date as extended by the payment of the Delay Damages Payment, Buyer shall refund to Seller in cash the Delay Damages for each day Seller achieves Contract Start prior to the Guaranteed Contract Start Date, as extended, times the Delay Damages, not to exceed the total amount of the Delay Damages Payment paid by Seller pursuant to this Section 2(b). The Parties agree that Buyer’s receipt of Delay Damages shall not be construed as Buyer’s declaration that an Event of Default has occurred under any provision of Section 11.1.
3. **Termination for Failure to Achieve Contract Start.** If the Facility has not achieved Contract Start by the Outside Contract Start Date, either Party may elect to terminate this Agreement in accordance with Section 2.6.
  4. **Extension of the Guaranteed Dates.** The Guaranteed Contract Start Date shall, subject to notice and documentation requirements set forth below, be automatically extended on a day-for-day basis (the “**Permitted Extension**”) for the following delays:
    - a. delays due to a Force Majeure Event;

- b. delays caused by a Transmission Provider not caused by the Seller's action or inaction; or
- c. delay due to a Buyer breach or default under this Agreement.

The cumulative extensions granted under clauses 4(a) and 4(b) above shall not exceed [REDACTED] for any reason, including a Force Majeure Event. The extension granted under clause 4(c) above shall have no termination. Except to the extent Seller has paid Delay Damages, or due to a delay clause 4(c) above, no extension due to a Permitted Extension shall be given if (i) the delay was the result of Seller's failure to take all commercially reasonable actions to meet its requirements and deadlines, (ii) Seller failed to provide requested documentation as provided below, or (iii) Seller failed to provide Notice to Buyer as required in the next sentence. Seller shall provide prompt Notice to Buyer of a delay, but in no case more than thirty (30) days after Seller becomes aware of such delay, except that in the case of a delay occurring within sixty (60) days of the Guaranteed Contract Start Date, or after such date, Seller must provide Notice within five (5) Business Days of Seller becoming aware of such delay. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described above did not result from Seller's actions or failure to take commercially reasonable actions.

**EXHIBIT C**  
**RESERVED**

**EXHIBIT D**  
**FORM OF AVERAGE FORECAST OF ENERGY (MWh)**

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00	
JAN																									
FEB																									
MAR																									
APR																									
MAY																									
JUN																									
JUL																									
AUG																									
SEP																									
OCT																									
NOV																									
DEC																									

The foregoing table (i) is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement, and (ii) reflects expected P50 delivered volumes taking into account estimated X% physical losses from the Facility to the Delivery Point.

## EXHIBIT E

### ENERGY REPLACEMENT DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, and Seller elects to not provide Replacement Product, a liquidated damages (“**Energy Replacement Damages**”) payment shall be due from Seller to Buyer, calculated as follows:

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

where:

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

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

C = Replacement price for the Performance Measurement Period, in \$/MWh, which is the sum of (a) the simple average of the LMP in the Day-Ahead Market at the Delivery Point for all of the hours in the Performance Measurement Period, plus (b) the simple average REC Price for the applicable Performance Measurement Period.

D = the Contract Price, in \$/MWh

E = the value of any Replacement Product provided retrospectively by Seller with respect to such Performance Measurement Period

“**Adjusted Energy Production**” shall mean the sum of the following: (i) the greater of (a) if Seller provided Replacement Product or paid Energy Replacement Damages during the prior Performance Measurement Period, seventy percent (70%) of the Expected Energy for the first Contract Year of the current Performance Measurement Period or (b) the Delivered Energy plus Lost Output plus Deemed Delivered Energy in the first Contract Year of the current Performance Measurement Period, plus (ii) Delivered Energy plus Lost Output plus Deemed Delivered Energy in the second Contract Year of the current Performance Measurement Period.

“**Lost Output**” means the sum of electric energy in MWh that would have been generated and delivered, but was not, on account of any Forced Facility Outage (not caused by Seller’s fault or negligence), Force Majeure Events, System Emergencies, Buyer’s failure to perform, and Curtailment Order. The additional MWh comprising Lost Output shall be calculated in the same manner as Deemed Delivered Energy.

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

Within sixty (60) days after each Contract Year, Buyer will send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Contract Year.

**EXHIBIT F**

**[RESERVED]**

**EXHIBIT G**  
**FORM OF INSTALLED CAPACITY CERTIFICATE**

This certification (“Certification”) of Installed Capacity is delivered by the undersigned, a licensed professional engineer and duly authorized representative of \_\_\_\_\_ in its capacity as independent engineer (“Engineer”) for purposes of this certification, to [\_\_\_\_] (“Buyer”), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase and Sale Agreement dated \_\_\_\_\_ (“Agreement”) by and between [Pattern Entity] (“Seller”) and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of the date set forth below, [\_\_\_\_] wind turbines with an aggregate nameplate capacity of [\_\_\_\_], which is the Installed Capacity as of the date hereof, have been installed at the Facility, and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.

EXECUTED on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Sincerely,

By: \_\_\_\_\_  
[NAME], P.E.  
[TITLE]  
California License No. [##]  
Exp. [DATE]

**EXHIBIT H**  
**RESERVED**

**EXHIBIT I**  
**FORM OF LETTER OF CREDIT**

**[NTD: subject to review and comment by Seller's financing parties]**

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [•]

DATE: [•]

BENEFICIARY:

APPLICANT:

[NAME, ADDRESS, CONTACT]

EXPIRATION DATE: [•]

AMOUNT/CURRENCY: [•]

AT THE REQUEST OF AND FOR THE ACCOUNT OF APPLICANT, WE, [INSERT BANK NAME AND ADDRESS] ("ISSUER"), HEREBY ESTABLISH IN YOUR FAVOR IN RESPECT OF OBLIGATIONS OF APPLICANT OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [•] ("LETTER OF CREDIT") IN FAVOR OF [ ] ("BENEFICIARY"), [BENEFICIARY ADDRESS], WHEREBY, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN, BENEFICIARY IS HEREBY AUTHORIZED TO DRAW ON US, BY SIGHT, BY ITS DRAWING STATEMENT AS PROVIDED HEREIN, FOR AN AGGREGATE AMOUNT UP TO BUT NOT EXCEEDING [•] (THE "FACE AMOUNT").

WE ARE ADVISED THIS LETTER OF CREDIT IS IRREVOCABLE AND IS ESTABLISHED AS PRE-CSD SECURITY PURSUANT TO THAT CERTAIN RENEWABLE POWER PURCHASE AND SALE AGREEMENT DATED AS OF \_\_\_\_\_, 2024 BETWEEN APPLICANT AND BENEFICIARY (THE "AGREEMENT").

THIS LETTER OF CREDIT SHALL BE EFFECTIVE IMMEDIATELY AND SHALL EXPIRE ON [•], WHICH IS ONE YEAR AFTER THE ISSUE DATE OF THIS LETTER OF CREDIT, OR ANY EXPIRATION DATE EXTENDED IN ACCORDANCE WITH THE TERMS HEREOF (THE "EXPIRATION DATE").

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL TWELVE (12) MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, BUT IN NO EVENT TO AN EXPIRATION DATE LATER THAN [•], UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE EXPIRATION DATE WE SEND NOTICE IN WRITING TO YOU VIA HAND DELIVERY OR OVERNIGHT COURIER AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO AUTOMATICALLY EXTEND THIS LETTER OF CREDIT FOR ANY ADDITIONAL PERIOD.

ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT YOU MAY DRAW ON US HEREUNDER FOR UP TO THE FULL UNUTILIZED AMOUNT AVAILABLE AS OF THE DATE OF DRAWING ON THIS LETTER OF CREDIT.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED UNDER THIS LETTER OF CREDIT (PROVIDED THAT THE CUMULATIVE AGGREGATE AMOUNT THAT MAY BE DEMANDED UNDER THIS LETTER OF CREDIT SHALL NOT EXCEED THE FACE AMOUNT), AND THIS LETTER OF CREDIT SHALL REMAIN IN FULL FORCE AND EFFECT WITH RESPECT TO ANY CONTINUING BALANCE.

FUNDS UNDER THIS LETTER OF CREDIT SHALL BE AVAILABLE TO THE BENEFICIARY UPON PRESENTATION TO US OF A DATED DRAWING CERTIFICATE IN THE FORM OF EXHIBIT A HERETO (WHICH IS AN INTEGRAL PART OF THIS LETTER OF CREDIT) PURPORTEDLY SIGNED BY THE BENEFICIARY'S DULY AUTHORIZED REPRESENTATIVE.

THE DRAWING CERTIFICATE MAY BE PRESENTED BY (A) PHYSICAL DELIVERY TO [ADDRESS] OR (B) BY FACSIMILE TO [FAX NUMBER].

ALL PAYMENTS MADE UNDER THIS LETTER OF CREDIT SHALL BE MADE WITH ISSUER'S OWN IMMEDIATELY AVAILABLE FUNDS BY MEANS OF WIRE TRANSFER IN IMMEDIATELY AVAILABLE UNITED STATES DOLLARS TO BENEFICIARY'S ACCOUNT AS INDICATED BY BENEFICIARY IN ITS DRAWING CERTIFICATE OR IN A COMMUNICATION ACCOMPANYING ITS DRAWING CERTIFICATE.

WE HEREBY AGREE THAT THE DRAWING DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED BY US UPON DELIVERY OF THE ABOVE SPECIFIED DRAWING CERTIFICATE, IF PRESENTED ON OR BEFORE THE EXPIRATION DATE AS SPECIFIED HEREIN.

AS STIPULATED HEREIN, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF \_\_\_\_\_ ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE. IF ANY DRAWING OR THE DOCUMENTATION PRESENTED IN CONNECTION THEREWITH, DOES NOT CONFORM TO THE TERMS AND CONDITIONS HEREOF, WE WILL ADVISE YOU OF THE SAME BY TELEPHONE OR FACSIMILE AND GIVE THE REASONS FOR SUCH NON-COMFORMANCE.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE RULES OF THE 'INTERNATIONAL STANDBY PRACTICES 1998', INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ('ISP98') AND AS TO MATTERS NOT ADDRESSED BY ISP98 SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF STATE OF \_\_\_\_\_.

NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS (OTHER THAN AS SET FORTH IN THE

IMMEDIATELY PRIOR PARAGRAPH), THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT BETWEEN BENEFICIARY AND ISSUER RELATING TO THE OBLIGATIONS OF ISSUER HEREUNDER.

OTHER THAN AS PROVIDED HEREIN, COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN WRITING, SHALL SPECIFICALLY REFER TO BENEFICIARY AND TO OUR LETTER OF CREDIT NO. [•], AND SHALL BE ADDRESSED TO: [•]

ALL NOTICES TO BENEFICIARY SHALL BE IN WRITING AND ARE REQUIRED TO BE SENT BY CERTIFIED LETTER, OVERNIGHT COURIER OR DELIVERED IN PERSON TO: [BENEFICIARY], ATTN: [BENEFICIARY ADDRESS]. ONLY NOTICES TO BENEFICIARY MEETING THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE CONSIDERED VALID. ANY NOTICE TO BENEFICIARY WHICH IS NOT IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE VOID AND OF NO FORCE OR EFFECT.

ALL COSTS RELATED TO THIS LETTER OF CREDIT SHALL BE PAID BY THE APPLICANT.

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S. GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN COUNTRIES, TERRITORIES, INDIVIDUALS, ENTITIES, AND VESSELS. ISSUER ENTITIES, INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES, ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

EXHIBIT "A"  
DRAWING CERTIFICATE

TO: [ISSUING BANK]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ISSUED BY [ISSUING BANK] TO [BENEFICIARY] ("LETTER OF CREDIT"); CAPITALIZED TERMS USED BUT NOT DEFINED IN THIS DRAWING CERTIFICATE HAVE THE MEANINGS ASCRIBED TO THEM IN THE LETTER OF CREDIT)

THIS IS A DRAWING CERTIFICATE UNDER THE ABOVE-MENTIONED LETTER OF CREDIT.

I, \_\_\_, AN AUTHORIZED REPRESENTATIVE OF [BENEFICIARY], DO HEREBY CERTIFY THAT:

APPLICANT AND BENEFICIARY ARE PARTY TO THAT CERTAIN RENEWABLE POWER PURCHASE AND SALE AGREEMENT DATED AS OF \_\_\_\_\_, 2024 (THE "AGREEMENT").

[CHOOSE ONLY ONE OF THE FOLLOWING]

- (1) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. \$ \_\_\_\_\_ BECAUSE [A SELLER EVENT OF DEFAULT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) HAS OCCURRED OR OTHER OCCASION PROVIDED FOR IN THE AGREEMENT WHERE BENEFICIARY IS AUTHORIZED TO DRAW ON THE LETTER OF CREDIT HAS OCCURRED][OR][A DELAY DAMAGES PAYMENT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) IS DUE UNDER THE AGREEMENT].
- (2) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. \$ \_\_\_\_\_, WHICH EQUALS THE FULL AVAILABLE AMOUNT UNDER THE LETTER OF CREDIT, BECAUSE APPLICANT IS REQUIRED TO MAINTAIN THE LETTER OF CREDIT IN FORCE AND EFFECT BEYOND THE EXPIRATION DATE OF THE LETTER OF CREDIT BUT HAS FAILED TO PROVIDE BENEFICIARY WITH A REPLACEMENT LETTER OF CREDIT OR OTHER ACCEPTABLE INSTRUMENT WITHIN SIXTY (60) DAYS PRIOR TO SUCH EXPIRATION DATE.

IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT , [BENEFICIARY] IS ENTITLED TO AND HEREBY DEMANDS PAYMENT OF USD \_\_\_\_\_, SUCH AMOUNT TO BE PAID TO [BENEFICIARY] BY WIRE TRANSFER IN IMMEDIATELY AVAILABLE

FUNDS TO: (INSERT WIRE INSTRUCTIONS), WHICH, [\_\_\_\_] CERTIFIES IT IS ENTITLED TO UNDER THE AGREEMENT.

COMMUNICATIONS TO ME CONCERNING THIS DRAWING CERTIFICATE MAY BE MADE AT FOLLOWING TELEPHONE AND FACSIMILE NUMBERS: \_\_\_\_\_;  
\_\_\_\_\_.

IN WITNESS WHEREOF, [BENEFICIARY] THROUGH ITS AUTHORIZED REPRESENTATIVE HAS EXECUTED AND DELIVERED THIS DRAWING CERTIFICATE THIS DAY OF, 20   .

[\_\_\_\_]

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

**EXHIBIT J**  
**FORM OF LIMITED ASSIGNMENT AGREEMENT**

This Limited Assignment Agreement (this “**Assignment Agreement**” or “**Agreement**”) is entered into as of [\_\_\_\_], by and among [\_\_\_\_], a [\_\_\_\_] (“**PPA Seller**”), Sacramento Municipal Utility District, a municipal utility district organized under the provisions of the Municipal Utility District Act (Division 6, Chapter 2, Articles 2 and 3, Sections 11581 through 11614 of the California Public Utilities Code, as amended) (“**PPA Buyer**”), and J. Aron & Company LLC, a New York limited liability company (“**J. Aron**”), and relates to that certain power purchase agreement between PPA Buyer and PPA Seller as further described in Appendix 1 (the “**PPA**”). Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

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

**1. Limited Assignment and Delegation.**

- (a) PPA Buyer hereby assigns, transfers and conveys to J. Aron all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of the products described on Appendix 1 (the “**Assigned Products**”) during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the “Further Information” section on Appendix 1 (the “**Assigned Product Rights**”). All Assigned Products shall be delivered pursuant to the terms and conditions of this Agreement during the Assignment Period as provided in Appendix 1. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer. The Parties agree that the assignment, transfer and/or conveyance of all or any portion of the Assigned Products in accordance with this Agreement and the Parties’ performance of any obligation in accordance with this Agreement shall not constitute a failure to meet the requirements of the PPA, or a breach of any covenant, representation or warranty under the PPA (and in no event shall PPA Seller be responsible for any failure of any portion of the Assigned Products to satisfy the requirements of the PPA, to the extent such failure results from the assignment, transfer and/or conveyance of such Assigned Products in accordance with this Agreement).
- (b) PPA Buyer hereby delegates to J. Aron the obligation to pay the APC Contract Price set forth in Appendix 1 for all Assigned Products that are actually delivered to J. Aron pursuant to the Assigned Product Rights during the Assignment Period (the “**Delivered Product Payment Obligation**” and together with the Assigned Product Rights, collectively the “**Assigned Rights and Obligations**”); provided that (i) all other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer and PPA Buyer shall be solely responsible for any amounts due to PPA Seller that are not directly related to Assigned Products; and (ii) the Parties acknowledge and agree that PPA Seller will only be obligated to deliver a single consolidated invoice during the Assignment Period (with a copy to J. Aron consistent with Section 1(d) hereof). To the extent J. Aron fails to pay for any Assigned Products by the due date for payment set forth in the PPA, notwithstanding anything in this Agreement to the contrary, PPA Buyer agrees that it will remain jointly and severally responsible as a primary obligor (and not as a surety) for such payment and that it will be an Event of Default pursuant to Section 11.1(a) if PPA Buyer does not make such payment within five (5) Business Days (as

defined in the PPA) of receiving notice of such non-payment from PPA Seller, and that PPA Buyer shall remain liable for, and indemnify and hold PPA Seller harmless from, any and all losses, damages, costs and expenses of PPA Seller of any kind as a result of or arising from (x) the assignment, transfer, conveyance, and delegation described in Section 1(a) and this Section 1(b), or (y) J. Aron's failure to take or pay for any such Assigned Product or make any payment in respect of the Delivered Product Payment Obligation as and when due under the PPA and disregarding the effects of any stay or other suspension rights, including without limitation under sections 362 or 365 of the Bankruptcy Code or similar laws), whether due to bankruptcy, insolvency or any other cause.

- (c) J. Aron hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance and delegation described in clauses (a) and (b) above.
- (d) All scheduling of Assigned Products and other communications related to the PPA shall take place between PPA Buyer and PPA Seller pursuant to the terms of the PPA; provided that (i) title to Assigned Product will pass from PPA Seller to J. Aron upon delivery by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer will provide copies to J. Aron of any Notice of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iii) PPA Buyer will provide copies to J. Aron of any forecasts of Energy generation provided by PPA Seller under the PPA; (iv) PPA Seller will provide copies to J. Aron of all invoices and supporting data provided to PPA Buyer pursuant to Section 8.1 of the PPA, provided that any payment adjustments or subsequent reconciliations occurring after the date that is 10 days prior to the payment due date for a monthly invoice, including pursuant to Section 8.4 of the PPA, will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to J. Aron; and (v) PPA Buyer and PPA Seller, as applicable, will provide copies to J. Aron of any other information reasonably requested by J. Aron relating to Assigned Products.
- (e) PPA Seller acknowledges that (i) J. Aron intends to immediately transfer title to any Assigned Products received from PPA Seller through one or more intermediaries such that all Assigned Products will be re-delivered to PPA Buyer; and (ii) in the event that PPA Buyer fails to pay the relevant intermediary entity for any such Assigned Products, the receivables owed by PPA Buyer for such Assigned Products ("PPA Buyer Receivables") may be transferred to J. Aron. To the extent any such PPA Buyer Receivables are transferred to J. Aron, J. Aron may transfer such PPA Buyer Receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation, and PPA Buyer waives all rights to dispute or claim any defence in respect of such PPA Buyer Receivables other than a defence that would have arisen under the PPA if this Agreement were not in effect. To effect such transfer, J. Aron shall deliver to PPA Seller a notice of intent to transfer PPA Buyer Receivables not later than the payment due date for the Delivered Product Payment Obligation and shall deliver to PPA Seller a bill of sale signed by J. Aron not later than five Business Days thereafter, provided that no such transfer or application shall reduce or limit PPA Buyer's obligations under Section 1(b) above. Such transfer of PPA Buyer Receivables shall immediately be deemed an Event of Default under Section 11.1(a) of the PPA, without regard to any cure periods set forth therein, and PPA Seller shall be

entitled to pursue collection on such PPA Buyer Receivables directly against PPA Buyer pursuant to the remedies set forth in the PPA for such Event of Default.

- (f) On or before the commencement of the Assignment Period, The Goldman Sachs Group, Inc. ("Guarantor") will issue, in favor of PPA Seller, a guaranty of J. Aron's payment obligations under this Assignment Agreement substantially in the form of Appendix 3 attached hereto ("Guaranty").
- (g) The Assigned Prepay Quantity set forth in Appendix 2 relates to obligations by and between J. Aron and PPA Buyer and has no impact on PPA Seller's rights and obligations under the PPA.
- (h) In the event that the PPA or the Assigned Rights and obligations are either or both rejected or terminated in or as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting J. Aron, PPA Buyer shall, at the option of PPA Seller exercised within thirty (30) days after such rejection or termination, enter into a new agreement with PPA Seller having identical terms as the PPA (subject to any conforming changes necessitated by the substitution of parties and other changes as the parties may mutually agree), *provided*, that the term under such new agreement shall be no longer than the remaining balance of the term specified in the PPA.

## **2. Assignment Early Termination.**

- (a) The Assignment Period may be terminated early upon the occurrence of any of the following:
  - (1) delivery of a written notice of termination specifying a termination date by either J. Aron or PPA Buyer to each of the other Parties;
  - (2) delivery of a written notice of termination specifying a termination date by PPA Seller to each of J. Aron and PPA Buyer following J. Aron's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by J. Aron within one (1) business day following receipt by J. Aron and PPA Buyer of written notice;
  - (3) delivery of a written notice by PPA Seller if any of the events described in the definition of "Bankrupt" in the PPA occurs with respect to J. Aron; or
  - (4) delivery of a written notice by J. Aron if any of the events described in the definition of "Bankrupt" in the PPA occurs with respect to PPA Seller.
- (b) The Assignment Period will end at the end of last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clause 2(a)(1) or 2(a)(2) above. All Assigned Rights and Obligations shall revert from J. Aron to PPA Buyer upon the early termination of the Assignment Period, provided that (i) J. Aron shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to J. Aron prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

- (c) The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from J. Aron to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) J. Aron shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to J. Aron prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.
- (d) The Assignment Period will automatically terminate upon delivery by Guarantor of a notice of termination of the Guaranty or if the Guarantor otherwise repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty. All Assigned Rights and Obligations shall revert from J. Aron to PPA Buyer upon the termination of the Assignment Period, provided that (i) J. Aron shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to J. Aron prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

**3. Representations and Warranties.** The PPA Seller and the PPA Buyer represent and warrant to J. Aron that (a) the PPA is in full force and effect; (b) to the best of its knowledge, no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder; and (c) all of its obligations under the PPA required to be performed on or before the Assignment Period Start Date have been fulfilled.

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

J. Aron & Company LLC  
 200 West Street  
 New York, New York 10282-2198  
 Email:

**5. Miscellaneous.** Section [ ] (Buyer's Representations and Warranties), Article [ ] (Confidential Information), Section [ ] (No Consequential Damages), Section [ ] (Severability), Section [ ] (Counterparts), Section [ ] (Amendments), Section [ ] (No Agency, Partnership, Joint Venture or Lease), Section [ ] (Mobile-Sierra), Section [ ] (Electronic Delivery), Section [ ] (Limitations on Damages), Section [ ] (Binding Effect) and Section [ ] (No Recourse to Members of Buyer) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

#### 1.1     6. U.S. Resolution Stay Provisions.

- (a) As between J. Aron and PPA Buyer, J. Aron and PPA Buyer hereby confirm that they are adherents to the ISDA 2018 U.S. Resolution Stay Protocol ("ISDA U.S. Stay

Protocol”), the terms of the ISDA U.S. Stay Protocol are incorporated into and form a part of this Assignment Agreement, and for the purposes of such incorporation, (i) J. Aron shall be deemed to be a Regulated Entity, (ii) PPA Buyer shall be deemed to be an Adhering Party, and (iii) this Assignment Agreement shall be deemed a Protocol Covered Agreement. In the event of any inconsistencies between this Assignment Agreement and the ISDA U.S. Stay Protocol, as between J. Aron and PPA Buyer, the ISDA U.S. Stay Protocol will prevail.

(b) As between J. Aron and PPA Seller:

(i) In the event that J. Aron becomes subject to a proceeding under (A) the Federal Deposit Insurance Act and the regulations promulgated thereunder or (B) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder (a “U.S. Special Resolution Regime”) the transfer from J. Aron of this Agreement, and any interest and obligation in or under, and any property securing, this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any interest and obligation in or under, and any property securing, this Agreement were governed by the laws of the United States or a state of the United States.

(ii) In the event that J. Aron or an Affiliate becomes subject to a proceeding under a U.S. Special Resolution Regime, any Default Rights (as defined in 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable and as amended (“Default Right”)) under this Agreement that may be exercised against J. Aron are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

(iii) Notwithstanding anything to the contrary in this Agreement, J. Aron and PPA Seller expressly acknowledge and agree that:

(1) PPA Seller shall not be permitted to exercise any Default Right with respect to this Agreement or any Affiliate Credit Enhancement that is related, directly or indirectly, to an Affiliate of J. Aron becoming subject to receivership, insolvency, liquidation, resolution, or similar proceeding (an “Insolvency Proceeding”), except to the extent that the exercise of such Default Right would be permitted under the provisions of 12 C.F.R. 252.84, 12 C.F.R. 47.5 or 12 C.F.R. 382.4, as applicable and as amended; and

(2) Nothing in this Agreement shall prohibit the transfer of any Affiliate Credit Enhancement, any interest or obligation in or under such Affiliate Credit Enhancement, or any property securing such Affiliate Credit Enhancement, to a transferee upon or following an Affiliate of J. Aron becoming subject to an Insolvency Proceeding, unless the transfer would result in PPA Seller being the beneficiary of such Affiliate Credit Enhancement in violation of any law applicable to PPA Seller.

(iv) If PPA Seller adheres to the ISDA U.S. Protocol, as published by the International Swaps and Derivatives Association, Inc. as of July 31, 2018, after the date of this Agreement, the terms of the ISDA U.S. Protocol will supersede and replace the terms of this Section 6(b).

(v) For purposes of this Section 6(b):

(1) “**Affiliate**” is defined in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k); and

(2) “**Credit Enhancement**” means any credit enhancement or credit support arrangement in support of the obligations of J. Aron under or with respect to this Agreement, including any guarantee, collateral arrangement (including any pledge, charge, mortgage or other security interest in collateral or title transfer arrangement), trust or similar arrangement, letter of credit, transfer of margin or any similar arrangement.

## **7. Governing Law, Jurisdiction, Waiver of Jury Trial.**

- (a) **Governing Law.** This Assignment Agreement and the rights and duties of the parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of New York, without reference to any conflicts of laws provisions that would direct the application of another jurisdiction’s laws.
- (b) **Jurisdiction.** Each party submits to the exclusive jurisdiction of (i) the courts of the State of New York located in the Borough of Manhattan and (ii) the federal courts of the United States of America for the Southern District of New York.
- (c) **Waiver of Right to Trial by Jury.** Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this assignment agreement.

[Remainder of Page Intentionally Blank]

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

[PPA SELLER]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SACRAMENTO MUNICIPAL UTILITY DISTRICT

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

J. ARON & COMPANY LLC

By: \_\_\_\_\_

Name:

Title:

## Appendix 1

### Assigned Rights and Obligations

**PPA:** “PPA” means that certain [Power Purchase and Sale Agreement] dated [\_\_\_\_], 20[\_\_\_\_] by and between [\_\_\_\_] and [\_\_\_\_], as amended from time to time.

**“Assignment Period”** means the period beginning on [\_\_\_\_\_] and extending until [\_\_\_\_\_] , provided that in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 2 of the Assignment Agreement and (ii) the end of the Delivery Term under the PPA; provided that applicable provisions of this Agreement shall continue in effect after termination of the Assignment Period to the extent necessary to enforce or complete, duties, obligations or responsibilities of the Parties arising prior to the termination.

**APC Contract Price:** \$ [ ]/MWh (flat) with no escalation

**Assigned Product:** “Assigned Products” include [\_\_\_\_].

**Further Information:** [\_\_\_\_]

## **Appendix 2**

### **Assigned Prepay Quantity**

[NOTE: To be set forth in a monthly volume schedule.]

## Appendix 3

### Form of GSG Guaranty

, 2024

NAME  
ADDRESS

Attention:

Ladies and Gentlemen:

For value received, The Goldman Sachs Group, Inc. (the "Guarantor"), a corporation duly organized under the laws of the State of Delaware, hereby unconditionally guarantees the prompt and complete payment when due, whether by acceleration or otherwise, of all obligations and liabilities, whether now in existence or hereafter arising, of J. Aron & Company LLC, a subsidiary of the Guarantor and a limited liability company duly organized under the laws of the State of New York (the "Company"), to **COUNTERPARTY NAME** (the "Counterparty") arising out of or under the Limited Assignment Agreement among the Company, the Counterparty and [PPA Seller] dated as of [ ], 202[ ]. This Guaranty is one of payment and not of collection.

The Guarantor hereby waives notice of acceptance of this Guaranty and notice of any obligation or liability to which it may apply, and waives presentment, demand for payment, protest, notice of dishonor or non-payment of any such obligation or liability, suit or the taking of other action by Counterparty against, and any other notice to, the Company, the Guarantor or others.

Counterparty may at any time and from time to time without notice to or consent of the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder: (1) agree with the Company to make any change in the terms of any obligation or liability of the Company to Counterparty, (2) take or fail to take any action of any kind in respect of any security for any obligation or liability of the Company to Counterparty, (3) exercise or refrain from exercising any rights against the Company or others, or (4) compromise or subordinate any obligation or liability of the Company to Counterparty including any security therefor. Any other suretyship defenses are hereby waived by the Guarantor.

This Guaranty shall continue in full force and effect until the opening of business on the fifth business day after Counterparty receives written notice of termination from the Guarantor. It is understood and agreed, however, that notwithstanding any such termination this Guaranty shall continue in full force and effect with respect to the obligations and liabilities set forth above which shall have been incurred prior to such termination.

The Guarantor further agrees that this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the guaranteed obligations, or interest thereon is rescinded or must otherwise be restored or returned by the Counterparty upon the bankruptcy, insolvency, dissolution or reorganization of the Company. No failure on the part of the Counterparty to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Counterparty of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Notwithstanding anything in this Guaranty to the contrary, this Guaranty shall continue to be effective or shall be reinstated, as the case may be, if at any time, either before or after the termination hereof, payment of the obligations or liabilities guaranteed pursuant to this Guaranty, or any part thereof, is rescinded or must otherwise be returned by Counterparty for any reason, including without limitation upon the insolvency, bankruptcy or reorganization of the Company or the Guarantor, all as though such payment had not been made.

Except as to applicable statutes of limitation, Guarantor hereby agrees that no delay of Counterparty in the exercise of, or failure to exercise, any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights or a release of Guarantor from any obligations hereunder.

No term or provision of this Guaranty shall be amended, modified, altered, waived or supplemented except in a writing signed by Guarantor and Counterparty.

The Guarantor hereby represents as follows:

- (a) The Guarantor is duly organized, validly existing, and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Guaranty.
- (b) The execution and delivery of this Guaranty have been and remain duly authorized by all necessary action and do not contravene any provision of the Guarantor's certificate of incorporation or by-laws, as amended to date, or any law, regulation, decree, order, judgment, resolution or any contractual restriction binding on the Guarantor or its assets that could affect, in a materially adverse manner, the ability of the Guarantor to perform any of its obligations hereunder.
- (c) All consents, licenses, clearances, authorizations, and approvals of, and registration and declarations with, any governmental or regulatory authority necessary for the due execution and delivery of this Guaranty have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental or regulatory authority is required in connection with the execution or delivery of this Guaranty.
- (d) This Guaranty constitutes the legal, valid, and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with all of its terms and conditions (subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally). The enforceability of the Guarantor's obligations is also

subject to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

The Guarantor may not assign its rights nor delegate its obligations under this Guaranty, in whole or in part, without prior written consent of the Counterparty, and any purported assignment or delegation absent such consent is void, except for (i) an assignment and delegation of all of the Guarantor's rights and obligations hereunder in whatever form the Guarantor determines may be appropriate to a partnership, corporation, trust or other organization in whatever form that succeeds to all or substantially all of the Guarantor's assets and business and that assumes such obligations by contract, operation of law or otherwise, and (ii) the Guarantor may transfer this Guaranty or any interest or obligation of the Guarantor in or under this Guaranty, or any property securing this Guaranty, to another entity as transferee as part of the resolution, restructuring or reorganization of the Guarantor upon or following the Guarantor becoming subject to a receivership, insolvency, liquidation, resolution or similar proceeding. Upon any such delegation and assumption or transfer of obligations, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such delegation and assumption or transfer.

**THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK WITHOUT GIVING EFFECT TO PRINCIPLES OF CONFLICTS OF LAW. GUARANTOR AGREES TO THE EXCLUSIVE JURISDICTION OF COURTS LOCATED IN THE STATE OF NEW YORK, UNITED STATES OF AMERICA, OVER ANY DISPUTES ARISING UNDER OR RELATING TO THIS GUARANTY.**

In the event the Guarantor becomes subject to a proceeding under the Federal Deposit Insurance Act or Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together, the "U.S. Special Resolution Regimes"), the transfer of this Guaranty, and any interest and obligation in or under, and any property securing, this Guaranty, from the Guarantor will be effective to the same extent as the transfer would be effective under such U.S. Special Resolution Regime if this Guaranty, and any interest and obligation in or under this Guaranty, were governed by the laws of the United States or a state of the United States. In the event the Company or the Guarantor, or any of their affiliates, becomes subject to a U.S. Special Resolution Regime, default rights against the Company or the Guarantor with respect to this Guaranty are permitted to be exercised to no greater extent than such default rights could be exercised under such U.S. Special Resolution Regime if this Guaranty was governed by the laws of the United States or a state of the United States.

Very truly yours,

THE GOLDMAN SACHS GROUP, INC.

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT K**  
**NOTICES**

<b>HATCHET RIDGE WIND, LLC ("Seller")</b>	<b>SACRAMENTA MUNICIPAL UTILITY DISTRICT ("Buyer")</b>
<b>All Notices:</b> Street: City: Attn: Phone: Email:	<b>All Notices:</b> Street: City: Mail Stop: Attn: Phone: Email:
<b>Reference Numbers:</b> Duns: Federal Tax ID Number:	<b>Reference Numbers:</b> Duns: Federal Tax ID Number:
<b>Invoices:</b> Attn: Phone: Email:	<b>Invoices:</b> Phone: Email:
<b>Scheduling:</b> Attn: Email: Phone: Facsimile:	<b>Scheduling:</b> Attn: Phone: Email: Attn: Phone: Email:
<b>Confirmations:</b> Attn: Phone: Email:	<b>Confirmations:</b> Attn: Phone: Email:
<b>Payments:</b> Attn: Phone: Email:	<b>Payments:</b> Attn: Phone: Email:

<b>HATCHET RIDGE WIND, LLC</b> ("Seller")	<b>SACRAMENTA MUNICIPAL UTILITY DISTRICT</b> ("Buyer")
<b>Wire Transfer:</b> <sup>1</sup>  ABA: BBK: BNF: A/C: OBI:	<b>Wire Transfer:</b>  BNK: ABA: ACCT:
<b>Emergency Contact:</b>  Attn: Phone: Email:	<b>With additional Notices of an Event of Default to:</b>  Attn: Phone: Email:
	<b>Emergency Contact:</b>  Attn: Phone: Email:

<sup>1</sup> Note: All information must be included for wire transfer, including OBI field information.

**EXHIBIT L**  
**OPERATING RESTRICTIONS**

Operating restrictions of the Facility for Market Curtailment Periods are as follows:

- Interconnection Capacity (Maximum Injection Amount): 102 MW
- Minimum operating capacity: 0.0 MW
- Maximum number of start-ups per calendar day (if any such operational limitations exist): N/A
- Ramp Rate: To be provided by Seller upon Notice to Buyer prior to Contract Start
- Minimum Down Time: N/A

**EXHIBIT M**  
**PRINCIPLES OF RENEWABLE ENERGY DEVELOPMENT**

SMUD is committed to developing carbon free renewable energy in a manner that supports the community, protects the environment, and respects human rights. This document provides guidance on the key objectives that SMUD expects to achieve associated with this commitment. Renewable energy projects engaged in a commercial relationship with SMUD such as a power purchase agreement will use commercially reasonable efforts to provide, implement, and maintain throughout the associated term, a “Community Benefits Plan” that addresses how the project will achieve the key objectives identified herein.

**Key objectives:**

1. **Land Use:** Prioritize previously developed lands. Avoid or minimize impacts on sensitive environmental resources, including but not limited to cultural resources, tribal cultural resources, and biological resources such as endangered species habitat, vernal pools and other sensitive habitats, “Waters of the US”, “Waters of the State” and waters identified by California Department of Fish and Wildlife as “Streambed”. Provide additional mitigation measures if avoidance and minimization measures cannot fully eliminate impacts. Applicants are expected to discuss these topics with both SMUD and the lead agency as early as possible to identify potential associated issues in advance of the purchase power agreement being finalized.
2. **Land Use:** All projects should employ techniques for maintaining and/or restoring ecosystem function to the site in conjunction with renewable energy outcomes, including establishment of native vegetation, restricting use of herbicides and pesticides, use of grazing for vegetation management and seasonally appropriate maintenance practices. Where development is on or surrounded by agricultural lands the project should also employ agricultural practices on the property during operations including sheep grazing, dry crop farming and irrigated food production where feasible.
3. **Land Use:** Employ design and construction practices that minimize ground disturbance to the maximum extent possible. This is especially critical in areas where cultural, tribal cultural and biological resources are of significant concern.
4. **Sustainable Life Cycle Management:** Include plans for sustainable life cycle management of construction materials and project components during construction and operation that provides for recycling and reuse of construction waste and waste during operation including but not limited to the solar panels.
5. **Community Benefits:**
  - (a) **Inclusive Economic Development:** Leverage SMUD’s Supplier Education & Economic Development (SEED) team to connect with certified small business vendors/contractors in SMUD’s service territory to support the project. Submit requests to [seed.mgr@smud.org](mailto:seed.mgr@smud.org).

6. **Zero Carbon Workforce Development:** SMUD seeks to galvanize and prepare the region for an inclusive, diverse, creative, and empowered future workforce. Leverage SMUD's existing workforce development agreements, programs, and partnerships throughout the Project to support the development of a clean energy labor force. The Project Team will work with SMUD to engage various elements of the labor supply chain via pre-apprentice and apprenticeship programs, internships, informational sessions, and mentorship opportunities.
7. **Sustainable Materials & Equipment:** Sourcing materials and equipment from companies that have a human rights policy and statement of supply chain ethics commitment that expresses the corporation's commitment to meet the responsibility to respect human rights and uphold ethical business practices in their operations and value chains.

**EXHIBIT N**  
**SETTLEMENT EXAMPLES**

In accordance with Sections 3.3(a) and 4.6(e), Product delivered to Buyer will be calculated consistent with the illustrative examples below:

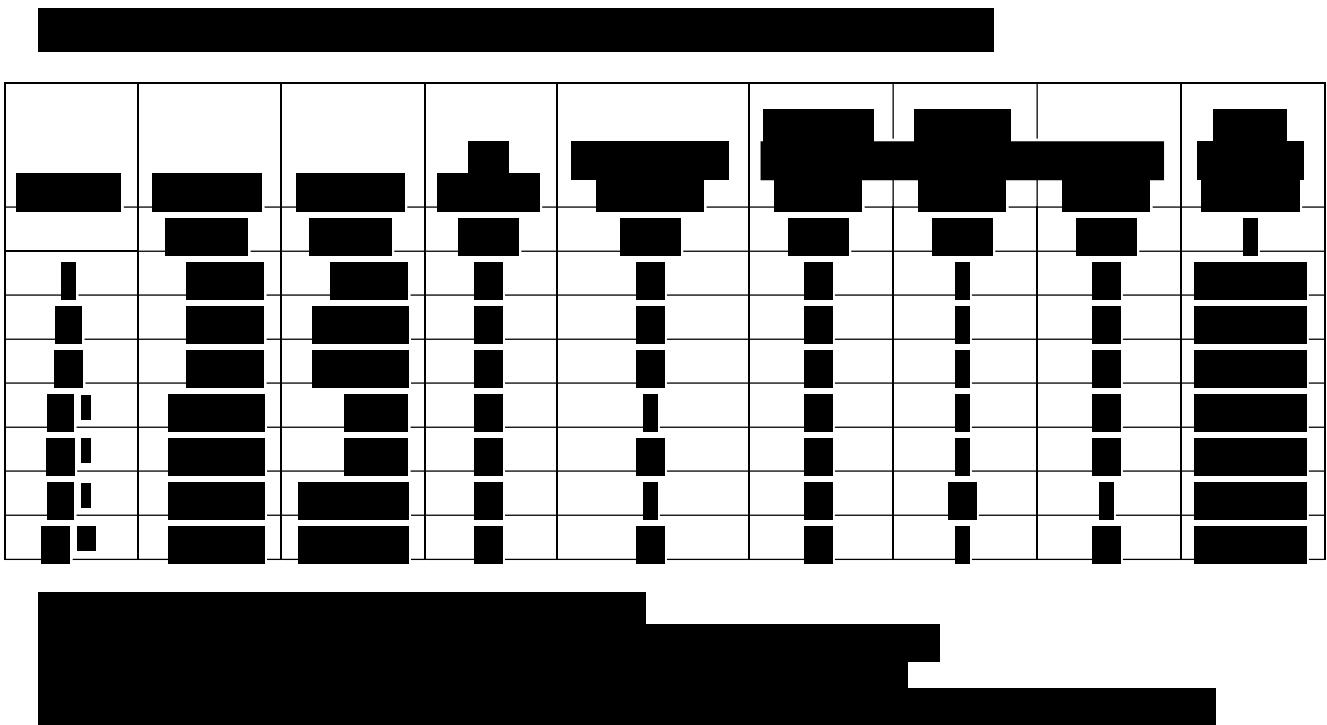
1

1

**ANSWER** The answer is 1000.

A 10x10 grid of black shapes on a white background. The shapes are composed of small black squares. They form a path from the top-left to the bottom-right, with some segments being solid and others having internal holes.

[REDACTED]



SMRH:4888-6049-3514.24  
102324

-7-

OLD: 4888-6049-3514.14  
98FD-394166

**RESOLUTION NO. 24-11-06**

**WHEREAS**, the **California Energy Commission (CEC)** mandates continuously escalating procurement of renewable energy by load-serving entities in California under the **Renewables Portfolio Standard (RPS)**; and

**WHEREAS**, by Resolution No. 21-04-04, adopted on April 15, 2021, this Board revised **Strategic Direction SD-9, Resource Planning**, to align with SMUD's **2030 Zero Carbon Plan** goal of zero greenhouse gas (GHG) emissions in SMUD's energy supply by 2030, reflecting a more aggressive target than the state's **RPS** requirements; and

**WHEREAS**, in 2023, SMUD received non-binding indicative offers from **Pattern Energy, LLC (Pattern)**, for the **Hatchet Ridge Wind Project** and **SunZia Wind Project** (collectively, **Projects**) for renewable wind power; and

**WHEREAS**, SMUD performed an evaluation of the market and determined that the **Projects** provided superior value and key solutions compared to available alternatives; and

**WHEREAS**, the **Power Purchase Agreements (PPAs)** for the **Projects** were offered by **Pattern** as a package deal and are therefore contingent upon one another; and

**WHEREAS**, the **SunZia Wind Project**, and the associated Sunzvia Transmission Project, are located in New Mexico and Arizona, and will combine to create the largest clean energy infrastructure project in United States history at more than 3,500 MW split between a northern portion (**SunZia North**) and southern portion (**SunZia South**); and

**WHEREAS**, SMUD and **SunZia Wind PowerCo, LLC** (parent company is **Pattern**), negotiated a mutually beneficial **PPA** for the **SunZia Wind Project** under which SMUD will purchase 150 MW of energy, capacity attributes, and Portfolio Content Category 1 Renewable Energy Credits (PCC1 RECs), for a term of fifteen (15) years, at an annual approximate cost of \$41 million; and

**WHEREAS**, SMUD's share of the **SunZia Wind Project** covered in the **PPA** will be part of the **California Independent System Operator**

**Corporation (CAISO)** Balancing Authority Area and provide approximately 490,000 MWh annually; and

**WHEREAS**, the **PPA** commercial operation date is April 30, 2026, and will support SMUD's compliance requirements for **RPS**; and

**WHEREAS**, due to the unique size of **SunZia Wind Project**, **Pattern** intends to separate the project into different portions and sell all or a part of ownership interest to an outside investor to facilitate capital needs; and

**WHEREAS**, to support the sale, the **PPA** provides for **SunZia Wind PowerCo, LLC**, the right to either (i) split the **PPA** into two new power purchase agreements, one with **SunZia North** and one with **SunZia South** (**a Bifurcation**) or (ii) replace the **PPA** with one new power purchase agreement with either **SunZia North** or **SunZia South** (**a Transition**); and

**WHEREAS**, new power purchase agreement(s) under a **Bifurcation** or **Transition** would be with a separate subsidiary of **Pattern** and under substantially the same terms and conditions as the **PPA** and would result in the termination of the **PPA** upon the effective date of any new power purchase agreement(s); and

**WHEREAS**, the price and other terms proposed in the **PPA** are commercially reasonable and benefit SMUD's ratepayers; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

**Section 1.** The Chief Executive Officer and General Manager, or his delegate, is authorized to negotiate and execute the **SunZia Wind Project Power Purchase Agreement (PPA)** for a 15-year term for 150 MW of renewable wind power at an annual approximate cost of \$41 million, substantially in the form of **Attachment C**, and subsequent replacement power purchase agreement(s) with a **Pattern Energy, LLC**, subsidiary to address project investment capital needs, under substantially the same terms and conditions as the **PPA**.

**Section 2.** The Chief Executive Officer and General Manager, or his delegate, is authorized to make future changes to the terms and conditions of the contract that, in his prudent judgment: (a) further the primary purpose of the

contract; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized contract amounts and applicable contingencies.

Approved: November 21, 2024

INTRODUCED: DIRECTOR TAMAYO				
SECONDED: DIRECTOR KERTH				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON	X			
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

## RENEWABLE POWER PURCHASE AND SALE AGREEMENT

## COVER SHEET

**Seller:** SunZia Wind PowerCo LLC**Buyer:** Sacramento Municipal Utility District (SMUD)

**Description of Facility:** A wind-powered electricity generating facility with a nameplate capacity of up to 3,515 MW, as described in Exhibit A, as such facility may be modified under the terms of this Agreement. During any part of the Delivery Term that is prior to the occurrence of the SPTO Date, the Facility shall qualify as a Resource-Specific System Resource.

**Milestones:**

Milestone	Date for Completion
<b>Executed Interconnection Agreement</b>	3/27/2023
<b>Expected Commercial Operation Date</b>	4/30/2026
<b>Guaranteed Commercial Operation Date</b>	10/31/2026
<b>Outside Commercial Operation Date</b>	[REDACTED]

**Delivery Term:** The period for Product delivery will be for fifteen (15) Contract Years.

**Guaranteed Capacity:** 150 MW.

**Contract Price:** \$ [REDACTED] /MWh (flat) with no escalation.

**Expected Energy:** [REDACTED] MWh per Contract Year, as such amount may be adjusted by Seller in accordance with the definition of "Expected Energy" below.

**Product:**

- Delivered Energy
- Green Attributes/Renewable Energy Credits (Portfolio Content Category 1) attributable to the Delivered Energy
- Capacity Attributes

**Scheduling Coordinator:** Seller/Seller Third Party.

**Development Security and Performance Security**

Development Security: \$ [REDACTED] /kW of Guaranteed Capacity.

Performance Security: \$ █/kW of Guaranteed Capacity.

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## **Exhibits**

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## **RENEWABLE POWER PURCHASE AND SALE AGREEMENT**

This Renewable Power Purchase and Sale Agreement (“Agreement”) is entered into as of \_\_\_\_\_, 2024 (the “Effective Date”), between Buyer and Seller. Buyer and Seller are sometimes referred to herein individually as a “Party” and jointly as the “Parties.”

### **RECITALS**

WHEREAS, Seller intends to develop, design, construct, own, and operate the Facility;

WHEREAS, (i) Seller has been informed by the manufacturer of the wind turbines to be used in SunZia Wind South that Seller has the option to receive wind turbines with a nameplate capacity of 3.8 MW each, in lieu of the nameplate capacity of 3.6 MW for each such wind turbine originally contemplated under the supply agreement with such manufacturer (“South Turbine Uprate”), and (ii) Buyer and Seller agree that Seller shall have the option under this Agreement, through January 31, 2025, to implement the South Turbine Uprate, and thereby increase (x) the maximum Installed Capacity of the Facility up to an amount equal to 3,800 MW and (y) the Expected Energy under this Agreement to reflect the increased generating capacity resulting from the South Turbine Uprate; and

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

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

### **ARTICLE 1 DEFINITIONS**

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

“Accepted Compliance Costs” has the meaning set forth in Section 3.12.

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

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

**“Agreement”** has the meaning set forth in the Preamble and includes any Exhibits, schedules and any written supplements hereto, the Cover Sheet, and any designated collateral, credit support or similar arrangement between the Parties.

**“Alternative Delivery Point”** means a Scheduling Point, as defined in the CAISO Tariff, other than the Delivery Point, that is agreed upon by Buyer and Seller.

**“Approved Meter”** means a CAISO-approved revenue quality meter or meters, or if a CAISO approved meter is not consistent with PTO requirements, then a PTO-approved meter or meters, together with a CAISO-approved or PTO-approved, as the case may be, data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy produced by the Facility net of Electrical Losses and Station Use; *provided*, that from and after the SPTO Date the Approved Meter shall be CAISO-approved without regard to any PTO metering requirements.

**“Available Capacity”** means the capacity from Buyer’s Share of the Facility, expressed in whole MWs, that is available to generate Energy.

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

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

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

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

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

**“Buyer’s Share”** means the percentage that is equal to the quotient of the Guaranteed Capacity divided by the Installed Capacity (or, prior to the Commercial Operation Date, the total expected installed nameplate capacity of the Facility), as such percentage may change from time to time with changes to the Installed Capacity, if applicable; *provided*, in no event shall the Buyer’s Share exceed 100% (whether before or after establishment of the final Installed Capacity); *provided further*, for purposes of determining the amount of Test Energy, if any, available to Buyer, Buyer’s Share shall mean the percentage that is equal to the quotient of the Guaranteed Capacity divided by the total nameplate capacity of the Facility in operation at the time of delivery of such Test Energy.

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

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

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

**“CAISO Operating Instruction”** has the same meaning as “Operating Instruction” as defined in the CAISO Tariff.

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

**“California Renewables Portfolio Standard”** or **“RPS”** means the renewable energy program and policies established by California State Senate Bills 1038 (2002), 1078 (2002), 107 (2008), X-1 2 (2011), 350 (2015), and 100 (2018) as codified in, *inter alia*, California Public Utilities Code Sections 399.11 through 399.31 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

**“Capacity Attribute”** means any current or future defined characteristic, certificate, tag, credit, or accounting construct associated with Buyer’s Share of the Installed Capacity that may be used to satisfy resource adequacy obligations, including Resource Adequacy Benefits and Non-Resource Adequacy Capacity.

**“Capacity Attribute Shortfall”** means, for any calendar month, the difference, expressed in kW, between (i) the Guaranteed Capacity Attributes, *minus* (ii) the Capacity Attributes of the Facility that are delivered to Buyer with respect to such month, *minus* (iii) any Deemed Delivered Capacity Attributes with respect to such month.

**“Capacity Attribute Damage Amount”** has the meaning set forth in Section 3.8(f).

**“Capacity Attributes Guarantee Date”** shall mean the date that, in the CAISO’s determination, the Facility is capable of delivering Capacity Attributes to Buyer.

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

**“Capacity Increase Deadline”** has the meaning set forth in Section 4.9.

**“Capacity Replacement Price”** means (a) the price actually paid for any replacement Capacity Attributes purchased by Buyer to mitigate a Capacity Attribute Shortfall, plus costs reasonably incurred by Buyer in purchasing such replacement Capacity Attributes, or (b) absent a purchase of any replacement Capacity Attributes, the prevailing market price for such Capacity Attributes. The Buyer shall determine such market price by averaging quotes from three (3) unaffiliated brokers; *provided, however*, if three (3) broker quotes are not available to Buyer after making commercially reasonable efforts to obtain such quotes, then the Capacity Replacement

Price shall be determined by averaging quotes provided by Buyer from two (2) unaffiliated brokers.

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

“**CEC Certification and Verification**” means that the CEC has certified (or, with respect to periods before the date that the facility is fully certified, that the CEC has pre-certified) that the Facility is an Eligible Renewable Energy Resource for purposes of the California Renewables Portfolio Standard and that all Energy generated by the Facility qualifies as generation from an Eligible Renewable Energy Resource.

“**Change of Control**” means any circumstance in which (a) in respect of Buyer, the Person that has ultimate control over Buyer ceases to have such ultimate control, and (b) in the case of Seller, the Ultimate Parent ceases to have control over Seller; provided that, for the avoidance of doubt, it shall not be a Change of Control of Seller if the Ultimate Parent, itself or together with other Persons that would meet the requirements of the definition of Permitted Transferee, retains either (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of Seller or, if there are no such rights, ownership of at least fifty percent (50%) of the equity or other ownership interest in Seller, or (b) the right to direct the policies or operations of Seller.

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

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

“**Compliance Actions**” has the meaning set forth in Section 3.12.

“**Compliance Expenditure Cap**” has the meaning set forth in Section 3.12.

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

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

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

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

“**Contract Revenues**” has the meaning set forth in Section 4.5(b).

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

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

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

new arrangements which replace the Agreement, and all reasonable expenses incurred by the Non-Defaulting Party in connection with terminating the Agreement, excluding attorneys' fees.

**"Cover Sheet"** means the cover sheet to this Agreement.

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

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

**"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, 19-02-022, 20-06-002, 20-06-031, and any other existing or subsequent decisions, resolutions or rulings related to the resource adequacy program or any successor program, as may be amended from time to time by the CPUC.

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

**"Curtailment Order"** means any of the following:

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

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

(c) a curtailment ordered by a Transmission Provider due to scheduled or unscheduled maintenance on the Transmission Provider's transmission facilities that prevents (i) Buyer from receiving or (ii) Seller from delivering Energy at the Delivery Point; or

(d) a curtailment in accordance with Seller's obligations under its Interconnection Agreement with the Participating Transmission Owner.

**"Curtailment Period"** means the period of time, as measured using current Settlement Intervals, during which Seller reduces generation or deliveries of Delivered Energy from the

Facility pursuant to a Curtailment Order. Curtailment Period shall not include periods during which Seller reduces generation as a result of a Market Curtailment Period.

**“Damage Payment”** means the dollar amount that equals the amount of the Development Security as set forth on the Cover Sheet less the amount of any Delay Damages or Capacity Damages paid by Seller to Buyer hereunder.

**“Day-Ahead Forecast”** means a non-binding estimate of the hourly amount of Energy expected to be produced by the Facility and delivered to Buyer at the Delivery Point in accordance with Seller’s obligations under this Agreement, for each hour of the immediately succeeding day, based upon, at Seller’s option, (i) the CAISO VER forecast or (ii) a forecast prepared by the Third-Party Forecast Vendor using an industry-standard methodology that utilizes the potential generation of the Facility as a function of Available Capacity, wind speed and direction, wind turbine power curves and other pertinent data for the period of time, consistent with Prudent Operating Practice; provided that, for the avoidance of doubt, market conditions and pricing shall not be factored in such determination of the potential generation of the Facility.

**“Day-Ahead Market”** has the meaning set forth in the CAISO Tariff.

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

**“Deemed Delivered Capacity Attributes”** has the meaning set forth in Section 3.8(e).

**“Deemed Delivered Energy”** means the amount of Energy, expressed in [REDACTED], from the Facility that would have been produced and delivered to Buyer at the Delivery Point, using only Firm Transmission Rights, but that is not produced by the Facility and delivered to Buyer at the Delivery Point due to Seller’s reduction of generation during a Market Curtailment Period, which shall be determined by Seller in a commercially reasonable manner using an industry-standard methodology that calculates the potential generation of the Facility delivered to the Delivery Point as a function of available capacity, actual meteorological conditions on the Site, including wind speed and direction, and wind turbine power curves and other pertinent data for the period of time [REDACTED], consistent with Prudent Operating Practice (with supporting information provided to Buyer).

**“Defaulting Party”** has the meaning set forth in Section 11.1(a).

**“Deficient Month”** has the meaning set forth in Section 4.8(e).

**“Delay Damages”** means an amount equal to (a) the Development Security amount required hereunder, divided by (b) three hundred sixty five (365).

**“Delay Damages Payment”** has the meaning set forth in Exhibit B.

**“Delivered Energy”** means, in any Settlement Interval or Settlement Period, as applicable, the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point in accordance with Seller’s obligations under this Agreement, which amount shall equal (i) (a) Buyer’s Share of the Energy that is produced by the Facility and delivered to the Point of Interconnection, as measured in MWh by the Approved Meter, as such amount may be reduced as

a result of a Curtailment Order and/or by Seller's delivery of Energy to the Delivery Point using any transmission rights other than Firm Transmission Rights, net of all Electrical Losses and Station Use, or (b) if the Facility output is reduced, at Seller's direction in any Settlement Interval or Settlement Period, as applicable, due to a Market Curtailment Period, then Delivered Energy for such Settlement Interval or Settlement Period, as applicable, will instead be equal to the amount of Energy delivered to Buyer at the Delivery Point during such Market Curtailment Period, or (c) if the Facility output is reduced, at Seller's direction (and not, for example, as a result of a Forced Facility Outage) in any Settlement Interval or Settlement Period, as applicable, not due to a Force Majeure Event, Curtailment Period or Market Curtailment Period, then Delivered Energy for such Settlement Interval or Settlement Period, as applicable, will instead be equal to Buyer's Share of the Energy that the Facility would have been able to produce and deliver to the Point of Interconnection, if the Facility output was not so reduced, as such amount may be reduced as a result of Seller's delivery of Energy to the Delivery Point using any transmission rights other than Firm Transmission Rights; and, in each case of (a), (b) and (c),

**[REDACTED]** *plus* (ii) all Replacement Energy delivered as part of prospectively delivered Replacement Product pursuant to Section 4.7(b)(i). For the avoidance of doubt, (i) no Energy shall be delivered to Buyer using transmission rights other than Firm Transmission Rights, and (ii) to the extent that Seller delivers Energy from the Facility to the Delivery Point using transmission rights other than Firm Transmission Rights, Buyer shall not have any right or obligation to receive such Energy.

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

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

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

**“Development Security”** means, at Seller's option (a) cash and/or (b) a Letter of Credit in the amount set forth on the Cover Sheet.

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

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

**“Dynamic Transfer”** means either a Pseudo-Tie or a Dynamic Schedule.

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

**“EDAM”** has the meaning set forth in Section 4.3(e).

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

**“Electrical Losses”** means all transmission or transformation losses between the Facility and the Delivery Point, other than losses that are financially settled by Seller.

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

**“Energy”** means electrical energy, measured in MWh.

**“Energy Replacement Damages”** has the meaning set forth in Exhibit E.

**“EPC Contract”** means Seller’s engineering, procurement and construction contract for the Facility.

**“E-Tag”** has the meaning set forth in the CAISO Tariff.

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

**“Excess MWh”** has the meaning set forth in Section 3.3(d).

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

**“Expected Energy”** means the quantity of Delivered Energy (with associated Green Attributes) that Seller expects to be able to deliver to Buyer during each Contract Year in the quantity specified on the Cover Sheet (subject to Section 4.9), as such amount may be revised by Seller in a Notice to Buyer indicating the final amount by sixty (60) days after Seller’s delivery of the final certificate stating the Installed Capacity, substantially in the form attached as Exhibit G hereto.

**“Facility”** means the energy generating facility described on the Cover Sheet and in Exhibit A.

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

**“Firm Transmission Rights”** means, with respect to any given Transmission Provider, the highest level of transmission service available from such Transmission Provider.

**“Fitch”** means Fitch Ratings Ltd., or its successor.

**“Floor Price”** means (a) for the period during which Seller is eligible to obtain PTCs, the Negative PTC Value, or (b) for all other periods, zero dollars per MWh (\$0/MWh); *provided* the Floor Price may be set lower than the amount set forth in this definition pursuant to Section 4.3(b).

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

**“Forced Facility Outage”** means an unexpected failure of one or more components of the Facility or any outage on the Transmission System that prevents Seller from making power available at the Delivery Point and that is not the result of a Force Majeure Event.

**“Future Environmental Attributes”** means Buyer’s Share of any and all generation attributes (other than Green Attributes or Renewable Energy Incentives) under the RPS regulations and/or under any and all other international, federal, regional, state or other Law, rule, regulation, bylaw, treaty or other intergovernmental compact, decision, administrative decision, program (including any voluntary compliance or membership program), competitive market or business method (including all credits, certificates, benefits, and emission measurements, reductions, offsets and allowances related thereto) that are attributable, now, or in the future, to the generation of electrical energy by a wind generation facility as opposed to from a conventional generation resource.

**“Gains”** means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining the economic benefit to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term, and includes the value of Green Attributes and Capacity Attributes.

**“Governmental Authority”** means any federal, state, provincial, local or municipal government, any political subdivision thereof or any other governmental, congressional or parliamentary, regulatory, or judicial instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law, including CAISO and WREGIS; *provided, however,* that “Governmental Authority,” as such term is used in this Agreement in connection with Seller’s obligations to comply with Law or bear Taxes, shall not include Buyer to the extent that Buyer’s acts or omissions would impose incremental burdens on Seller or Seller’s performance under this Agreement or limit or deprive Seller of any of Seller’s rights or benefits under this Agreement.

**“Green Attributes”** means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the Delivered Energy or Test Energy. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO<sub>x</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Facility, (ii) investment or production tax credits associated with the construction or operation of the Facility and other financial incentives associated therewith, (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental

benefits, or (iv) emission reduction credits encumbered or used by the Facility for compliance with local, state, or federal operating and/or air quality permits.

**“Green Tag”** means a certificate or other instrument recognized by a Governmental Authority, with one Green Tag representing the Green Attributes associated with one (1) MWh of Energy generated by the Facility.

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

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

**“Guaranteed Capacity Attributes”** means the Capacity Attributes available from the Facility, expressed in kW, subject to reductions that may result from Planned Outages, Forced Facility Outages (not caused by Seller’s fault or negligence), System Emergencies, Curtailment Orders, Force Majeure Event, or operation of the Facility consistent with the Operating Restrictions and Prudent Operating Practice.

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

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



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

**“Import Capability”** means that portion of the Maximum Import Capability at the Delivery Point or Alternative Delivery Point, if applicable, allocated by the CAISO that is necessary to support the importation of Resource Adequacy Benefits from the Facility into the CAISO market in an amount equal to the Guaranteed Capacity Attributes.

**“Indemnifiable Event”** has the meaning set forth in Section 16.1(a).

**“Indemnified Party”** has the meaning set forth in Section 16.1(a).

**“Indemnifying Party”** has the meaning set forth in Section 16.1(a).

**“Installed Capacity”** means the nameplate capacity of the Facility at the point of interconnection (which point of interconnection is specified in the Interconnection Agreement), as

evidenced by a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit G hereto, as it may be updated from time to time by delivery of a subsequent certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit G hereto.

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

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

**“Interconnection Facilities”** means the interconnection facilities, control and protective devices and metering facilities required to connect the Facility with the PTO’s Transmission System in order to meet the terms and conditions of this Agreement.

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

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

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

**“Letter(s) of Credit”** means one or more irrevocable, standby letters of credit (a) issued by a U.S. commercial bank or a foreign bank with a U.S. branch with such bank having a Credit Rating of at least A- with an outlook designation of “stable” from S&P or A3 with an outlook designation of “stable” from Moody’s, and (b) in a form substantially similar to the letter of credit set forth in Exhibit I, or as otherwise reasonably acceptable to the Party that is the beneficiary of the Letter of Credit.

**“Licensed Professional Engineer”** means either (i) DNV Energy USA, Inc., (ii) the independent engineer retained by the Lenders, or on their behalf under customary terms and conditions, in connection with a financing of the Facility, which engineer, or employee or principal thereof (a) is licensed to practice engineering in New Mexico, (b) has training and experience in the power industry specific to the technology of the Facility, (c) is not a representative of a consultant, engineer, contractor, designer or other individual involved in the development of the Facility or of a manufacturer or supplier of any equipment installed at the Facility other than as the independent engineer for the Lenders, and (d) is licensed in an appropriate engineering

discipline for the required certification being made, or (ii) a person acceptable to Buyer in its reasonable judgment.

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

“**Losses**” means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement for the remaining Contract Term, determined in a commercially reasonable manner. Factors used in determining economic loss to a Party may include, without limitation, reference to information supplied by one or more third parties, which shall exclude Affiliates of the Non-Defaulting Party, including without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets, comparable transactions, forward price curves based on economic analysis of the relevant markets, settlement prices for comparable transactions at liquid trading hubs (e.g., SP-15), all of which should be calculated for the remaining Contract Term and must include the value of Green Attributes, Capacity Attributes, and Renewable Energy Incentives.

“**Lost Output**” has the meaning set forth in Exhibit E.

“**Market Curtailment Period**” means the period of time, as measured using current Settlement Intervals, during which both the LMP in the Day-Ahead Market and the LMP in the Real-Time Market at the Delivery Point are less than the Floor Price; *provided* that the Market Curtailment Period shall also include the time required for the Facility to ramp down to implement such curtailment and ramp up following such curtailment in accordance with the Operating Restrictions.

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

“**Maximum Import Capability**” has the meaning set forth in the CAISO Tariff, and includes any replacement or successor metric used by the CAISO with respect to the ability of electricity off-takers to import Resource Adequacy Benefits produced by generating units that are external to the CAISO Balancing Authority Area into the CAISO Balancing Authority Area.

“**Milestones**” means the development activities and dates associated therewith set forth on the Cover Sheet.

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

“**MW**” means megawatts measured in alternating current.

“**MWh**” means megawatt-hour measured in alternating current.

“**Negative PTC Value**” means the amount, on a dollar per MWh basis, equal to the PTC value that Seller is eligible to earn in respect of Delivered Energy from the Facility at the time of calculation, *multiplied by* negative one (-1).

**“NERC”** means the North American Electric Reliability Corporation or any successor entity.

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

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

**“Non-Resource Adequacy Capacity”** means the resource adequacy benefits of a unit/resource that is qualified to provide resource adequacy (including Resource Adequacy Benefits) to Buyer in accordance with the resource adequacy rules established by the CAISO and the CPUC or Buyer’s governing board, as applicable, but which resource adequacy benefits have not been committed to any other entity for Resource Adequacy Benefits counting purposes as part of a Supply Plan or for other applicable compliance reporting. For the avoidance of doubt, Non-Resource Adequacy Capacity is utilized by Buyer to serve as a supporting resource to firm Buyer’s self-scheduled export transactions from the CAISO Balancing Authority Area in order for such Non-Resource Adequacy Capacity to meet Buyer’s resource adequacy obligations to its customers, as set by Buyer’s governing board.

**“Notice”** shall, unless otherwise specified in the Agreement, mean written communications by a Party to be delivered by hand delivery, United States mail, overnight courier service or electronic communication (including email or other electronic means).

**“Operating Restrictions”** means the operational characteristics of the Facility set forth in Exhibit L.

**“Outside Commercial Operation Date”** has the meaning set forth on the Cover Sheet; *provided*, the Outside Commercial Operation Date may be extended on a day-for-day basis for each day of delay to Commercial Operation caused by Buyer breach of or default under this Agreement.

**“Owner”** has the meaning set forth in Section 2.2.

**“Pacific Prevailing Time”** means the prevailing standard time or daylight savings time, as applicable, in the Pacific time zone.

**“Participating Transmission Owner”** or **“PTO”** means an entity that owns, operates and maintains the Transmission System or distribution lines and associated facilities and/or has entitlements to use certain transmission or distribution lines and associated facilities where the Facility is interconnected. For purposes of this Agreement, the Participating Transmission Owner is set forth in Exhibit A.

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

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

**“Performance Measurement Period”** has the meaning set forth in Section 4.7(a).

**“Performance Security”** means, at Seller’s option (i) cash (ii) a Letter of Credit, and/or (iii) a surety bond, in the amount set forth on the Cover Sheet.

**“Permitted Transferee”** means an entity that satisfies, or is controlled by another Person that satisfies, the following requirements:

(a) A tangible net worth plus unfunded capital commitments of not less than [REDACTED] or a Credit Rating of at least [REDACTED] from S&P, [REDACTED] from Fitch, or [REDACTED] from Moody’s; and

(b) At least [REDACTED] of experience in the ownership and operations of power generation facilities with an aggregate nameplate capacity of at least [REDACTED] MW, or has retained a third-party with such experience to operate the Facility.

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

**“Planned Outage”** means any planned outage or derate of the Facility undertaken by Seller in its sole discretion and consistent with Prudent Operating Practice.

**“Point of Interconnection”** has the meaning set forth for “Point of Interconnection” in the Interconnection Agreement.

**“Portfolio Content Category 1”** or **“PCC1”** means any Renewable Energy Credit associated with the generation of electricity from an Eligible Renewable Energy Resource consisting of the portfolio content set forth in California Public Utilities Code Section 399.16(b)(1), as may be amended from time to time or as further defined or supplemented by Law.

**“Pre-EDAM Buyer Self-Schedule”** has the meaning set forth in Section 4.3(e).

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

**“Production Tax Credits”** or **“PTCs”** means production tax credit under Section 45 of the Internal Revenue Code as in effect from time-to-time throughout the Delivery Term or any successor or other provision providing for a federal tax credit determined by reference to renewable electric energy produced from wind or other renewable energy resources for which Seller, as the owner of the Facility, is eligible.

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

**“Project”** has the same meaning as “Facility”.

**“Prudent Operating Practice”** means the practices, methods and standards of professional care, skill and diligence engaged in or approved by a significant portion of the utility-scale wind energy industry for facilities of similar size, type and design, that, in the exercise of reasonable judgment, in light of the facts known at the time, would have been expected to

accomplish results consistent with Law, reliability, safety, environmental protection, applicable codes, and standards of economy and expedition. Prudent Operating Practice is not necessarily defined as the optimal standard practice method or act to the exclusion of others, but rather refer to a range of actions reasonable under the circumstances.

**Pseudo-Tie** has the meaning set forth in the CAISO Tariff.

**PTC Amount** means the amount, on a dollar per MWh basis, equal to the Production Tax Credits that Seller would have earned in respect of energy from the Facility at the time, grossed up on an after tax basis at the then-highest marginal combined federal and state corporate tax rate, but failed to earn as a result of Market Curtailment Period or Buyer breach or default.

**QRE** has the meaning set forth for “Qualified Reporting Entity” in the WREGIS Operating Rules.

**Real-Time Forecast** has the meaning set forth in Section 4.4(e).

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

**REC Price** means the prevailing market price (expressed in \$/MWh) for RECs meeting the requirements for Portfolio Content Category 1, determined by Buyer in a commercially reasonable manner by averaging quotes from three (3) unaffiliated brokers; *provided, however*, if three (3) broker quotes are not available to Buyer after making commercially reasonable efforts to obtain such quotes, then the REC Price shall be determined by averaging quotes provided by Buyer from two (2) unaffiliated brokers.

**Receiving Party** has the meaning set forth in Section 18.2

**Recurring Certificate Transfers** has the meaning set forth in the WREGIS Operating Rules.

**Remedial Action Plan** has the meaning in Section 2.5.

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

**Renewable Energy Incentives** means: (a) all federal, state, or local Tax credits or other Tax benefits associated with the construction, ownership, or production of electricity from the Facility (including credits under Sections 38, 45, 46 and 48 of the Internal Revenue Code of 1986, as amended); (b) any federal, state, or local grants, subsidies or other like benefits relating in any way to the Facility, including a cash grant available under Section 1603 of Division B of the American Recovery and Reinvestment Act of 2009, in lieu of federal Tax credits or any similar or substitute payment available under subsequently enacted federal legislation; and (c) any other form of incentive relating in any way to the Facility that are not a Green Attribute or a Future Environmental Attribute.

**“Replacement Energy”** means energy produced by a facility other than the Facility that, at the time delivered to Buyer, qualifies under Public Utilities Code 399.16(b)(1), and has green attributes that have the same or comparable value as the energy produced by the Facility.

**“Replacement Green Attributes”** means Renewable Energy Credits meeting the RPS requirements for Portfolio Content Category 1.

**“Replacement PPA”** means each power purchase agreement entered into by Buyer, as purchaser thereunder, and the applicable Owner, as seller thereunder, pursuant to the terms of Section 2.7.

**“Replacement Product”** means (a) Replacement Energy and (b) Replacement Green Attributes provided pursuant to Section 4.7.

**“Resource-Specific System Resource”** has the meaning set forth in the CAISO Tariff.

**“Resource Adequacy Benefits”** means the rights and privileges attached to the capacity attributes available from the Facility that satisfy any entity’s resource adequacy obligations, as those obligations are set forth in the CAISO Tariff or CPUC Decisions and any subsequent CAISO Tariff or CPUC ruling or decision and shall include any local, zonal or otherwise locational attributes associated with the Facility, if any.

**“Resource Data Template”** has the meaning set forth in the CAISO Tariff.

**“S&P”** means the Standard & Poor’s Financial Services, LLC (a subsidiary of The McGraw-Hill Companies, Inc.) or its successor.

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

**“Scheduled Energy”** means the Energy from Buyer’s Share of the Facility that clears under the applicable CAISO market based on the final Schedule developed in accordance with this Agreement, the operating procedures developed by the Parties pursuant to this Agreement, and the applicable CAISO Tariff, protocols and Scheduling practices.

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

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

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

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

**“Serial Defect”** means failures or malfunctions of the Facility, or any portion thereof, arising from a failure or malfunction of no less than fifteen percent (15%) of the same or similar Facility equipment (or any portion thereof).

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

**“Settlement Interval”** has the meaning set forth in the CAISO Tariff.

**“Settlement Period”** has the meaning set forth in the CAISO Tariff, which as of the Effective Date is the period beginning at the start of the hour and ending at the end of the hour.

**“Shared Facilities Agreement”** has the meaning set forth in Section 6.3.

**“Site”** means the real property on which the Facility is or will be located, as further described in Exhibit A, and as may be updated by Seller no later than sixty (60) days after Seller’s delivery of the final certificate stating the Installed Capacity, substantially in the form attached as Exhibit G hereto.

**“South Turbine Uprate”** has the meaning set forth in the Recitals hereto.

**“SPTO Process”** means the CAISO Subscribed Participating Transmission Owner process through which Seller intends that the Facility, the Point of Interconnection, and the portion of the Transmission System providing transmission service to the Delivery Point shall become part of the CAISO Balancing Authority Area.

**“SPTO Date”** means the date on which the Point of Interconnection becomes part of the CAISO Balancing Authority Area through the SPTO Process.

**“Station Use”** means:

(a) The Energy produced by the Facility that is used within the Facility to power the lights, motors, control systems and other electrical loads that are necessary for operation of the Facility; and

(b) The Energy produced by the Facility that is consumed within the Facility’s electric energy distribution system as losses.

**“SunZia Transmission Line”** means that certain 3,000-MW high-voltage (+/-525-kV) transmission line originating at the Point of Interconnection (as defined in the Interconnection Agreement) in New Mexico and terminating near Phoenix, Arizona. The western terminus of the line will connect to the 500-kV Pinal Central Substation.

**“SunZia Wind North”** means the portion of the Facility known as SunZia Wind North.

**“SunZia Wind South”** means the portion of the Facility known as SunZia Wind South.

**“Supply Plan”** has the meaning set forth in the CAISO Tariff.

**“System Emergency”** means any condition that: (a) requires, as determined and declared by a Transmission Provider (including the CAISO and the PTO), automatic or immediate action to (i) prevent or limit harm to or loss of life or property, (ii) prevent loss of transmission facilities or generation supply in the immediate vicinity of the Facility, or (iii) to preserve Transmission System reliability, and (b) directly affects the ability of any Party to perform under any term or condition in this Agreement, in whole or in part.

**“Tax”** or **“Taxes”** means all U.S. federal, state and local and any foreign taxes, levies, assessments, surcharges, duties and other fees and charges of any nature imposed by a Governmental Authority, whether currently in effect or adopted during the Contract Term, including ad valorem, excise, franchise, gross receipts, import/export, license, property, sales and use, stamp, transfer, payroll, unemployment, income, and any and all items of withholding, deficiency, penalty, additions, interest or assessment related thereto.

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

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

**“Test Energy”** means (1) the amount of Energy generated by the Facility and delivered to Buyer at the Delivery Point, equal to Buyer’s Share of Energy delivered from the Facility to the Point of Interconnection, [REDACTED], as measured in MWh by the Approved Meter, as such amount may be reduced as a result of a Curtailment Order and/or Seller’s delivery of Energy to the Delivery Point using any transmission rights other than Firm Transmission Rights, (a) commencing on the later of (i) the first date that the CAISO informs Seller in writing that Seller may deliver Energy from the Facility to the CAISO and (ii) the first date that the PTO informs Seller in writing that Seller has conditional or temporary permission to parallel and (b) ending upon the occurrence of the Commercial Operation Date; and (2) associated Green Attributes, including RECs that meet the RPS requirements for Portfolio Content Category 1.

**“Third-Party Forecast Vendor”** means (a) ENFOR A/S, UL Services Group LLC, Underwriters Laboratories LLC, Vaisala Group, Meteologica S.A., or (b) any other reputable third-party vendor that is registered to do business in California, experienced in providing and verifying wind energy generation forecasts, and not an Affiliate of Seller.

**“Transmission Provider”** means any entity or entities transmitting or transporting the Product on behalf of Seller or Buyer to or from the Delivery Point, including CAISO, the Salt River Project Agricultural Improvement and Power District, Tucson Electric Power Company, the Desert Southwest Region of the Western Area Power Administration, and the Participating Transmission Owner.

**“Transmission System”** means the transmission facilities operated by the Transmission Provider(s), now or hereafter in existence, which provide energy transmission service upstream to or downstream from the Delivery Point.

**“Ultimate Parent”** means Pattern Energy Group LP.

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

**“WREGIS Certificate Deficit”** has the meaning set forth in Section 4.8(e).

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

**“WREGIS Operating Rules”** means those operating rules and requirements adopted by WREGIS as of October 2022, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

## 1.2 **Rules of Interpretation.**

In this Agreement, except as expressly stated otherwise or unless the context otherwise requires:

- (a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;
- (b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;
- (c) the words “hereof”, “herein”, and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (d) a reference to an Article, Section, paragraph, clause, Party, or Exhibit is a reference to that Section, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;
- (e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;
- (f) a reference to a Person includes that Person’s successors and permitted assigns;
- (g) the term “including” means “including without limitation” and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;
- (h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or

reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;

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

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

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

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

(m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

## ARTICLE 2 TERM; CONDITIONS PRECEDENT

### 2.1 **Contract Term.**

(a) The term of this Agreement shall commence on the Effective Date and shall remain in full force and effect until the conclusion of the Delivery Term, subject to any early termination provisions and any contract term extension provisions set forth herein (“**Contract Term**”).

(b) Applicable provisions of this Agreement shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination. In addition, the confidentiality obligations of the Parties under Article 18 shall remain in full force and effect for two (2) years following the termination of this Agreement, all indemnity obligations shall remain in full force and effect for one (1) year following termination of this Agreement, all audit rights shall remain in full force and effect for three (3) years following the termination of this Agreement, and Buyer’s obligation to return to Seller the Development Security and/or Performance Security less any amounts drawn in accordance with this Agreement shall remain in full force and effect following the termination of this Agreement.

2.2 **Facility Ownership.** Buyer acknowledges that, as of the Commercial Operation Date, the Facility will be owned by one or more of Seller’s Affiliates (each an “**Owner**”) that will be, in turn, owned by Seller, and the Facility will not be owned directly by Seller. As of the

Commercial Operation Date, Seller will have, and throughout the Delivery Term Seller shall maintain, such agreements with Seller's Affiliates and other instruments as are necessary for Seller to perform its obligations under this Agreement. References to Seller in this Agreement will include, as the context requires, Owners (including in respect of Seller performing the obligation or causing Owners to perform the obligation). Seller will maintain its ownership of the Owners throughout the Delivery Term and will not sell or transfer Owners without Buyer's consent, which consent shall not be withheld or delayed unreasonably.

**2.3     Obligations Prior to Delivery Term.** Prior to commencement of the Delivery Term, Seller shall complete each of the following:

- (a) Seller shall have delivered to Buyer certificates from a Licensed Professional Engineer substantially in the form of Exhibit F and Exhibit G;
- (b) (i) A Pseudo-Tie Participating Generator Agreement (as defined in the CAISO Tariff) between Seller and CAISO and an agreement governing the terms of Dynamic Transfers between CAISO and the host Balancing Authority for the Facility (or, if the SPTO Date has occurred, only a Participating Generator Agreement (as defined in the CAISO Tariff) between Seller and CAISO), and (ii) a Meter Service Agreement for CAISO Metered Entities (as defined in the CAISO Tariff) between CAISO and Seller, if, with respect to each such agreement, it is required under the CAISO Tariff or for Seller to meet its obligations under this Agreement, shall have been executed and delivered and be in full force and effect, and a copy of each such agreement delivered to Buyer;
- (c) An Interconnection Agreement between Seller and the PTO shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;
- (d) All applicable regulatory authorizations, approvals and permits for the operation of the Facility have been obtained (or if not obtained, applied for and reasonably expected to be received within ninety (90) days) and all conditions thereof have been satisfied and shall be in full force and effect;
- (e) Seller has received the requisite pre-certification of the CEC Certification and Verification;
- (f) Installed Capacity equal to at least ninety percent (90%) of the Guaranteed Capacity has been completed and is ready to produce and deliver Product to Buyer, as stated in the certificate in the form of Exhibit F delivered pursuant to clause (a) of this Section 2.3;
- (g) Seller (with the reasonable participation of Buyer) shall have completed all applicable WREGIS registration requirements pursuant to the WREGIS Operating Rules (that are reasonably capable of being completed prior to the Commercial Operation Date under the WREGIS Operating Rules), including the completion and submittal of all applicable registration forms and supporting documentation, which may include applicable interconnection agreements, informational surveys related to the Facility, QRE service agreements, and other appropriate documentation required to effect Facility registration with WREGIS and to enable Renewable Energy Credit transfers related to the Facility within the WREGIS system;

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

(i) Seller has paid Buyer for all Delay Damages due and owing under this Agreement, if any.

(j) Seller shall provide to Buyer, read-only access to all CAISO Scheduling Coordinator interfaces, including but not limited to Scheduling Infrastructure Business Rules (SIBR) and Customer Market Results Interface (CMRI).

Upon request from Seller from time to time, Buyer shall confirm in writing the completion of those of the foregoing conditions that have been completed by Seller as of such request.

#### **2.4 Progress Reports.**

(a) The Parties agree time is of the essence in regard to the Agreement. Within fifteen (15) Business Days after the close of each calendar month following the Effective Date until the Commercial Operation Date, Seller shall provide to Buyer a Progress Report and have regular meetings between representatives of Buyer and Seller to review such monthly reports and discuss the Facility's development and construction progress. The content of the Progress Report is set forth in Exhibit C. Seller shall also provide Buyer with any reasonably requested documentation (subject to availability and confidentiality restrictions) directly related to the achievement of Milestones within ten (10) Business Days of receipt of such request. Buyer shall be entitled to provide such Progress Reports to any purchaser to whom Buyer resells the Product (or parts thereof); provided such purchaser shall have first executed a commercially reasonable non-disclosure agreement with Seller containing terms consistent with those in Article 18.

(b) Seller shall provide to Buyer regular updates as to the status of the implementation of the SPTO Process and prompt Notice of the occurrence of the SPTO Date.

**2.5 Remedial Action Plan.** If Seller misses any one (1) Milestone by more than ninety (90) days, except as the result of a Force Majeure Event or Buyer default, Seller shall submit to Buyer, within ten (10) Business Days of such missed Milestone completion date, a remedial action plan ("Remedial Action Plan"), which will describe in detail any delays (actual or anticipated) beyond the scheduled Milestone dates, including the cause of the delay (e.g., governmental approvals, financing, property acquisition, design activities, equipment procurement, project construction, interconnection, or any other factor), Seller's detailed description of its proposed course of action to achieve the missed Milestones and all subsequent Milestones by the Guaranteed Commercial Operation Date; *provided*, that delivery of any Remedial Action Plan shall not relieve Seller of its obligation to provide Remedial Action Plans with respect to any subsequent Milestones and to achieve the Guaranteed Commercial Operation Date (as it may be extended) in accordance with the terms of this Agreement. So long as Seller is in compliance with its obligations under this Section 2.5, its failure to meet any Milestone shall not be a default under this Agreement.

#### **2.6 Outside Commercial Operation Date.**

(a) If, due to a Development Cure Period, Commercial Operation is not achieved by the Outside Commercial Operation Date (as it may be extended), either Party may terminate this Agreement upon Notice to the other Party, it shall not be an Event of Default by either Party, and neither Party shall have any liability to the other Party except for those obligations that survive termination as described in Section 2.1(b).

(b) If Commercial Operation is not achieved by the Guaranteed Commercial Operation Date, as it may be extended due to a Development Cure Period, either Party may terminate this Agreement upon Notice to the other Party, it shall not be an Event of Default by either Party, and neither Party shall have any liability to the other Party except for the payment by Seller, as liquidated damages, of the full amount of the Development Security less any Delay Damages (as described in Exhibit B) paid as of the date of such termination, if any, and those obligations that survive termination as described in Section 2.1(b).

**2.7 Project Bifurcation or Transition.** Notwithstanding the provisions of Section 2.2, Seller may, at any time during the Contract Term, elect by Notice to Buyer to both terminate this Agreement and either (x) cause each Owner to simultaneously enter into a Replacement PPA with Buyer in respect of the portion of the Facility (i.e., SunZia Wind North or SunZia Wind South) owned by such Owner (a “**Project Bifurcation**”), or (y) cause the Owner of either (i) SunZia Wind South, or (ii) SunZia Wind North, to enter into a Replacement PPA with Buyer solely in respect of its portion of the Facility (a “**Project Transition**”). Each Replacement PPA will be on the same terms and conditions as those set forth in this PPA, except for the following administrative changes that are necessary to effectuate the separation or transition of this Agreement into Replacement PPA(s) with the Owner or Owners (and such other administrative changes as may be necessary), as applicable:

(a) the identity of Seller throughout shall be changed to reflect the identity of the applicable Owner;

(b) subject to the potential adjustment of the Installed Capacity pursuant to the terms of this Agreement or any Replacement PPA, the nameplate capacity of (i) each Owner’s portion of the Facility, in the case of a Project Bifurcation, or (ii) SunZia Wind South or SunZia Wind North, as applicable, in the case of a Project Transition (either the actual Installed Capacity, if the transition to the Replacement PPA(s) occurs after the final Installed Capacities have been determined under this Agreement, or the anticipated installed capacity at the time of the Project Bifurcation or Project Transition, as applicable, if otherwise) shall be inserted in “Description of Facility” in the Cover Sheet;

(c) Exhibit A (Facility Description) shall be revised to reflect (i) each Owner’s portion of the Facility in the case of a Project Bifurcation, or (ii) a description of SunZia Wind South or SunZia Wind North, as applicable, in the case of a Project Transition;

(d) Exhibit K (Notices) shall be revised to reflect the appropriate information for each Owner signatory to the relevant Replacement PPA, as applicable; and

(e) All instances of [REDACTED] in this Agreement shall be changed in each Replacement PPA, on a pro rata basis, to reflect the installed capacity of each Owner’s portion of

the Facility relative to, as applicable, either the actual Installed Capacity, if the Project Bifurcation or Project Transition, as applicable, occurs after the final Installed Capacity has been determined, or the anticipated installed capacity of the Facility at the time of the Project Bifurcation or Project Transition, as applicable, if otherwise.

(f) In the case of a Project Bifurcation:

(i) the amount of the “Guaranteed Capacity” in the Cover Sheet of each Replacement PPA (as defined therein) shall be changed to reflect the guaranteed capacity under each Replacement PPA; *provided* that, for the avoidance of doubt, the sum of the “Guaranteed Capacities” in the Cover Sheet in the Replacement PPAs shall equal the Guaranteed Capacity in the Cover Sheet in this Agreement, subject to the potential adjustment of the Guaranteed Capacity pursuant to the terms of this Agreement or any Replacement PPA;

(ii) the amount of the “Expected Energy” in the Cover Sheet of each Replacement PPA shall be reduced to reflect the “Guaranteed Capacity” and net capacity factor applicable to the “Facility” associated with each Replacement PPA (in each case, as defined therein); *provided* that, for the avoidance of doubt, the sum of the “Expected Energy” amounts in the Cover Sheet in each Replacement PPA shall equal the Expected Energy amount in the Cover Sheet in this Agreement, subject to the potential adjustment of the Guaranteed Capacity and/or Expected Energy pursuant to the terms of this Agreement or any Replacement PPA;

(g) In the case of a Project Transition:

(i) subject to the potential adjustment of the Guaranteed Capacity pursuant to the terms of this Agreement or any Replacement PPA, the amount of the “Guaranteed Capacity” in the Cover Sheet of the Replacement PPA shall equal the amount of the Guaranteed Capacity in the Cover Sheet in this Agreement;

(ii) subject to the potential adjustment of the Expected Energy pursuant to the terms of this Agreement or any Replacement PPA, the amount of the “Expected Energy” in the Cover Sheet of the Replacement PPA shall equal the amount of the Expected Energy in the Cover Sheet in this Agreement.

In addition: (1) subject to the potential adjustment of the Installed Capacity pursuant to the terms of this Agreement or any Replacement PPA, if the Installed Capacity has been determined in accordance with this Agreement as of the effective date of the Replacement PPA(s), the “Installed Capacity” (as defined therein) shall be revised to reflect the corresponding amount of installed nameplate capacity associated with (i) each Owner’s portion of the Facility in the case of a Project Bifurcation, or (ii) the installed nameplate capacity of SunZia Wind South or SunZia Wind North, as applicable, in the case of a Project Transition, (2) in the case of Project Bifurcation, contract values or requirements that are based on determinants that are changing as a result of such Project Bifurcation shall be adjusted on a pro rata basis under the Replacement PPAs to correspond to the changed determinants, including the amount of the Guaranteed Energy Production (which is set based on the Expected Energy) and the amount of required Development Security and Performance Security (which are each set based on the Guaranteed

Capacity), and (3) Section 2.2 and Section 2.7 shall no longer apply and shall not be included in the Replacement PPA(s).

If Seller elects to consummate a Project Bifurcation or a Project Transition, Seller shall include in its Notice to Buyer drafts of each Replacement PPA, as applicable, and a draft agreement providing for the termination of this Agreement. Buyer shall use reasonable efforts to provide comments to Seller within [REDACTED] Business Days of its receipt of Seller's Notice on the draft Replacement PPA(s), as applicable, and the termination agreement. Buyer shall cooperate reasonably with Seller and the Owners to resolve any issues and enter into the Replacement PPA(s) and the termination agreement within [REDACTED] days of Seller's Notice. If the Replacement PPA(s) and termination agreement are not executed within such [REDACTED] day period, either Party shall have the right to resolve any remaining issues pursuant to the dispute resolution procedures set forth in Article 15 and shall execute the Replacement PPA(s) and termination agreement promptly upon such resolution. Seller shall be responsible for Buyer's reasonable costs associated with the preparation, review, execution and delivery of documents in connection with a Project Bifurcation or a Project Transition, including without limitation reasonable attorneys' fees.

Upon execution of the Replacement PPA(s) and termination of this Agreement: (A) each Owner shall deliver to Buyer substitute Development Security or Performance Security, as applicable, and as may be necessary or convenient; (B) upon receipt of the substitute Development Security or Performance Security referenced in item (A) of this sentence (if any), Buyer shall return to Seller the Development Security or Performance Security, as applicable, less any amounts drawn in accordance with this Agreement; (C) Buyer and the Owners shall, and the Owners shall cause Seller to, reasonably cooperate to implement any additional administrative actions that may be necessary to effectuate the Project Bifurcation or Project Transition (including, for example, in connection with WREGIS or CAISO); and (D) Seller shall have no further obligations to Buyer and Buyer shall have no further obligations to Seller, except for those obligations associated with the period of time prior to the termination of this Agreement.

## ARTICLE 3 PURCHASE AND SALE

### 3.1 Sale of Product

(a) Subject to the terms and conditions of this Agreement, during the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all the Product produced by or associated with the Installed Capacity of the Facility, [REDACTED] [REDACTED]. The sale by Seller and purchase by Buyer of Delivered Energy hereunder shall be for resale. Subject to Buyer's obligations to pay for Deemed Delivered Energy, Buyer has no obligation to purchase from Seller any Product that is not or cannot be delivered to the Delivery Point or Alternative Delivery Point as a result of any circumstance, including, an outage of the Facility, a Force Majeure Event, or a Curtailment Order.

(b) Remarketing Rights. During the Delivery Term, Buyer will have exclusive rights to offer, bid, or otherwise submit the Product, or any component thereof, from the Facility after the Delivery Point for resale into the market or to any third party, and retain and receive any

and all related revenues. Seller shall use good faith efforts to work with Buyer to finalize remarketing arrangements that will allow Buyer to remarket Product to third parties during the Delivery Term if Buyer so desires; *provided* that Buyer shall reimburse Seller for any costs associated with such efforts and any remarketing or reselling of Product, and Seller shall incur no liabilities pursuant to the terms of any remarketing arrangement in excess of what Seller would bear or incur, as applicable, under the terms of this Agreement had such remarketed Product not been remarketed.

**3.2 Sale of Green Attributes.** During the Delivery Term, Seller shall sell and deliver to Buyer, and Buyer shall purchase from Seller, all of the Green Attributes.

### **3.3 Compensation.**

(a) Delivered Energy. For each MWh of Delivered Energy in each Settlement Period or Settlement Interval, as applicable, Buyer shall pay Seller [REDACTED]

(b) Deemed Delivered Energy. For each Settlement Period or Settlement Interval, as applicable, during the Delivery Term, Buyer shall pay Seller the Contract Price for each MWh of Deemed Delivered Energy. In addition, during the period in which Seller is receiving the PTC for the Delivered Energy, Buyer shall also pay the PTC Amount for all Deemed Delivered Energy; *provided*, however, Buyer shall not pay the PTC Amount for Deemed Delivered Energy that was generated by the Facility and sold to a third party pursuant to Section 4.5(b). Notwithstanding the foregoing, Seller shall receive no compensation from Buyer, including for the PTC Amount, for Deemed Delivered Energy to the extent that Seller is required to reduce delivery of Delivered Energy as a result of any Curtailment Period.

(c) Excess Deliveries.

(d) **Excess Settlement Interval Deliveries.** If, during any Settlement Interval, Seller delivers Product amounts to Buyer, as measured by the amount of Delivered Energy, in excess of the product of the Guaranteed Capacity and the duration of the Settlement Interval, expressed in hours (“**Excess MWh**”), then Buyer shall not be obligated to pay for any such Excess MWh. If the LMP in the Real-Time Market at the Delivery Point is negative for a Settlement Interval with Excess MWh, Seller shall pay Buyer an amount equal to the product of (i) the absolute value of the LMP in the Real-Time Market at the Delivery Point, *times* (ii) Excess MWh for such Settlement Interval.

**3.4    Imbalance Energy.** Buyer and Seller recognize that from time to time the amount of Delivered Energy will deviate from the amount of Scheduled Energy. Seller shall be responsible for all CAISO costs, and shall be entitled to all CAISO revenues, associated with Imbalance Energy.

**3.5    Ownership of Renewable Energy Incentives.** Seller shall have all right, title and interest in and to all Renewable Energy Incentives. Buyer acknowledges that any Renewable Energy Incentives belong to Seller. If any Renewable Energy Incentives, or values representing the same, are initially credited or paid to Buyer, Buyer shall cause such Renewable Energy Incentives or values relating to same to be assigned or transferred to Seller without delay. Buyer shall reasonably cooperate with Seller, at Seller’s sole expense, in Seller’s efforts to meet the requirements for any certification, registration, or reporting program relating to Renewable Energy Incentives.

**3.6    Future Environmental Attributes.**

(a) The Parties acknowledge and agree that as of the Effective Date, environmental attributes sold under this Agreement are restricted to Green Attributes; however, Future Environmental Attributes may be created by a Governmental Authority through Laws enacted after the Effective Date. The Parties shall promptly notify each other upon becoming aware of the existence of Future Environmental Attributes and, subject to the final sentence of this Section 3.6(a), in such event, Buyer shall have the exclusive right to claim such Future Environmental Attributes by providing Notice to Seller. If Buyer provides such Notice, Buyer shall bear all costs associated with the transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes, but there shall be no increase in the Contract Price. Upon Seller’s receipt of Notice from Buyer of Buyer’s intent to claim such Future Environmental Attributes, the Parties shall determine the necessary actions and additional costs associated with such Future Environmental Attributes. Seller shall have no obligation to alter the Facility or its operations unless the Parties have agreed on all necessary terms and conditions relating to such alteration and Buyer has agreed to reimburse Seller for all costs associated with such alteration.

(b) If Buyer elects to receive Future Environmental Attributes pursuant to Section 3.6(a), the Parties agree to negotiate in good faith with respect to the development of further agreements and documentation necessary to effectuate the transfer of such Future Environmental Attributes, including agreement with respect to (i) appropriate transfer, delivery and risk of loss mechanisms, and (ii) the determination of any additional costs to be borne by

Buyer, as set forth above; *provided*, that the Parties acknowledge and agree that such terms are not intended to alter the other material terms of this Agreement.

**3.7    Test Energy.** If and to the extent the Facility generates Test Energy, Seller may, at its option, provide Notice to Buyer of the availability of Test Energy; such Notice shall be provided no less than ten (10) days prior to the first day that Seller proposes to sell Test Energy to Buyer. Upon receipt of such Notice, Buyer may, at its option, elect to purchase Test Energy at [REDACTED] of the Contract Price, and Buyer shall Notify Seller within five (5) days after receipt of such Notice if Buyer agrees to purchase Test Energy. If Buyer fails to respond within five (5) days after receipt of such Notice, Buyer shall be deemed to have agreed not to purchase Test Energy. If Buyer does not agree to purchase Test Energy as set forth in this Section 3.7, Seller may sell such Test Energy, and any related products or attributes, to third parties and keep any and all revenues (and bear any and all costs) associated with such sales. The conditions precedent in Section 2.3 are not applicable to the Parties' obligations under this Section 3.7.

**3.8    Capacity Attributes.**

(a)    From and after the Capacity Attributes Guarantee Date, Seller sells, grants, pledges, assigns and otherwise commits to Buyer all of the Capacity Attributes.

(b)    Subject to the provisions of this Section 3.8 and Section 3.12, throughout the Delivery Term, Seller shall perform all commercially reasonable actions necessary to ensure that the Facility is eligible to provide Capacity Attributes at the Delivery Point. From and after the Capacity Attributes Guarantee Date, subject to the provisions of this Section 3.8 and Section 3.12, Seller hereby covenants and agrees to transfer all Capacity Attributes to Buyer. Seller shall not commit or encumber any portion of Buyer's Share of the output of the Facility so as to prevent the entire Buyer's Share from serving as Buyer's Supporting Resource (as defined in the CAISO Scheduling Infrastructure Business Rules) and delivering the Guaranteed Capacity Attributes.

(c)    Subject to Section 3.12, for the duration of the Delivery Term, Seller shall use good faith efforts, including as set forth in this Section 3.8(c), to comply with requirements in connection with Non-Resource Adequacy Capacity that (i) are instituted by the governing body of Buyer or the CAISO, and (ii) differ from CAISO or CPUC rules applicable to Resource Adequacy Benefits. Seller shall provide to Buyer an attestation, in a form reasonably acceptable to Buyer, stating that Buyer has procured the Capacity Attributes.

(d)    Subject to the provisions of this Section 3.8, at Buyer's reasonable request, Seller shall execute such documents and instruments and take all steps and actions as may be reasonably required to effect recognition and transfer of the Capacity Attributes as belonging to Buyer; provided that no such request may impose any material additional third-party costs (other than those reimbursed by Buyer pursuant to Section 3.12) or obligations on Seller, or reduce Seller's compensation hereunder.

(e)    Buyer acknowledges that it may be required to take action and obtain certain rights at the Delivery Point in order to make use of the Capacity Attributes, including

obtaining and maintaining Import Capability and/or other rights as may be required under applicable Law to import energy and capacity into the CAISO Balancing Authority Area and make use of the Capacity Attributes. If applicable, Seller shall use commercially reasonable efforts to support Buyer's efforts to (i) obtain such Import Capability, (ii) obtain any other rights that Buyer is required to obtain, or (iii) take any other actions that Buyer is required to take, in each case in order for Buyer to make use of the Capacity Attributes, and in each case as may be required under applicable law and as may change from time to time. Buyer's failure to obtain or maintain Import Capability or any other rights or capacities, or take any other actions, necessary to support the importation of the Capacity Attributes or otherwise receive or utilize the Capacity Attributes, for reasons other than a Seller failure under this Agreement, shall not be a Seller breach hereunder; any Capacity Attributes, expressed in kW, not delivered to Buyer due to such failure of Buyer shall be defined as "**Deemed Delivered Capacity Attributes**". In addition, if any action or inaction of the governing board of Buyer (x) prevents Seller from delivering any Capacity Attributes to Buyer using commercially reasonable efforts consistent with and limited to Seller's obligations hereunder with respect to Capacity Attributes as of the Effective Date, or (y) disqualifies the Facility from providing Capacity Attributes to Buyer, in whole or in part, all such undelivered or ineligible Capacity Attributes shall constitute Deemed Delivered Capacity Attributes.

(f) From and after the Capacity Attributes Guarantee Date, for any calendar month in which there is a Capacity Attribute Shortfall greater than zero (0) kW:

(i) Seller shall be liable for liquidated damages ("Capacity Attribute Damage Amount") in the amount of [REDACTED]

[REDACTED]

3.9 **CEC Certification and Verification.** Seller shall (i) file an application with the CEC for CEC Certification and Verification of the Facility as soon as possible after the Commercial Operation Date, and (ii) provide to the CEC all information necessary to verify the contents of such application and maintain CEC Certification and Verification for the Facility throughout the Delivery Term; *provided*, Seller shall be deemed to have complied with the requirements of this sentence if Seller applies for CEC Certification and Verification within sixty (60) days after the Commercial Operation Date, and thereafter timely responds to any questions from the CEC.

Subject to the terms of this Section 3.9 and Section 3.12, Seller shall ensure that throughout the Delivery Term, the Product meet the criteria defined by the CEC Renewables Portfolio Standard Eligibility Guidebook for PCC-1.

### 3.10 **Non-Modifiable Terms.**

(a) **Eligibility.** 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. [STC 6]

(b) Applicable 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.

(c) Transfer of Renewable Energy Credits. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the renewable energy credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028 or the California Energy Commission's *Renewables Portfolio Standard Eligibility Guidebook*, which may be modified by subsequent decisions of the California Public Utilities Commission, updates by the California Energy 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.

(d) Tracking of RECs in WREGIS. 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.

(e) Each of Buyer and Seller acknowledge that this Agreement does not conform to the non-modifiable standard contract term requirements of CPUC decisions 08-04-009, 08-08-028, 10-03-021, 13-11-024, or any successor CPUC decisions thereto. Buyer represents that deliveries of Product under this Agreement are not required to comply with such requirements.

**3.11 California Renewables Portfolio Standard.** Upon request of Buyer, Seller shall provide records or other information reasonably required to demonstrate that the Product has been conveyed and delivered in accordance with the terms and conditions of this Agreement, including, subject to Section 3.12, scheduling or delivery information necessary to meet the requirements of the California Renewables Portfolio Standard for the Product. Subject to Section 3.12, Seller represents and warrants the Product meets the requirements set forth in PUC Code 399.16(b)(1) and the RPS compliance requirements for Portfolio Content Category 1 as set forth in CPUC Decision 11-12-052.

**3.12 Compliance Expenditure Cap.** Notwithstanding anything herein to the contrary, if Seller establishes to Buyer's reasonable satisfaction that a change in Law occurring after the Effective Date has increased Seller's cost above the cost that could reasonably have been contemplated as of the Effective Date to take all actions to comply with Seller's obligations

under the Agreement with respect to obtaining, maintaining, conveying or effectuating Buyer's use of (as applicable), the items listed below, then the Parties agree that the maximum amount of costs and expenses Seller shall be required to bear during any Contract Year shall be capped at

[REDACTED] ("Compliance

**Expenditure Cap")**

- (a) CEC Certification and Verification;
- (b) Green Attributes;
- (c) WREGIS; and
- (d) Capacity Attributes.

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

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

Buyer will have ninety (90) days to evaluate such Notice (during which time period Seller is not obligated to take any Compliance Actions described in the Notice) and shall, within such time, either (1) agree to reimburse Seller for all or some portion of the costs that exceed the Compliance Expenditure Cap (such Buyer-agreed upon costs, the "**Accepted Compliance Costs**"), or (2) waive Seller's obligation to take such Compliance Actions, or any part thereof, for which Buyer has not agreed to reimburse Seller. If Buyer does not respond to a Notice given by Seller under this Section 3.12 within ninety (90) days after Buyer's receipt of same, Buyer shall be deemed to have waived its rights to require Seller to take the Compliance Actions that are the subject of the Notice, and Seller shall have no further obligations to take, and no liability for a failure to take, such Compliance Actions for the remainder of the Term; *provided, however,* that Buyer shall have the right to reconsider Compliance Actions that have been rejected or waived pursuant to this paragraph at any time; *provided further,* upon Buyer's written request in connection with such reconsideration, Seller shall provide Notice to Buyer with an updated estimate of the anticipated out-of-pocket expenses to take the reconsidered Compliance Action. Within ninety (90) days after Buyer's receipt of Seller's Notice, Buyer shall agree to reimburse Seller for the Accepted Compliance Costs or waive Seller's obligation to take the reconsidered Compliance Actions, or any part thereof, for which Buyer does not agree to reimburse Seller; *provided,* if Buyer does not reply within such ninety (90) day period Buyer shall be deemed to have waived Seller's obligation to take such Compliance Actions.

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

reimburse Seller for the Accepted Compliance Costs for less than all of the costs that exceed the Compliance Expenditure Cap, Seller shall only be obligated to take the Compliance Actions covered by the Accepted Compliance Costs.

Notwithstanding anything else in this Agreement, any incremental costs to Seller in excess of Fifteen Thousand Dollars (\$15,000) per year to comply with requirements regarding Capacity Attributes (including Non-Resource Adequacy Capacity) established by Buyer, or any Person vested with the authority under applicable Law to require Buyer to procure resource adequacy or other such products, over and above Seller's costs to comply with CAISO and/or CPUC requirements as to Resource Adequacy Benefits as of the Effective Date ("**Buyer Capacity Compliance Costs**"), shall be excluded from the Compliance Expenditure Cap. If Buyer desires Seller to comply with any requirements regarding Capacity Attributes (including Non-Resource Adequacy Capacity) that differ from CAISO and/or CPUC requirements as described in the prior sentence, Buyer shall be responsible for payment of all such Buyer Capacity Compliance Costs.

The terms and conditions of this Section 3.12 with respect to Seller expenses in excess of the Compliance Expenditure Cap shall apply, *mutatis mutandis*, to all Buyer Capacity Compliance Costs.

Notwithstanding anything else in this Agreement: (i) Seller shall be under no obligation to take any action to comply with such requirements as could reasonably be expected to have a material adverse impact upon Seller's ability to own, operate, or maintain the Facility or to sell or transfer to third parties the non-Buyer's Share portion of the Facility's output, or any products associated therewith (including all Resource Adequacy Benefits and other capacity attributes that are, or that would have been in the absence of this Agreement, associated with the non-Buyer's Share portion of the Installed Capacity); and (ii) if at any time, pursuant to (a) the then-current CAISO Tariff, (b) the rules or regulations of Buyer or any Person vested with the authority under applicable Law to require Buyer to procure resource adequacy or other such products, or (c) other applicable Law, the transfer and/or delivery to Buyer of Non-Resource Adequacy Capacity associated with the Facility is not permitted, then: Seller shall have no further obligation hereunder to deliver Non-Resource Adequacy Capacity to Buyer; Seller shall not be required to incur any costs or expenses in connection with delivery of Non-Resource Adequacy Capacity to Buyer; such non-delivery of Non-Resource Adequacy Capacity to Buyer shall not be a breach, default or Event of Default hereunder; and Seller shall have no liability to Buyer as a result of such non-delivery of Non-Resource Adequacy Capacity.

The term "commercially reasonable efforts" as used in Section 3.10 means efforts consistent with and subject to this Section 3.12.

## **ARTICLE 4 OBLIGATIONS AND DELIVERIES**

### **4.1      Delivery.**

(a)      Energy. Subject to the terms and conditions of this Agreement, Seller shall make available and Buyer shall accept all Delivered Energy on an as-generated, instantaneous basis. Seller shall effectuate the delivery of Delivered Energy through Dynamic

Transfers, and shall be responsible for securing such arrangements with CAISO, the PTO and any other Transmission Provider as are necessary in connection therewith; *provided*, for any portion of the Delivery Term after the SPTO Date, Seller shall no longer effectuate the delivery of Delivered Energy through Dynamic Transfers.

(b) Green Attributes. Seller hereby provides and conveys all Green Attributes as part of the Product being delivered. Seller represents and warrants that Seller holds the rights to all Green Attributes, and Seller agrees to convey and hereby conveys all such Green Attributes to Buyer as included in the delivery of the Product.

(c) Transmission Rights. Seller shall maintain Firm Transmission Rights sufficient to deliver [REDACTED] to the Delivery Point throughout the Delivery Term, unless Seller can reasonably demonstrate to Buyer in advance that the Product can be delivered to Buyer at the Delivery Point as contemplated by this Agreement without such Firm Transmission Rights.

#### 4.2 Title and Risk of Loss.

(a) Energy. Title to and risk of loss related to the Delivered Energy shall pass and transfer from Seller to Buyer at the Delivery Point.

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

#### 4.3 Scheduling Coordinator Responsibilities.

(a) Seller as Scheduling Coordinator for the Facility. Seller shall be the Scheduling Coordinator or designate a qualified third party to provide Scheduling Coordinator services with the CAISO for the Facility for the delivery of the Product at the Delivery Point. Seller shall not be responsible for any charges or fees associated with the Product that are assessed by the CAISO after the Delivery Point. [REDACTED]

[REDACTED] *provided*, to the extent Seller does curtail deliveries of Energy, Buyer shall pay for Deemed Delivered Energy pursuant to Section 3.3(b); and to the extent Seller does not curtail deliveries of Energy, Seller shall be compensated for Delivered Energy pursuant to Section 3.3(a), and such Delivered Energy shall not be considered to be Deemed Delivered Energy.

(i) Subject to Sections 3.8(c), 3.8(d), 3.8(e), 3.12, 4.3(a), and 4.3(e),  
(x) Seller shall follow the requirements prescribed by the CAISO to bid the Delivered Energy into the Day-Ahead Market and the Real-Time Market in a manner that permits Buyer's use of

the Capacity Attributes for Non-Resource Adequacy Capacity (or similar purposes), including such requirements to establish an appropriate designation (if any) at COD and maintain such designation throughout the Delivery Term, and (y) Seller's failure to appropriately bid or schedule the Delivered Energy into the CAISO which causes a limitation on Buyer's ability to use the associated Capacity Attributes for Non-Resource Adequacy Capacity (or similar purposes) shall be a Seller breach of the PPA.

[REDACTED]

[REDACTED]

[REDACTED]

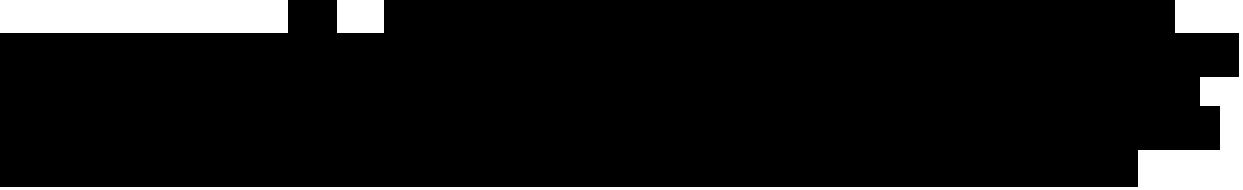
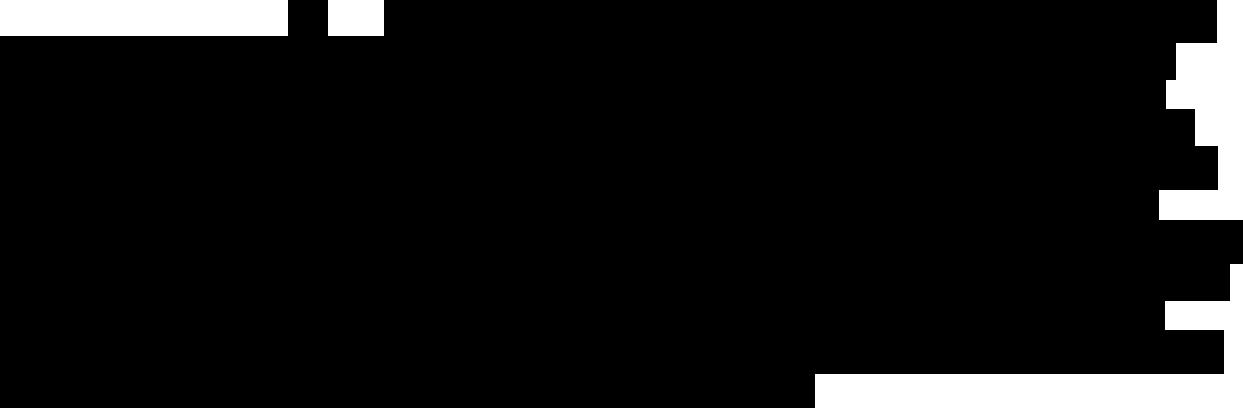
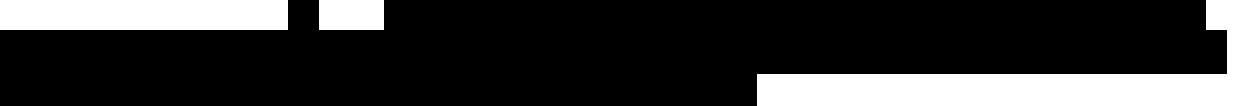
[REDACTED]

(ii) Exhibit N sets forth non-binding estimates of (i) the PTC value that Seller anticipates will be available from the Facility, and (ii) the PTC Amount, in each case in \$/MWh, for each calendar year of the Delivery Term. As of the Effective Date, the PTC value is \$ [REDACTED]/MWh, and the PTC Amount is \$ [REDACTED]/MWh. Each calendar year, within fifteen (15) Business Days following the later of (x) publication of any change to the PTC value in the Federal Register, and (y) determination of any change to the "Energy Communities" adder via Notice 2024-48, in each case available from the Facility, Seller shall provide Notice to Buyer of such updated PTC value and updated PTC Amount.

(c) Costs and Revenues. Seller shall be responsible for all costs associated with transmission, scheduling and delivery of Product up to the Delivery Point. Seller shall be responsible for all CAISO costs up to the Delivery Point (including penalties, Imbalance Energy charges, and other charges) and shall be entitled to all CAISO revenues (including credits, Imbalance Energy payments, and other payments), including costs and revenues associated with CAISO dispatches, bid cost recovery, Inter-SC Trade credits, or other credits in respect of the Product Scheduled or delivered from the Facility.

(d) Master File and Resource Data Template. Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master File and Resource Data Template (or successor data systems) for this Facility consistent with this Agreement. Neither Party shall change such data without the other Party's prior written consent. At least once per Contract Year, Seller shall review and confirm that the data provided for the CAISO's Master File and Resource Data Template (or successor data systems) for this Facility remains consistent with the actual operating characteristics of the Facility and update such data as appropriate.

(e) Pre-EDAM Self-Schedule Deliveries. Seller and Buyer acknowledge that it is Buyer's intention to join the CAISO extended day-ahead market or a similar CAISO energy market ("EDAM") during the Delivery Term.



(v) Notwithstanding the other provisions of this Section 4.3, if the terms and conditions set forth in this Section 4.3(e), (x) are not consistent with the CAISO Tariff or other applicable Law, or (y) as reasonably determined by either Party in good faith will not fully or efficiently support the delivery of Non-Resource Adequacy Capacity to Buyer or are not reasonably practicable for a Party to implement, the Parties agree to negotiate in good faith, subject to Sections 3.8(c), 3.8(d), 3.8(e), and 3.12, to modify the terms and conditions of this

Section 4.3(e) or determine alternative arrangements, as necessary, to support the full and efficient delivery of Non-Resource Adequacy Capacity to Buyer during the Delivery Term prior to Buyer's entry into the EDAM that provide for the same balance of benefits, burdens, and obligations as contemplated in this Section 4.3(e). Notwithstanding the other provisions of this Section 4.3(e), if the terms and conditions set forth in this Section 4.3(e) or the Parties' performance hereunder result in the curtailment of Delivered Energy, or costs to Seller, that would not otherwise occur in the absence of the terms and conditions of this Section 4.3(e) or the Parties' performance hereunder, Buyer will hold Seller harmless against and costs or losses resulting therefrom.

**4.4      Forecasting.** Seller shall provide the forecasts described below at its sole expense and in a format reasonably acceptable to Buyer (or Buyer's designee). Seller shall use reasonable efforts to provide forecasts that are consistent with the information actually known by Seller at the time the forecasts are submitted and, to the extent not inconsistent with the requirements of this Agreement, shall prepare such forecasts, or cause such forecasts to be prepared, in accordance with Prudent Operating Practice. Notwithstanding the provisions of Sections 4.4(a), (b), and (c), Seller and Buyer acknowledge that Buyer does not require the submission of Supply Plans by Seller, and Buyer is not required to submit Resource Adequacy Plans (as defined in the CAISO Tariff) or match such Resource Adequacy Plans to Supply Plans in order to receive or utilize Capacity Attributes or Non-Resource Adequacy Capacity.

(a)      Annual Forecast of Available Capacity. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the compliance deadline for the annual Supply Plan (which is currently the last Business Day of October that is prior to commencement of the year for the annual Supply Plan) for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of each month's Available Capacity, by hour, and Seller's projection of scheduled maintenance for the following calendar year in a form reasonably requested by Buyer.

(b)      Annual Forecast of Energy. No less than forty-five (45) days before (i) the first day of the first Contract Year of the Delivery Term and (ii) the compliance deadline for the annual Supply Plan (which is currently the last Business Day of October that is prior to commencement of the year for the annual Supply Plan) for every subsequent Contract Year during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of each month's average-day Energy expected to be produced by the Facility and delivered to Buyer at the Delivery Point, net of all Electrical Losses, by hour, for the following calendar year in a form substantially similar to the table found in Exhibit D, or as reasonably requested by Buyer.

(c)      Monthly Forecast of Energy and Available Capacity. No less than thirty (30) days before the beginning of Commercial Operation, and thereafter ten (10) Business Days before the compliance deadline for each monthly Supply Plan during the Delivery Term, Seller shall provide to Buyer a non-binding forecast of the hourly Energy expected to be produced by the Facility and delivered to Buyer at the Delivery Point, net of all Electrical Losses, and Available Capacity for each day of the following month in a form reasonably requested by Buyer.

(d) Daily Forecast of Available Capacity. By 5:30 AM Pacific Prevailing Time each day on the day immediately preceding the date of delivery, Seller shall provide Buyer with (i) a non-binding forecast of its best estimate of Available Capacity and (ii) the Day-Ahead Forecast, in each case, for each hour of the immediately succeeding day.

(e) Real-Time Forecasts. During the Delivery Term, Seller shall notify Buyer of any changes to the Day-Ahead Forecast resulting from changes of fifteen (15) MW or more in available Installed Capacity, or when the hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, differs by more than fifteen (15) MWh, as applicable, of the amount set forth in the Day-Ahead Forecast, in each case, due to Forced Facility Outage or Force Majeure Event (such update, the "Real-Time Forecast"), as soon as reasonably possible, but no later than sixty (60) minutes prior to the deadline for submitting Schedules to the CAISO in accordance with the rules for participation in the Real-Time Market. If the available Installed Capacity or, if applicable, the hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, changes by at least fifteen (15) MW or 15 MWh, as applicable, due to Forced Facility Outage or Force Majeure Event as of a time that is less than one (1) hour prior to the Real-Time Market deadline, but before such deadline, then Seller must notify Buyer as soon as reasonably possible. Such Real-Time Forecasts shall be prepared by the Third-Party Forecast Vendor and shall contain information regarding the beginning date and time of the event resulting in the change in Installed Capacity or hourly Energy expected to be produced by the Facility and delivered to the Delivery Point, net of all Electrical Losses, as applicable, the expected end date and time of such event, and any other information required by the CAISO or reasonably requested by Buyer. With respect to any Forced Facility Outage, Seller shall use reasonable efforts to notify Buyer of such outage within ten (10) minutes of becoming aware of the Forced Facility Outage. Seller shall inform Buyer as soon as reasonably practicable of any developments that will affect either the duration of such outage or the availability of the Facility during or after the end of such outage. These real-time forecasts shall be communicated by email to Buyer unless Buyer requests an alternative method of communications reasonably acceptable to Seller.

#### 4.5 Dispatch Down/Curtailment.

(a) General. Subject to Section 4.5(b), Seller agrees to reduce deliveries of the Energy produced by the Facility by the amount and for the period set forth in any Curtailment Order; provided that Seller is not required to reduce such amount to the extent it is inconsistent with the limitations of the Facility set out in the Operating Restrictions.

(b) Alternative Delivery Point/Third-Party Sales. In the event that, and for so long as, Seller is unable to deliver all or a portion of the Product to Buyer at the Delivery Point, but Seller is able to deliver Product to Buyer at one or more Alternative Delivery Points, such Alternative Delivery Points shall be considered the Delivery Point under this Agreement. If Buyer and Seller fail to agree upon an Alternative Delivery Point, (i) Seller may, in its sole discretion, sell and deliver some or all of the Product during any Curtailment Period to one or more third party buyers to the extent that Seller may do so in compliance with Law and Prudent Operating Practice, and (ii)

Seller shall use commercially reasonable efforts to sell and deliver some or all of the Product during Market Curtailment Periods at a positive price to the extent that Seller may do so in compliance with Law and Prudent Operating Practice. If and to the extent that Seller makes sales pursuant to the preceding sentence, (i) no PTC Amount shall be paid for Deemed Delivered Energy to the extent that Seller delivers Energy to a third party and (ii) Seller shall credit to Buyer all revenues, net of Seller's incremental costs associated with such sales, up to the product of (A) the Contract Price multiplied by (B) the amount of Product sold ("**Contract Revenues**"), and Seller shall be entitled to all revenues in excess of the Contract Revenues.

**4.6 Reduction in Delivery Obligation.** For the avoidance of doubt, and in no way limiting Section 3.1 or Exhibit E:

(a) Facility Maintenance. Seller shall be permitted to reduce deliveries of Product during any Planned Outage; provided that during each period from June 1 to September 30, Seller shall not schedule any non-emergency maintenance of the Facility which reduces the energy generation capability of the Facility by more than ten percent (10%) unless (i) such maintenance is required to avoid an emergency or damage to the Facility or the Interconnection Facilities, (ii) such maintenance is necessary to maintain equipment warranties or is otherwise in accordance with equipment manufacturer recommendations and cannot reasonably be scheduled outside such period, (iii) such maintenance is in connection with a Force Majeure Event, (iv) such maintenance is required by applicable Law, the requirements of a Transmission Provider and/or any other applicable Governmental Authority, or Prudent Operating Practice, (v) such maintenance is required for safety reasons, or (vi) the Parties agree otherwise in writing. On or before December 1<sup>st</sup> each year, Seller shall provide Buyer with the scheduled maintenance for the Facility for the next calendar year.

(b) Forced Facility Outage. Seller shall be permitted to reduce deliveries of Product during any Forced Facility Outage. Seller shall provide Buyer with Notice and expected duration (if known) of any Forced Facility Outage and shall keep Buyer reasonably informed of any developments that will affect either the duration of the outage or the availability of the Facility during and after the end of such outage.

(c) System Emergencies and other Events. Seller shall be permitted to reduce deliveries of Product (i) during any period of System Emergency, (ii) pursuant to a Curtailment Order, (iii) during a Market Curtailment Period, (iv) during any Force Majeure Event, (v) due to Prudent Operating Practice, (vi) due to Buyer's failure to perform, or (vii) otherwise pursuant to the terms of this Agreement, the Interconnection Agreement or applicable tariff or as may be required under a Shared Facilities Agreement. Notwithstanding anything in this Agreement to the contrary, Seller may, in its sole discretion, sell and deliver some or all of the Product during any Curtailment Period or Market Curtailment Period to one or more third-party buyers to the extent that Seller may do so in compliance with Law and Prudent Operating Practice.

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

(e) Real-Time Curtailment. Seller shall be permitted to reduce deliveries of Product during any period when the LMP in the Real-Time Market is less than the Floor Price;

*provided*, that if some amount of the Day-Ahead Forecast has been awarded a Day-Ahead Schedule, Seller shall not reduce the Delivered Energy, pursuant to this clause, below the amount of the Day-Ahead Forecast that has been awarded a Day-Ahead Schedule, and any such reduction shall not be included in a Market Curtailment Period. Seller shall also be permitted in its sole discretion to reduce a portion of Facility generation and/or deliveries of Facility generation to the Delivery Point not including Buyer's Share during any Settlement Period that is not a Curtailment Period nor Market Curtailment Period. During such curtailments, Seller shall deliver Delivered Energy to Buyer in accordance with clause (c) of the definition of "Delivered Energy". Illustrative settlement examples during the foregoing events are provided in Exhibit O.

#### 4.7 **Guaranteed Energy Production.**

(a) After the first Contract Year, Seller shall be required to deliver to Buyer no less than the Guaranteed Energy Production (as defined below) in each period of two (2) consecutive Contract Years during the Delivery Term (such that the first Performance Measurement Period comprises Contract Years 2 and 3, the second Performance Measurement Period comprises Contract years 3 and 4 and so on) ("**Performance Measurement Period**"). "**Guaranteed Energy Production**" means an amount of Product for each Performance Measurement Period, as measured in MWh, equal to [REDACTED]

[REDACTED] in such Performance Measurement Period. The calculation will be performed once each Contract Year, beginning with the third anniversary of the Commercial Operation Date. Seller shall be excused from achieving the Guaranteed Energy Production during any Performance Measurement Period only to the extent of any Forced Facility Outage (provided Seller has followed Prudent Operating Practices), Force Majeure Events, System Emergencies, Buyer's failure to perform, Curtailment Periods and Market Curtailment Periods. If Seller fails to achieve the Guaranteed Energy Production amount in any Performance Measurement Period, Seller shall (i) pay Buyer Energy Replacement Damages calculated in accordance with Exhibit E, or (ii) in lieu of paying some or all of the Energy Replacement Damages, at Seller's discretion, provide Replacement Product retrospectively pursuant to and subject to the requirements of Section 4.7(b)(ii).

(b) Seller shall be permitted to deliver Replacement Product (i) prospectively during any Performance Measurement Period if Seller reasonably anticipates that delivery of such Replacement Product is necessary to achieve the Guaranteed Energy Production for such Performance Measurement Period, or (ii) retrospectively during the Contract Year immediately following any Performance Measurement Period in accordance with Section 4.7(a) above; *provided*, Seller's right to deliver Replacement Product shall be expressly subject to Buyer's prior written acceptance of Seller's proposed delivery schedule for such Replacement Product; *provided further*, Replacement Product shall be delivered to (x) at Seller's election, the Delivery Point or the California-Oregon Border (COB) trading hub or (y) an Alternative Delivery Point. Seller shall provide Notice to Buyer of any proposed delivery of Replacement Product, including a proposed schedule of such deliveries, at least thirty (30) days prior to the proposed delivery of such Replacement Product and, solely with respect to retrospective Replacement Product, at least thirty (30) days after the conclusion of any Performance Measurement Period with respect to which Seller proposes to deliver retrospective Replacement Product. If the Parties cannot reach agreement on a schedule of deliveries, Seller shall have no right to deliver, and Buyer shall have no obligation to pay for, the proposed Replacement Product.

**4.8      WREGIS.** Seller shall, at its sole expense, take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all Renewable Energy Credits corresponding to all Delivered Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard and transferred in a timely manner to Buyer for Buyer's sole benefit. Seller shall transfer such Renewable Energy Credits to Buyer. Seller shall comply with all Laws, including the WREGIS Operating Rules, regarding the certification and transfer of such WREGIS Certificates to Buyer and Buyer shall be given sole title to all such WREGIS Certificates. Seller shall satisfy its obligations pursuant to Section 3.10(d) and Section 4.2(b) by fulfilling its obligations under Sections 4.8(a) through (f) below. Notwithstanding the provisions of this Section 4.8, following the occurrence of the SPTO Date, Seller shall not be required to generate E-Tags associated with Delivered Energy and/or Replacement Energy unless required (i) pursuant to the CAISO Tariff, or (ii) by WREGIS, the CPUC, the CEC, or other applicable Law for matching E-Tags with Delivered Energy and/or Replacement Energy in order to validate RPS claims.

(a) Prior to the Commercial Operation Date, Seller shall register the Facility with WREGIS and establish an account with WREGIS ("**Seller's WREGIS Account**"), which Seller shall maintain until the end of the Delivery Term. Seller shall transfer the WREGIS Certificates using Recurring Certificate Transfers from Seller's WREGIS Account to the WREGIS account(s) of Buyer or the account(s) of a designee that Buyer identifies by Notice to Seller ("**Buyer's WREGIS Account**"). Seller shall be responsible for all expenses associated with registering the Facility with WREGIS, establishing and maintaining Seller's WREGIS Account, paying WREGIS Certificate issuance and transfer fees, and transferring WREGIS Certificates from Seller's WREGIS Account to Buyer's WREGIS Account. Buyer shall be responsible for all expenses associated with establishing and maintaining Buyer's WREGIS account.

(b) Seller shall cause Recurring Certificate Transfers to occur on a monthly basis in accordance with the certification procedure established by the WREGIS Operating Rules. Since WREGIS Certificates will only be created for whole MWh amounts of Energy generated, any fractional MWh amounts (i.e., kWh) will be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate. WREGIS Certificates must be matched with E-Tags associated with the Dynamic Transfers (or, if the SPTO Date has occurred and the CEC does not require E-Tag matching in order to validate RPS claims, with the Delivered Energy and Replacement Energy). WREGIS Certificates without matching E-Tags associated with Dynamic Transfers (or, if the SPTO Date has occurred and the CEC does not require E-Tag matching in order to validate RPS claims, with the Delivered Energy and Replacement Energy) will be rejected.

(c) Seller shall, at its sole expense, ensure that the WREGIS Certificates for a given calendar month correspond with the Delivered Energy for such calendar month as evidenced by the amounts corresponding to the Facility's metered data that match E-Tags associated with the Dynamic Transfers (or, if the SPTO Date has occurred and the CEC does not require E-Tag matching in order to validate RPS claims, with the Delivered Energy and Replacement Energy). Subject to delivery of Replacement Product, Seller shall ensure that no WREGIS Certificates are transferred to Buyer's WREGIS Account unless they are the result of Delivered Energy reflected in the Facility's metered data and matched with E-Tags associated

with the Dynamic Transfers (or, if the SPTO Date has occurred and the CEC does not require E-Tag matching in order to validate RPS claims, with the Delivered Energy and Replacement Energy).

(d) Due to the approximately fourteen (14) day delay in the creation of WREGIS Certificates relative to the timing of invoice payment under Section 8.2, Buyer shall make an invoice payment for a given month in accordance with Section 8.2 notwithstanding that the WREGIS Certificates may not have been formally transferred to Buyer in accordance with the WREGIS Operating Rules and this Section 4.8. Notwithstanding this delay, Buyer shall have all right and title to all such WREGIS Certificates upon payment to Seller in accordance with Section 8.2.

(e) A "**WREGIS Certificate Deficit**" means any deficit or shortfall in WREGIS Certificates delivered to Buyer for a calendar month as compared to the Delivered Energy for the same calendar month ("**Deficient Month**"). If any WREGIS Certificate Deficit is caused, or the result of any action or inaction, by Seller, then the amount of Delivered Energy in the Deficient Month shall be reduced on a pro rata basis across all Settlement Periods in such Deficient Month by the amount of the WREGIS Certificate Deficit for purposes of calculating Buyer's payment to Seller under Article 8 and the Guaranteed Energy Production for the applicable Performance Measurement Period; provided, however, that such adjustment shall not apply to the extent that after the ninety (90) days attributed to the delay in the creation of WREGIS Certificates for such Deficient Month, Seller either (x) resolves the WREGIS Certificate Deficit within an additional one hundred eighty (180) days or (y) provides Replacement Green Attributes within an additional one hundred eighty (180) days (i) upon a schedule reasonably acceptable to Buyer and (ii) provided that such deliveries do not impose additional costs upon Buyer for which Seller refuses to provide reimbursement. If the amount of Delivered Energy in the Deficient Month is reduced in accordance with the prior sentence and neither (x) nor (y) of the prior sentence apply, Buyer shall pay Seller for any Delivered Energy that is delivered by Seller without corresponding WREGIS Certificates at a price equal to the lesser of (i) the Contract Price, or (ii) the LMP in the Day-Ahead Market at the Delivery Point, and for purposes of the Guaranteed Energy Production, Delivered Energy is reduced by the amount of the WREGIS Certificate Deficit for the applicable Performance Measurement Period. Without limiting Seller's obligations under this Section 4.8, if a WREGIS Certificate Deficit is caused solely by an error or omission of WREGIS, Delivered Energy shall not be reduced pursuant to this Section 4.8(e) and the Parties shall cooperate in good faith to cause WREGIS to correct its error or omission.

(f) If WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with this Section 4.8 after the Effective Date, the Parties promptly shall modify this Section 4.8 as reasonably required to cause and enable Seller to transfer to Buyer's WREGIS Account a quantity of WREGIS Certificates for each given calendar month that corresponds to the Delivered Energy in the same calendar month.

4.9 **Modification of Installed Capacity**. At any time prior to January 31, 2025 ("**Capacity Increase Deadline**"), Seller shall have the option to elect to implement the South Turbine Uprate, and in connection therewith to (i) increase the maximum Installed Capacity of

the Facility listed on the Cover Sheet of this Agreement up to an amount equal to 3,800 MW, and (ii) increase the Expected Energy under this Agreement to reflect the increased generating capacity resulting from the South Turbine Uprate. Seller shall deliver Notice to Buyer of its election to implement the South Turbine Uprate no later than the Capacity Increase Deadline, which Notice shall include the increased maximum Installed Capacity of the Facility and increased Expected Energy under this Agreement. Upon receipt of such Notice by Buyer, this Agreement shall be deemed automatically amended as follows:

(a) The text “3,515 MW” in the section “Description of Facility” on the Cover Sheet of this Agreement shall be replaced with the maximum Installed Capacity amount set forth in Seller’s Notice to Buyer delivered pursuant to this Section 4.9; and

(b) The text “[REDACTED] MWh” in the section “Expected Energy” on the Cover Sheet of this Agreement shall be replaced with the Expected Energy amount set forth in Seller’s Notice to Buyer delivered pursuant to this Section 4.9.

**4.10 Standard of Care.** Seller shall be responsible for designing, installing, operating, and maintaining the Facility (including all associated costs) in accordance with applicable Law, and shall comply with all applicable WECC, RC West, FERC and NERC requirements, and with Prudent Operating Practice, including applicable interconnection and telemetering requirements set forth in the Interconnection Agreement.

Seller shall ensure that: (a) operation and maintenance of the Facility is conducted in a safe manner in accordance with the Interconnection Agreement and Prudent Operating Practice; and (b) any governmental authorizations and permits required for the construction and operation thereof are maintained. Consistent with (a) above, Seller shall ensure that any necessary and commercially reasonable repairs are made to the Facility.

Seller acknowledges receipt of SMUD’s Principles of Renewable Energy Development as expressed in Exhibit M, attached and incorporated herein. Seller shall use commercially reasonable efforts to abide by the project-specific obligations identified in the “Community Benefits Plan” as described in Exhibit M, to the extent applicable to and feasible for the Facility as reasonably determined by Seller.

## **ARTICLE 5 TAXES**

**5.1 Allocation of Taxes and Charges.** Seller shall pay or cause to be paid all Taxes on or with respect to the Facility or on or with respect to the sale and delivery of Product to Buyer, that are imposed on Product prior to the Delivery Point. Buyer shall pay or cause to be paid all Taxes on or with respect to the delivery to and purchase by Buyer of the Product that are imposed on Product at and from the Delivery Point (other than withholding or other Taxes imposed on Seller’s income, revenue, receipts or employees). If a Party is required to remit or pay Taxes that are the other Party’s responsibility hereunder, such Party shall promptly pay the Taxes due and then seek and receive reimbursement from the other for such Taxes. In the event any sale of Product hereunder is exempt from or not subject to any particular Tax, the exempted Party shall provide the other Party with all necessary documentation within thirty (30) days after

the Effective Date to evidence such exemption or exclusion. If the exempted Party does not provide such documentation, then such Party shall indemnify, defend, and hold harmless the other Party from any liability with respect to Taxes from which the exempted Party claims it is exempt.

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

## **ARTICLE 6 MAINTENANCE OF THE FACILITY**

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

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

6.3 **Shared Facilities**. The Parties acknowledge and agree that certain of the Interconnection Facilities, Seller's rights and obligations under the Interconnection Agreement and Seller's rights and obligations under transmission service agreements with a Transmission Provider, may be subject to certain shared facilities and/or co-tenancy agreements ("**Shared Facilities Agreements**") to be entered into among two or more of Seller, the Participating Transmission Owner, Seller's Affiliates, and/or third parties pursuant to which certain Interconnection Facilities, interconnection service and/or transmission service may be subject to joint ownership and/or shared maintenance and operation arrangements.

## **ARTICLE 7 METERING**

7.1 **Metering**. Seller shall measure the amount of Delivered Energy produced by the Facility using an Approved Meter. The Approved Meter shall be installed at the switching station adjacent to the SunZia East Converter Station and maintained at Seller's cost. If the Approved Meter is inaccurate, Seller will cause such meter to be promptly corrected in accordance with Prudent Operating Practice and CAISO or PTO requirements, as applicable (or, if the SPTO Date has occurred, in accordance with CAISO requirements only). Seller will be

responsible for any costs, fines or penalties, including imbalance charges as a result of the inaccurate meter. The meter shall be kept under seal, such seals to be broken only when the meters are to be tested, adjusted, modified and/or relocated. In the event that Seller breaks a seal, Seller shall notify Buyer as soon as practicable. In addition, Seller hereby agrees to provide all Approved Meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from CAISO or the PTO, as applicable (or, if the SPTO Date has occurred, in accordance with CAISO requirements only), the meter data applicable to the Facility and all inspection, testing and calibration data and reports. Seller, or Seller's Scheduling Coordinator, shall cooperate with Buyer to allow both Parties to retrieve the meter reads from the CAISO Market Results Interface – Settlements (MRIS-S) (or its successor).

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

## **ARTICLE 8 INVOICING AND PAYMENT; CREDIT**

**8.1 Invoicing.** Seller shall deliver an invoice to Buyer no later than fifteen (15) Business Days after the end of the prior monthly delivery period; *provided* that Seller's failure to deliver an invoice to Buyer by such deadline shall not be a breach hereunder. Each invoice shall provide Buyer (a) records of metered data, including metering and CAISO transaction data sufficient to document and verify the amount of Delivered Energy for each Settlement Period during the preceding month, including the amount of Delivered Energy as set forth in the first CAISO settlement statement for the prior month that includes meter data from the Approved Meter, the applicable Contract Price, deviations between the Scheduled Energy and the Delivered Energy, the LMP in the Real-Time Market at the Delivery Point for each Settlement Period; (b) a reconciliation of hourly meter data, E-Tag data (to the extent required under the CAISO Tariff) and associated calculations, including the lesser of each by hour, plus any additional data as may be reasonably required by Buyer for compliance with CPUC reporting obligations, including pursuant to the CPUC's Energy Division Portfolio Content Category Classification Review Handbook (or successor publication); (c) a statement of the quantity of WREGIS Certificates transferred during the prior month that have been matched with E-Tags associated with the Dynamic Transfers (or, if the SPTO Date has occurred, with the Delivered Energy and Replacement Energy, to the extent required by WREGIS, the CPUC, the CEC, or other applicable Law); (d) access to any records, including invoices or settlement data from the CAISO, necessary to verify the accuracy of any amount; and (e) be in a reasonable format covering the services provided in the preceding month determined in accordance with the applicable provisions of this Agreement.

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

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

**8.4    Payment Adjustments; Billing Errors.** Payment adjustments shall be made if Buyer or Seller discovers there have been good faith inaccuracies in invoicing that are not otherwise disputed under Section 8.5, there is determined to have been a meter inaccuracy sufficient to require a payment adjustment, or if CAISO recalculates amounts due or owing in respect of prior periods. If the required adjustment is in favor of Buyer, Buyer’s monthly payment shall be credited in an amount equal to the adjustment. If the required adjustment is in favor of Seller, Seller shall add the adjustment amount to Buyer’s next monthly invoice. Other than recalculations by CAISO, adjustments in favor of either Buyer or Seller shall bear interest, until settled in full, in accordance with Section 8.2, accruing from the date on which the non-erroneous Party received Notice thereof.

**8.5    Billing Disputes.** A Party may, in good faith, dispute the correctness of any invoice or any adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twelve (12) months of the date the invoice, or adjustment to an invoice, was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within ten (10) Business Days of such resolution along with interest accrued at the Interest Rate from and including the original due date to but excluding the date paid. Inadvertent overpayments shall be returned 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 but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived if the other Party is not notified in accordance with this Section 8.5 within twelve (12) months after the

invoice is rendered or subsequently adjusted, except to the extent any misinformation was from a third party not affiliated with any Party and such third party corrects its information after the twelve-month period. If an invoice is not rendered within twelve (12) months after the close of the month during which performance occurred, the right to payment for such performance is waived.

8.6 **Netting of Payments**. The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date through netting, in which case all undisputed amounts owed by each Party to the other Party for the purchase and sale of Product during the monthly billing period under this Agreement or otherwise arising out of this Agreement, including any related damages calculated pursuant to Exhibits B and E, interest, and payments or credits, including pursuant to Section 4.3(c), shall be netted so that only the excess amount remaining due shall be paid by the Party who owes the remaining amount.

8.7 **Seller's Development Security**. To secure its obligations under this Agreement, Seller shall deliver Development Security to Buyer within forty-five (45) days after the Effective Date. Seller shall maintain the Development Security in full force and effect. Upon the earlier of (A) Seller's delivery of the Performance Security, or (B) sixty (60) days after termination of this Agreement, Buyer shall return the Development Security to Seller, less the amounts drawn in accordance with this Agreement. If and to the extent that any portion of the Development Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain a Credit Rating of at least "A-" by S&P or "A3" by Moody's, (ii) indicates its intent not to renew such Letter of Credit and such Letter of Credit expires prior to the Commercial Operation Date, (iii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, or (iv) becomes Bankrupt, Seller shall have ten (10) Business Days to post substitute collateral that meets the requirements set forth in the definition of Development Security. Seller shall have no obligation to replenish the Development Security following any draws thereon by Buyer. Seller's maximum liability for an Event of Default or failure to perform its obligations hereunder prior to the Commercial Operation Date shall be capped at the amount of the Development Security, less any amounts collected by Buyer prior to such Event of Default or failure to perform.

8.8 **Seller's Performance Security**. To secure its obligations under this Agreement, Seller shall deliver Performance Security to Buyer on or before the Commercial Operation Date. Seller shall maintain the Performance Security in full force and effect until the following have occurred: (A) the Delivery Term has expired or terminated early; and (B) all payment obligations of the Seller arising under this Agreement, including compensation for penalties, Termination Payment, indemnification payments or other damages are paid in full (whether directly or indirectly such as through set-off or netting). Following the occurrence of both events, Buyer shall promptly return to Seller the unused portion of the Performance Security. If and to the extent that any portion of the Performance Security is a Letter of Credit and the issuer of such Letter of Credit (i) fails to maintain a Credit Rating of at least "A-" by S&P or "A3" by Moody's, (ii) fails to honor Buyer's properly documented request to draw on such Letter of Credit, or (iii) becomes Bankrupt, Seller shall have ten (10) Business Days to post substitute collateral that meets the requirements set forth in the definition of Performance Security.

## **8.9      Financial Statements.**

(a) If requested, Buyer shall provide to Seller (i) within one hundred twenty (120) days following the end of each fiscal year during the Contract Term, a copy of Buyer's annual report containing audited consolidated financial statements for such fiscal year and (ii) within sixty (60) days after the end of each of its first three fiscal quarters of each fiscal year during the Contract Term, a copy of Buyer'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 or International Financial Reporting Standards ("IFRS"); provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certifications, such unavailability shall not be an Event of Default so long as Buyer diligently pursues the preparation, certification, and delivery of the statements.

## **8.10    Buyer's First Priority Security Interest in Cash or Cash Equivalent**

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

Upon or any time after the occurrence of an Event of Default caused by Seller, an Early Termination Date resulting from an Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Development Security or Performance Security, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 8.10 and the provisions of Article 12):

- (a) Exercise any of its rights and remedies with respect to the Development Security or Performance Security, as applicable, including any such rights and remedies under Law then in effect;
- (b) Draw on any outstanding Letter of Credit issued for its benefit and retain any cash held by Buyer as Development Security or Performance Security, as applicable; and
- (c) Liquidate all Development Security or Performance Security, as applicable then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

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

## ARTICLE 9 NOTICES

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

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

## ARTICLE 10 FORCE MAJEURE

### 10.1 **Definition.**

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

(b) Without limiting the generality of the foregoing, so long as the following events, despite the exercise of reasonable efforts, cannot be avoided by, and are beyond the reasonable control (whether direct or indirect) of and without the fault or negligence of the Party relying thereon as justification for such delay, nonperformance or noncompliance, a Force Majeure Event may include an act of God or the elements, such as flooding, lightning, hurricanes, tornadoes, or ice storms; explosion; fire; volcanic eruption; flood; epidemic, or pandemic, including COVID-19 (but only to the extent that new governmental rules or mandates related to COVID-19 are implemented that were not in place as of the Effective Date); landslide; mudslide; sabotage; terrorism; earthquake; or other cataclysmic events; an act of public enemy; acts or failure to act by a Governmental Authority; war; blockade; civil insurrection; riot; civil

disturbance; Serial Defect; or strikes or other labor difficulties caused or suffered by a Party or any third party except as set forth below.

(c) Notwithstanding the foregoing, the term "Force Majeure Event" does not include (i) economic conditions that render a Party's performance of this Agreement at the Contract Price unprofitable or otherwise uneconomic (including Buyer's ability to buy Energy at a lower price, or Seller's ability to sell Energy generated by the Facility at a higher price, than the Contract Price); (ii) Seller's inability to obtain permits or approvals of any type for the construction, operation, or maintenance of the Facility, except to the extent such inability is caused by a Force Majeure Event; (iii) the inability of a Party to make payments when due under this Agreement; (iv) a Curtailment Order, except to the extent that a Curtailment Order is caused by an event that otherwise qualifies as a Force Majeure Event; (v) Seller's inability to obtain sufficient labor, equipment, materials, or other resources to build or operate the Facility except to the extent such inability is caused by a Force Majeure Event; (vi) a strike, work stoppage or labor dispute limited only to any one or more of Seller, Seller's Affiliates, Seller's contractors, their subcontractors thereof or any other third party employed by Seller to work on the Facility; (vii) any equipment failure except if such equipment failure is caused by a Force Majeure Event; or (viii) except as the Guaranteed Commercial Operation Date may be extended as a result of a Development Cure Period, Seller's inability to achieve Commercial Operation following the Guaranteed Commercial Operation Date.

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

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

10.4 **Termination Following Force Majeure Event.** If a Force Majeure Event has occurred after the Commercial Operation Date that has caused either Party to be unable to perform its material obligations hereunder, and has continued for a consecutive twelve (12) month period, then the non-claiming Party may terminate this Agreement upon Notice to the other Party experiencing the Force Majeure Event; *provided* that if Seller is the Party claiming such Force Majeure Event and such Force Majeure Event cannot reasonably be cured within such twelve (12) month period, then Seller may provide a plan to Buyer, which must be acceptable to Buyer in its reasonable discretion, to cure such Force Majeure Event within an additional consecutive six (6) month period and Buyer may not terminate this Agreement due to such Force Majeure Event unless Seller has not resumed performance of its material obligations hereunder upon the expiration of such additional consecutive six (6) month period. Upon any such termination, the non-claiming Party shall have no liability to the Party claiming Force Majeure Event, save and except for those obligations specified in Section 2.1(b).

## ARTICLE 11 DEFAULTS; REMEDIES; TERMINATION

11.1 **Events of Default.** An “Event of Default” shall mean,

- (a) with respect to a Party (the “**Defaulting Party**”) that is subject to the Event of Default the occurrence of any of the following:
  - (i) the failure by such Party to make, when due, any payment required pursuant to this Agreement and such failure is not remedied within five (5) Business Days after Notice thereof;
  - (ii) any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated, and such representation or warranty is not corrected within thirty (30) days after Notice thereof; provided, that this thirty (30) day period shall be extended by up to an additional sixty (60) days if (a) the breach cannot reasonably be cured within the thirty (30) day period despite diligent efforts, (b) the default is capable of being cured within the additional sixty (60) day period, and (c) the Defaulting Party commences the cure within the original thirty (30) day period and is at all times thereafter diligently and continuously proceeding to cure the breach;
  - (iii) the failure by such Party to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default) and such failure is not remedied within thirty (30) days after Notice thereof; provided, that this thirty (30) day period shall be extended by an additional sixty (60) days if (a) the breach cannot reasonably be cured within the thirty (30) day period despite diligent efforts, (b) the default is capable of being cured within the additional sixty (60) day period, and (c) the Defaulting Party commences the cure within the original thirty (30) day period and is at all times thereafter diligently and continuously proceeding to cure the breach;
  - (iv) failure by such Party to satisfy the collateral requirements pursuant to Sections 8.7 or 8.8 as applicable;
  - (v) such Party becomes Bankrupt;

(vi) such Party assigns this Agreement or any of its rights hereunder other than in compliance with Sections 14.1, 14.2, 14.3, or 14.4, as appropriate; or

(vii) 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 by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party.

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

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

(ii) with respect to any outstanding Letter of Credit provided for the benefit of Buyer that is not then required under this Agreement to be canceled or returned, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement surety bond (solely with respect to the Performance Security), or (3) a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives Notice of the occurrence of any of the following events:

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

(B) the issuer of such Letter of Credit becomes Bankrupt;

(C) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;

(D) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;

(E) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit;

(F) such Letter of Credit fails or ceases to be in full force and effect at any time; or

(G) Seller shall fail to renew or cause the renewal of each outstanding Letter of Credit on a timely basis as provided in the relevant Letter of Credit and as provided in accordance with this Agreement, and in no event less than sixty (60) days prior to the expiration of the outstanding Letter of Credit.

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

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

provided, that payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party’s sole and exclusive remedy for the Terminated Transaction and the Event of Default related thereto. Notwithstanding any other provision of this Agreement, Seller’s sole and aggregate liability under or arising out of a termination of this Agreement prior to the Commercial Operation Date shall be limited to the amount required to be posted as Development Security pursuant to Section 8.7, less any amounts collected by Buyer prior to such Early Termination Date.

**11.3 Termination Payment.** The termination payment (“Termination Payment”) for a Terminated Transaction shall be the aggregate of all Settlement Amounts plus any or all other amounts due to the Non-Defaulting Party netted into a single amount. If the Non-Defaulting Party’s aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement, the net Settlement Amount shall be zero. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Settlement Amount for the Terminated Transaction as of the Early Termination Date. Third parties (which shall not include Affiliates of the Non-Defaulting Party) supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. The Settlement Amount shall not include consequential, incidental, punitive, exemplary, indirect or business interruption damages; provided, however, that any lost Capacity Attributes and Green Attributes shall be deemed direct damages covered by this Agreement. Without prejudice to the Non-Defaulting Party’s duty to mitigate, the Non-Defaulting Party shall not have to enter into

replacement transactions to establish a Settlement Amount. Each Party agrees and acknowledges that (a) the actual damages that the Non-Defaulting Party would incur in connection with a Terminated Transaction would be difficult or impossible to predict with certainty, (b) the Damage Payment or Termination Payment described in Section 11.2 or this Section 11.3 (as applicable) is a reasonable and appropriate approximation of such damages, and (c) the Damage Payment or Termination Payment described in Section 11.2 or this Section 11.3 (as applicable) is the exclusive remedy of the Non-Defaulting Party in connection with a Terminated Transaction but shall not otherwise act to limit any of the Non-Defaulting Party's rights or remedies if the Non-Defaulting Party does not elect a Terminated Transaction as its remedy for an Event of Default by the Defaulting Party.

**11.4 Notice of Payment of Termination Payment.** As soon as practicable after a Terminated Transaction, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount and the sources for such calculation. The Termination Payment shall be made to the Non-Defaulting Party, as applicable, within ten (10) Business Days after such Notice is effective.

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

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

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

## **ARTICLE 12 LIMITATION OF LIABILITY AND EXCLUSION OF WARRANTIES**

**12.1 No Consequential Damages.** EXCEPT TO THE EXTENT PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER OR ITS INDEMNIFIED PERSONS FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL DAMAGES, OR LOSSES OR DAMAGES FOR LOST REVENUE OR LOST PROFITS, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE.

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

NOTWITHSTANDING ANYTHING ELSE HEREIN TO THE CONTRARY, IF THERE IS AN EARLY TERMINATION DATE PRIOR TO THE COMMERCIAL OPERATION DATE, THE TOTAL LIABILITY OF SELLER UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT REQUIRED TO BE POSTED AS DEVELOPMENT SECURITY PURSUANT TO SECTION 8.7, LESS ANY AMOUNTS COLLECTED BY BUYER PRIOR TO SUCH EARLY TERMINATION DATE.

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

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

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, INCLUDING UNDER SECTIONS 3.8, 4.7, 4.8(e), 11.2 AND 11.3, AND AS PROVIDED IN EXHIBIT B AND EXHIBIT E, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, THAT OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT, AND THAT THE LIQUIDATED DAMAGES CONSTITUTE A REASONABLE APPROXIMATION OF THE ANTICIPATED HARM OR LOSS. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. THE PARTIES HEREBY WAIVE ANY RIGHT TO CONTEST SUCH PAYMENTS AS AN UNREASONABLE PENALTY.

THE PARTIES ACKNOWLEDGE AND AGREE THAT MONEY DAMAGES AND THE EXPRESS REMEDIES PROVIDED FOR HEREIN ARE AN ADEQUATE REMEDY FOR THE BREACH BY THE OTHER OF THE TERMS OF THIS AGREEMENT, AND EACH

PARTY WAIVES ANY RIGHT IT MAY HAVE TO SPECIFIC PERFORMANCE WITH RESPECT TO ANY OBLIGATION OF THE OTHER PARTY UNDER THIS AGREEMENT.

## **ARTICLE 13** **REPRESENTATIONS AND WARRANTIES; AUTHORITY**

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

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

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

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

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

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

(a) Buyer is a municipal utility district, duly organized, validly existing and in good standing under the Laws of the State of California and the rules, regulations and orders of, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Buyer. All persons making up the governing body of Buyer are the elected or appointed incumbents in their positions and hold their positions in good standing in accordance with applicable Law.

(b) Buyer has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and

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

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by Buyer with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any Law presently in effect having applicability to Buyer, including but not limited to community choice aggregation, competitive bidding, public notice, open meetings, election, referendum, or prior appropriation requirements, the documents of formation of Buyer or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which Buyer is a party or by which any of its property is bound.

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

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

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

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

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

(c) It shall perform its obligations under this Agreement in compliance with all terms and conditions in its governing documents and any contracts to which it is a party and in material compliance with any Law.

## **ARTICLE 14 ASSIGNMENT**

**14.1 General Prohibition on Assignments.** Except as provided below, neither Party may voluntarily assign this Agreement or its rights or obligations under this Agreement, without

the written consent of the other Party, which consent shall not be unreasonably withheld. Any direct or indirect Change of Control of a Party (whether voluntary or by operation of Law) will be deemed an assignment and will require the prior written consent of the other Party, except as provided in Section 14.3. Any assignment made without required written consent, or in violation of the conditions to assignment set out below, shall be null and void. The assigning Party shall be responsible for the other Party's costs associated with the preparation, review, execution, and delivery of documents in connection with any assignment of this Agreement, including without limitation reasonable attorneys' fees.

**14.2 Collateral Assignment.** Subject to the provisions of this Section 14.2, Seller has the right to assign this Agreement as collateral for any financing or refinancing of the Facility without the consent of Buyer. In connection with any financing or refinancing of the Facility by Seller, Buyer shall work in good faith with Seller (and its Affiliate(s)) and Lender to agree upon and execute a consent to collateral assignment of this Agreement substantially in the form set forth in Exhibit H.

**14.3 Permitted Assignment.** Notwithstanding Section 14.1, and in addition to its rights set forth in Section 14.2, Seller may at any time, without the prior written consent of Buyer, transfer or assign this Agreement (including by a Change of Control) (i) to an Affiliate of Seller, (ii) in connection with a tax equity financing (regardless of whether a Change of Control results from such tax equity financing), or (iii) as part of the sale or transfer of all or substantially all of the membership interests, equity, or assets of an Affiliate of Seller. Seller may also, without the prior written consent of Buyer, transfer or assign this Agreement (including by a Change of Control) to a Permitted Transferee.

**14.4 Buyer Assignment.** At any time during the Contract Term, upon not less than thirty (30) days' written Notice to Seller, Buyer may request that Seller enter into negotiations to permit Buyer to enter into a limited assignment of a portion of Buyer's rights and obligations under this Agreement to J. Aron and Company, LLC ("J. Aron"). Following any such Notice from Buyer, (a) Seller, Buyer and J. Aron shall negotiate in good faith the execution of a limited assignment agreement based on the form attached hereto as Exhibit J, and (b) if requested by Seller, Seller and Buyer shall negotiate in good faith an indemnity and/or a legal opinion, to be provided by Buyer for the benefit of Seller in connection with such limited assignment agreement, in form and substance satisfactory to Seller. For the avoidance of doubt, Buyer shall remain responsible for all of its obligations under this Agreement, including those related to all Product that may be assigned to J. Aron under any limited assignment agreement, including (i) the obligation to pay for all Product and (ii) any and all damages, costs and expenses of Seller associated with such assignee's failure to take or pay for any such Product as contemplated by this Agreement. In no event shall any assignment by Buyer to J. Aron purport to limit any rights of Seller under, or cause Seller to incur any additional obligations, costs, or risks under, this Agreement.

## **ARTICLE 15 DISPUTE RESOLUTION**

**15.1 Venue.** The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Agreement

shall be brought in the federal courts of the United States or, if such federal courts refuse jurisdiction notwithstanding the Parties' agreement, then in the courts of the State of California, in either case sitting in the County of San Francisco, California.

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

## **ARTICLE 16 INDEMNIFICATION**

### **16.1 Indemnification.**

(a) Each Party (the "**Indemnifying Party**") agrees to indemnify, defend and hold harmless the other Party and its Affiliates, directors, officers, employees, attorneys, representatives and agents (collectively, the "**Indemnified Party**") from and against all third-party claims, demands, losses, liabilities, penalties, and expenses and expert witness fees (collectively "**Indemnifiable Event**"), to the extent such Indemnifiable Event arises out of, results from, or is caused by any of the following: (a) the negligent act or omission, recklessness or willful misconduct of the Indemnifying Party, its Affiliates, its or their directors, officers, employees, agents, subcontractors, and anyone directly or indirectly employed by the Indemnifying Party or any of its subcontractors or anyone that they control; or (b) any violation of applicable Law by the Indemnifying Party, in each case in connection with this Agreement. Upon the Indemnified Party's written request, the Indemnifying Party, at its own expense, must defend any suit or action that is subject to the Indemnifying Party's indemnity obligations.

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

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

the defense of a claim meriting indemnification, the Indemnified Party may at the expense of the Indemnifying Party contest, settle, or pay such claim, *provided* that settlement or full payment of any such claim may be made only following consent of the Indemnifying Party or, absent such consent, written opinion of the Indemnified Party's counsel that such claim is meritorious or warrants settlement. Notwithstanding the preceding sentence if the settlement consists solely of a monetary payment by the Indemnifying Party, such settlement shall not require the consent of the Indemnifying Party. Except as otherwise provided in this Article 16, in the event that a Party is obligated to indemnify and hold the other Party and its successors and assigns harmless under this Article 16, the amount owing to the Indemnified Party will be the amount of the Indemnified Party's damages net of any insurance proceeds received by the Indemnified Party following a reasonable effort by the Indemnified Party to obtain such insurance proceeds.

## **ARTICLE 17 INSURANCE**

### **17.1    Insurance.**

(a)    General Liability. Seller shall maintain, or cause to be maintained at its sole expense, (i) commercial general liability insurance against claims for personal injury (including bodily injury and death) and property damage with a limit of liability of One Million Dollars (\$1,000,000) per occurrence, and a general aggregate of not less than Two Million Dollars (\$2,000,000) for combined bodily injury and property damage; and (ii) an umbrella insurance policy in a minimum limit of liability of Five Million Dollars (\$5,000,000). The amounts of liability insurance described in this Article 17 may be satisfied by primary insurance or by any combination of primary and excess/umbrella insurance. Such insurance shall contain standard cross-liability and severability of interest provisions such that each person is protected in the same manner as though a separate policy has been issued to each but nothing therein shall operate to increase the insurance company's liability beyond the amount the insurance company would have been liable if only one Person or interest had been named as insured. The liability insurance policies referenced in this Article 17 shall (x) provide an endorsement waiving rights of subrogation against Buyer, (y) name Buyer as additional insured on all required liability insurance (except workers compensation), and (z) be primary to any insurance of Buyer that may apply to such occurrence, accident or claim and no "other insurance" provision shall be applicable to Buyer or any additional insureds, by virtue of having been named an additional insured under any policy of insurance.

(b)    Workers Compensation and Employer's Liability Insurance. Employers' Liability insurance shall not be less than One Million Dollars (\$1,000,000) providing statutory benefits as required by Law (if any exposure exists) for injury, sickness, disability or death of the employees.

(c)    Business Auto Liability Insurance. Seller shall maintain at all times during the Contract Term business auto insurance for bodily injury and property damage with limits of One Million Dollars (\$1,000,000) combined single limit. Such insurance shall cover liability arising out of Seller's use of all owned (if any), non-owned and hired motor vehicles in the performance of the Agreement.

(d) **Property Insurance.** Seller shall maintain or cause to be maintained property insurance covering the Facility against physical loss or damage, including coverage for natural perils including but not limited to flood, earthquake, windstorm, severe convective storm, and wildfire, all with limits in accordance with industry standard recognizing that natural perils may be subject to a lower sublimit. Coverage will be on an “all-risk” basis including mechanical and electrical breakdown.

(e) **Documentation.** Before commencing work under this Agreement, Seller’s broker or agent shall provide certificates of insurance verifying that at least the minimum insurance coverages required above are in effect with additional insured, waiver of subrogation and any other policy provisions or endorsements included, as applicable. Acceptance of the evidence of coverage by Buyer shall not relieve or decrease the extent to which Seller may be held responsible for payment of damages resulting from Seller’s services or operations pursuant to this Agreement, nor shall it be deemed a waiver of Buyer’s rights to insurance coverage hereunder. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Seller from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

## ARTICLE 18 CONFIDENTIAL INFORMATION

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

18.2 **Duty to Maintain Confidentiality.** Except as permitted in this Article 18, neither Party shall disclose Confidential Information to a third party, except upon the written consent of the Disclosing Party. Confidential Information will retain its character as Confidential Information but may be disclosed by the recipient (the “**Receiving Party**”) if and to the extent such disclosure is required (a) to be made by any requirements of Law, (b) pursuant to an order of a court or (c) in order to enforce or implement this Agreement. If the Receiving Party becomes legally compelled (by interrogatories, requests for information or documents, subpoenas, summons, civil investigative demands, or similar processes or otherwise in connection with any litigation or to comply with any applicable Law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange, control area or

independent system operator rule) to disclose any Confidential Information of the disclosing Party (the “**Disclosing Party**”), Receiving Party shall provide Disclosing Party with prompt notice so that Disclosing Party, at its sole expense, may seek an appropriate protective order or other appropriate remedy.

**18.3    Irreparable Injury; Remedies.** Receiving Party acknowledges that its obligations hereunder are necessary and reasonable in order to protect Disclosing Party and the business of Disclosing Party, and expressly acknowledges that monetary damages may be inadequate to compensate Disclosing Party for any breach or threatened breach by Receiving Party of any covenants and agreements set forth herein. Accordingly, Receiving Party acknowledges that any such breach or threatened breach may cause irreparable injury to Disclosing Party and that, in addition to any other remedies that may be available, in Law, in equity or otherwise, Disclosing Party will be entitled to seek injunctive relief against the threatened breach of this Agreement or the continuation of any such breach, without the necessity of proving actual damages.

**18.4    Permitted Disclosures.** Notwithstanding anything to the contrary in this Article 18, Confidential Information may be disclosed by either Party to such Party’s counsel, accountants, auditors, advisors, other professional consultants, credit rating agencies, Affiliates or actual or prospective owners, investors, lenders, directors, underwriters, contractors, suppliers or others involved in the construction, operation and financing transactions and arrangements for a Party or its affiliates, or any of its or their agents, consultants or trustees, so long as the Person to whom Confidential Information is disclosed agrees in writing to be bound by the confidentiality provisions of this Article 18 to the same extent as if it were a Party, or is bound by substantially similar confidentiality requirements.

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

## **ARTICLE 19 MISCELLANEOUS**

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

19.2 **Amendments**. Except as set forth in Section 4.9, this Agreement may only be amended, modified, or supplemented by an instrument in writing executed by duly authorized representatives of Seller and Buyer.

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

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

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

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

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

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

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

## **19.10 Change in Electric Market Design.**

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

(b) If the Point of Interconnection and/or any of the Transmission Systems utilized to deliver Product to the Delivery Point under this Agreement are (i) integrated into a new or existing regional transmission organization or independent system operator (other than the CAISO Balancing Authority), or (ii) leave a regional transmission organization or independent system operator, and such integration has a material and adverse impact on either Party's performance under this Agreement, including the costs of either Party to perform, then the affected Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to restore the balance of benefits, burdens, and obligations set forth in this Agreement as of the Effective Date. Upon delivery of such a request, Buyer and Seller shall engage in such negotiations in good faith; provided, that neither Party shall be obligated to amend this Agreement if such amendment(s) would materially adversely affect, or could reasonably be expected to have or result in a material adverse effect on, any of such Party's rights, benefits, risks and/or obligations under this Agreement.

*[Signatures on following page]*

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

**SunZia Wind PowerCo LLC**

By:\_\_\_\_\_

Name:

Title:

**Sacramento Municipal Utility District**

By:\_\_\_\_\_

Name:

Title:

## **EXHIBIT A** **FACILITY DESCRIPTION**

The Facility description provided herein reflects Seller's expectation for the Facility and the Site as of the Effective Date. Seller may, by Notice to Buyer no later than sixty (60) days after Seller's delivery of the final certificate stating the Installed Capacity, substantially in the form attached as Exhibit G hereto, modify the Site name and Site location within the counties set forth below. Except as otherwise provided in the Agreement, Seller shall not make any alteration or modification to the Facility which results in a change to the Guaranteed Capacity or the anticipated output of the Facility without Buyer's prior written consent; provided that Seller shall be permitted to repower the Facility after the tenth (10<sup>th</sup>) Contract Year so long as Seller continues to be obligated to deliver Guaranteed Energy Production and Capacity Attributes associated with the Guaranteed Capacity during such repower; upon any such repower that changes the Installed Capacity, Seller shall deliver an updated certificate in the form of Exhibit G.

**Site Name:** SunZia Wind North and SunZia Wind South

**Site Map:** Pattern to provide Site Map

**Site Location:** Lincoln, Torrance and San Miguel Counties, New Mexico

**Technology:** Utility Scale Wind Technology

**Guaranteed Capacity:** 150 MW

**Delivery Point:** CAISO scheduling point-intertie combination at PALOVRDE\_ASR-APND and PVWEST, or an Alternative Delivery Point as mutually agreed by the Parties

**Participating Transmission Owner:** SunZia Transmission, LLC

**EXHIBIT B**  
**FACILITY CONSTRUCTION AND COMMERCIAL OPERATION**

1. **Reserved.**
2. **Commercial Operation of the Facility.** “**Commercial Operation**” means the condition existing when (i) Seller has fulfilled all of the conditions in Section 2.3 of the Agreement and (ii) Seller has confirmed to Buyer in writing that Commercial Operation has been achieved.

The “**Commercial Operation Date**” shall be the date on which Commercial Operation is achieved.

- a. Seller shall use good faith efforts to cause Commercial Operation for the Facility to occur by the Guaranteed Commercial Operation Date. Seller shall notify Buyer at least thirty (30) days before the anticipated Commercial Operation Date. For the avoidance of doubt, Seller may continue to increase the Installed Capacity of the Facility after the Commercial Operation Date and will notify Buyer from time to time of such increases by delivering a certificate from a Licensed Professional Engineer substantially in the form attached as Exhibit G hereto; when the Installed Capacity is complete, Seller shall include a statement to that effect in a Notice accompanying the final such certificate.
- b. If Seller does not anticipate achieving Commercial Operation by the Guaranteed Commercial Operation Date, Seller may elect to extend the Guaranteed Commercial Operation Date by paying Delay Damages to Buyer for each day Seller desires to extend the Guaranteed Commercial Operation Date. If Seller elects to extend the Guaranteed Commercial Operation Date, on or before the date that is five (5) Business Days prior to the then-current Guaranteed Commercial Operation Date, Seller shall provide Notice and payment to Buyer of the Delay Damages for the number of days of extension to the Guaranteed Commercial Operation Date (“**Delay Damages Payment**”); *provided* such Delay Damages Payment may, at Seller’s option, be in the form of cash or an irrevocable, standby letter of credit issued by a U.S. commercial bank, or a foreign bank with a U.S. branch, with such bank having a Credit Rating of at least A- with an outlook designation of “stable” from S&P or A3 with an outlook designation of “stable” from Moody’s, which letter of credit Buyer may draw on to receive such Delay Damages Payment. If Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date as extended by the payment of the Delay Damages Payment, Buyer shall refund to Seller in cash the Delay Damages for each day Seller achieves Commercial Operation prior to the Guaranteed Commercial Operation Date, as extended, times the Delay Damages, not to exceed the total amount of the Delay Damages Payment paid by Seller pursuant to this Section 2(b). The Parties agree that Buyer’s receipt of Delay Damages shall not be construed as Buyer’s declaration that an Event of Default has occurred under any provision of Section 11.1.

3. **Termination for Failure to Achieve Commercial Operation.** If the Facility has not achieved Commercial Operation by the Outside Commercial Operation Date, either Party may elect to terminate this Agreement in accordance with Section 2.6.
4. **Extension of the Guaranteed Dates.** The Guaranteed Commercial Operation Date shall, subject to notice and documentation requirements set forth below, be automatically extended on a day-for-day basis (the “**Development Cure Period**”) for the following delays:
  - a. delays due to a Force Majeure Event;
  - b. delays caused by a Transmission Provider not caused by the Seller’s action or inaction;
  - c. delays in the completion of the Interconnection Facilities or the commercial operation date of the SunZia Transmission Line, in each case not caused by Seller’s action or inaction; or
  - d. delay due to a Buyer breach or default under this Agreement.

The cumulative extensions granted under clauses 4(a), 4(b) and 4(c) of the Development Cure Period shall not exceed [REDACTED] for any reason, including a Force Majeure Event. The extension granted under clause 4(d) of the Development Cure Period shall have no termination. Except to the extent Seller has paid Delay Damages, or due to a delay clause 4(d) of the Development Cure Period, no extension under the Development Cure Period, no extension shall be given if (i) the delay was the result of Seller’s failure to take all commercially reasonable actions to meet its requirements and deadlines, (ii) Seller failed to provide requested documentation as provided below, or (iii) Seller failed to provide Notice to Buyer as required in the next sentence. Seller shall provide prompt Notice to Buyer of a delay, but in no case more than thirty (30) days after Seller becomes aware of such delay, except that in the case of a delay occurring within sixty (60) days of the Guaranteed Commercial Operation Date, or after such date, Seller must provide Notice within five (5) Business Days of Seller becoming aware of such delay. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer’s reasonable satisfaction that the delays described above did not result from Seller’s actions or failure to take commercially reasonable actions.

5. **Failure to Reach Guaranteed Capacity.** If, at Commercial Operation, one hundred percent (100%) of the Guaranteed Capacity has not been completed and is not ready to produce and deliver Product to Buyer, Seller shall have one hundred eighty (180) days after the Commercial Operation Date to install additional capacity and/or network upgrades such that the Installed Capacity is equal to at least the Guaranteed Capacity. In the event that Seller fails to construct the Guaranteed Capacity by such date, Seller shall pay “**Capacity Damages**” to Buyer, in an amount equal to [REDACTED] for each MW that the Guaranteed Capacity exceeds the Installed Capacity and the Guaranteed Capacity and other applicable portions of the Agreement shall be adjusted accordingly.

**EXHIBIT C**  
**PROGRESS REPORTING FORM**

Each Progress Report must include the following items:

1. Executive summary.
2. Facility description.
3. Site plan of the Facility.
4. Description of any planned changes to the Facility or the site.
5. Schedule showing progress on achieving each of the Milestones.
6. Summary of activities during the previous calendar month/quarter.
7. Forecast of activities scheduled for the current calendar month/quarter.
8. Written description about the progress relative to Seller's Milestones, including whether Seller has met or is on target to meet the Milestones, and evidence of completion of Milestones, upon reasonable request from Buyer.
9. List of issues that could reasonably foreseeably affect Seller's Milestones.
10. A status report of start-up activities including a forecast of activities ongoing and after start-up, a report on Facility performance including performance projections for the next twelve (12) months.
11. Progress and schedule of all major agreements, contracts, permits, approvals, technical studies, financing agreements and major equipment purchase orders showing the start dates, completion dates, and completion percentages.
12. Pictures, in sufficient quantity and of appropriate detail, in order to document construction and startup progress of the Facility, the interconnection into the PTO's Transmission System and all other interconnection utility services.
13. Any other documentation, including copies of the Interconnection Agreement, transmission agreements and permits, as reasonably requested by Buyer, as such documentation may be redacted by Seller as necessary.

**EXHIBIT D**  
**FORM OF AVERAGE FORECAST OF ENERGY (MWh)**

	1:00	2:00	3:00	4:00	5:00	6:00	7:00	8:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	17:00	18:00	19:00	20:00	21:00	22:00	23:00	24:00	
JAN																									
FEB																									
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JUN																									
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SEP																									
OCT																									
NOV																									
DEC																									

The foregoing table (i) is provided for informational purposes only, and it shall not constitute, or be deemed to constitute, an obligation of any of the Parties to this Agreement, and (ii) reflects expected P50 delivered volumes taking into account estimated X% physical losses from the Facility to the Delivery Point.

## EXHIBIT E

### ENERGY REPLACEMENT DAMAGES CALCULATION

In accordance with Section 4.7, if Seller fails to achieve the Guaranteed Energy Production during any Performance Measurement Period, and Seller elects to not provide Replacement Product, a liquidated damages (“**Energy Replacement Damages**”) payment shall be due from Seller to Buyer, calculated as follows:

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

where:

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

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

C = Replacement price for the Performance Measurement Period, in \$/MWh, which is the sum of (a) the simple average of the LMP in the Day-Ahead Market at the Delivery Point for all of the hours in the Performance Measurement Period, plus (b) the simple average REC Price for the applicable Performance Measurement Period.

D = the Contract Price, in \$/MWh

E = the value of any Replacement Product provided retrospectively by Seller with respect to such Performance Measurement Period

**“Adjusted Energy Production”** shall mean the sum of the following: (i) the greater of (a) if Seller provided Replacement Product or paid Energy Replacement Damages during the prior Performance Measurement Period, seventy five percent (75%) of the Expected Energy for the first Contract Year of the current Performance Measurement Period or (b) the Delivered Energy plus Lost Output plus Deemed Delivered Energy in the first Contract Year of the current Performance Measurement Period, plus (ii) Delivered Energy plus Lost Output plus Deemed Delivered Energy in the second Contract Year of the current Performance Measurement Period.

**“Lost Output”** means the sum of electric energy in MWh that would have been generated and delivered, but was not, on account of Forced Facility Outage (not caused by Seller’s fault or negligence), Force Majeure Events, System Emergencies, Buyer’s failure to perform, and Curtailment Order. The additional MWh comprising Lost Output shall be calculated in the same manner as Deemed Delivered Energy.

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

Within sixty (60) days after each Contract Year, Buyer will send Seller Notice of the amount of damages owing, if any, which shall be payable to Buyer before the later of (a) thirty (30) days of such Notice and (b) ninety (90) days after each Contract Year.

**EXHIBIT F**  
**FORM OF COMMERCIAL OPERATION DATE CERTIFICATE**

This certification (“Certification”) of Commercial Operation is delivered by the undersigned, a licensed professional engineer and duly authorized representative of \_\_\_\_\_ in its capacity as independent engineer (“Engineer”) for purposes of this certification, to [\_\_\_\_] (“Buyer”), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase and Sale Agreement dated \_\_\_\_\_ (“Agreement”) by and between [Pattern Entity] (“Seller”) and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

Engineer hereby certifies and represents to Buyer the following:

- (1) Wind turbines with a nameplate capacity at least equal to 90% of the Guaranteed Capacity have been installed at the Facility.
- (2) Testing and commissioning of each wind turbine referred to in paragraph (1) above has been completed in accordance with the applicable turbine supply agreement and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.
- (3) Authorization to parallel the Facility was obtained by the Participating Transmission Owner on \_\_\_\_\_[DATE]\_\_\_\_\_.

EXECUTED on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Sincerely,

By: \_\_\_\_\_  
[NAME], P.E.  
[TITLE]  
New Mexico License No. [##]

**EXHIBIT G**  
**FORM OF INSTALLED CAPACITY CERTIFICATE**

This certification (“Certification”) of Installed Capacity is delivered by the undersigned, a licensed professional engineer and duly authorized representative of \_\_\_\_\_ in its capacity as independent engineer (“Engineer”) for purposes of this certification, to [\_\_\_\_] (“Buyer”), pursuant to the [agreement between Seller and Engineer] and in connection with that certain Renewable Power Purchase and Sale Agreement dated \_\_\_\_\_ (“Agreement”) by and between [Pattern Entity] (“Seller”) and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of the date set forth below, [\_\_\_\_] wind turbines with an aggregate nameplate capacity of [\_\_\_\_], which is the Installed Capacity as of the date hereof, have been installed at the Facility, and testing and commissioning of each such wind turbines has been completed in accordance with the turbine supply agreement and each such wind turbine has delivered electricity to the Point of Interconnection specified in the Interconnection Agreement.

EXECUTED on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_.

Sincerely,

By: \_\_\_\_\_

[NAME], P.E.

[TITLE]

New Mexico License No. [##]

Exp. [DATE]

## EXHIBIT H

### **FORM OF CONSENT TO COLLATERAL ASSIGNMENT (WIND PROJECT COMPANY & SUNZIA POWERCO)**

#### **CONSENT AND AGREEMENT ([\_\_\_\_\_])**

This **CONSENT AND AGREEMENT** (as amended, amended and restated, supplemented or otherwise modified from time to time, this “Consent and Agreement”), dated as of [\_\_\_\_], is made by and among [\_\_\_\_], a [\_\_\_\_] (together with its successors and permitted assigns, “Company”), **SUNZIA WIND POWERCO LLC**, a Delaware limited liability company (together with its successors and permitted assigns, “SunZia PowerCo”), **SUNZIA WIND NORTH LLC**, a Delaware limited liability company (together with its successors and permitted assigns, “SunZia North”) and **SUNZIA WIND SOUTH LLC**, a Delaware limited liability company (together with its successors and permitted assigns, “SunZia South” and, together with SunZia PowerCo and SunZia North, the “Assignors” and each, an “Assignor”)]<sup>1</sup>, [\_\_\_\_] in its capacity as collateral agent for the Construction Secured Parties (in each case used herein, as has the meaning given to “Secured Parties” in the below defined Construction Security Agreement) (together with its successors, designees and permitted assigns in such capacity, the “Construction Collateral Agent”), and [\_\_\_\_], in its separate capacity as collateral agent for the LCRA Secured Parties (in each case used herein, as has the meaning given to “Secured Parties” in the LCRA (as defined below) and, together with the Construction Secured Parties, the “Secured Parties”) (together with its successors, designees and permitted assigns in such capacity, the “LCRA Collateral Agent” and, together with the Construction Collateral Agent, the “Collateral Agents”)]<sup>2</sup>. Company, the Collateral Agents and the Assignors shall be referred to hereunder as the “Parties” and, individually, as a “Party”.

A. [(i) SunZia North is building an approximately 1,089 MW nameplate capacity wind generating facility located in central New Mexico (the “SunZia North Project”) and (ii) SunZia South is building an approximately 2,426 MW nameplate capacity wind generating facility located in central New Mexico (the “SunZia South Project” and, together with the SunZia North Project, the “Projects”)]<sup>3</sup>.

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<sup>1</sup> Include each applicable Assignor, which in the case of a power purchase agreement, transmission services agreement or interconnection agreement to which SunZia PowerCo is a party, shall be each of SunZia PowerCo, SunZia North and SunZia South.

<sup>2</sup> Include the LCRA Collateral Agent if the Assigned Agreement(s) extend beyond the LCRA’s Closing Date and either (i) SunZia South is a party to the Assigned Agreement or (ii) SunZia PowerCo is a party to the Assigned Agreement and the Assigned Agreement is a power purchase agreement, a transmission services agreement or an interconnection agreement.

<sup>3</sup> Include each applicable Project.

[\_\_\_\_] CONSENT

(SunZia)

B. Pursuant to that certain Financing Agreement, dated as of December 27, 2023 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Financing Agreement” and, together with the other Financing Documents (as defined in the Financing Agreement), the “Construction Secured Agreements”), by and among Sunzia Finco LLC, a Delaware limited liability company (“Borrower”), Assignors, the financial institutions from time to time party thereto as lenders (collectively, the “Financing Agreement Lenders”), [\_\_\_\_], as Administrative Agent (as defined in the Financing Agreement), and the other agents, guarantors and Persons party thereto, the Financing Agreement Lenders have agreed to extend financing to Borrower with respect to the development and construction of the Projects on the terms and subject to the conditions set forth in the Financing Agreement.

C. [SunZia South has entered into that certain Letter of Credit, Reimbursement and Loan Agreement, dated as of [\_\_\_\_\_] (as amended, amended and restated, supplemented or otherwise modified from time to time, the “LCRA”, and together with the other LC Documents (as defined therein), the “LCRA Secured Agreements”, and, together with the Construction Secured Agreements, the “Secured Agreements”), by and among SunZia South and SunZia Wind South Investments LLC, the financial institutions from time to time party thereto as letter of credit issuers and lenders, the LCRA Collateral Agent and[\_\_\_\_\_] , as administrative agent thereunder (the “LC Administrative Agent”).]<sup>4</sup>

D. [Company and SunZia PowerCo are parties to that certain [\_\_\_\_\_] , dated as of [\_\_\_\_\_] (as amended, amended and restated, supplemented or otherwise modified from time to time, the “SunZia PowerCo Assigned Agreement”, and together with any assignment of, or replacement for, such agreement that may be entered into in accordance with the terms of the Financing Agreement and the LCRA (as any such assignment or replacement agreement may be amended, amended and restated, supplemented or otherwise modified from time to time pursuant to the terms thereof and the terms of the Financing Agreement and the LCRA), collectively the “Assigned Agreements”)]<sup>5</sup>.

E. In connection with the Financing Agreement, the Assignors have entered into that certain Collateral Agency, Pledge and Security Agreement, dated as of [\_\_\_\_\_] (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Construction Security Agreement”), with the Construction Collateral Agent, the other grantors party thereto and the Administrative Agent, pursuant to which each Assignor has agreed, among other things, to assign as collateral security for its and its affiliates’ obligations under the Construction Secured Agreements, a first-priority security interest in all of its right, title and interest in, to and under the Assigned Agreements (the “Construction Assigned Interest”) to the Construction

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<sup>4</sup> Include the LCRA if the Assigned Agreement(s) extend beyond the LCRA’s Closing Date and either (i) SunZia South is a party to the Assigned Agreement or (ii) SunZia PowerCo is a party to the Assigned Agreement and the Assigned Agreement is a power purchase agreement, a transmission services agreement or an interconnection agreement.

[\_\_\_\_\_] CONSENT

(SunZia)

Collateral Agent for the benefit of the Construction Secured Parties, in each case on and subject to the terms and conditions therein.

F. [In connection with the LCRA, SunZia South has agreed to, on the Closing Date (as defined in the LCRA, which Closing Date shall not occur prior to the Construction Loan Discharge Date, as hereinafter defined), enter into a Pledge and Security Agreement with the LCRA Collateral Agent and the other grantors to be party thereto (as amended, amended and restated, supplemented or otherwise modified from time to time, the “LCRA Security Agreement” and, together with the Construction Security Agreements, the “Security Agreements”), pursuant to which SunZia South will, among other things, assign as collateral security for its and its affiliates’ obligations under the LCRA Secured Agreements, a first-priority security interest in all of its right, title and interest in, to and under the Assigned Agreements (the “LCRA Assigned Interest” and, together with the Construction Assigned Interests, the “Assigned Interests”), if any, to the LCRA Collateral Agent, for the benefit of the LCRA Secured Parties.]<sup>6</sup>

G. It is a requirement under the Secured Agreements that Company and the other Parties shall have executed this Consent and Agreement.

H. [SunZia Wind Holdings LLC, a Delaware limited liability company (the “Tax Equity Partnership”), is the indirect owner of the Assignors and has entered into that certain Equity Capital Contribution Agreement (the “ECCA”), dated as of [\_\_\_\_\_], by and among, the Tax Equity Partnership, SunZia B Member LLC, a Delaware limited liability company, Pattern Sunzia A Member LLC and any other Class A Equity Investors (as defined in the ECCA) from time to time party thereto (collectively, and together with Pattern Sunzia A Member LLC, the “ECCA Tax Equity Investors”).]

I. As of the date hereof, Sunzia Finco Holdings LLC, a Delaware limited liability company (“Sunzia Finco Holdings”), is the indirect owner of Tax Equity Partnership and has entered into that certain Financing Agreement, dated as of the date hereof, by and among Sunzia Finco Holdings, the lenders from time to time party thereto and [\_\_\_\_\_], as administrative agent thereunder (the “TE Administrative Agent”, and together with the [\_\_\_\_\_], the “Tax Equity Investors”) and the other persons party thereto.]<sup>7</sup>

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<sup>6</sup> Include the LCRA Security Agreement if the Assigned Agreement(s) extend beyond Term Conversion and either (i) SunZia South is a party to the Assigned Agreement or (ii) SunZia PowerCo is a party to the Assigned Agreement and the Assigned Agreement is a power purchase agreement, a transmission services agreement or an interconnection agreement.

<sup>7</sup> Include where tax equity investor are to receive an estoppel certificate.

[\_\_\_\_\_] CONSENT

(SunZia)

J. Capitalized terms used herein but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Assigned Agreements.

NOW THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Consent to Assignment.

(a) Company hereby irrevocably acknowledges and consents to:

i. Prior to the Construction Loan Discharge Date (A) the assignment of the Construction Assigned Interest by the Assignors to the Construction Collateral Agent as collateral security for any and all Obligations (as defined in the Financing Agreement) of the Assignors and their affiliates under the Construction Secured Agreements whether now existing or arising after the date of this Consent and Agreement, including, without limitation, the obligation of the Assignors to promptly repay in accordance with the Construction Secured Agreements any indebtedness, liabilities and other obligations of the Assignors to the Construction Collateral Agent and the other Construction Secured Parties under the applicable Construction Secured Agreements (such obligations, collectively, the "Construction Secured Obligations") and the grant of a security interest in all of their respective property to the Construction Collateral Agent for the benefit of the Construction Secured Parties (including, without limitation, the Assigned Agreements) as and to the extent provided in the Construction Security Agreement, (B) subject to Section 1(c), any subsequent assignments by the Construction Collateral Agent following the occurrence and during the continuation of an Assignors' Default (as defined below) and (C) the exercise by the Construction Collateral Agent of its rights and the enforcement of its remedies under the Construction Secured Agreements, at law, in equity, or otherwise.

ii. [On and following the Construction Loan Discharge Date (A) the assignment of the LCRA Assigned Interest by SunZia South to the LCRA Collateral Agent as collateral security for any and all Obligations (as defined in the LCRA) of SunZia South and its affiliates under the LCRA Secured Agreements, whether now existing or arising after the date of this Consent and Agreement, including, without limitation, the obligation of SunZia South to promptly repay in accordance with the LCRA Secured Agreements any indebtedness, liabilities and other obligations of SunZia South to the LCRA Collateral Agent and the other LCRA Secured Parties under the applicable LCRA Secured Agreements (such obligations, collectively, the "LCRA Secured Obligations") and to grant a security interest in all of its property to the LCRA Collateral Agent for the benefit of the LCRA Secured Parties (including, without

[ ] CONSENT

(SunZia)

limitation, to the extent SunZia South is a party thereto, the Assigned Agreements) as and to the extent provided in the LCRA Security Agreement, (B) subject to Section 1(c), any subsequent assignments by the LCRA Collateral Agent following the occurrence and during the continuation of an Assignors' Default, and (C) the exercise by the LCRA Collateral Agent of its rights and the enforcement of its remedies under the LCRA Secured Agreements, at law, in equity, or otherwise.]<sup>8</sup>

(b) Except as otherwise provided herein, each Assignor agrees that it shall remain liable to Company for all obligations of such Assignor under the Assigned Agreement to which it is party. Company hereby agrees that, except as otherwise provided herein, (i) it shall look only to such Assignor for the performance of such obligations and (ii) it shall be and remain obligated to such Assignor to perform all of its obligations and agreements under the applicable Assigned Agreement.

(c) Company acknowledges hereby the right of (i) (A) prior to the Construction Loan Discharge Date, the Construction Collateral Agent, upon the occurrence and during the continuation of an Event of Default (as defined in the Financing Agreement)[, and (B) on and following the Construction Loan Discharge Date, the LCRA Collateral Agent, upon the occurrence and during the continuation of an Event of Default (as defined in the LCRA)]<sup>9</sup> or (ii) (A) prior to the Construction Loan Discharge Date, the Construction Collateral Agent[ and (B) on and following the Construction Loan Discharge Date, the LCRA Collateral Agent, in each case of clauses (ii)(A) and (B)]<sup>10</sup> upon the occurrence or non-occurrence of any event or condition under any Assigned Agreement that would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable Company to cancel, terminate or suspend such Assigned Agreement (each of clauses (i) and (ii) above, an "Assignors' Default"), to exercise and enforce all of the Assignors' rights and remedies under the Assigned Agreements, in accordance with the terms of the Assigned Agreements. Subject to the foregoing, upon the occurrence and during the continuation of an Assignors' Default and subject to the terms of the applicable Security Agreement, (x) prior to the Construction Loan Discharge Date, the Construction Collateral Agent may assign all of the Assignors' right, title and interest in, to and under the Assigned Agreements to any assignee or designee that becomes the owner of the Projects and agrees to be bound by the obligations of the Assignors under the Assigned Agreements[, and (y) on and following the Construction Loan Discharge Date, the LCRA Collateral Agent may assign all of SunZia South's right, title and interest in, to and under the

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<sup>8</sup> Include this LCRA Secured Obligations section if the Assigned Agreement(s) extend beyond the LCRA's Closing Date and either (i) SunZia South is a party to the Assigned Agreement or (ii) SunZia PowerCo is a party to the Assigned Agreement and the Assigned Agreement is a power purchase agreement, a transmission services agreement or an interconnection agreement.

<sup>9</sup> Include as applicable.

<sup>10</sup> Include as applicable.

[ ] CONSENT

(SunZia)

applicable Assigned Agreements to any assignee or designee that becomes the owner of the SunZia South Project and agrees to be bound by the obligations of such Assignor under such Assigned Agreements]<sup>11</sup>.

(d) Company acknowledges and agrees, notwithstanding anything to the contrary contained in the Assigned Agreements, that none of the following shall constitute, in and of itself, a default by the Assignors under the Assigned Agreements or shall result in a termination thereof following the occurrence and during the continuation of an Assignors' Default, but subject to the terms and conditions of this Consent and Agreement: (i) the assignment of the Assigned Agreements pursuant to this Consent and Agreement and the other Secured Agreements; (ii) the development, construction, ownership and management of any of the Projects by any of the Collateral Agents, as applicable, or by its designee, as applicable; (iii) foreclosure or the enforcement of any other remedies under the Secured Agreements by the Collateral Agents, as applicable; (iv) acquisition of the rights of the Assignors under the Assigned Agreements in foreclosure by the Collateral Agents, as applicable, or any third party (or acceptance of an absolute assignment of the Assigned Agreements in lieu of foreclosure); or (v) assignment of the Assigned Agreements by the Collateral Agents, as applicable, following a purchase in foreclosure or following an absolute assignment thereof in lieu of foreclosure.

(e) Except, in each case, if Assignor certifies that such action is permitted under the Financing Agreement (prior to the Construction Loan Discharge Date) or LCRA (after the Construction Loan Discharge Date), Company agrees not to (i) cancel or terminate the Assigned Agreements or suspend performance thereunder, except (A) as provided in *[Insert Applicable Section or Article]* of the Assigned Agreements and, in each case, in accordance with Section 3(e) of this Consent and Agreement, (B) by operation of law, or (C) (x) prior to the Construction Loan Discharge Date, with the prior written consent of the Construction Collateral Agent[, or (y) on and following the Construction Loan Discharge Date, with the prior written consent of the LCRA Collateral Agent]<sup>12</sup>; (ii) except as provided in *[Insert Applicable Section or Article]* of the Assigned Agreements, consent to or accept any cancellation or termination thereof by the Assignors to the extent any such action is dependent on Company's consent or acceptance under the applicable Assigned Agreement (and Company shall be entitled to treat the Assigned Agreements as not having been canceled or terminated by Assignors unless and until the applicable Collateral Agent has delivered to Company written consent to such cancellation or termination); or (iii) sell, assign or otherwise dispose (by operation of law or otherwise) of any part of its right, title or interest in any Assigned Agreement, except as permitted by the applicable Assigned Agreement, in each case without the prior written consent of the applicable Collateral Agent.

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<sup>11</sup> Include as applicable.

<sup>12</sup> Include as applicable.

[ ] CONSENT

(SunZia)

2. Representations and Warranties. Company hereby represents and warrants to the Collateral Agents (for the benefit of the Secured Parties) and the Assignors, as of the date hereof, that:

(a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and in all other jurisdictions where failure to be in good standing could materially adversely affect the ability of it to perform its obligations under this Consent and Agreement and the Assigned Agreements and has all requisite organizational power and authority to conduct its business, to own its property, and to execute and deliver, and to perform its obligations under, this Consent and Agreement and the Assigned Agreements.

(b) The execution, delivery and performance by Company of this Consent and Agreement and the Assigned Agreements have been duly authorized by all necessary [limited liability company][corporate] action on the part of Company, and do not and will not (i) require any consent or approval by Company or any other Person which has not been obtained, (ii) violate any provision of Company's organizational documents or any law, rule, regulation, order, writ, judgment, injunction, decree, determination or award having applicability to Company, this Consent and Agreement or the Assigned Agreements, (iii) result in a breach of or constitute a default under any material agreement, lease or instrument to which Company is a party or by which it or its property may be bound or affected, or (iv) result in, or require, the creation or imposition of any lien upon or with respect to the Assigned Agreements or any of Company's property related thereto now owned or hereafter acquired by Company.

(c) Each of this Consent and Agreement and each Assigned Agreement is in full force and effect and is a legal, valid and binding obligation of Company, enforceable against it in accordance with its terms, except as limited by bankruptcy, insolvency or other similar laws affecting the enforcement of a party's rights generally and by general principles of equity.

(d) There is no pending or, to the best knowledge of Company, threatened action or proceeding affecting Company before any Governmental Authority or arbitrator, which, if adversely determined, could reasonably be expected to materially adversely affect the ability of Company to perform its obligations under, or which purports to affect the legality, validity or enforceability of, this Consent and Agreement or the Assigned Agreements.

(e) After giving effect to the assignment by the Assignors of the Assigned Agreements to the Construction Collateral Agent as collateral security for all Construction Secured Obligations of the Assignors under the Construction Secured Agreements, and after giving effect to the acknowledgment of and consent to such assignment by Company as provided by this Consent and Agreement, Company has no

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actual knowledge of the existence of any default by any of the Assignors under any material covenant or obligation under the Assigned Agreements or the existence of any event or condition which, with the giving of notice or lapse of time or both, would constitute such a default by any of the Assignors under the Assigned Agreements. As of the date hereof, Company has no actual knowledge of any event, act, circumstance or condition that could constitute a breach or default of any of the Assignors under the Assigned Agreements. As of the date hereof, none of the Assignors owes any payments that are due and payable to Company under the Assigned Agreements.

(f) (i) Company has duly performed and complied in all material respects with all covenants, agreements and conditions contained in the Assigned Agreements and this Consent and Agreement required to be performed or complied with by it on or before the date hereof, (ii) each Assigned Agreement, as of the date hereof, is in full force and effect and has not been amended[, except as set forth in Schedule 1 hereto]<sup>13</sup>, and (iii) no rights of the Assignors under the Assigned Agreements have been waived.

3. Consent and Agreement. Company hereby agrees that as long as the Secured Agreements remain in effect:

(a) (i) Prior to the Construction Loan Discharge Date, the Construction Collateral Agent and any designee or assignee of the Construction Collateral Agent[, and (ii) on or following the Construction Loan Discharge Date, the LCRA Collateral Agent and any designee of the LCRA Collateral Agent]<sup>14</sup>, shall be entitled, upon the occurrence and during the continuance of an Assignors' Default, to exercise and enforce any and all rights of the applicable Assignors under the applicable Assigned Agreements in accordance with the terms of such Assigned Agreements, including, to demand, collect and receive payments due to such Assignors from Company and to demand and enforce the performance of Company of its covenants and obligations in accordance with and subject to such Assigned Agreements, and Company shall comply as required by the terms of such Assigned Agreements with such exercise or enforcement. Upon the occurrence and during the continuation of an Assignors' Default, (A) prior to the Construction Loan Discharge Date, the Construction Collateral Agent or any designee or assignee of the Construction Collateral Agent[, and (B) on or following the Construction Loan Discharge Date, the LCRA Collateral Agent and any designee or assignee of the LCRA Collateral Agent]<sup>15</sup>, shall provide written notice to Company in the event the applicable Collateral Agent or such designee or assignee elects to exercise and enforce the rights of the applicable Assignors under the applicable Assigned Agreements, and Company shall take instructions only from the applicable Collateral Agent or such designee or assignee (which has become the owner of all of the rights the applicable Assignors have in the Projects or applicable Project, as applicable, and has assumed all of

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<sup>13</sup> This footnote and the corresponding Schedule 1 are to be included if applicable.

<sup>14</sup> Include as applicable.

<sup>15</sup> Include as applicable.

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such Assignors' obligations under such Assigned Agreements) providing such notice (and not from such Assignors) in connection with the performance of such Assigned Agreements, unless otherwise requested by such Collateral Agent or such designee or assignee. Company may rely fully on any such notice and shall have no obligation to verify the existence or continuance of an Assignors' Default specified in any such notice. Without limiting the generality of the foregoing, the Collateral Agents and any such designee or assignee of the Collateral Agents shall, during the period applicable to such Collateral Agent and any of its designees and assigns, have the full right and power to enforce directly against Company all obligations of Company under the applicable Assigned Agreements and otherwise to exercise all remedies thereunder and to make all demands and give all notices and make all requests required or permitted to be made by the applicable Assignors under such Assigned Agreements.

(b) A foreclosure or other exercise of remedies under the Secured Agreements or any sale thereunder by the Collateral Agents or any designee or assignee of the Collateral Agents, whether by judicial proceedings or under any power of sale contained therein, or any conveyance from the Assignors to the Collateral Agents or any designee or assignee of the Collateral Agents, in lieu thereof, shall not in any event require the consent of Company.

(c) Company acknowledges and agrees that, until a Collateral Agent or its successor(s), assignee(s) and/or designee(s) has expressly assumed all rights and obligations of the applicable Assignors pursuant to the notice set forth in Section 3(a) above, none of the Collateral Agents or any Secured Party (nor any successor(s), permitted assignee(s), designee(s) or other representative of the Collateral Agents or any Secured Party) shall have any liability or obligation under the Assigned Agreements as a result of exercising its rights under the applicable Secured Agreements, and none of the Collateral Agents or any Secured Party (nor any successor(s), assignee(s), designee(s) or other representative of the Collateral Agents or any Secured Party) shall be obligated or required to perform any of the Assignors' obligations under the Assigned Agreements or to take any action to collect or enforce any claim for payment assigned under any document executed in connection with the applicable Secured Agreements. Company acknowledges that, if a Collateral Agent or its successor(s), assignee(s) or designee(s) has expressly assumed all rights and obligations of the applicable Assignors pursuant to Section 3(a), or become party to or beneficiary of a New Assigned Agreement pursuant to Section 3(d), (i) the obligations of such Collateral Agent or its successor(s), assignee(s) or designee(s) shall be no more than that of the applicable Assignors under the applicable Assigned Agreements, (ii) such Collateral Agent, its successor(s), assignee(s) or designee(s) shall have no personal liability to Company under the Assigned Agreements or such New Assigned Agreement and (iii) the sole recourse of Company in seeking enforcement of such obligations shall be to the interest of such Collateral Agent or its successor(s), assignee(s) or designee(s) in the Projects or applicable Project, as applicable.

[ ] CONSENT

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(d) In the event that (i) an Assigned Agreement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding involving the Assignors or (ii) an Assigned Agreement is terminated as a result of any bankruptcy or insolvency proceeding involving the Assignors, and if after such rejection or termination, (A) prior to the Construction Loan Discharge Date, the Construction Collateral Agent[, or (B) on or following the Construction Loan Discharge Date, the LCRA Collateral Agent]<sup>16</sup>, or, in each case, any designee of such Collateral Agent that has become the owner of the rights of the applicable Assignors in the Projects or applicable Project, as applicable, shall so request and shall certify in writing to Company, not more than sixty (60) days after the date when such rejection or termination, as applicable, occurs, that it will perform the obligations of the applicable Assignors as and to the extent required under the applicable Assigned Agreements, Company and such Collateral Agent or such designee shall execute and deliver to one another a new agreement(s) (a “New Assigned Agreement”), pursuant to which New Assigned Agreement, Company shall agree to perform the remaining obligations contemplated to be performed by Company under the applicable original Assigned Agreements, and the applicable Collateral Agent or such designee shall agree to perform the remaining obligations contemplated to be performed by such Assignors under such original Assigned Agreements, and which shall be for the balance of the remaining term under such original Assigned Agreements before giving effect to such rejection or termination and shall contain the same conditions, agreements, terms, provisions and limitations as such original Assigned Agreements (except for any requirements which have been fulfilled by such Assignors or Company prior to such rejection or termination).

(e) In the event of a default or breach by an Assignor in the performance of any of its obligations under the applicable Assigned Agreement, or upon the occurrence or non-occurrence of any event or condition under such Assigned Agreement which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable Company to cancel, suspend or terminate such Assigned Agreement (hereinafter, a “Default”), Company shall not cancel, suspend or terminate such Assigned Agreement or its performance thereunder until it first gives written notice of such Default to (i) prior to the Construction Loan Discharge Date, the Construction Collateral Agent, [or (ii) on or following the Construction Loan Discharge Date, the LCRA Collateral Agent]<sup>17</sup> and affords such Collateral Agent (A) a period of thirty (30) days from the later to occur of (I) receipt of such notice and (II) the expiration of the cure period provided to such Assignor under such Assigned Agreement to cure such Default, if such Default is the failure to pay amounts to Company which are due and payable under such Assigned Agreement or (B) with respect to any other Default (which is not a Non-Curable Default, as defined below), a reasonable opportunity, but no fewer than sixty (60) days, as may be extended by force majeure, from the later to occur of (I)

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<sup>16</sup> Include as applicable.

<sup>17</sup> Include as applicable.

[ ] CONSENT

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receipt of such written notice to cure such Default and (II) the expiration of the cure period provided to the Assignor under such Assigned Agreement, to cure such non-payment Default (provided that during such cure period such Collateral Agent or such Assignor, as applicable, continues to perform each of such Assignor's other obligations under such Assigned Agreement). Notwithstanding anything to the contrary herein, if the Default is peculiar to an Assignor and not curable by the Collateral Agent (each, a "Non-Curable Default"), such as the insolvency, bankruptcy, general assignment for the benefit of the creditors, or appointment of a receiver, trustee, custodian or liquidator of an Assignor or its properties, then, notwithstanding any right that Company may have to terminate the applicable Assigned Agreement, the Collateral Agent, in accordance with the applicable Secured Agreements, shall be entitled to assume the rights and obligations of such Assignor under the applicable Assigned Agreement within the cure period provided in Section 3(e)(ii) above plus an additional ninety (90) days, and provided such assumption has occurred within such aggregate period, Company shall not be entitled to terminate the applicable Assigned Agreement as a result of such Default. If the applicable Collateral Agent or its successor(s), assignee(s), or designee(s) is prohibited by any court order, stay or injunction, or bankruptcy or insolvency proceedings of the applicable Assignor from curing the Default or from commencing or prosecuting such proceedings, then the foregoing time periods shall be extended by the period of such prohibition.

4. Arrangements Regarding Payments.

(a) All payments to be made by Company to the Assignors under the Assigned Agreements shall be made in U.S. dollars and in immediately available funds, directly to (i) until payment in full of the Obligations (as defined in the Financing Agreement) and the Construction Collateral Agent's release of collateral therefor (the "Construction Loan Discharge Date") (upon the occurrence of the Construction Loan Discharge Date, Assignors shall give written notice to Company thereof), [\_\_\_\_\_], as Depository Bank (as defined in the Financing Agreement) for the benefit of the Construction Collateral Agent, acting for the benefit of the Construction Secured Parties, for deposit with [\_\_\_\_\_], or such other account, as designated by the Construction Collateral Agent in writing from time to time[ and (ii) from and after the occurrence of the Construction Loan Discharge Date, with respect to SunZia South's rights and obligations under the Assigned Agreements to the extent SunZia South is party thereto, Company agrees to make all payments (if any) to be made by it to SunZia South under such Assigned Agreement directly to the account designated by the LCRA Collateral Agent pursuant to a written notice delivered to Company by the LCRA Collateral Agent on or after the Construction Loan Discharge Date]<sup>18</sup>.

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<sup>18</sup> Include as applicable.

[\_\_\_\_\_] CONSENT

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(b) Notwithstanding the foregoing, (i) if any Collateral Agent shall notify Company in writing that an Assignors' Default has occurred and is continuing, Company shall make all payments to be made to the applicable Assignors by it under the applicable Assigned Agreements directly to such Collateral Agent to an account to be designated by such Collateral Agent in such written notice, and (ii) if any Person has assumed the Assigned Agreements pursuant to Section 1(c), then Company shall make all payments to be made by it to the applicable Assignors under the applicable Assigned Agreements directly to such Person. The Assignors instruct Company hereby, and Company accepts such instructions, to make all payments due and payable to the Assignors under the Assigned Agreements as set forth in the immediately preceding sentence.

5. Miscellaneous.

(a) This Consent and Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns and shall also inure to the benefit of the Secured Parties and their respective successors and permitted assigns[, and shall also benefit the Tax Equity Investors (solely with respect to Section 5(l))]<sup>19</sup>.

(b) No amendment or waiver of any provision of this Consent and Agreement or consent to any departure by Company from any provision of this Consent and Agreement shall in any event be effective unless the same shall be in writing and signed by the Construction Collateral Agent [(prior to the Construction Loan Discharge Date), the LCRA Collateral Agent]<sup>20</sup>, applicable Assignors and Company (if applicable); provided that, subject to Section 5(j)(i), all rights and obligations of the Construction Collateral Agent and the other Construction Secured Parties hereunder shall automatically terminate upon the Construction Loan Discharge Date without the requirement for any such writing; [provided, further, that, subject to Section 5(j)(i) and (iv), all rights and obligations of the LCRA Collateral Agent and each other LCRA Secured Party hereunder shall automatically terminate upon the occurrence of the Discharge Date (as defined in the LCRA) (the "LCRA Termination Date"), which upon occurrence thereof, the Assignors shall give written notice to Company thereof; provided, further, that, subject to Section 5(j)(i), all rights and obligations of (i) SunZia PowerCo hereunder shall terminate on the earlier of (A) the date the assignment of the SunZia PowerCo Assigned Agreement from SunZia PowerCo to SunZia South and/or SunZia North is completed and (B) the Construction Loan Discharge Date and (ii) SunZia North hereunder shall terminate on the Construction Loan Discharge Date, in each case without the requirement for any such writing[; provided, finally, that all rights of the Tax Equity

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<sup>19</sup> Include where tax equity investors are to receive an estoppel certificate.

<sup>20</sup> Include as applicable.

[ ] CONSENT

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Investors hereunder shall terminate upon the delivery of the estoppel certificate pursuant to Section 5(l)]<sup>21</sup>.] <sup>22</sup>

**(c) THIS CONSENT AND AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. COMPANY, THE ASSIGNORS AND THE COLLATERAL AGENTS HEREBY SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND OF ANY NEW YORK STATE COURT SITTING IN NEW YORK CITY FOR THE PURPOSES OF ALL LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS CONSENT AND AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH OF COMPANY, THE ASSIGNORS AND THE COLLATERAL AGENTS IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION WHICH IT MAY NOW OR HERAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT AND ANY CLAIM THAT ANY SUCH PROCEEDING BROUGHT IN SUCH A COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.**

**(d) EACH OF COMPANY, THE ASSIGNORS AND THE COLLATERAL AGENTS HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS CONSENT AND AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

**(e) NO CLAIM MAY BE MADE BY ANY PARTY HERETO AGAINST ANY OTHER PARTY HERETO, OR THE AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES, ATTORNEYS OR AGENTS OF ANY OF THEM, FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES IN RESPECT OF ANY CLAIM FOR BREACH OF CONTRACT OR ANY OTHER THEORY OF LIABILITY ARISING OUT OF OR RELATING TO, OR ANY ACT, OMISSION OR EVENT OCCURRING IN CONNECTION WITH THIS CONSENT AND AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS CONSENT AND AGREEMENT, AND EACH PARTY HEREBY WAIVES, RELEASES AND AGREES NOT TO SUE UPON ANY CLAIM FOR ANY SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.**

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<sup>21</sup> Include where tax equity investors are to receive an estoppel certificate.

<sup>22</sup> Include as applicable.

[ ] CONSENT

(SunZia)

(f) This Consent and Agreement may be executed in one or more counterparts with the same effect as if such signatures were upon the same instrument.

(g) No failure on the part of any of the Collateral Agents, as applicable, to exercise, and no delay in exercising, any right under this Consent and Agreement shall operate as a waiver of such right nor shall any single or partial exercise of any right under this Consent and Agreement preclude any further exercise of such right or the exercise of any other right. Except to the extent inconsistent with the terms hereof, the rights, remedies, powers and privileges provided in this Consent and Agreement are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.

(h) All notices to be given under this Consent and Agreement shall be in writing and shall be (i) delivered personally, (ii) sent by certified or registered first-class mail, postage prepaid, return receipt requested, (iii) sent by a recognized courier service, with delivery receipt requested, or (iv) sent by facsimile transmission or other transmission by electronic means to the intended recipient at its address as set forth below, unless the recipient has given notice of another address for receipt of notices. All notices sent hereunder shall be deemed to have been given when transmitted by facsimile (with confirmation of receipt) or personally delivered or in the case of a notice mailed or sent by courier, upon receipt, at the address provided for herein. Any notice or other communication delivered by e-mail to a Collateral Agent must include and be contained in a scanned or imaged attachment (such as ".pdf" or similar widely used format).

If to Company:

[]  
[]  
[]

Attn: []

Tel: []

Fax: []

Email: []

If to Construction  
Collateral Agent:

[]  
as Construction Collateral Agent

If to LCRA Collateral  
Agent:

[]  
as LCRA Collateral Agent

[] CONSENT

(SunZia)

If to Assignors:

[SunZia Wind North LLC  
SunZia Wind South LLC  
SunZia Wind PowerCo LLC]<sup>23</sup>  
c/o Pattern Energy Group LP  
1088 Sansome Street  
San Francisco, CA 94111  
Email:

(i) Delivery of a copy of this Consent and Agreement bearing an original signature by facsimile transmission, by electronic mail in “portable document format” (“.pdf”) form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by a combination of such means, shall have the same effect as physical delivery of the paper document bearing the original signature. “Originally signed” or “original signature” means or refers to a signature that has not been mechanically or electronically reproduced.

(j) This Consent and Agreement shall terminate, with respect to each Assigned Agreement, on the earlier to occur of (i) the date on which the Assigned Agreement terminates in accordance with its terms (and is not replaced by a New Assigned Agreement), (ii) with respect to the Construction Collateral Agent and the Construction Secured Parties, the Construction Loan Discharge Date[, (iii) with respect to the LCRA Collateral Agent and the LCRA Secured Parties, the LCRA Termination Date, and (iv) with respect to any Assigned Agreement to which SunZia South is not a party on the Closing Date (as defined in the LCRA), on the Construction Loan Discharge Date]<sup>24</sup>.

(k) Any entity into which any Collateral Agent may be merged or converted or with which it may be consolidated, or any entity resulting from any merger, conversion or consolidation to which any Collateral Agent shall be a party, or any entity to which all or substantially all of the corporate trust business of any Collateral Agent may be sold or otherwise transferred shall be the successor applicable Collateral Agent hereunder without any further act. In the performance of its obligations hereunder, (i) the Construction Collateral Agent shall be entitled to all of the rights, benefits, protections, indemnities and immunities afforded to it pursuant to the Construction Secured Agreements, and (ii) the LCRA Collateral Agent shall be entitled to all of the rights, benefits, protections, indemnities and immunities afforded to it pursuant to the applicable LCRA Secured Agreements, and shall exercise all rights and remedies hereunder and provide any consents, directions, approvals, acceptances, determinations, rejections or other similar actions pursuant to this Consent and Agreement in accordance with

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<sup>24</sup> Include as applicable.

[ ] CONSENT

(SunZia)

directions received from the applicable Secured Parties, and shall have no liability for taking any such actions or failing to take any such actions in accordance with such directions (and shall not be liable for any failure or delay in taking such actions resulting from any failure or delay by such Secured Parties in providing such directions).

(l) [Company agrees to deliver to the LC Administrative Agent and the Tax Equity Investors a customary estoppel certificate, substantially in the form of Annex 1, in connection with the initial funding by the Tax Equity Investors, and in connection with the achievement of commercial operation of the Projects following receipt of a written request therefor from Borrower or any Assignor.]<sup>25</sup>

(m) As between the Assignors and the Collateral Agents, in the event of any conflict between the provisions set forth in this Consent and Agreement and those set forth in any Secured Agreement, the provisions of the applicable Secured Agreement shall govern.

(n) Each Party hereby acknowledges and agrees that the Secured Parties are intended third party beneficiaries of this Consent and Agreement.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGES FOLLOW.]**

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<sup>25</sup> Include where tax equity investors are to receive an estoppel certificate.

[ ] CONSENT

(SunZia)

**IN WITNESS WHEREOF**, each of the Parties has caused this Consent and Agreement to be duly executed and delivered by its respective authorized officer as of the date first written above.

[\_\_\_\_\_],  
a [\_\_\_\_\_]

By: \_\_\_\_\_

Name:

Title:

SIGNATURE PAGE TO [\_\_\_\_\_] CONSENT

Exhibit H-17

(SunZia)

84ET-387782

**[SUNZIA WIND NORTH LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:

**SUNZIA WIND SOUTH LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:

**SUNZIA WIND POWERCO LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title: <sup>26</sup>

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<sup>26</sup> Include as applicable.

[ ]  
as Construction Collateral Agent for the  
Construction Secured Parties

By: \_\_\_\_\_  
Name:  
Title:

SIGNATURE PAGE TO [ ] CONSENT

Exhibit H-19

84ET-387782

[ ]  
as LCRA Collateral Agent for the LCRA Secured  
Parties

By: \_\_\_\_\_  
Name:  
Title:]

SIGNATURE PAGE TO [ ] CONSENT

Exhibit H-20

84ET-387782

## **Annex 1**

### **FORM OF PPA ESTOPPEL CERTIFICATE**

[Insert Date]<sup>27</sup>

Reference is made to that certain Renewable Power Purchase and Sale Agreement, dated as of [\_\_\_\_], 2024 (as amended, amended and restated, supplemented or otherwise modified from time to time, the “PPA”), by and between Sacramento Municipal Utility District (together with its successors and permitted assigns, “Buyer”), and SunZia Wind PowerCo LLC (“Seller”). Terms used herein but not defined herein have the same meanings as in the PPA.

Buyer hereby confirms and agrees as of the date hereof as follows:

1. The copy of the PPA, as amended, attached hereto as Exhibit A, constitutes a true and complete copy of the PPA.

2. The PPA is in full force and effect and[, subject to the rights of the Collateral Agent pursuant to that certain Consent and Agreement, dated as of [\_\_\_\_], 20[\_\_\_\_] (the “Consent and Agreement”)], has not been modified or amended in any way since [\_\_\_\_], 20[\_\_\_\_], and constitutes the only agreement between Buyer and Seller[, other than the Consent and Agreement].

3. Buyer has not transferred or assigned its interest in the PPA.

4. Buyer is not in default under the PPA, nor has Buyer breached any of its representations, warranties, agreements or covenants under the PPA and, to Buyer’s knowledge, no facts or circumstances exist which, with the passage of time or the giving of notice nor both, would constitute a default or breach by Buyer under the PPA or would give Seller the right to terminate the PPA. To Buyer’s actual knowledge, Seller is not in default under the PPA nor, to Buyer’s actual knowledge, has Seller breached any of its representations, warranties, agreements or covenants under the PPA and, to Buyer’s knowledge, no facts or circumstances exist which, with the passage of time or the giving of notice nor both, would constitute a default or breach by Seller under the PPA or would allow Buyer to terminate the PPA.

5. All representations made by Buyer in the PPA were true and correct as of the effective date of the PPA and continue to be true and correct as of the date hereof.

6. To Buyer’s knowledge, no event, act, circumstance, or condition constituting a Force Majeure Event with respect to Buyer as claiming party has occurred and is continuing, and Buyer has not received written notice from Seller of a Force Majeure Event with respect to Seller as claiming party.

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<sup>27</sup> To be delivered to (i) the tax equity investors, (ii) the administrative agents for the tax-equity term loan, the wind backleverage loan and the operational letter-of-credit facility, (iii) the tax-equity partnership, and (iv) the class B members in the tax-equity partnership, in connection with the achievement of Commercial Operation of the Project(s) and funding by the tax equity investors, the tax-equity term lenders and wind backleverage lenders, following receipt of a written request therefor from Seller.

7. Seller has not claimed any amounts under the indemnification obligation of Buyer set forth in the PPA.

8. To Buyer's actual knowledge, Buyer has no existing counterclaims, offsets, or defenses against Seller under the PPA. Buyer has no present actual knowledge of any facts entitling Buyer to any material claim, counterclaim or offset against Seller in respect of the PPA.

9. All payments due, if any, under the PPA, by Buyer have been paid in full through the period ending on the date hereof.

10. The Commercial Operation Date of the Project(s) occurred on [\_\_\_\_], 20[\_\_].

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, Buyer has caused this Certificate to be duly executed by its officer thereunto duly authorized as of the date first set forth above.

**SACRAMENTO MUNICIPAL UTILITY  
DISTRICT,  
as Buyer**

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT I**  
**FORM OF LETTER OF CREDIT [NTD: subject to review and comment by Seller's  
financing parties]**

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [•]

DATE: [•]

BENEFICIARY:

APPLICANT:

[NAME, ADDRESS, CONTACT]

EXPIRATION DATE: [•]

AMOUNT/CURRENCY: [•]

AT THE REQUEST OF AND FOR THE ACCOUNT OF APPLICANT, WE, [INSERT BANK NAME AND ADDRESS] ("ISSUER"), HEREBY ESTABLISH IN YOUR FAVOR IN RESPECT OF OBLIGATIONS OF APPLICANT OUR IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [•] ("LETTER OF CREDIT") IN FAVOR OF [ ] ("BENEFICIARY"), [BENEFICIARY ADDRESS], WHEREBY, SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN, BENEFICIARY IS HEREBY AUTHORIZED TO DRAW ON US, BY SIGHT, BY ITS DRAWING STATEMENT AS PROVIDED HEREIN, FOR AN AGGREGATE AMOUNT UP TO BUT NOT EXCEEDING [•] (THE "FACE AMOUNT").

WE ARE ADVISED THIS LETTER OF CREDIT IS IRREVOCABLE AND IS ESTABLISHED AS DEVELOPMENT SECURITY PURSUANT TO THAT CERTAIN RENEWABLE POWER PURCHASE AND SALE AGREEMENT DATED AS OF \_\_\_\_\_, 2024 BETWEEN APPLICANT AND BENEFICIARY (THE "AGREEMENT").

THIS LETTER OF CREDIT SHALL BE EFFECTIVE IMMEDIATELY AND SHALL EXPIRE ON [•], WHICH IS ONE YEAR AFTER THE ISSUE DATE OF THIS LETTER OF CREDIT, OR ANY EXPIRATION DATE EXTENDED IN ACCORDANCE WITH THE TERMS HEREOF (THE "EXPIRATION DATE").

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL TWELVE (12) MONTH PERIODS FROM THE PRESENT OR EACH FUTURE EXPIRATION DATE, BUT IN NO EVENT TO AN EXPIRATION DATE LATER THAN [•], UNLESS AT LEAST NINETY (90) DAYS PRIOR TO THE EXPIRATION DATE WE SEND NOTICE IN WRITING TO YOU VIA HAND DELIVERY OR OVERNIGHT COURIER AT THE ABOVE ADDRESS, THAT WE ELECT NOT TO AUTOMATICALLY EXTEND THIS LETTER OF CREDIT FOR ANY ADDITIONAL PERIOD.

ON OR BEFORE THE EXPIRATION DATE OF THIS LETTER OF CREDIT YOU MAY DRAW ON US HEREUNDER FOR UP TO THE FULL UNUTILIZED AMOUNT AVAILABLE AS OF THE DATE OF DRAWING ON THIS LETTER OF CREDIT.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED UNDER THIS LETTER OF CREDIT (PROVIDED THAT THE CUMULATIVE AGGREGATE AMOUNT THAT MAY BE DEMANDED UNDER THIS LETTER OF CREDIT SHALL NOT EXCEED THE FACE AMOUNT), AND THIS LETTER OF CREDIT SHALL REMAIN IN FULL FORCE AND EFFECT WITH RESPECT TO ANY CONTINUING BALANCE.

FUNDS UNDER THIS LETTER OF CREDIT SHALL BE AVAILABLE TO THE BENEFICIARY UPON PRESENTATION TO US OF A DATED DRAWING CERTIFICATE IN THE FORM OF EXHIBIT A HERETO (WHICH IS AN INTEGRAL PART OF THIS LETTER OF CREDIT) PURPORTEDLY SIGNED BY THE BENEFICIARY'S DULY AUTHORIZED REPRESENTATIVE.

THE DRAWING CERTIFICATE MAY BE PRESENTED BY (A) PHYSICAL DELIVERY TO [ADDRESS] OR (B) BY FACSIMILE TO [FAX NUMBER].

ALL PAYMENTS MADE UNDER THIS LETTER OF CREDIT SHALL BE MADE WITH ISSUER'S OWN IMMEDIATELY AVAILABLE FUNDS BY MEANS OF WIRE TRANSFER IN IMMEDIATELY AVAILABLE UNITED STATES DOLLARS TO BENEFICIARY'S ACCOUNT AS INDICATED BY BENEFICIARY IN ITS DRAWING CERTIFICATE OR IN A COMMUNICATION ACCOMPANYING ITS DRAWING CERTIFICATE.

WE HEREBY AGREE THAT THE DRAWING DOCUMENTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS LETTER OF CREDIT WILL BE DULY HONORED BY US UPON DELIVERY OF THE ABOVE SPECIFIED DRAWING CERTIFICATE, IF PRESENTED ON OR BEFORE THE EXPIRATION DATE AS SPECIFIED HEREIN.

AS STIPULATED HEREIN, "BUSINESS DAY" SHALL MEAN ANY DAY OTHER THAN A SATURDAY, SUNDAY OR A DAY ON WHICH BANKING INSTITUTIONS IN THE STATE OF \_\_\_\_\_ ARE AUTHORIZED OR REQUIRED BY LAW TO CLOSE. IF ANY DRAWING OR THE DOCUMENTATION PRESENTED IN CONNECTION THEREWITH, DOES NOT CONFORM TO THE TERMS AND CONDITIONS HEREOF, WE WILL ADVISE YOU OF THE SAME BY TELEPHONE OR FACSIMILE AND GIVE THE REASONS FOR SUCH NON-COMFORMANCE.

THIS LETTER OF CREDIT IS ISSUED SUBJECT TO THE RULES OF THE 'INTERNATIONAL STANDBY PRACTICES 1998', INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 590 ('ISP98') AND AS TO MATTERS NOT ADDRESSED BY ISP98 SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF STATE OF \_\_\_\_\_.

NOTWITHSTANDING ANY REFERENCE IN THIS LETTER OF CREDIT TO ANY OTHER DOCUMENTS, INSTRUMENTS OR AGREEMENTS (OTHER THAN AS SET FORTH IN THE

IMMEDIATELY PRIOR PARAGRAPH), THIS LETTER OF CREDIT CONTAINS THE ENTIRE AGREEMENT BETWEEN BENEFICIARY AND ISSUER RELATING TO THE OBLIGATIONS OF ISSUER HEREUNDER.

OTHER THAN AS PROVIDED HEREIN, COMMUNICATIONS WITH RESPECT TO THIS LETTER OF CREDIT SHALL BE IN WRITING, SHALL SPECIFICALLY REFER TO BENEFICIARY AND TO OUR LETTER OF CREDIT NO. [•], AND SHALL BE ADDRESSED TO: [•]

ALL NOTICES TO BENEFICIARY SHALL BE IN WRITING AND ARE REQUIRED TO BE SENT BY CERTIFIED LETTER, OVERNIGHT COURIER OR DELIVERED IN PERSON TO: [BENEFICIARY], ATTN: [BENEFICIARY ADDRESS]. ONLY NOTICES TO BENEFICIARY MEETING THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE CONSIDERED VALID. ANY NOTICE TO BENEFICIARY WHICH IS NOT IN ACCORDANCE WITH THIS PARAGRAPH SHALL BE VOID AND OF NO FORCE OR EFFECT.

ALL COSTS RELATED TO THIS LETTER OF CREDIT SHALL BE PAID BY THE APPLICANT.

ALL PARTIES TO THIS LETTER OF CREDIT ARE ADVISED THAT THE U.S. GOVERNMENT HAS IN PLACE CERTAIN SANCTIONS AGAINST CERTAIN COUNTRIES, TERRITORIES, INDIVIDUALS, ENTITIES, AND VESSELS. ISSUER ENTITIES, INCLUDING BRANCHES AND, IN CERTAIN CIRCUMSTANCES, SUBSIDIARIES, ARE/WILL BE PROHIBITED FROM ENGAGING IN TRANSACTIONS OR OTHER ACTIVITIES WITHIN THE SCOPE OF APPLICABLE SANCTIONS.

EXHIBIT "A"

DRAWING CERTIFICATE

TO: [ISSUING BANK]

RE: IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER [●] ISSUED BY [ISSUING BANK] TO [BENEFICIARY] ("LETTER OF CREDIT"); CAPITALIZED TERMS USED BUT NOT DEFINED IN THIS DRAWING CERTIFICATE HAVE THE MEANINGS ASCRIBED TO THEM IN THE LETTER OF CREDIT)

THIS IS A DRAWING CERTIFICATE UNDER THE ABOVE-MENTIONED LETTER OF CREDIT.

I, \_\_\_, AN AUTHORIZED REPRESENTATIVE OF [BENEFICIARY], DO HEREBY CERTIFY THAT:

APPLICANT AND BENEFICIARY ARE PARTY TO THAT CERTAIN RENEWABLE POWER PURCHASE AND SALE AGREEMENT DATED AS OF \_\_\_\_\_, 2024 (THE "AGREEMENT").

[CHOOSE ONLY ONE OF THE FOLLOWING]

- (1) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. \$ \_\_\_\_\_ BECAUSE [A SELLER EVENT OF DEFAULT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) HAS OCCURRED OR OTHER OCCASION PROVIDED FOR IN THE AGREEMENT WHERE BENEFICIARY IS AUTHORIZED TO DRAW ON THE LETTER OF CREDIT HAS OCCURRED][OR][A DELAY DAMAGES PAYMENT (AS SUCH TERM IS DEFINED IN THE AGREEMENT) IS DUE UNDER THE AGREEMENT].
- (2) BENEFICIARY IS MAKING A DRAWING UNDER THIS LETTER OF CREDIT IN THE AMOUNT OF U.S. \$ \_\_\_\_\_, WHICH EQUALS THE FULL AVAILABLE AMOUNT UNDER THE LETTER OF CREDIT, BECAUSE APPLICANT IS REQUIRED TO MAINTAIN THE LETTER OF CREDIT IN FORCE AND EFFECT BEYOND THE EXPIRATION DATE OF THE LETTER OF CREDIT BUT HAS FAILED TO PROVIDE BENEFICIARY WITH A REPLACEMENT LETTER OF CREDIT OR OTHER ACCEPTABLE INSTRUMENT WITHIN SIXTY (60) DAYS PRIOR TO SUCH EXPIRATION DATE.

IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT, [BENEFICIARY] IS ENTITLED TO AND HEREBY DEMANDS PAYMENT OF USD \_\_\_\_\_, SUCH AMOUNT TO BE PAID TO [BENEFICIARY] BY WIRE TRANSFER IN IMMEDIATELY AVAILABLE

FUNDS TO: (INSERT WIRE INSTRUCTIONS), WHICH, [\_\_\_\_] CERTIFIES IT IS ENTITLED TO UNDER THE AGREEMENT.

COMMUNICATIONS TO ME CONCERNING THIS DRAWING CERTIFICATE MAY BE MADE AT FOLLOWING TELEPHONE AND FACSIMILE NUMBERS: \_\_\_\_\_;  
\_\_\_\_\_.

IN WITNESS WHEREOF, [BENEFICIARY] THROUGH ITS AUTHORIZED REPRESENTATIVE HAS EXECUTED AND DELIVERED THIS DRAWING CERTIFICATE THIS DAY OF, 20   .

[\_\_\_\_]

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

**EXHIBIT J**  
**FORM OF LIMITED ASSIGNMENT AGREEMENT**

This Limited Assignment Agreement (this “**Assignment Agreement**” or “**Agreement**”) is entered into as of [\_\_\_\_], by and among [\_\_\_\_], a [\_\_\_\_] (“**PPA Seller**”), Sacramento Municipal Utility District, a municipal utility district organized under the provisions of the Municipal Utility District Act (Division 6, Chapter 2, Articles 2 and 3, Sections 11581 through 11614 of the California Public Utilities Code, as amended) (“**PPA Buyer**”), and J. Aron & Company LLC, a New York limited liability company (“**J. Aron**”), and relates to that certain power purchase agreement between PPA Buyer and PPA Seller as further described in Appendix 1 (the “**PPA**”). Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

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

**1. Limited Assignment and Delegation.**

- (a) PPA Buyer hereby assigns, transfers and conveys to J. Aron all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of the products described on Appendix 1 (the “**Assigned Products**”) during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the “Further Information” section on Appendix 1 (the “**Assigned Product Rights**”). All Assigned Products shall be delivered pursuant to the terms and conditions of this Agreement during the Assignment Period as provided in Appendix 1. All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer. The Parties agree that the assignment, transfer and/or conveyance of all or any portion of the Assigned Products in accordance with this Agreement and the Parties’ performance of any obligation in accordance with this Agreement shall not constitute a failure to meet the requirements of the PPA, or a breach of any covenant, representation or warranty under the PPA (and in no event shall PPA Seller be responsible for any failure of any portion of the Assigned Products to satisfy the requirements of the PPA, to the extent such failure results from the assignment, transfer and/or conveyance of such Assigned Products in accordance with this Agreement).
- (b) PPA Buyer hereby delegates to J. Aron the obligation to pay the APC Contract Price set forth in Appendix 1 for all Assigned Products that are actually delivered to J. Aron pursuant to the Assigned Product Rights during the Assignment Period (the “**Delivered Product Payment Obligation**” and together with the Assigned Product Rights, collectively the “**Assigned Rights and Obligations**”); provided that (i) all other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer and PPA Buyer shall be solely responsible for any amounts due to PPA Seller that are not directly related to Assigned Products; and (ii) the Parties acknowledge and agree that PPA Seller will only be obligated to deliver a single consolidated invoice during the Assignment Period (with a copy to J. Aron consistent with Section 1(d) hereof). To the extent J. Aron fails to pay for any Assigned Products by the due date for payment set forth in the PPA, notwithstanding anything in this Agreement to the contrary, PPA Buyer agrees that it will remain jointly and severally responsible as a primary obligor (and not as a surety) for such payment and that it will be an Event of Default pursuant to Section 11.1(a) if PPA Buyer does not make such payment within

five (5) Business Days (as defined in the PPA) of receiving notice of such non-payment from PPA Seller, and that PPA Buyer shall remain liable for, and indemnify and hold PPA Seller harmless from, any and all losses, damages, costs and expenses of PPA Seller of any kind as a result of or arising from (x) the assignment, transfer, conveyance, and delegation described in Section 1(a) and this Section 1(b), or (y) J. Aron's failure to take or pay for any such Assigned Product or make any payment in respect of the Delivered Product Payment Obligation as and when due under the PPA and disregarding the effects of any stay or other suspension rights, including without limitation under sections 362 or 365 of the Bankruptcy Code or similar laws), whether due to bankruptcy, insolvency or any other cause.

- (c) J. Aron hereby accepts and PPA Seller hereby consents and agrees to the assignment, transfer, conveyance and delegation described in clauses (a) and (b) above.
- (d) All scheduling of Assigned Products and other communications related to the PPA shall take place between PPA Buyer and PPA Seller pursuant to the terms of the PPA; provided that (i) title to Assigned Product will pass from PPA Seller to J. Aron upon delivery by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer will provide copies to J. Aron of any Notice of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iii) PPA Buyer will provide copies to J. Aron of any forecasts of Energy generation provided by PPA Seller under the PPA; (iv) PPA Seller will provide copies to J. Aron of all invoices and supporting data provided to PPA Buyer pursuant to Section 8.1 of the PPA, provided that any payment adjustments or subsequent reconciliations occurring after the date that is 10 days prior to the payment due date for a monthly invoice, including pursuant to Section 8.4 of the PPA, will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to J. Aron; and (v) PPA Buyer and PPA Seller, as applicable, will provide copies to J. Aron of any other information reasonably requested by J. Aron relating to Assigned Products.
- (e) PPA Seller acknowledges that (i) J. Aron intends to immediately transfer title to any Assigned Products received from PPA Seller through one or more intermediaries such that all Assigned Products will be re-delivered to PPA Buyer; and (ii) in the event that PPA Buyer fails to pay the relevant intermediary entity for any such Assigned Products, the receivables owed by PPA Buyer for such Assigned Products ("PPA Buyer Receivables") may be transferred to J. Aron. To the extent any such PPA Buyer Receivables are transferred to J. Aron, J. Aron may transfer such PPA Buyer Receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation, and PPA Buyer waives all rights to dispute or claim any defence in respect of such PPA Buyer Receivables other than a defence that would have arisen under the PPA if this Agreement were not in effect. To effect such transfer, J. Aron shall deliver to PPA Seller a notice of intent to transfer PPA Buyer Receivables not later than the payment due date for the Delivered Product Payment Obligation and shall deliver to PPA Seller a bill of sale signed by J. Aron not later than five Business Days thereafter, provided that no such transfer or application shall reduce or limit PPA Buyer's obligations under Section 1(b) above. Such transfer of PPA Buyer Receivables shall immediately be deemed an Event of Default under Section 11.1(a) of the PPA, without regard to any cure periods set forth therein, and PPA Seller shall be entitled to pursue collection on such PPA Buyer Receivables

directly against PPA Buyer pursuant to the remedies set forth in the PPA for such Event of Default.

- (f) On or before the commencement of the Assignment Period, The Goldman Sachs Group, Inc. (“Guarantor”) will issue, in favor of PPA Seller, a guaranty of J. Aron’s payment obligations under this Assignment Agreement substantially in the form of Appendix 3 attached hereto (“Guaranty”).
- (g) The Assigned Prepay Quantity set forth in Appendix 2 relates to obligations by and between J. Aron and PPA Buyer and has no impact on PPA Seller’s rights and obligations under the PPA.
- (h) In the event that the PPA or the Assigned Rights and obligations are either or both rejected or terminated in or as a result of any bankruptcy, insolvency, reorganization or similar proceeding affecting J. Aron, PPA Buyer shall, at the option of PPA Seller exercised within thirty (30) days after such rejection or termination, enter into a new agreement with PPA Seller having identical terms as the PPA (subject to any conforming changes necessitated by the substitution of parties and other changes as the parties may mutually agree), *provided*, that the term under such new agreement shall be no longer than the remaining balance of the term specified in the PPA.

## **2. Assignment Early Termination.**

- (a) The Assignment Period may be terminated early upon the occurrence of any of the following:
  - (1) delivery of a written notice of termination specifying a termination date by either J. Aron or PPA Buyer to each of the other Parties;
  - (2) delivery of a written notice of termination specifying a termination date by PPA Seller to each of J. Aron and PPA Buyer following J. Aron’s failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by J. Aron within one (1) business day following receipt by J. Aron and PPA Buyer of written notice;
  - (3) delivery of a written notice by PPA Seller if any of the events described in the definition of “Bankrupt” in the PPA occurs with respect to J. Aron; or
  - (4) delivery of a written notice by J. Aron if any of the events described in the definition of “Bankrupt” in the PPA occurs with respect to PPA Seller.
- (b) The Assignment Period will end at the end of last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clause 2(a)(1) or 2(a)(2) above. All Assigned Rights and Obligations shall revert from J. Aron to PPA Buyer upon the early termination of the Assignment Period, provided that (i) J. Aron shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to J. Aron prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

- (c) The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from J. Aron to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) J. Aron shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to J. Aron prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.
- (d) The Assignment Period will automatically terminate upon delivery by Guarantor of a notice of termination of the Guaranty or if the Guarantor otherwise repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty. All Assigned Rights and Obligations shall revert from J. Aron to PPA Buyer upon the termination of the Assignment Period, provided that (i) J. Aron shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered to J. Aron prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.

**3. Representations and Warranties.** The PPA Seller and the PPA Buyer represent and warrant to J. Aron that (a) the PPA is in full force and effect; (b) to the best of its knowledge, no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder; and (c) all of its obligations under the PPA required to be performed on or before the Assignment Period Start Date have been fulfilled.

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

J. Aron & Company LLC  
 200 West Street  
 New York, New York 10282-2198  
 Email:

**5. Miscellaneous.** Section [ ] (Buyer's Representations and Warranties), Article [ ] (Confidential Information), Section [ ] (No Consequential Damages), Section [ ] (Severability), Section [ ] (Counterparts), Section [ ] (Amendments), Section [ ] (No Agency, Partnership, Joint Venture or Lease), Section [ ] (Mobile-Sierra), Section [ ] (Electronic Delivery), Section [ ] (Limitations on Damages), Section [ ] (Binding Effect) and Section [ ] (No Recourse to Members of Buyer) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein.

#### 1.1     6. U.S. Resolution Stay Provisions.

- (a) As between J. Aron and PPA Buyer, J. Aron and PPA Buyer hereby confirm that they are adherents to the ISDA 2018 U.S. Resolution Stay Protocol ("ISDA U.S. Stay Protocol"), the terms of the ISDA U.S. Stay Protocol are incorporated into and form a

part of this Assignment Agreement, and for the purposes of such incorporation, (i) J. Aron shall be deemed to be a Regulated Entity, (ii) PPA Buyer shall be deemed to be an Adhering Party, and (iii) this Assignment Agreement shall be deemed a Protocol Covered Agreement. In the event of any inconsistencies between this Assignment Agreement and the ISDA U.S. Stay Protocol, as between J. Aron and PPA Buyer, the ISDA U.S. Stay Protocol will prevail.

(b) As between J. Aron and PPA Seller:

(i) In the event that J. Aron becomes subject to a proceeding under (A) the Federal Deposit Insurance Act and the regulations promulgated thereunder or (B) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder (a “U.S. Special Resolution Regime”) the transfer from J. Aron of this Agreement, and any interest and obligation in or under, and any property securing, this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any interest and obligation in or under, and any property securing, this Agreement were governed by the laws of the United States or a state of the United States.

(ii) In the event that J. Aron or an Affiliate becomes subject to a proceeding under a U.S. Special Resolution Regime, any Default Rights (as defined in 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable and as amended (“Default Right”)) under this Agreement that may be exercised against J. Aron are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

(iii) Notwithstanding anything to the contrary in this Agreement, J. Aron and PPA Seller expressly acknowledge and agree that:

(1) PPA Seller shall not be permitted to exercise any Default Right with respect to this Agreement or any Affiliate Credit Enhancement that is related, directly or indirectly, to an Affiliate of J. Aron becoming subject to receivership, insolvency, liquidation, resolution, or similar proceeding (an “Insolvency Proceeding”), except to the extent that the exercise of such Default Right would be permitted under the provisions of 12 C.F.R. 252.84, 12 C.F.R. 47.5 or 12 C.F.R. 382.4, as applicable and as amended; and

(2) Nothing in this Agreement shall prohibit the transfer of any Affiliate Credit Enhancement, any interest or obligation in or under such Affiliate Credit Enhancement, or any property securing such Affiliate Credit Enhancement, to a transferee upon or following an Affiliate of J. Aron becoming subject to an Insolvency Proceeding, unless the transfer would result in PPA Seller being the beneficiary of such Affiliate Credit Enhancement in violation of any law applicable to PPA Seller.

(iv) If PPA Seller adheres to the ISDA U.S. Protocol, as published by the International Swaps and Derivatives Association, Inc. as of July 31, 2018, after the date of this Agreement, the terms of the ISDA U.S. Protocol will supersede and replace the terms of this Section 6(b).

(v) For purposes of this Section 6(b):

(1) “**Affiliate**” is defined in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k); and

(2) “**Credit Enhancement**” means any credit enhancement or credit support arrangement in support of the obligations of J. Aron under or with respect to this Agreement, including any guarantee, collateral arrangement (including any pledge, charge, mortgage or other security interest in collateral or title transfer arrangement), trust or similar arrangement, letter of credit, transfer of margin or any similar arrangement.

## 7. Governing Law, Jurisdiction, Waiver of Jury Trial.

- (a) **Governing Law.** This Assignment Agreement and the rights and duties of the parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of New York, without reference to any conflicts of laws provisions that would direct the application of another jurisdiction’s laws.
- (b) **Jurisdiction.** Each party submits to the exclusive jurisdiction of (i) the courts of the State of New York located in the Borough of Manhattan and (ii) the federal courts of the United States of America for the Southern District of New York.
- (c) **Waiver of Right to Trial by Jury.** Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to this assignment agreement.

[Remainder of Page Intentionally Blank]

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

[PPA SELLER]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SACRAMENTO MUNICIPAL UTILITY DISTRICT

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

J. ARON & COMPANY LLC

By: \_\_\_\_\_

Name:

Title:

## **Appendix 1**

### **Assigned Rights and Obligations**

**PPA:** “PPA” means that certain [Power Purchase and Sale Agreement] dated [\_\_\_\_], 20[\_\_\_\_] by and between [\_\_\_\_] and [\_\_\_\_], as amended from time to time.

**“Assignment Period”** means the period beginning on [\_\_\_\_\_] and extending until [\_\_\_\_\_], provided that in no event shall the Assignment Period extend past the earlier of (i) the termination of the Assignment Period pursuant to Section 2 of the Assignment Agreement and (ii) the end of the Delivery Term under the PPA; provided that applicable provisions of this Agreement shall continue in effect after termination of the Assignment Period to the extent necessary to enforce or complete, duties, obligations or responsibilities of the Parties arising prior to the termination.

**APC Contract Price:** \$ [ ]/MWh (flat) with no escalation

**Assigned Product:** “Assigned Products” include [\_\_\_\_].

**Further Information:** [\_\_\_\_]

**Appendix 2**

**Assigned Prepay Quantity**

[NOTE: To be set forth in a monthly volume schedule.]

## Appendix 3

### Form of GSG Guaranty

, 2024

NAME  
ADDRESS

Attention:

Ladies and Gentlemen:

For value received, The Goldman Sachs Group, Inc. (the “Guarantor”), a corporation duly organized under the laws of the State of Delaware, hereby unconditionally guarantees the prompt and complete payment when due, whether by acceleration or otherwise, of all obligations and liabilities, whether now in existence or hereafter arising, of J. Aron & Company LLC, a subsidiary of the Guarantor and a limited liability company duly organized under the laws of the State of New York (the “Company”), to **COUNTERPARTY NAME** (the “Counterparty”) arising out of or under the Limited Assignment Agreement among the Company, the Counterparty and [PPA Seller] dated as of [ ], 202[ ]. This Guaranty is one of payment and not of collection.

The Guarantor hereby waives notice of acceptance of this Guaranty and notice of any obligation or liability to which it may apply, and waives presentment, demand for payment, protest, notice of dishonor or non-payment of any such obligation or liability, suit or the taking of other action by Counterparty against, and any other notice to, the Company, the Guarantor or others.

Counterparty may at any time and from time to time without notice to or consent of the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder: (1) agree with the Company to make any change in the terms of any obligation or liability of the Company to Counterparty, (2) take or fail to take any action of any kind in respect of any security for any obligation or liability of the Company to Counterparty, (3) exercise or refrain from exercising any rights against the Company or others, or (4) compromise or subordinate any obligation or liability of the Company to Counterparty including any security therefor. Any other suretyship defenses are hereby waived by the Guarantor.

This Guaranty shall continue in full force and effect until the opening of business on the fifth business day after Counterparty receives written notice of termination from the Guarantor. It is understood and agreed, however, that notwithstanding any such termination this Guaranty shall continue in full force and effect with respect to the obligations and liabilities set forth above which shall have been incurred prior to such termination.

The Guarantor further agrees that this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the guaranteed obligations, or interest thereon is rescinded or must otherwise be restored or returned by the Counterparty upon the bankruptcy, insolvency, dissolution or reorganization of the Company. No failure on the part of the Counterparty to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Counterparty of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power. Notwithstanding anything in this Guaranty to the contrary, this Guaranty shall continue to be effective or shall be reinstated, as the case may be, if at any time, either before or after the termination hereof, payment of the obligations or liabilities guaranteed pursuant to this Guaranty, or any part thereof, is rescinded or must otherwise be returned by Counterparty for any reason, including without limitation upon the insolvency, bankruptcy or reorganization of the Company or the Guarantor, all as though such payment had not been made.

Except as to applicable statutes of limitation, Guarantor hereby agrees that no delay of Counterparty in the exercise of, or failure to exercise, any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights or a release of Guarantor from any obligations hereunder.

No term or provision of this Guaranty shall be amended, modified, altered, waived or supplemented except in a writing signed by Guarantor and Counterparty.

The Guarantor hereby represents as follows:

- (a) The Guarantor is duly organized, validly existing, and in good standing under the laws of the State of Delaware and has full power and authority to execute and deliver this Guaranty.
- (b) The execution and delivery of this Guaranty have been and remain duly authorized by all necessary action and do not contravene any provision of the Guarantor's certificate of incorporation or by-laws, as amended to date, or any law, regulation, decree, order, judgment, resolution or any contractual restriction binding on the Guarantor or its assets that could affect, in a materially adverse manner, the ability of the Guarantor to perform any of its obligations hereunder.
- (c) All consents, licenses, clearances, authorizations, and approvals of, and registration and declarations with, any governmental or regulatory authority necessary for the due execution and delivery of this Guaranty have been obtained and remain in full force and effect and all conditions thereof have been duly complied with, and no other action by, and no notice to or filing with, any governmental or regulatory authority is required in connection with the execution or delivery of this Guaranty.
- (d) This Guaranty constitutes the legal, valid, and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with all of its terms and conditions (subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law

affecting creditors' rights generally). The enforceability of the Guarantor's obligations is also subject to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

The Guarantor may not assign its rights nor delegate its obligations under this Guaranty, in whole or in part, without prior written consent of the Counterparty, and any purported assignment or delegation absent such consent is void, except for (i) an assignment and delegation of all of the Guarantor's rights and obligations hereunder in whatever form the Guarantor determines may be appropriate to a partnership, corporation, trust or other organization in whatever form that succeeds to all or substantially all of the Guarantor's assets and business and that assumes such obligations by contract, operation of law or otherwise, and (ii) the Guarantor may transfer this Guaranty or any interest or obligation of the Guarantor in or under this Guaranty, or any property securing this Guaranty, to another entity as transferee as part of the resolution, restructuring or reorganization of the Guarantor upon or following the Guarantor becoming subject to a receivership, insolvency, liquidation, resolution or similar proceeding. Upon any such delegation and assumption or transfer of obligations, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such delegation and assumption or transfer.

**THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN  
ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK  
WITHOUT GIVING EFFECT TO PRINCIPLES OF CONFLICTS OF LAW.  
GUARANTOR AGREES TO THE EXCLUSIVE JURISDICTION OF COURTS  
LOCATED IN THE STATE OF NEW YORK, UNITED STATES OF AMERICA,  
OVER ANY DISPUTES ARISING UNDER OR RELATING TO THIS GUARANTY.**

In the event the Guarantor becomes subject to a proceeding under the Federal Deposit Insurance Act or Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together, the "U.S. Special Resolution Regimes"), the transfer of this Guaranty, and any interest and obligation in or under, and any property securing, this Guaranty, from the Guarantor will be effective to the same extent as the transfer would be effective under such U.S. Special Resolution Regime if this Guaranty, and any interest and obligation in or under this Guaranty, were governed by the laws of the United States or a state of the United States. In the event the Company or the Guarantor, or any of their affiliates, becomes subject to a U.S. Special Resolution Regime, default rights against the Company or the Guarantor with respect to this Guaranty are permitted to be exercised to no greater extent than such default rights could be exercised under such U.S. Special Resolution Regime if this Guaranty was governed by the laws of the United States or a state of the United States.

Very truly yours,

THE GOLDMAN SACHS GROUP, INC.

By: \_\_\_\_\_  
Authorized Officer

Exhibit J-5

84ET-387782

**EXHIBIT K**  
**NOTICES**

<b>SUNZIA WIND POWERCO LLC</b> (“Seller”)	<b>SACRAMENTO MUNICIPAL UTILITY DISTRICT</b> (“Buyer”)
<b>All Notices:</b> Street: 1088 Sansome St. City: San Francisco, CA Attn: General Counsel Phone: Email:	<b>All Notices:</b> Street: 6301 S Street City: Sacramento, CA 95817 Mail Stop: A404 Attn: Power Contracts Administration Phone: Email:
<b>Reference Numbers:</b> Duns: Federal Tax ID Number:	<b>Reference Numbers:</b> Duns: Federal Tax ID Number:
<b>Invoices:</b> Attn: Pattern Energy Settlements Phone: Email:	<b>Invoices:</b> Phone: Email:
<b>Scheduling:</b> Attn: Manager 24/7 Operations Control Center Email: Phone: Facsimile:	<b>Scheduling:</b> Attn: Day Ahead Trading Phone: Email:  Attn: Phone: Email:
<b>Confirmations:</b> Attn: Pattern Energy Settlements Phone: Email:	<b>Confirmations:</b> Attn: Energy Settlements Phone: Email:
<b>Payments:</b> Attn: Pattern Energy Settlements Phone: Email:	<b>Payments:</b> Attn: Energy Settlements Phone: Email:

<b>SUNZIA WIND POWERCO LLC</b> ("Seller")	<b>SACRAMENTO MUNICIPAL UTILITY DISTRICT</b> ("Buyer")
<b>Wire Transfer:</b> BNK: ABA: ACCT:	<b>Wire Transfer:</b> BNK: ABA: ACCT:
<b>Emergency Contact:</b> Attn: 24/7 Operations Control Center Phone: Email:	<b>With additional Notices of an Event of Default to:</b>  Attn: Energy Commodity Contracts Phone: Email:
	<b>Emergency Contact:</b> Attn: Real Time Trading Phone: Email:

**EXHIBIT L**  
**OPERATING RESTRICTIONS**

Operating restrictions of the Facility for Market Curtailment Periods are as follows:

- Interconnection Capacity (Maximum Injection Amount): [REDACTED] MW
- Minimum operating capacity: 0.0 MW
- Maximum number of start-ups per calendar day (if any such operational limitations exist): N/A
- Ramp Rate: To be provided by Seller upon Notice to Buyer prior to Commercial Operation
- Minimum Down Time: N/A

**EXHIBIT M**  
**PRINCIPLES OF RENEWABLE ENERGY DEVELOPMENT**

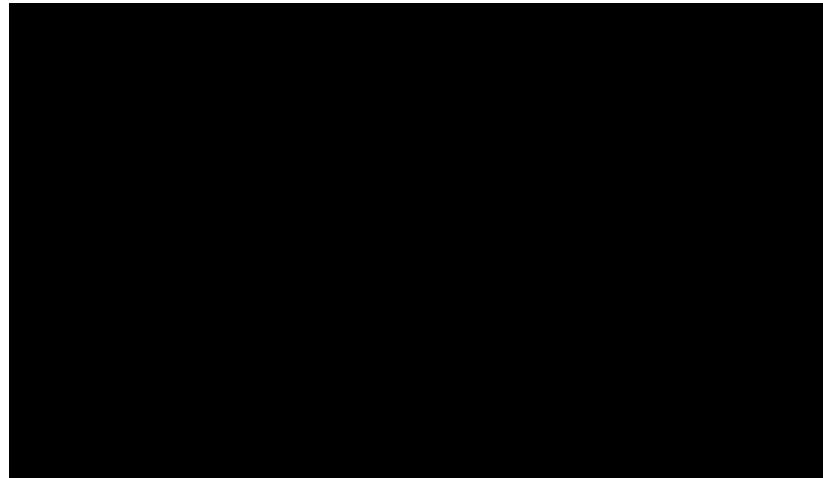
SMUD is committed to developing carbon free renewable energy in a manner that supports the community, protects the environment, and respects human rights. This document provides guidance on the key objectives that SMUD expects to achieve associated with this commitment. Renewable energy projects engaged in a commercial relationship with SMUD such as a power purchase agreement will use commercially reasonable efforts to provide, implement, and maintain throughout the associated term, a “Community Benefits Plan” that addresses how the project will achieve the key objectives identified herein.

**Key objectives:**

1. **Land Use:** Prioritize previously developed lands. Avoid or minimize impacts on sensitive environmental resources, including but not limited to cultural resources, tribal cultural resources, and biological resources such as endangered species habitat, vernal pools and other sensitive habitats, “Waters of the US”, “Waters of the State” and waters identified by California Department of Fish and Wildlife as “Streambed”. Provide additional mitigation measures if avoidance and minimization measures cannot fully eliminate impacts. Applicants are expected to discuss these topics with both SMUD and the lead agency as early as possible to identify potential associated issues in advance of the purchase power agreement being finalized.
2. **Land Use:** All projects should employ techniques for maintaining and/or restoring ecosystem function to the site in conjunction with renewable energy outcomes, including establishment of native vegetation, restricting use of herbicides and pesticides, use of grazing for vegetation management and seasonally appropriate maintenance practices. Where development is on or surrounded by agricultural lands the project should also employ agricultural practices on the property during operations including sheep grazing, dry crop farming and irrigated food production where feasible.
3. **Land Use:** Employ design and construction practices that minimize ground disturbance to the maximum extent possible. This is especially critical in areas where cultural, tribal cultural and biological resources are of significant concern.
4. **Sustainable Life Cycle Management:** Include plans for sustainable life cycle management of construction materials and project components during construction and operation that provides for recycling and reuse of construction waste and waste during operation including but not limited to the solar panels.
5. **Community Benefits:**
  - (a) **Inclusive Economic Development:** Leverage SMUD’s Supplier Education & Economic Development (SEED) team to connect with certified small business vendors/contractors in SMUD’s service territory to support the project. Submit requests to [seed.mgr@smud.org](mailto:seed.mgr@smud.org).

6. **Zero Carbon Workforce Development:** SMUD seeks to galvanize and prepare the region for an inclusive, diverse, creative, and empowered future workforce. Leverage SMUD's existing workforce development agreements, programs, and partnerships throughout the Project to support the development of a clean energy labor force. The Project Team will work with SMUD to engage various elements of the labor supply chain via pre-apprentice and apprenticeship programs, internships, informational sessions, and mentorship opportunities.
7. **Sustainable Materials & Equipment:** Sourcing materials and equipment from companies that have a human rights policy and statement of supply chain ethics commitment that expresses the corporation's commitment to meet the responsibility to respect human rights and uphold ethical business practices in their operations and value chains.

**EXHIBIT N**  
**NON-BINDING ESTIMATES OF PRODUCTION TAX CREDIT**

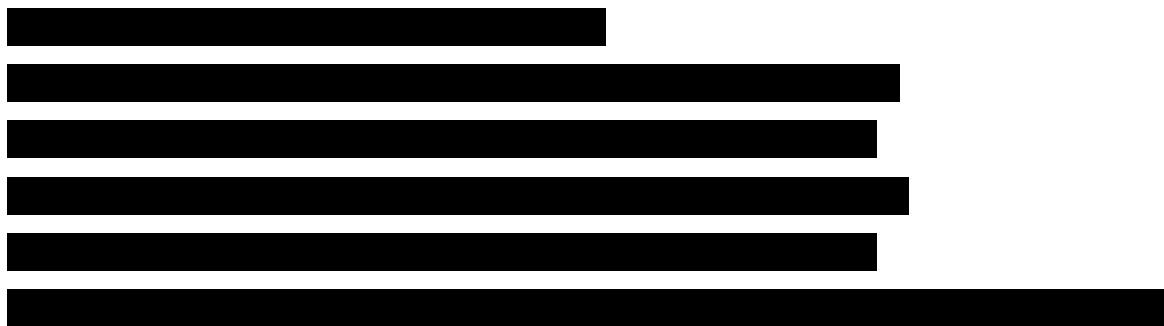


**EXHIBIT O**  
**SETTLEMENT EXAMPLES**

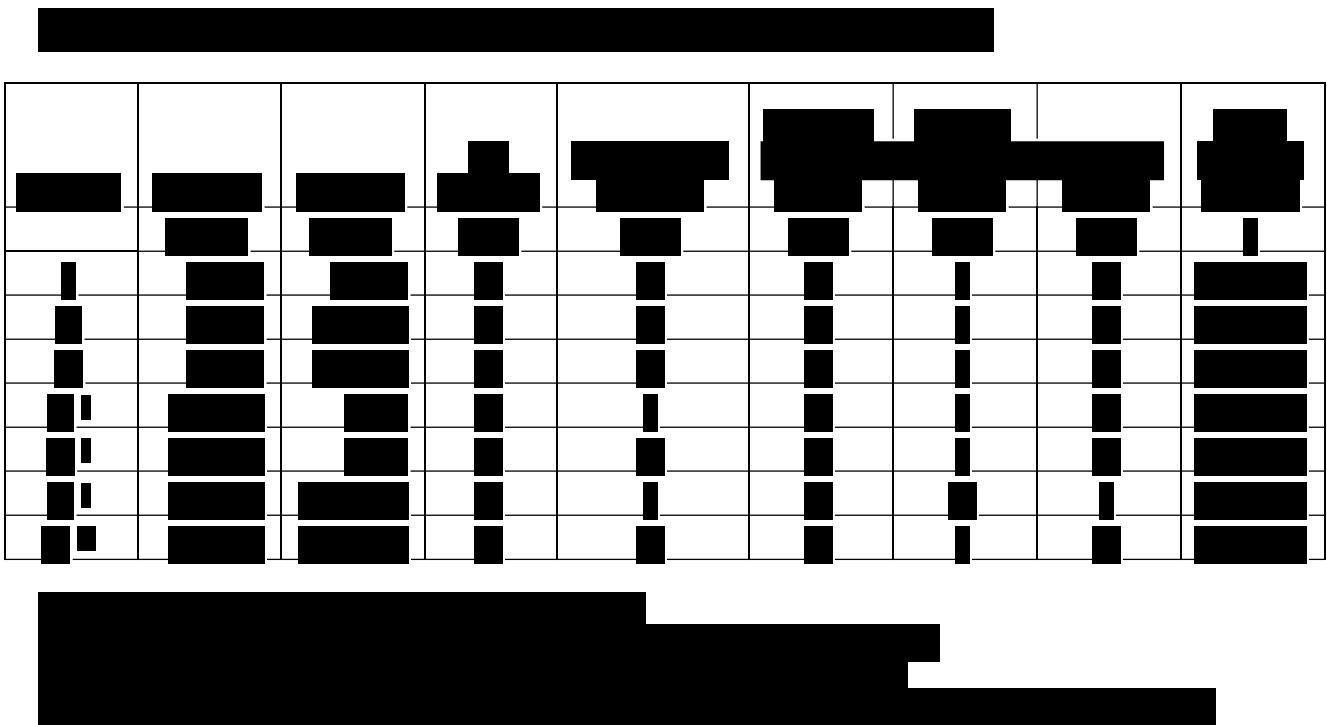
In accordance with Sections 3.3(a) and 4.6(e), Product delivered to Buyer will be calculated consistent with the illustrative examples below:











**RESOLUTION NO. 24-11-07**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board accepts the monitoring report for **Strategic Direction SD-16, Information Management and Security**, substantially in the form set forth in **Attachment D** hereto and made a part hereof.

Approved: November 21, 2024

INTRODUCED: DIRECTOR TAMAYO				
SECONDED: DIRECTOR KERTH				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON	X			
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

**Attachment D  
to Resolution No. 24-11-07**

**SACRAMENTO MUNICIPAL UTILITY DISTRICT**

**OFFICE MEMORANDUM**

**TO:** Board of Directors

**DATE:** October 29, 2024

**FROM:** Claire Rogers *CR 10/29/24*

**SUBJECT: Audit Report No. 28007755  
Board Monitoring Report; SD-16, Information Management and  
Security**

Internal Audit Services (IAS) received the SD-16 *Information Management and Security* 2024 Annual Board Monitoring Report and performed the following:

- Selected a sample of statements and assertions in the report for review.
- Interviewed report contributors and verified the methodology used to prepare the statements in our sample.
- Validated the reasonableness of the statements in our sample based on the data or other support provided to us.

During the review, nothing came to IAS' attention that would suggest the items sampled within the SD Board Monitoring report did not fairly represent the source data available at the time of the review.

CC:

Paul Lau

# Board Monitoring Report 2024

## SD-16 Information Management and Security



### 1) Background

Strategic Direction Information Management and Security policy states that:

Proper management of cyber and physical information, as well as physical security, is a core value. Robust information management and physical security practices are critical to effective risk management and to ensure regulatory compliance, business resiliency and customer satisfaction. SMUD shall take prudent and reasonable measures to accomplish the following:

- a) **Information Security:** SMUD will protect customer, employee and third-party information, and SMUD information systems are protected from unauthorized access, use, disclosure, disruption, modification, or destruction.
- b) **Physical Security:** SMUD will safeguard its employees while at work as well as customers and visitors at SMUD facilities. SMUD will also protect its facilities and functions that support the reliability of the electric system and overall operation of the organization from unauthorized access or disruption of business operations.
- c) **Customer Privacy:** SMUD will annually notify customers about the collection, use and dissemination of sensitive and confidential customer information. Except as provided by law or for a business purpose, SMUD will not disseminate sensitive and confidential customer information to a third party for non-SMUD business purposes unless the customer first consents to the release of the information. Where sensitive and confidential information is disseminated for a business purpose, SMUD will ensure: (i) the third party has robust information practices to protect the sensitive and confidential customer information, and (ii) use of the information by the third party is limited to SMUD's business purpose. SMUD will maintain a process that identifies the business purposes for which SMUD will collect, use and disseminate sensitive and confidential customer information.
- d) **Records Management:** SMUD will maintain the efficient and systematic control of the creation, capture, identification, receipt, maintenance, use, disposition, and destruction of SMUD records, in accordance with legal requirements and Board policies.

### 2) Executive summary

- a) SMUD's Information Security, Physical Security, Customer Privacy, and Records Management programs and initiatives align directly with the "Safety and Reliability" Core Values of SMUD's 2030 Clean Energy Plan. These programs work towards ensuring

that SMUD continues to be a good steward over customer information, physical security, privacy, and records in accordance with our customers' high expectations.

**b) SMUD is substantially in compliance with SD-16 Information Management and Security Policy.**

c) Summary:

SD Requirement	Program/initiative/policy	Purpose	Outcome	Notes
Information Security: protect systems and information from unauthorized access	Information security program; AP 07.03.01 Information Security Concepts and Roles	Protect systems and information; provide policy supporting the Cybersecurity program	Security controls and processes are in place to protect people, processes, and technology	
Customer Privacy: Annually notify customers about use of information	Annual notice of privacy practices	Notify customers of our privacy practices	Notice sent in the May bill package	Minor changes (around consent for non-SMUD use of data)
Customer Privacy: Ensure security where data is shared	System Security Plans and SOC 2 audit report requirements	Evaluate the information practices and security controls of third parties	Confidence that vendors have robust cybersecurity programs to protect SMUD information	
Customer Privacy: Maintain process that identifies purposes for information collection and dissemination	Data Sharing Policy, Data Sharing Request/Approval Process	Track NDAs, the data being shared, and the business justification for sharing	Formal data sharing process is being observed and maintained	
Records Management: Identify and manage records and information	Records Evaluations and Information Migration	Evaluate, classify and migrate records, and ensure retrieval, disposal and protection.	Plan to complete migration of 29 out of 41 total business areas, for an estimated total of 4.5 million documents classified and migrated.	
Records Management: Ensure all information systems are compliant with	Information System Evaluations	Review of software tools housing SMUD data and information.	Evaluate software tools for information management compliance and avoidance of redundancy.	

IMC requirements and best practices.				
Physical Security: safeguard employees, customers, and visitors	AP 06.03.01, MP_06.03.01.103 – Visitor Control	Protect SMUD employees and those who visit SMUD facilities	Improved stakeholder coordination and risk mitigation related to campus visits.	
Physical Security: protect SMUD facilities	AP 06.03.01 Thermal intrusion detection technology pilot	Protect SMUD campuses and grid facilities by assessing and implementing security-industry best practices	Completed pilot effort to help mitigate the resource-draining false activations by our current system	

### 3) Additional supporting information

#### Information Security

**SMUD, customer, employee and third-party information and SMUD information systems are protected from unauthorized access, use, disclosure, disruption, modification, or destruction.**

SMUD's Cybersecurity program, under the direction of the Chief Information Security Officer, continues to evolve and mature to keep pace with the evolving cyber threats we face and to manage our cyber, privacy, legal, regulatory and compliance risk. This includes the adoption of a Zero Trust Architecture strategy, aligned to the CIOs larger IT Strategic Plan. We align to the National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF) to establish prudent and reasonable measures intended to protect SMUD's operations from a cyber-attack, disruption and other threats to enterprise technologies, processes, and information. The CSF has been updated to now have six core functions (Identify, Protect, Detect, Respond, Recover, and Govern) which comprise both administrative and technical controls to effectively manage information and cybersecurity risk. Cybersecurity is actively working to implement the CSF controls through SMUD policies to enhance and govern information management and security risk management practices and processes in support of SD-16. Cybersecurity will highlight the cybersecurity capabilities provided in an update to the board for SD-16 during an upcoming closed session.

#### Physical Security

**SMUD will safeguard its employees while at work as well as customers and visitors at SMUD facilities.**

SMUD facilities welcome thousands of community members through community events, meetings, and face to face interactions in addition to being the home of nearly 2300 employees.

SMUD's Security Operations continues to meet its goal of maintaining customer and employee safety by leveraging physical security staff, video surveillance technology, lighting and signage, passive and active physical security barriers, education and partnerships with law enforcement and community stakeholders.

This year, SMUD authored and implemented a comprehensive new Visitor Control and Management policy. This policy outlines the requirements for planning, coordinating, escorting and approving visits throughout SMUD. The new policy ensures uniform, consistent, safe and efficient processes for visitors and SMUD employees. SMUD additionally added an enhanced Workplace Violence Prevention policy and training for all employees. These safeguards and policies ensure that safety remains priority one at SMUD. As with most new policies and procedures, these will be updated appropriately when needed to reflect the ever-changing threat landscape.

**SMUD will also protect its facilities and functions that support the reliability of the electric system and overall operation of the organization from unauthorized access or disruption of business operations.**

Security Operations has identified a new thermal imaging technology that will be used to supplement existing intrusion detection methods at substations and other sites where false alarms have been rampant. This system "sees" things thermally and then directs a camera to the detected object for the Security Dispatcher to assess. This will help with an aging fiber optic sensor system that has been giving widespread false alarms for years. The resulting drain on resources and unnecessary patrol response has been a costly issue, and introducing this new system should reduce those problems significantly. This is part of a larger effort to use metrics-gathering tools to increase operational efficiency, identify trends and hotspots, and increase visibility of emergent issues, particularly at our Critical Infrastructure Protection (CIP) sites.

**Customer Privacy**

**SMUD will annually notify customers about the collection, use and dissemination of sensitive and confidential customer information.**

SMUD sent out our annual privacy notice via email and as a bill insert to customers during the May bill cycle. The language in the notice was updated this year to emphasize that any non-SMUD business uses of personal information require individual consent. The notice is otherwise very similar to previous years and continues to include plain language regarding SMUD's collection, use, and release of customer sensitive and confidential information, the business purposes for which customer information is used, as well as a reaffirmation of SMUD's commitment to customer privacy.

**Except as provided by law or for a business purpose, SMUD will not disseminate sensitive and confidential customer information to a third party for non-SMUD business purposes unless the customer first consents to the release of the**

**information.**

No sensitive and confidential customer information has been sent to a third party for non-SMUD business purposes this year.

**Where sensitive and confidential information is disseminated for a business purpose, SMUD will ensure: (i) the third party has robust information practices to protect the sensitive and confidential customer information, and (ii) use of the information by the third party is limited to SMUD's business purpose.**

Cybersecurity and Procurement continue to follow a formalized supply chain risk management process, in compliance with NERC CIP requirements. The process is aligned to the NIST Cybersecurity Framework (CSF) and is reviewed on at least an annual basis to ensure it is functioning as designed and incorporates lessons learned as new procurements follow the process. The process includes a mandatory procurement requirement for vendors to allow the Cybersecurity team to evaluate the security posture of a proposed vendor solution. The American Institute of CPAs (AICPA) Service Organization Control 2 (SOC 2) Type 2 continues to be our procurement standard as it is an independent assessment focused on a solution's security controls which includes tests of the security controls' efficacy. SOC 2 Type 2 reports provide staff confidence that vendor security controls are robust and sufficient to protect SMUD information. Contract and non-disclosure agreement language is used to provide assurance that SMUD provided sensitive and confidential information will not be used for any unapproved purposes. Additionally, our data sharing policy and process also align to this requirement.

**SMUD will maintain a process that identifies the business purposes for which SMUD will collect, use and disseminate sensitive and confidential customer information.**

MP 07.03.01.122 - Data Sharing requires an approved data sharing request prior to sharing information with a third party for SMUD business purposes. No significant policy or process changes related to data sharing occurred this year.

### **Records Management**

**The efficient and systematic control of the creation, capture, identification, receipt, maintenance, use, disposition, and destruction of SMUD records, in accordance with legal requirements and Board policies.**

The IMC Program in collaboration with the Enterprise Content Management (ECM) team launched a mass content migration (Enterprise Shared Drive Migration) project at the beginning of 2023. Using completed IMC records evaluations, this effort has migrated or is in the process of migrating content from 29 business areas out of the 41 business areas in scope, for an estimated total of 4.5 million documents classified and migrated. The project identifies, organizes, and migrates content for each business area from non-approved records repositories

into approved record repositories. This allows content to be managed in accordance with SD-16.

The IMC program is continuing to partner with IT to review and support new software integrations to ensure they meet records policies and information management requirements. This is imperative as new software often produces and stores records outside of official repositories. IMC has been added to the purchase approval process to support this effort.

The IMC Program continues to collaborate with the Enterprise Content Management team, Cybersecurity, the CIP Program, Data Governance, and other business partners to ensure compliance with records policies and information management requirements.

#### 4) Challenges

##### **Information Security**

Our federal partners (FBI) continue to warn us of the heightened geopolitical tension and the nation state cyber actors targeting critical infrastructure that led to the “Shields Up” declaration from the Department of Homeland Security’s Cybersecurity and Infrastructure Security Agency (CISA) from 2022, stressing the continued need to focus on maturing our cybersecurity posture. The Cybersecurity team continued to work this past year with numerous IT teams to follow CISA guidance to help manage the cyber risk. Internally facing awareness campaigns continue to remind staff of the risks we’re facing and the role they play in keeping our systems and data protected. In addition to the technical controls put in place, cybersecurity once again partnered with other departments to ensure our cyber insurance coverage is maintained.

SMUD’s Payment Card Industry (PCI) card payment transaction volume makes SMUD a PCI Level 2 Merchant. This year the new updated version 4 of the PCI Data Security Standard (PCI DSS) went live. As determined by an independent third-party PCI Qualified Security Assessor, we are compliant with the new version. Our required assessment documents attesting to our compliance with the updated standards were submitted to Chase Paymentech in June.

The Cybersecurity team continues to work hard to ensure compliance with the NERC Critical Infrastructure Protection (CIP) standards. Additional standards become enforceable in 2025 and subsequent years which will require additional resources from the Cybersecurity team and other teams as well.

Ransomware continues to be a threat, and in response SMUD Cybersecurity has continued to mature our Cybersecurity Emergency Operations Program (CEOP), performing annual exercises to ensure our teams understand the plan and are prepared to execute it in the event of a security incident. The exercises highlight ways we can improve our processes.

Cybersecurity’s Zero-Trust Strategy is a core part of the larger IT strategy, and better positions SMUD to secure sensitive data, systems, and services. IT continues to make progress in this area, working with Cybersecurity to ensure upcoming projects and efforts align to this strategy.

### **Physical Security**

Physical Security is a first line of defense against any unauthorized intrusions at our facilities. With the ever-changing international and domestic threat landscape, as well as the significant increase in unsafe activity located near SMUD campuses, sub-stations and other assets, the risk of outside impacts to SMUD assets and field staff continues to increase. SMUD Security Operations continues to invest in technology, increased training and adoption of best practices as well as partnerships with local and federal law enforcement and local community and government agencies to ensure we are prepared to meet and withstand current threat conditions in support of our employees, physical assets and the community we serve.

SMUD continues to grow as an organization in size and reputation, gaining national and international attention as one of the best public utilities in the world and as an economic development driver in the Sacramento region. As such, our infrastructure and facilities footprint continue to grow as we move toward our 2030 Zero Carbon Plan. As SMUD continues to grow our influence, impact and footprint, our threat exposure grows as well.

SMUD Security Operations continues to work to ensure compliance with the NERC CIP standards while meeting the SMUD Strategic Directives. Balancing SMUD's management of critical CIP areas while maintaining our role as a community convener and customer facing campus will continue to offer challenges. As CIP standards are adopted in 2025 and into the future, SMUD Security Operations will continue to evaluate our program to ensure that SMUD continues to have sufficient resources from a personnel, technology and security infrastructure standpoint to meet future needs, responsibilities and conditions.

### **Customer Privacy**

SMUD continues to see requests for SMUD customer data to be used and shared for additional purposes and programs, including customer personally identifiable information (PII). SMUD's Data Sharing Policy and process are in place to provide request tracking and approval to ensure that all sharing of PII is authorized and that transmission is performed using an approved and secure transfer mechanism.

### **Records Management**

The IMC program continues to integrate information management best practices into SMUD's daily operations. Business areas are actively collaborating with IMC in the creation of information management and recordkeeping policies/procedures specific to their day-to-day operational needs. SMUD's continued development of the IMC program further reduces the risk of potential multi-million-dollar fines and reputational damage associated with lack of records management controls.

The Enterprise Shared Drive Migration project which launched at the beginning of 2023 (expected to end in 2025) is a large undertaking that involves the mass organization and migration of content from Enterprise shared drives to approved SMUD information repositories. IMC in collaboration with the ECM team is working diligently to ensure completion of the project tasks by business areas and ease the learning curve that comes with these implemented

changes. We have created documentation that helps with the classification of the records as well as training to ease the transition into using a new repository. This project will ensure SMUD stays in line with information management industry best practices, create an environment of purposeful organization and generate information management symmetry across SMUD.

## 5) **Recommendation**

It is recommended that the Board accept the Monitoring Report for SD-16 Information Management Policy Monitoring Report.

## 6) **Appendices**

Definitions and acronyms:

- NIST – National Institute of Standards and Technology
- CSF – Cybersecurity Framework
- CISA – Cybersecurity and Infrastructure Security Agency
- PCI – Payment Card Industry
- PCI DSS – Payment Card Industry Data Security Standard
- CIP – Critical Infrastructure Protection
- BCSI – Bulk Electric System (BES) Cyber System Information
- CEOP – Cybersecurity Emergency Operations Program

**RESOLUTION NO. 24-11-08**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board approves the revisions to the **Strategic Direction SD-16, Information Management and Security** substantially in the form as set forth in **Attachment E.**

Approved: November 21, 2024

INTRODUCED: DIRECTOR TAMAYO				
SECONDED: DIRECTOR KERTH				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON	X			
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

## Attachment E to Resolution No. 24-11-08

### **SMUD BOARD POLICY**



**Category:** Strategic Direction

**Policy No.:** SD-16

**Title:** Information Management and Security

Proper management of cyber and physical information, as well as physical security, is a core value. Robust information management and physical security practices are critical to effective risk management and to ensure regulatory compliance, business resiliency and customer satisfaction. SMUD shall take prudent and reasonable measures to accomplish the following:

- a) **Cybersecurity:** SMUD will protect customer, employee and third-party information, and SMUD technology systems are protected from unauthorized access, use, disclosure, disruption, modification, or destruction.
- b) **Physical Security:** SMUD will safeguard its employees while at work as well as customers and visitors at SMUD facilities. SMUD will also protect its facilities and functions that support the reliability of the electric system and overall operation of the organization from unauthorized access or disruption of business operations.
- c) **Privacy:** SMUD will annually notify customers about the collection, use and dissemination of sensitive and confidential customer information. Except as provided by law or for a business purpose, SMUD will not disseminate sensitive and confidential customer information to a third party for non-SMUD business purposes unless the customer first consents to the release of the information. Where sensitive and confidential information is disseminated for a business purpose, SMUD will ensure: (i) the third party has robust information practices to protect the sensitive and confidential customer or employee information, and (ii) use of the information by the third party is limited to SMUD's business purpose. SMUD will maintain a process that identifies the business purposes for which SMUD will collect, use and disseminate sensitive and confidential customer and employee information.
- d) **Information Management:** SMUD will maintain the efficient and systematic control of the creation, capture, identification, receipt, maintenance, use, disposition, and destruction of SMUD information, in accordance with legal requirements and Board policies.

**Monitoring Method:** CEO Report

**Frequency:** Annual

**Versioning:**

August 7, 2008	Resolution No. 08-08-03	Date of Adoption.
October 16, 2008	Resolution No. 08-10-09	Date of Revision.
March 20, 2014	Resolution No. 14-03-08	Date of Revision.
December 21, 2017	Resolution No. 17-12-03	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
November 21, 2024	Resolution No. 24-11-08	Date of Revision. [Current Policy]

President Herber then turned to Discussion Calendar Item 11, the election of officers for the SMUD Board of Directors for 2025.

No public comment was forthcoming on Discussion Calendar Item 11.

Director Kerth then nominated Director Fishman for the position of President of the SMUD Board of Directors for 2025, and Resolution No. 24-11-09 was unanimously approved.

**RESOLUTION NO. 24-11-09**

**WHEREAS**, President Herber called for the election of the President of the Board of Directors for the year 2025; and

**WHEREAS**, Director Kerth nominated Director Fishman for the position of President of the Board of Directors for 2025; and

**WHEREAS**, hearing no other nominations, the President closed the nominations and proceeded to a vote; **NOW, THEREFORE**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

That this Board hereby elects Director Fishman to serve as President of the Board of Directors for the 2025 term commencing January 1, 2025, through December 31, 2025.

Approved: November 21, 2024

INTRODUCED: DIRECTOR KERTH				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON	X			
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

Vice President Fishman then nominated Director Tamayo for the position of Vice President of the SMUD Board of Directors for 2025, and Resolution No. 24-11-10 was unanimously approved.

**RESOLUTION NO. 24-11-10**

**WHEREAS**, President Herber called for the election of the Vice President of the Board of Directors for the year 2025; and

**WHEREAS**, Director Fishman nominated Director Tamayo for the position of Vice President of the Board of Directors for 2025; and

**WHEREAS**, hearing no other nominations, the President closed the nominations and proceeded to a vote; **NOW, THEREFORE**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

That this Board hereby elects Director Tamayo to serve as Vice President of the Board of Directors for the 2025 term commencing January 1, 2025, through December 31, 2025.

Approved: November 21, 2024

INTRODUCED: DIRECTOR FISHMAN				
DIRECTOR	AYE	NO	ABSTAIN	ABSENT
HERBER	X			
ROSE	X			
BUI-THOMPSON	X			
FISHMAN	X			
KERTH	X			
TAMAYO	X			
SANBORN	X			

President Herber then called for public comment items not on the agenda.

Robert Wichert stated he ran for Ward 1 in the recent election with the platform that rate increases are too high. He stated he was aware of the Board's policy to keep rates below PG&E's rates. He requested that the Board adopt a formal policy to keep rate increases below inflation.

President Herber then turned to Directors' Reports.

Director Sanborn reported on her attendance at the Impact 100 Greater Sacramento Annual Celebration and the American Leadership Forum Exemplary Leaders Dinner. She reported that she had joined the CivicWell Board as the first utility representative and on her attendance, along with Vice President Fishman, at the Carmichael Chamber's Best of Carmichael Dinner where she accepted an award on behalf of SMUD for Favorite Utility. She concluded by reporting on her attendance at the Tails of Twilight Gala, which is the annual fundraiser for the Friends of Front Street Animal Shelter, and encouraged those interested to donate to Front Street Animal Shelter in light of their recent study identifying the need for a new shelter with more space.

Director Tamayo reported on his participation in the Asian Pacific Chamber's internal study mission as well as his attendance at the Asian Community Center where he accepted an award on behalf of SMUD. He then reported on his participation in tree plantings at Maple Community Center and at Hollywood Park, his attendance the Filipino Community of Sacramento and Vicinity's Heritage Banquet, the SMUD Sustainable Communities Partnership Summit, and the Energy Thought Summit – Sacramento.

Director Kerth reported on his outreach and meetings with business communities in various property and business improvement districts (PBIDs), including the River District, R Street Corridor, Downtown Sacramento Partnership and parts of Natomas where they discussed business climate and plans for the coming year. He then reported on his attendance at the 100<sup>th</sup> Anniversary Celebration for the North Sacramento Chamber of Commerce, the Alchemist

Kitchen Annual event, the Central Labor Council Salute to Labor Gala, and the celebration of life for Bill Camp.

Vice President Fishman reported on his participation in the United Nations Climate Change Conference of the Parties (COP 29) held in Baku, Azerbaijan.

Director Bui-Thompson reported on her attendance and participation in a panel at the Energy Thought Summit held at SMUD. She commended staff for an exceptional event and noted presentations by the speakers, including SMUD staff, would be made available online. She concluded by reporting on her attendance at the German Marshall Fund Alumni Dinner.

Director Rose thanked Mr. Wichert for attending the meeting and noted that as of October, SMUD's rates were 58.8% below PG&E's. He then reported on his attendance at the Nehemiah Emerging Leaders Anniversary Celebration, the Future of Folsom event organized by the Folsom Chamber of Commerce, the Sacramento Society for the Prevention of Cruelty to Animals (SPCA) Gala, and the Elk Grove Veterans Day Parade. He concluded by thanking staff for their work on the number of Board Committee meetings held in November.

President Herber thanked staff for the information and briefings provided regarding SMUD's budget and the Board Office for their assistance and support in the past year. She then reported on her participation in a clean energy entrepreneur conference where she moderated a panel, her attendance at a Leadership Sacramento class, her attendance at the Street Soccer Anniversary Cup Celebration where she accepted an award on behalf of SMUD, and her speaking event at the Capital Storytelling's Immigrant Stories event.

Paul Lau, Chief Executive Officer and General Manager, congratulated incoming President Fishman and Vice President Tamayo. He then reported on the following items:

**1) Native American Heritage Month, Diwali, and Veterans Day.**

This month, we recognized Native American Heritage Month, Diwali and Veterans Day. Throughout November, we are

recognizing the rich ancestry and vibrant traditions of Native Americans. We honor the legacy that Indigenous history makers have left – and those who continue to shape our society, lead their communities and impact our culture today. Also this month, our Groups Reaching Across International Networks, or GRAIN, Employee Resource Group organized a gathering to celebrate Diwali, which is the Hindu Festival of Lights. Employees got to learn about the history and enjoy traditional Diwali foods. Finally, we proudly celebrated Veterans Day. SMUD's Military Employee Resource Group and other SMUD employees participated in the Elk Grove community parade. Thank you, Director Rose, for joining us. To SMUD's many veterans, thank you for your service and to all of the veterans across the U.S., thank you for your service!

- 2) **Zero Carbon.** Some great news to share on our journey to zero carbon. I am excited to share that our 2023 power mix was on average 78% carbon-free and about 45% renewable under the Renewables Portfolio Standard. In comparison, our Power Content Label in 2022 was 51% carbon-free and 24% renewable. That means we are seeing a 27% increase in carbon-free power! It is pretty amazing that we were able to up our renewables from 24% to 45%. The amount of carbon-free energy can change from year to year based on a number of factors, particularly the weather, and we had a great hydro year in 2023. We can also attribute this success to new solar and geothermal resources and procuring more short-term renewable contracts on the market itself. This is encouraging news as we continue to pursue our road to zero! These are the lowest carbon emissions we have had, I think, in SMUD's history. Thank you to the Board for your vision and to the staff for your hard work.

3) **Winter Storms Preparation.** With the turn of the season here, teams around SMUD are taking a coordinated response to be prepared for winter storms. We held a mock storm event to make sure we are ready for what is ahead, and teams learned about what is new and improved this year related to our storm response efforts and practiced how to successfully work with one another during a storm event. Over the past two years, we have continued to upgrade processes, procedures and train additional staff in order to enhance our coordinated approach to storm restoration and provide an even better customer experience for our whole community. I think you heard from our Chief Operating Officer Frankie McDermott how we have increased participation from 24 first responders to over 130, and he is constantly looking to see how we can bring more people in so that our staff can go out and assess the damage and give a better restoration time as quickly as we can to our customers, which we know is very, very important.

4) **Utility Insights.** We have been busy connecting with some of the top utility leaders to share insights and collaborate on strategies to achieve a clean energy future. We hosted an Energy Thought Summit with Zpryme, generally known as ETS, right here at SMUD. Director Bui-Thompson was instrumental on convincing Zpryme and ETS to have a second event outside of Texas to be in California. She was on the planning committee, she got everybody together and worked to make sure we had a very, very successful ETS event in Sacramento. Chief Operating Officer Frankie McDermott and Director Bui-Thompson and many of our staff participated in many panels, and I was honored to be one of the keynote speaking events. We also had many other SMUD staff speak at this event and share their expertise with the 50+ attendees. I think what is

important about this kind of event, is that it is so important for other utilities, other manufacturers, and people who are interested in participating in advancing zero carbon to hear what each other is doing and to learn from each other so that we do not have to reinvent the wheel, and we can accelerate decarbonization efforts.

**5) SMUD Events.** In November, we were thrilled to host our Sustainable Communities Partnership Summit and a Contractor Network Appreciation event here at SMUD. These two events are great examples of how we are working closely with our community to influence and support a clean energy future.

Through our Sustainable Communities Partnership Summit, we brought together 96 partners from our local nonprofit community to share best practices and discuss future collaboration opportunities with SMUD and each other. At our Contractor Network Appreciation event, we recognized the 6,700 completed projects by 345 contractors in the network and shared updates on our progress toward 2030, our commercial programs and future workforce development opportunities.

**6) Awards.** In the award space, there was much to celebrate this month. At the 15-year celebration of the Nehemiah Emerging Leaders Program, or NELP, our Director of Community Relations, Rhonda Staley-Brooks, was honored as the program's first Outstanding Alumni award recipient. At the WE3 Summit, SEW awarded SMUD with the Strategic Digital Transformation Award, our Chief Information Officer Suresh Kotha won the Tech Leader of the Year award, and I was honored to receive the Industry Visionary of the Year award. Congratulations to all!

**7) Board Video.** Finally, for this month's video, we are sharing one from our Clean Energy Key Terms series. These animated

videos were designed to help people better understand some of the more complicated energy-related terms. All these videos are shared out on our social media channels, YouTube and our website, and are translated into Spanish. Tonight's video tackles virtual power plants.

President Herber requested the Summary of Board Direction, but there were no items.

No further business appearing, President Herber adjourned the meeting in memory of SMUD employees Erin Page and Manes Uwobahorana at 7:00 p.m.

Approved:

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President

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Assistant Secretary



# BOARD AGENDA ITEM

## STAFFING SUMMARY SHEET

Committee Meeting &amp; Date

Finance and Audit

November 6 &amp; 7, 2024

Board Meeting Date

December 12, 2024

TO				TO			
1.	Scott Martin	6.					
2.	Lora Anguay	7.					
3.	Jose Bodipo-Memba	8.					
4.		9.	Legal				
5.		10.	CEO & General Manager				
<b>Consent Calendar</b>	<b>Yes</b>	<b>No</b> <i>If no, schedule a dry run presentation.</i>		<b>Budgeted</b>	<b>Yes</b>	<b>No</b> <i>(If no, explain in Cost/Budgeted section.)</i>	
FROM (IPR) Jennifer Restivo	DEPARTMENT Planning and Revenue Strategy			MAIL STOP A309	EXT. 5193	DATE SENT 10/24/24	

**NARRATIVE:**

**Requested Action:** Approve the following:

- 2025 SMUD Budget Resolution
- 2025 Debt Resolution
- Pay Schedule and Special Compensation Items

**Summary: 2025 Budget Resolution**

The 2025 Proposed SMUD Budget Resolution is comprised of Operations and Maintenance budget of \$1,463.9 million, Debt Service budget of \$205.4 million, and Capital budget of \$612 million. The proposed 2025 Budget Resolution limits spending to \$2,281.3 million (total of prior amounts), plus 10% contingency, plus the commodity contingency and adjustments for Hydro Generation Adjustment transfers or revenue, Western Area Power Administration (WAPA) energy delivery shortfall, and higher retail sales. Additionally, SMUD participates in regulatory programs such as Low Carbon Fuel Standard (LCFS) and Cap-and-Trade. When SMUD collects revenues through these program's sales, it is required to apply the proceeds toward specific expenses that support the program's goals. Should actual sales proceeds exceed the budgeted amount for these programs, the budgeted amount may be increased to match the sales proceeds without the prior specific approval of this Board. The proposed resolution also limits authorized permanent full-time positions to 2,300 plus 5 percent.

**Public Good Charge**

The Public Goods Charge shall be adjusted for expenditures of \$104.8 million, which exceeds the minimum of 2.85% of 1994 revenues. The percentage allocation for the public goods charge expenditures shall apply to low-income assistance, energy efficiency, research and development, and new renewable generation.

**2025 Debt Resolution**

The 2025 Proposed Debt Resolution contains the official Declaration of Intent to Issue Debt to create \$400 million of additional bonding authority to reimburse for qualifying capital expenditures. The resolution also contains the Official Intent to reimburse for 2025, 2024 and 2023 capital expenditures from bond proceeds, which is required to maintain tax-exempt financing capability.

**Pay Schedule and Special Compensation Items**

Approve/Accept SMUD's pay schedule and special compensation pursuant to California Code of Regulations (CCR).

**Board Policy:** The 2025 SMUD Budget funds programs and initiatives that contribute to meeting Board strategic directives.  
*(Number & Title)* GP-3 (e) Board will adopt SMUD's budget on an annual basis.

**Benefits:** Approval of the 2025 SMUD Budget meets the requirements of the MUD Act and will authorize spending within the limits prescribed.

**Cost/Budgeted:** Approval of the 2025 SMUD Budget Resolution will authorize spending within the limits prescribed.

**Alternatives:** Approval of a budget for SMUD is required before January 1, 2025, otherwise, SMUD will not have the authority to make purchases or pay employees.

**Affected Parties:** SMUD

**Coordination:** Budget Office, Treasury, Accounting, People, Services & Strategies, Legal.

**Presenter:** Scott Martin, Chief Financial Officer  
Laura Lewis, Chief Legal & Government Affairs Officer  
Brandy Bolden, Chief Customer Officer  
Lora Anguay, Chief Zero Carbon Officer  
Frankie McDermott, Chief Operating Officer  
Suresh Kotha, Chief Information Officer  
Jose Bodipo-Memba, Chief Diversity Officer

**Additional Links:**

SUBJECT	ITEM NO. (FOR LEGAL USE ONLY)
2025 Proposed SMUD Budget	5

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

Job ID	Job Title	Prob Per Mo	Pay Scale Group	Step 01	Step 02	Step 03	Step 04	Step 05	Step 06	Step 07	Step 08	Step 09	Step 10	Wage Type	Effective Date	
50051540	Accountant Entry	F	PAS00430	\$77,334.40										\$102,440.00	Annually	12/14/2024
50051541	Accountant Journey	12	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50083082	Accounting Technician	6	OSE0680A	\$32.53	\$33.37	\$34.21	\$35.05	\$35.95	\$36.86	\$37.77	\$38.74	\$39.73		Hourly	12/14/2024	
50051545	Administrative Supervisor	12	PAS00430	\$77,334.40										\$102,440.00	Annually	12/14/2024
50131376	Analyst Trainee	N/	PAS00390	\$70,075.20										\$92,913.60	Annually	12/14/2024
50157614	Art Director	12	PAS00620	\$123,531.20										\$163,592.00	Annually	12/14/2024
50051631	Asset Protection Officer I	12	SECU220A	\$24.61	\$25.26	\$25.91	\$26.54	\$27.21	\$27.86	\$28.57	\$29.26	\$30.02		Hourly	12/14/2024	
50051633	Asset Protection Officer II	12	SECU245A	\$31.23	\$32.01	\$32.80	\$33.63	\$34.48	\$35.37	\$36.20	\$37.14	\$38.07		Hourly	12/14/2024	
50138722	Asset Supervisor Business Operations	12	PAS0062L	\$123,531.20										\$228,883.20	Annually	12/14/2024
50169886	Asset Supervisor Power Generation	12	PAS0062J	\$123,531.20										\$213,449.60	Annually	12/14/2024
50121495	Assistant Engineer	12	PAS00410	\$73,611.20										\$97,489.60	Annually	12/14/2024
50136480	Assistant General Manager	N/	EXECU01E	\$301,246.40										\$492,939.20	Annually	12/14/2024
50092300	Assistant Superintendent Power Generation	12	PAS00660	\$136,364.80										\$180,606.40	Annually	12/14/2024
50159051	Assistant Supervisor Telecommunication Operations and Management	12	PAS0059C	\$114,712.00										\$163,592.00	Annually	12/14/2024
50090361	Associate Civil Engineer Entry Level	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50097000	Associate Civil Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50051553	Associate Desktop Support Specialist Closed Classification	F	PAS00450	\$81,244.80										\$107,577.60	Annually	12/14/2024
50083179	Associate Distribution Design Engineer Entry	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50051525	Associate Distribution Design Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
61000010	Associate Distribution Operations Engineer Entry	F	PAS00520	\$93,516.80										\$123,843.20	Annually	1/8/2024
61000010	Associate Distribution Operations Engineer Entry	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
61000011	Associate Distribution Operations Engineer Journey	12	PAS00590	\$111,092.80										\$147,201.60	Annually	1/8/2024
61000011	Associate Distribution Operations Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50083180	Associate Distribution System Engineer Entry	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50051539	Associate Distribution System Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50083181	Associate Electrical Engineer Entry	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50051522	Associate Electrical Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50139912	Associate Energy Management System Engineer Entry Level	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50139910	Associate Energy Management System Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50121331	Associate Enterprise Technology Analyst Entry	F	PAS00450	\$81,244.80										\$107,577.60	Annually	12/14/2024
50121274	Associate Enterprise Technology Developer Entry	F	PAS00450	\$81,244.80										\$107,577.60	Annually	12/14/2024
50168400	Associate Instrument and Controls Engineer Entry Level	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50108175	Associate Instrument and Controls Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50051532	Associate Mechanical Engineer Entry Level	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50083182	Associate Mechanical Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50120408	Associate Power Operation Engineer Journey Level	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50134736	Associate Protection Engineer Entry Level	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50120123	Associate Protection Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
61000022	Associate Substation Engineer Entry	F	PAS00520	\$93,516.80										\$123,843.20	Annually	5/7/2024
61000022	Associate Substation Engineer Entry	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
61000023	Associate Substation Engineer Journey	12	PAS00590	\$111,092.80										\$147,201.60	Annually	5/7/2024
61000023	Associate Substation Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50121906	Associate Telecommunication Engineer Entry	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50121894	Associate Telecommunication Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50123043	Associate Transmission Planning Engineer Entry	F	PAS00520	\$96,553.60										\$127,878.40	Annually	12/14/2024
50123047	Associate Transmission Planning Engineer Journey	12	PAS00590	\$114,712.00										\$151,985.60	Annually	12/14/2024
50051558	Attorney Entry Level	N/	PAS00620	\$123,531.20										\$163,592.00	Annually	12/14/2024
50051557	Attorney Journey Level	N/	PAS00660	\$136,364.80										\$180,606.40	Annually	12/14/2024
50054600	Board Member	N/	BOARD001	\$317.00										Per Meeting	12/14/2024	
50051564	Body Fender Mechanic	12	IBEW884A	\$56.95										Hourly	12/14/2024	
50160320	Business Continuity Program Manager	12	PAS00640	\$129,771.20										\$171,891.20	Annually	12/14/2024
50166422	Business Development Manager Customer Sales	N/	PAS0069B	\$146,806.40										\$204,318.40	Annually	12/14/2024
50083187	Business Planning Analyst Entry Level	F	PAS0043B	\$77,334.40										\$107,577.60	Annually	12/14/2024
50051560	Business Planning Analyst Journey	12	PAS0052B	\$96,553.60										\$134,284.80	Annually	12/14/2024
50051551	Business Technology Analyst Entry	F	PAS00450	\$81,244.80										\$107,577.60	Annually	12/14/2024
50051561	Business Technology Analyst Journey	12	PAS00540	\$101,400.00										\$134,284.80	Annually	12/14/2024
50111755	Business Technology Program Manager	12	PAS00660	\$136,364.80										\$180,606.40	Annually	12/14/2024
50088599	Business Transformation Specialist	12	PAS00640	\$129,771.20										\$171,891.20	Annually	12/14/2024
50084255	Business Unit Planning Coordinator	12	PAS0062B	\$123,531.20										\$171,891.20	Annually	12/14/2024
50051586	Cable Locator	12	IBEW873G	\$48.95	\$49.98	\$51.40	\$52.71	\$53.70						Hourly	12/14/2024	
50051584	Cable Locator with class A	12	IBEW873M	\$50.10	\$51.13	\$52.55	\$53.86	\$54.85						Hourly	12/14/2024	
50051585	Cable Locator with Hazmat	12	IBEW873X	\$50.21	\$51.24	\$52.65	\$53.98	\$54.97						Hourly	12/14/2024	
50165732	Cable Splicer Construction Foreman/Woman	12	IBEW941I	\$82.28										Hourly	12/14/2024	
50167676	Cable Splicer Construction Foreman/Woman with class A	12	IBEW941F	\$83.43										Hourly	12/14/2024	
50051574	Cable Splicer/Electrician	12	IBEW923K	\$69.30										Hourly	12/14/2024	
50083188	Cable Splicer/Electrician Apprentice	54	IBEW909A	\$45.07	\$47.62	\$50.22	\$52.83	\$55.47	\$58.07	\$60.61	\$63.24	\$65.81		Hourly	12/14/2024	
50051575	Cable Splicer/Electrician Apprentice with class A	54	IBEW909B	\$46.22	\$48.77	\$51.37	\$53.98	\$56.62	\$59.22	\$61.76	\$64.39	\$66.96		Hourly	12/14/2024	
50051579	Cable Splicer/Electrician Apprentice with hazmat	54	IBEW909C	\$46.34	\$48.89	\$51.49	\$54.10	\$56.74	\$59.34	\$61.88	\$64.51	\$67.08		Hourly	12/14/2024	
50051584	Cable Splicer/Electrician Foreman/Woman	12	IBEW937D	\$74.63										Hourly	12/14/2024	
50051577	Cable Splicer/Electrician Foreman/Woman Light	12	IBEW942A	\$78.08										Hourly	12/14/2024	
50051578	Cable Splicer/Electrician Foreman/Woman Light with class A	12	IBEW942L	\$79.23										Hourly	12/14/2024	
50051576	Cable Splicer/Electrician with Class A	12	IBEW923L	\$70.45										Hourly	12/14/2024	
50051583	Calibration Technician	12	IBEW925A	\$67.66										Hourly	12/14/2024	
50166640	Category Manager	12	PAS00560	\$106,537.60										\$141,148.80	Annually	12/14/2024
50131457	Chief Customer Officer	N/	EXECU01E	\$301,246.40										\$492,939.20	Annually	12/14/2024
50136448	Chief Diversity Officer	N/	EXECU01E	\$301,246.40										\$492,939.20	Annually	12/14/2024
50051691	Chief Executive Officer and General Manager	N/	EXECU03E	\$600,000.00										\$1,200,000.00	Annually	12/14/2024
50107656	Chief Financial Officer	N/	EXECU01E	\$301,246.40										\$492,939.20	Annually	12/14/2024
50159814	Chief Information Officer	N/	EXECU01E	\$301,246.40										\$492,939.20	Annually	12/14/2024
50051558	Chief Legal & Government Affairs Officer	N/	EXECU01E	\$301,246.40										\$492,939.20	Annually	12/14/2024

N/ designates non-civil service jobs

F designates non-journey nonrepresented flex jobs

**2025 SMUD Wage Schedule**  
Effective 12/14/2024

50170848	Chief Marketing & Communications Officer	N/	EXECU01E	\$301,246.40								\$492,939.20	Annually	12/14/2024	
50159810	Chief Operating Officer	N/	EXECU01E	\$301,246.40								\$492,939.20	Annually	12/14/2024	
50136450	Chief Strategy Officer	N/	EXECU01E	\$301,246.40								\$492,939.20	Annually	12/14/2024	
50169284	Chief Zero Carbon Officer	N/	EXECU01E	\$301,246.40								\$492,939.20	Annually	12/14/2024	
50051599	Civil Maintenance Foreman/Woman light	12	IBEW937G	\$71.40									Hourly	12/14/2024	
50051600	Civil Maintenance Foreman/Woman light with class A	12	IBEW937L	\$72.55									Hourly	12/14/2024	
50051601	Civil Maintenance Foreman/Woman light with hazmat	12	IBEW937X	\$72.67									Hourly	12/14/2024	
50123556	Claims Administrator Entry Level	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50161455	Claims Administrator Journey	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50051587	Combustible Turbine Foreman/Woman	12	IBEW945B	\$76.02									Hourly	12/14/2024	
50051588	Combustible Turbine Technician	12	IBEW917A	\$65.32									Hourly	12/14/2024	
50168961	Commercial and Industrial Energy Educator	12	PAS00620	\$123,531.20									\$163,592.00	Annually	12/14/2024
50134282	Communications Supervisor	12	PAS0059C	\$114,712.00									\$163,592.00	Annually	12/14/2024
50160594	Community Engagement Events Supervisor	12	PAS00620	\$123,531.20									\$163,592.00	Annually	12/14/2024
61000026	Community Engagement Representative I	12	PAS00450	\$78,686.40									\$104,187.20	Annually	6/27/2024
61000026	Community Engagement Representative I	12	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50132074	Community Engagement Representative II	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50097275	Computer Operations Specialist Entry Level	6	OSE0680B	\$32.43	\$33.22	\$34.05	\$34.92	\$35.81	\$36.65	\$37.60	\$38.54	\$39.47		Hourly	12/14/2024
50097276	Computer Operations Specialist Journey	6	OSE0720B	\$39.46	\$40.48	\$41.51	\$42.53	\$43.58	\$44.67	\$45.75	\$46.92	\$48.08		Hourly	12/14/2024
50161490	Construction Contract Analyst Entry Level	F	PAS00430	\$77,334.40									\$102,440.00	Annually	12/14/2024
50161492	Construction Contract Analyst Journey Level	12	PAS00520	\$96,553.60									\$127,878.40	Annually	12/14/2024
50051605	Construction Management Inspector I	12	OSE0740A	\$43.58	\$44.67	\$45.75	\$46.92	\$48.07	\$49.31	\$50.54	\$51.84	\$53.10		Hourly	12/14/2024
50051606	Construction Management Inspector II	12	OSE0770B	\$51.24	\$52.52	\$53.82	\$55.17	\$56.58	\$57.95	\$59.45	\$60.88	\$62.45		Hourly	12/14/2024
50122922	Construction Management Inspector III	12	OSE0772A	\$53.81	\$55.14	\$56.53	\$57.91	\$59.40	\$60.83	\$62.40	\$63.92	\$65.57		Hourly	12/14/2024
61000019	Contract Administrator Journey	12	PAS00540	\$98,217.60									\$130,062.40	Annually	3/23/2024
61000019	Contract Administrator Journey	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50135051	Coordinator Education Relations	12	PAS00620	\$123,531.20									\$163,592.00	Annually	12/14/2024
50084576	Coordinator Electri Transportation Projects	12	PAS00640	\$129,771.20									\$171,891.20	Annually	12/14/2024
50051592	Coordinator Energy and Technology Center	12	PAS0059C	\$114,712.00									\$163,592.00	Annually	12/14/2024
50100151	Cost Schedule Specialist Entry	F	PAS00430	\$77,334.40									\$102,440.00	Annually	12/14/2024
50051609	Cost Schedule Specialist Journey	12	PAS00520	\$96,553.60									\$127,878.40	Annually	12/14/2024
50051610	Crafts Helper	12	IBEW828G	\$33.43	\$34.96	\$37.64	\$40.22	\$43.07						Hourly	12/14/2024
50083191	Crafts Helper with class A	12	IBEW828L	\$34.58	\$36.11	\$38.79	\$41.37	\$44.22						Hourly	12/14/2024
50051611	Crafts Helper with hazmat	12	IBEW828X	\$34.70	\$36.23	\$38.91	\$41.49	\$44.34						Hourly	12/14/2024
50124979	Critical Infrastructure Protection Compliance Specialist Entry Level	F	PAS00490	\$89,648.00									\$118,788.80	Annually	12/14/2024
50124981	Critical Infrastructure Protection Compliance Specialist II	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50124981	Critical Infrastructure Protection Compliance Specialist Senior Level	12	PAS00620	\$123,531.20									\$163,592.00	Annually	12/14/2024
50051617	Custodian Closed Classification	12	IBEW800G	\$32.91	\$34.38	\$35.96	\$37.62							Hourly	12/14/2024
50051619	Customer Services Assistant	12	PAS00430	\$77,334.40									\$102,440.00	Annually	12/14/2024
50051620	Customer Services Field Representative	6	OSE0735A	\$41.18	\$42.21	\$43.26	\$44.36	\$45.47	\$46.62	\$47.80	\$48.97	\$50.24		Hourly	4/6/2024
50051620	Customer Services Field Representative	6	OSE0735A	\$42.52	\$43.58	\$44.67	\$45.80	\$46.95	\$48.14	\$49.35	\$50.56	\$51.87		Hourly	12/14/2024
50051622	Customer Services Representative I	6	OSE0641A	\$30.68	\$31.45	\$32.23	\$33.03	\$33.86						Hourly	12/14/2024
50051618	Customer Services Representative II	6	OSE0680A	\$32.53	\$33.37	\$34.21	\$35.05	\$35.95	\$36.86	\$37.77	\$38.74	\$39.73		Hourly	12/14/2024
50092958	Customer Services Supervisor	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50167103	Cyber Security Engineer Entry	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50167112	Cybersecurity Engineer Journey	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50167103	Cybersecurity Government And Computer Specialist Entry Level	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50167109	Cybersecurity Government And Computer Specialist Journey Level	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50167111	Cybersecurity Risk Specialist Entry Level	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50167111	Cybersecurity Risk Specialist Journey	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50051623	Data Base Administrator	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50051602	Data Center Operations Specialist	12	PAS00470	\$85,384.00									\$113,027.20	Annually	12/14/2024
50113480	Deputy General Counsel	N/	MGR0085G	\$215,384.00									\$299,936.00	Annually	12/14/2024
50084603	Design and Standards Specialist	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50051643	Desktop Support Specialist Closed Classification	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50170867	Director Community Relations Outreach & Support	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50051798	Director Accounting and Controller	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50126853	Director Advanced Energy Solutions	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
61000025	Director AI, Automation & Customer Self-Service Technologies	N/	MGR0080G	\$184,350.40									\$256,776.00	Annually	6/29/2024
61000025	Director AI, Automation & Customer Self-Service Technologies	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50051803	Director Audit Services	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50160177	Director Customer and Grid Strategy	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50161661	Director Customer Experience Planning and Integration	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50142658	Director Customer Operations & Assistance	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50126698	Director Customer Operations and Community Energy Services	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50091654	Director Customer Success	N/	MGR0085G	\$215,384.00									\$299,936.00	Annually	12/14/2024
50161872	Director Cybersecurity	N/	MGR0085G	\$215,384.00									\$299,936.00	Annually	12/14/2024
50051820	Director Distribution Planning & Operations	N/	MGR0085G	\$208,603.20									\$290,492.80	Annually	5/9/2024
50051820	Director Distribution Planning & Operations	N/	MGR0085G	\$215,384.00									\$299,936.00	Annually	12/14/2024
50122304	Director Energy Trading & Contracts	N/	MGR0085G	\$215,384.00									\$299,936.00	Annually	12/14/2024
50160223	Director Environmental Safety & Real Estate Services	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50051801	Director Facilities Security & Emergency Operations	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50162575	Director Grid Assets Strategic Services	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50051793	Director Line Assets	N/	MGR0080G	\$215,384.00									\$299,936.00	Annually	12/14/2024
50137965	Director Marketing and Corporate Communication	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50133151	Director People Services & Strategies	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50151556	Director Planning & Revenue Strategy	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50091575	Director Power Generation	N/	MGR0085G	\$215,384.00									\$299,936.00	Annually	12/14/2024
50051858	Director Procurement, Warehouse & Fleet	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
50124601	Director Reliability Compliance & Coordination	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024
60000022	Director Research & Development, Grants & Partnerships	N/	MGR0080G	\$184,350.40									\$256,776.00	Annually	4/20/2024
60000022	Director Research & Development, Grants & Partnerships	N/	MGR0080G	\$190,340.80									\$265,116.80	Annually	12/14/2024

N/ designates non-civil service jobs

F designates non-journey nonrepresented flex jobs

**2025 SMUD Wage Schedule**  
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61000027	Director Specialized Enterprise Initiatives	N/	MGR0080G	\$184,350.40								\$256,776.00	Annually	7/25/2024	
61000027	Director Specialized Enterprise Initiatives	N/	MGR0080G	\$190,340.80								\$265,116.80	Annually	12/14/2024	
50051819	Director Substation Telecommunications & Metering Assets	N/	MGR0085G	\$215,384.00								\$299,936.00	Annually	12/14/2024	
50166082	Director Sustainable Community Programs	N/	MGR0080G	\$190,340.80								\$265,116.80	Annually	12/14/2024	
50145212	Director Transmission Planning & Operations	N/	MGR0085G	\$215,384.00								\$299,936.00	Annually	12/14/2024	
50083424	Director Treasury & Treasurer	N/	MGR0085G	\$215,384.00								\$299,936.00	Annually	12/14/2024	
50160638	Director, Customer & Grid Operations Tech Center	N/	MGR0080G	\$190,340.80								\$265,116.80	Annually	12/14/2024	
50123045	Director, DEIB, Learning, & Sustainable Communities	N/	MGR0080G	\$190,340.80								\$265,116.80	Annually	12/14/2024	
50051816	Director, Enterprise Systems, Strategy and Governance	N/	MGR0080G	\$190,340.80								\$265,116.80	Annually	12/14/2024	
50088303	Director, IT Infrastructure Platform Services	N/	MGR0080G	\$190,340.80								\$265,116.80	Annually	12/14/2024	
50131458	Director, Resource & Market Planning and Settlements	N/	MGR0080G	\$190,340.80								\$265,116.80	Annually	12/14/2024	
50140181	Distribution Line Design Supervisor	12	PAS0062T	\$123,531.20								\$180,627.20	Annually	12/14/2024	
50051628	Distribution System Operator I	12	IBEW928J	\$71.94	\$73.75	\$75.65	\$77.63	\$79.60	\$81.63	\$83.67	\$85.91	\$88.08		Hourly	
50051629	Distribution System Operator II	12	IBEW992D	\$92.50										Hourly	
50051630	Distribution System Specialist	12	PAS0066A	\$136,364.80									\$185,099.20	Annually	12/14/2024
50051624	Document Record Specialist I	6	OSE0615A	\$23.44	\$24.03	\$24.63	\$25.21	\$25.84	\$26.51	\$27.17	\$27.85	\$28.56		Hourly	
50051625	Document Record Specialist II	6	OSE0634B	\$25.70	\$26.33	\$27.04	\$27.69	\$28.39	\$29.14	\$29.85	\$30.61	\$31.36		Hourly	
50090307	Document Record Specialist II Confidential	6	CONF634A	\$28.19	\$28.88	\$29.58	\$30.33	\$31.10	\$31.85	\$32.70	\$33.49	\$34.37		Hourly	
50083194	Drafting Technician I	6	OSE0680A	\$32.53	\$33.37	\$34.21	\$35.05	\$35.95	\$36.86	\$37.77	\$38.74	\$39.73		Hourly	
50051642	Drafting Technician II	6	OSE0716A	\$38.46	\$39.41	\$40.40	\$41.42	\$42.45	\$43.52	\$44.60	\$45.74	\$46.89		Hourly	
50115039	Economic & Small Business Development Representative Entry Level	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50051822	Economic & Small Business Development Representative II	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50051594	Economic & Small Business Development Representative III	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50051823	Economic & Small Business Development Supervisor	12	PAS0062B	\$123,531.20									\$171,891.20	Annually	12/14/2024
61000003	Economic Development & Business Growth Specialist I	12	PAS00590	\$111,092.80									\$147,201.60	Annually	1/8/2024
61000004	Economic Development & Business Growth Specialist I	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50170332	Economic Development & Business Growth Specialist II	N/	PAS00660	\$132,080.00									\$174,928.00	Annually	12/16/2023
50170332	Economic Development & Business Growth Specialist II	N/	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50137576	Economic Development and Business Manager	N/	PAS00720	\$158,059.20									\$209,414.40	Annually	12/14/2024
50051646	Economic Development Specialist	N/	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50051646	Education Specialist	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50140144	Electrical Field Consultant	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50051653	Electrical Technician	12	IBEW937E	\$77.42										Hourly	12/14/2024
50089229	Electrical Technician Apprentice	48	IBEW928B	\$50.25	\$53.25	\$56.12	\$59.02	\$61.95	\$64.88	\$67.73	\$70.65	\$73.54		Hourly	
50051655	Electrical Technician Apprentice with hazmat	48	IBEW928C	\$51.52	\$54.52	\$57.39	\$60.29	\$63.22	\$66.15	\$69.00	\$72.10	\$74.81		Hourly	
50092679	Electrical Technician Foreman/Woman Light	12	IBEW970A	\$88.58										Hourly	12/14/2024
50092777	Electrical Technician Foreman/Woman Light On Call	12	IBEW970O	\$90.29										Hourly	12/14/2024
50092739	Electrical Technician Foreman/Woman With class A	12	IBEW970M	\$89.78										Hourly	12/14/2024
50092740	Electrical Technician Foreman/Woman With hazmat	12	IBEW970N	\$89.90										Hourly	12/14/2024
50091431	Electrical Technician Subforeman/Woman	12	IBEW937F	\$83.41										Hourly	12/14/2024
50120394	Electrical Test & Repair Specialist	12	IBEW939A	\$75.62										Hourly	12/14/2024
50051647	Electrician	12	IBEW916A	\$64.85										Hourly	12/14/2024
50051644	Electrician Apprentice	48	IBEW880A	\$42.15	\$44.97	\$47.69	\$50.48	\$53.27	\$56.05	\$58.78	\$61.59			Hourly	12/14/2024
50051649	Electrician Apprentice with class A	48	IBEW880L	\$43.30	\$46.12	\$48.84	\$51.63	\$54.42	\$57.20	\$59.93	\$62.74			Hourly	12/14/2024
50051650	Electrician Apprentice with hazmat	48	IBEW880X	\$43.42	\$46.24	\$48.96	\$51.75	\$54.54	\$57.32	\$60.05	\$62.86			Hourly	12/14/2024
50099538	Electrician Foreman/Woman Light	12	IBEW941M	\$74.23										Hourly	12/14/2024
50099539	Electrician Foreman/Woman Light With class A	12	IBEW941L	\$75.38										Hourly	12/14/2024
50099544	Electrician Foreman/Woman Light With hazmat	12	IBEW941X	\$75.50										Hourly	12/14/2024
50051651	Electrician with class A	12	IBEW916L	\$66.00										Hourly	12/14/2024
50133655	Electrician with hazmat	12	IBEW916X	\$66.12										Hourly	12/14/2024
50051663	Emergency Preparedness Specialist I	F	PAS00490	\$89,648.00									\$118,788.80	Annually	12/14/2024
50051664	Emergency Preparedness Specialist II	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50120629	Emergency Preparedness Specialist III	12	PAS00620	\$123,531.20									\$163,592.00	Annually	12/14/2024
50164527	End User Computing Analyst	12	PAS00390	\$70,075.20									\$92,913.60	Annually	12/14/2024
50131803	Energy Advisor Entry Level	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50131803	Energy Advisor Journey	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50051666	Energy Coordinator Special Projects	12	PAS00710	\$154,190.40									\$204,318.40	Annually	12/14/2024
50131880	Energy Specialist Entry	6	OSE0725D	\$40.48	\$41.51	\$42.53	\$43.59	\$44.67	\$45.75	\$46.92	\$48.07	\$49.32		Hourly	12/14/2024
50131879	Energy Specialist Journey	6	OSE0753A	\$46.70	\$47.88	\$49.05	\$50.28	\$51.55	\$52.80	\$54.13	\$55.51	\$56.85		Hourly	12/14/2024
50108843	Energy Trading Specialist Entry	F	PAS00430	\$77,334.40									\$102,440.00	Annually	12/14/2024
50108844	Energy Trading Specialist Intermediate	F	PAS00520	\$96,553.60									\$127,878.40	Annually	12/14/2024
50108903	Energy Trading Specialist Journey	12	PAS00620	\$123,531.20									\$163,592.00	Annually	12/14/2024
50090546	Engineering Designer I	12	OSE0711B	\$37.60	\$38.54	\$39.51	\$40.49	\$41.52	\$42.53	\$43.59	\$44.68	\$45.80		Hourly	12/14/2024
50083405	Engineering Designer II	12	OSE0745A	\$44.68	\$45.80	\$46.92	\$48.12	\$49.31	\$50.54	\$51.80	\$53.09	\$54.43		Hourly	12/14/2024
50083457	Engineering Designer III	12	OSE0770A	\$53.09	\$54.43	\$55.78	\$57.20	\$58.63	\$60.08	\$61.58	\$63.11	\$64.71		Hourly	12/14/2024
50084126	Engineering Designer IV	12	OSE0780A	\$60.08	\$61.58	\$63.11	\$64.71	\$66.32	\$67.96	\$69.65	\$71.41	\$73.20		Hourly	12/14/2024
50051655	Engineering Specialist	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50083191	Engineering Technician Entry Level	12	OSE0677A	\$35.26	\$36.14	\$37.04	\$37.97	\$38.93						Hourly	12/14/2024
50051658	Engineering Technician Journey	12	OSE0714A	\$38.39	\$39.36	\$40.30	\$41.33	\$42.38	\$43.45	\$44.53	\$45.62	\$46.80		Hourly	12/14/2024
50170773	Enterprise Application Administrator Entry	F	PAS0052B	\$96,553.60									\$134,284.80	Annually	12/14/2024
50085578	Enterprise Application Administrator Journey	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50166430	Enterprise Architect Entry Level	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50166431	Enterprise Architect Journey Level	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50051744	Enterprise Operations Analyst Journey	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50145378	Enterprise Performance Planning Coordinator Entry Level	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50139957	Enterprise Performance Planning Coordinator Journey	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50158464	Enterprise Risk Coordinator	12	PAS00620	\$123,531.20									\$163,592.00	Annually	12/14/2024
50126639	Enterprise Technology Analyst Intermediate	F	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50083607	Enterprise Technology Analyst Journey	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50138861	Enterprise Technology Developer Intermediate	F	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50083823	Enterprise Technology Developer Journey	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50138415	Enterprise Technology Infrastructure Specialist Entry Level	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024

N/ designates non-civil service jobs

F designates non-journey nonrepresented flex jobs

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50138421	Enterprise Technology Infrastructure Specialist Intermediate	F	PAS0054O	\$101,400.00											\$134,284.80	Annually	12/14/2024
50138422	Enterprise Technology Infrastructure Specialist Journey	12	PAS0059O	\$114,712.00											\$151,985.60	Annually	12/14/2024
50051936	Environmental Health & Safety Specialist I	F	PAS0049O	\$89,648.00											\$118,788.80	Annually	12/14/2024
50051937	Environmental Health & Safety Specialist II	12	PAS0056O	\$106,537.60											\$141,148.80	Annually	12/14/2024
50051938	Environmental Health & Safety Specialist III	12	PAS0062O	\$123,531.20											\$163,592.00	Annually	12/14/2024
50051659	Equipment Operator	12	IBEW858L	\$50.82												Hourly	12/14/2024
50051660	Equipment Operator with class A	12	IBEW864A	\$51.97												Hourly	12/14/2024
50051661	Equipment Operator with hazmat	12	IBEW864X	\$52.09												Hourly	12/14/2024
50051662	Equipment Testing Representative	6	OSE0735B	\$42.53	\$43.58	\$44.67	\$45.75	\$46.92	\$48.07	\$49.31	\$50.55	\$51.84				Hourly	12/14/2024
50083197	Equipment Testing Representative Assistant	6	OSE0695A	\$34.92	\$35.81	\$36.65	\$37.60	\$38.53	\$39.46	\$40.48	\$41.51	\$42.53				Hourly	12/14/2024
50088755	Executive Advisor	N/	EXECU01E	\$301,246.40											\$492,939.20	Annually	12/14/2024
50092751	Executive Assistant Executive Office	N/	PAS0051O	\$94,182.40											\$124,800.00	Annually	12/14/2024
50131624	Facilities Building & Grounds Supervisor	12	PAS0059O	\$114,712.00											\$151,985.60	Annually	12/14/2024
5013660	Facilities Craft Supervisor	12	PAS0062B	\$123,531.20											\$171,891.20	Annually	12/14/2024
50099209	Facilities Custodian	12	IBEW792A	\$25.64	\$27.58	\$29.80	\$32.07									Hourly	12/14/2024
50051842	Facilities Electrical Foreman/Woman Light with class A	12	IBEW941L	\$75.38												Hourly	12/14/2024
50117603	Facilities Electrician Foreman/Woman Light	12	IBEW941M	\$74.23												Hourly	12/14/2024
50159122	Facilities Stationary Engineer Apprentice	12	IBEW851J	\$34.48	\$36.48	\$38.44	\$40.44	\$42.42	\$44.41	\$46.41	\$48.38	\$50.41				Hourly	12/14/2024
50159123	Facilities Stationary Engineer Apprentice Closed Classification	12	IBEW879F	\$40.57	\$42.92	\$45.24	\$47.61	\$49.93	\$52.28	\$54.63	\$56.94	\$59.31				Hourly	12/14/2024
50159225	Facilities Stationary Engineer I	12	IBEW872G	\$53.05												Hourly	12/14/2024
50159124	Facilities Stationary Engineer Foremen/Woman Light	12	IBEW937G	\$71.40												Hourly	12/14/2024
50159226	Facilities Stationary Engineer II	12	IBEW908A	\$62.42												Hourly	12/14/2024
50051521	Facilities Utility Crew Foreman/Woman	12	IBEW919M	\$47.46												Hourly	12/14/2024
50168951	Facilities Utility Crew Foreman/Woman Closed Classification	12	IBEW863M	\$55.27												Hourly	12/14/2024
50168954	Facilities Utility Crew Foreman/Woman with hazmat	12	IBEW919N	\$48.73												Hourly	12/14/2024
50168953	Facilities Utility Crew Foreman/Woman with hazmat Closed Classification	12	IBEW863N	\$56.54												Hourly	12/14/2024
50093182	Fault Locator	12	IBEW941H	\$75.58												Hourly	12/14/2024
50093183	Fault Locator with class A	12	IBEW941J	\$76.73												Hourly	12/14/2024
50101803	Field Support Technician with class A	12	IBEW888C	\$53.93	\$55.28	\$56.68	\$58.06									Hourly	12/14/2024
50083163	Financial Analyst Entry Level	F	PAS0043O	\$77,334.40											\$102,440.00	Annually	12/14/2024
50051681	Financial Analyst Journey Level	12	PAS0052O	\$96,553.60											\$127,878.40	Annually	12/14/2024
50051683	Financing Specialist Closed Classification	12	PAS0049O	\$89,648.00											\$118,788.80	Annually	12/14/2024
50083479	Fire Protection & Loss Control Specialist	12	PAS0054O	\$101,400.00											\$134,284.80	Annually	12/14/2024
50111032	Fleet Asset Coordinator	12	PAS0052O	\$96,553.60											\$127,878.40	Annually	12/14/2024
50111033	Fleet Maintenance Scheduler	12	PAS0052O	\$96,553.60											\$127,878.40	Annually	12/14/2024
50160522	Fleet Maintenance Supervisor	12	PAS0056C	\$106,537.60											\$151,985.60	Annually	12/14/2024
50051686	Forms Assistant	6	OSE0660A	\$29.43	\$30.12	\$30.90	\$31.66	\$32.43	\$33.22	\$34.05	\$34.92	\$35.81				Hourly	12/14/2024
50051687	Forms Technician	6	OSE0670D	\$30.90	\$31.66	\$32.43	\$33.22	\$34.05	\$34.92	\$35.81	\$36.65	\$37.60				Hourly	12/14/2024
50154335	Gardener	12	IBEW877J	\$38.99	\$39.98	\$40.81										Hourly	12/14/2024
50051707	Gardener Closed Classification	12	IBEW846G	\$45.61	\$46.75	\$47.69										Hourly	12/14/2024
50154333	Gardener with class A	12	IBEW877K	\$40.14	\$41.13	\$41.96										Hourly	12/14/2024
50051707	Gardener with class A Closed Classification	12	IBEW848L	\$46.76	\$47.76	\$48.84										Hourly	12/14/2024
50154333	Gardener with hazmat	12	IBEW877L	\$40.26	\$41.25	\$42.08										Hourly	12/14/2024
50051702	Gardener with hazmat Closed Classification	12	IBEW848X	\$46.88	\$48.02	\$48.96										Hourly	12/14/2024
50097100	Gas Control Technician	12	IBEW924A	\$67.47												Hourly	12/14/2024
50124993	Gas Control Technician Apprentice	48	IBEW912E	\$43.98	\$46.88	\$49.79	\$52.68	\$55.60	\$58.46	\$61.37	\$64.26					Hourly	12/14/2024
50136669	Gas Control Technician with class A	12	IBEW924L	\$68.62												Hourly	12/14/2024
50051691	Gas Pipeline Fieldperson	12	IBEW873G	\$48.95	\$49.98	\$51.40	\$52.71	\$53.70								Hourly	12/14/2024
50096042	Generation Designer I	12	OSE0711B	\$37.60	\$38.54	\$39.51	\$40.49	\$41.52	\$42.53	\$43.59	\$44.68	\$45.80				Hourly	12/14/2024
50096043	Generation Designer II	12	OSE0745A	\$44.68	\$45.80	\$46.92	\$48.12	\$49.31	\$50.54	\$51.80	\$53.09	\$54.43				Hourly	12/14/2024
50096044	Generation Designer III	12	OSE0770A	\$53.09	\$54.43	\$55.78	\$57.20	\$58.63	\$60.08	\$61.58	\$63.11	\$64.71				Hourly	12/14/2024
50096045	Generation Designer IV	12	OSE0780A	\$60.08	\$61.58	\$63.11	\$64.71	\$66.32	\$67.96	\$69.65	\$71.41	\$73.20				Hourly	12/14/2024
50097651	Geographic Information Systems Analyst Journey	12	PAS0052O	\$96,553.60											\$127,878.40	Annually	12/14/2024
50110253	Geographic Information Systems Manager	12	PAS0064O	\$129,771.20											\$171,891.20	Annually	12/14/2024
50164493	Geographic Information Systems Technician Entry	F	OSE0705A	\$36.65	\$37.60	\$38.53	\$39.46	\$40.48	\$41.52	\$42.53	\$43.58	\$44.68				Hourly	12/14/2024
50097650	Geographic Information Systems Technician Journey	6	OSE0736A	\$43.32	\$44.40	\$45.53	\$46.67	\$47.84	\$48.98	\$50.24	\$51.50	\$52.76				Hourly	12/14/2024
50051693	Government Affairs Representative II	12	PAS0056O	\$106,537.60											\$141,148.80	Annually	12/14/2024
50051694	Government Affairs Representative III	12	PAS0062O	\$123,531.20											\$163,592.00	Annually	12/14/2024
50051692	Government Affairs Representative Entry Level	F	PAS0047O	\$85,384.00											\$113,027.20	Annually	12/14/2024
50130983	Graduate Intern	N/	PAS0041O	\$73,611.20											\$97,489.60	Annually	12/14/2024
61000015	Grants Program Manager	12	PAS0066O	\$132,080.00											\$174,928.00	Annually	1/18/2024
61000015	Grants Program Manager	12	PAS0066O	\$136,364.80											\$180,606.40	Annually	12/14/2024
50051691	Graphic Artist	6	OSE0699A	\$35.41	\$36.32	\$37.23	\$38.21	\$39.15	\$40.22	\$41.21	\$42.28	\$43.33				Hourly	12/14/2024
50052175	Hazard Waste Foreman/Woman Light	12	IBEW912G	\$63.98												Hourly	12/14/2024
50052176	Hazard Waste Foreman/Woman Light with class A	12	IBEW915B	\$65.11												Hourly	12/14/2024
50055201	Hazard Waste Technician	12	IBEW874H	\$32.91	\$34.38	\$46.20	\$46.83	\$48.36	\$49.92	\$51.73	\$54.28				Hourly	12/14/2024	
50119981	Hazard Waste Technician On Call	12	IBEW886A	\$57.06												Hourly	12/14/2024
50083163	Hazard Waste Technician with class A	12	IBEW878A	\$55.42												Hourly	12/14/2024
50052177	Hazardous Waste Foreman/Woman Light with hazmat	12	IBEW915X	\$65.25												Hourly	12/14/2024
50052178	Hazardous Waste Technician with hazmat	12	IBEW878X	\$55.55												Hourly	12/14/2024
50154338	Head Gardener	12	IBEW919D	\$43.93												Hourly	12/14/2024
50051703	Head Gardener Closed Classification	12	IBEW863A	\$51.38												Hourly	12/14/2024
50154339	Head Gardener with class A	12	IBEW919F	\$45.08												Hourly	12/14/2024
50051703	Head Gardener with class A Closed Classification	12	IBEW863L	\$52.53												Hourly	12/14/2024
50154340	Head Gardener with hazmat	12	IBEW919G	\$45.20												Hourly	12/14/2024
50051705	Head Gardener with hazmat Closed Classification	12	IBEW863X	\$52.65												Hourly	12/14/2024
50083171	Heavy Duty Equipment Operator	12	IBEW893F	\$59.49												Hourly	12/14/2024
50051706	Heavy Duty Equipment Operator Apprentice	48	IBEW877A	\$38.66	\$41.19	\$43.77	\$46.31	\$48.83	\$51.40	\$53.93	\$56.49					Hourly	12/14/2024
50092744	Heavy Duty Equipment Operator Foreman/Woman Light	12	IBEW922L	\$68.03												Hourly	12/14/2024
50099278	Heavy Duty Equipment Operator Foreman/Woman Light On Call	12	IBEW937G	\$71.40												Hourly	12/14/2024
50092746	Heavy Duty Equipment Operator Foreman																

N/ designates non-civil service jobs

F designates non-journey nonrepresented flex jobs

N/ designates non-civil service jobs

F designates non-journey nonrepresented flex jobs

**2025 SMUD Wage Schedule**  
Effective 12/14/2024

50131011	Manager Distributed Energy Strategy	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50162683	Manager Distributed Generation Interconnections	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50160208	Manager Distribution Operations Engineering	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50110255	Manager Distribution Planning	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50140139	Manager Distribution System Operations	12	PAS0072L	\$158,059.20							\$265,408.00	Annually	12/14/2024	
50165511	Manager Economic Development & Partnership	N/	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50088581	Manager Electric Transportation	12	PAS00660	\$136,364.80							\$180,606.40	Annually	12/14/2024	
50126016	Manager Electric Design & Standards	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50125294	Manager Emerging Technology	12	PAS00690	\$146,806.40							\$194,438.40	Annually	12/14/2024	
50135733	Manager Employee Relations	N/	PAS00690	\$146,806.40							\$194,438.40	Annually	12/14/2024	
50051979	Manager Energy Management System	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50087975	Manager Energy Trading & Contracts	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50067469	Manager Engineering	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50134551	Manager Enterprise Performance	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50143384	Manager Environmental Regulations	N/	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50100183	Manager Executive Office	N/	PAS00590	\$114,712.00							\$151,985.60	Annually	12/14/2024	
50051679	Manager Facilities Management	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50051989	Manager Field Metering	12	PAS0062B	\$123,531.20							\$171,891.20	Annually	12/14/2024	
50158550	Manager Finance & Treasury	12	PAS0066C	\$136,364.80							\$194,438.40	Annually	12/14/2024	
50051627	Manager Finance Planning & Analytics	12	PAS00690	\$146,806.40							\$194,438.40	Annually	12/14/2024	
50138557	Manager Fleet Operations	12	PAS0062D	\$123,531.20							\$180,627.20	Annually	12/14/2024	
50051948	Manager Gas Pipeline Assets	12	PAS0069H	\$146,806.40							\$203,132.80	Annually	12/14/2024	
50083431	Manager Generation Maintenance	12	PAS0069J	\$146,806.40							\$224,120.00	Annually	12/14/2024	
50135288	Manager Grid Planning	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50051950	Manager Hydro Generation Assets	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50159325	Manager Information Technology	12	PAS0066C	\$136,364.80							\$194,438.40	Annually	12/14/2024	
50164000	Manager Information Technology Strategy Planning & Governance	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50088129	Manager Innovation	N/	PAS0066C	\$136,364.80							\$194,438.40	Annually	12/14/2024	
50169499	Manager Learning & Development	12	PAS0069J	\$146,806.40							\$194,438.40	Annually	12/14/2024	
50140133	Manager Line Design	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50051998	Manager Market Research	12	PAS0069J	\$146,806.40							\$194,438.40	Annually	12/14/2024	
50102609	Manager Market Strategy	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50139366	Manager Occupational Health & Safety	N/	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50166592	Manager of Enterprise Change & Organizational Effectiveness	N/	PAS0069J	\$146,806.40							\$194,438.40	Annually	12/14/2024	
50119768	Manager of Enterprise Prioritization & Performance	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
61000000	Manager of Enterprise Strategy & Risk	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50164469	Manager Operational Excellence	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50169490	Manager Operational Project Management Office	12	PAS0069J	\$146,806.40							\$194,438.40	Annually	12/14/2024	
50166428	Manager Operational Technology Network Engineering	N/	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50140145	Manager Operational Training Center	N/	PAS0066U	\$136,364.80							\$209,414.40	Annually	12/14/2024	
50115350	Manager Power Operations Engineering	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50125274	Manager Power Operations Training	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50052003	Manager Power System Operations	12	PAS0072L	\$158,059.20							\$265,408.00	Annually	12/14/2024	
50128064	Manager Program Delivery	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50130582	Manager Rancho Seco Assets	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50165633	Manager Real Estate Services	12	PAS00640	\$129,771.20							\$171,891.20	Annually	12/14/2024	
50083555	Manager Renewable Generation Assets	12	PAS0069J	\$146,806.40							\$194,438.40	Annually	12/14/2024	
50051988	Manager Resource Planning	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50051915	Manager Revenue Strategy	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50051975	Manager Security Operations	N/	PAS0062D	\$123,531.20							\$180,627.20	Annually	12/14/2024	
50169434	Manager Strategic Planning Performance & Analytics	N/	PAS0069J	\$146,806.40							\$194,438.40	Annually	12/14/2024	
50110256	Manager Substation Engineering	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50126109	Manager Substation Maintenance	12	PAS0069J	\$146,806.40							\$203,132.80	Annually	12/14/2024	
50083478	Manager Supply Chain	12	PAS0066J	\$136,364.80							\$180,606.40	Annually	12/14/2024	
50088855	Manager System Protection & Control	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50051987	Manager Talent Management	N/	PAS0069J	\$146,806.40							\$194,438.40	Annually	12/14/2024	
50159402	Manager Telecommunication Operations and Maintenance	12	PAS0066C	\$136,364.80							\$194,438.40	Annually	12/14/2024	
50126175	Manager Telecommunications	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50067465	Manager Thermal Generation Assets	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50126110	Manager Transmission & Distribution Line Construction & Maintenance	12	PAS0072L	\$158,059.20							\$265,408.00	Annually	12/14/2024	
50140141	Manager Transmission & Distribution Maintenance Planning	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50110257	Manager Vegetation Management	12	PAS0069C	\$146,806.40							\$209,414.40	Annually	12/14/2024	
50051783	Manager Warehouse Operations	12	PAS0066D	\$136,364.80							\$180,606.40	Annually	12/14/2024	
50099975	Manager Advanced Renewable and Distributed Generation Technologies	12	PAS00710	\$154,190.40							\$204,318.40	Annually	12/14/2024	
50051732	Manager Renewable Project Development	12	PAS00720	\$158,059.20							\$209,414.40	Annually	12/14/2024	
50051786	Mapper	6	OSE0685A	\$32.43	\$34.05	\$34.92	\$35.81	\$36.65	\$37.60	\$38.53	\$39.46	\$40.48	Hourly	12/14/2024
50168117	Market Analyst Entry	F	PAS00470	\$85,384.00								\$113,027.20	Annually	12/14/2024
50168209	Market Analyst Journey	12	PAS00560	\$106,537.60								\$141,148.80	Annually	12/14/2024
50083901	Market Research Specialist Journey	12	PAS00520	\$96,553.60								\$127,878.40	Annually	12/14/2024
50163624	Market Research Supervisor	12	PAS0062B	\$123,531.20								\$171,891.20	Annually	12/14/2024
50102301	Market Risk Specialist Journey Level	12	PAS00560	\$106,537.60								\$141,148.80	Annually	12/14/2024
50137994	Marketing Specialist Entry Level	F	PAS00450	\$81,244.80								\$107,577.60	Annually	12/14/2024
50051544	Marketing Specialist II	12	PAS00540	\$101,400.00								\$134,284.80	Annually	12/14/2024
50163622	Marketing Specialist Supervisor	12	PAS0059C	\$114,712.00								\$163,592.00	Annually	12/14/2024
50083235	Material Parts Clerk	6	OSE0680B	\$32.43	\$33.22	\$34.05	\$34.92	\$35.81	\$36.65	\$37.60	\$38.54	\$39.47	Hourly	12/14/2024
50169996	Material Planner Coordinator Entry Level	F	PAS00430	\$77,334.40								\$102,440.00	Annually	12/14/2024
50051790	Material Planner/Coordinator Journey Level	12	PAS00520	\$96,553.60								\$127,878.40	Annually	12/14/2024
50052170	Material Specialist IV Closed Classification	12	IBEW893F	\$59.49									Hourly	12/14/2024
50099909	Material Specialist IV with crane and class A Closed Classification	12	IBEW893A	\$61.59									Hourly	12/14/2024
50099900	Material Specialist I Closed Classification	12	IBEW851N	\$33.34	\$38.44	\$43.55	\$48.69						Hourly	12/14/2024
50099904	Material Specialist I with class A Closed Classification	12	IBEW851C	\$34.49	\$39.59	\$44.70	\$49.84						Hourly	12/14/2024
50154399	Material Specialist I	12	IBEW793F	\$27.90	\$32.17	\$36.47	\$40.76						Hourly	12/14/2024

N/ designates non-civil service jobs

F designates non-journey nonrepresented flex jobs

50154525	Material Specialist I with class A	12	IBEW793A	\$29.05	\$33.32	\$37.62	\$41.91										Hourly	12/14/2024		
50154527	Material Specialist I with Crane and class A	12	IBEW793D	\$30.00	\$34.27	\$38.57	\$42.86										Hourly	12/14/2024		
50099007	Material Specialist I with Crane and class A Closed Classification	12	IBEW851A	\$35.44	\$40.54	\$45.65	\$50.79										Hourly	12/14/2024		
50154528	Material Specialist I with crane and hazmat	12	IBEW793E	\$30.12	\$34.39	\$38.69	\$42.98										Hourly	12/14/2024		
50099008	Material Specialist I with crane and hazmat Closed Classification	12	IBEW851B	\$35.56	\$40.66	\$45.77	\$50.91										Hourly	12/14/2024		
50154529	Material Specialist I with hazmat	12	IBEW793B	\$29.17	\$33.44	\$37.74	\$42.03										Hourly	12/14/2024		
50099005	Material Specialist I with hazmat Closed Classification	12	IBEW851H	\$34.61	\$39.71	\$44.82	\$49.96										Hourly	12/14/2024		
50154530	Material Specialist II	12	IBEW912D	\$42.88													Hourly	12/14/2024		
50154578	Material Specialist II with class A	12	IBEW912F	\$44.03													Hourly	12/14/2024		
50051787	Material Specialist II Closed Classification	12	IBEW882I	\$51.24													Hourly	12/14/2024		
50154481	Material Specialist II with Crane and class A	12	IBEW912P	\$44.98													Hourly	12/14/2024		
50099011	Material Specialist II with Crane and class A Closed Classification	12	IBEW862A	\$53.34													Hourly	12/14/2024		
50154481	Material Specialist II with crane and hazmat	12	IBEW912R	\$45.10													Hourly	12/14/2024		
50099012	Material Specialist II with crane and hazmat Closed Classification	12	IBEW862B	\$53.46													Hourly	12/14/2024		
50154482	Material Specialist II with hazmat	12	IBEW912H	\$44.15													Hourly	12/14/2024		
50083234	Material Specialist II with hazmat Closed Classification	12	IBEW862X	\$52.51													Hourly	12/14/2024		
50154483	Material Specialist III	12	IBEW928D	\$55.97													Hourly	12/14/2024		
50052074	Material Specialist III Closed Classification	12	IBEW878L	\$55.97													Hourly	12/14/2024		
50154484	Material Specialist III with class A	12	IBEW928G	\$57.12													Hourly	12/14/2024		
50154486	Material Specialist III with Crane and class A	12	IBEW928L	\$58.07													Hourly	12/14/2024		
50099013	Material Specialist III with Crane and class A Closed Classification	12	IBEW879D	\$58.07													Hourly	12/14/2024		
50154487	Material Specialist III with crane and hazmat	12	IBEW928M	\$58.19													Hourly	12/14/2024		
50099014	Material Specialist III with crane and hazmat Closed Classification	12	IBEW898A	\$58.19													Hourly	12/14/2024		
50154488	Material Specialist III with hazmat	12	IBEW928H	\$57.24													Hourly	12/14/2024		
50052076	Material Specialist III with hazmat Closed Classification	12	IBEW879B	\$57.24													Hourly	12/14/2024		
50154489	Material Specialist IV	12	IBEW858B	\$59.49													Hourly	12/14/2024		
50154490	Material Specialist IV with class A	12	IBEW858H	\$60.64													Hourly	12/14/2024		
50052171	Material Specialist IV with class A Closed Classification	12	IBEW898C	\$60.64													Hourly	12/14/2024		
50154570	Material Specialist IV with Crane and class A	12	IBEW858N	\$61.59													Hourly	12/14/2024		
50154571	Material Specialist IV with crane and hazmat	12	IBEW858P	\$61.71													Hourly	12/14/2024		
50099010	Material Specialist IV with crane and hazmat Closed Classification	12	IBEW893E	\$61.71													Hourly	12/14/2024		
50154572	Material Specialist IV with hazmat	12	IBEW858J	\$60.76													Hourly	12/14/2024		
50052172	Material Specialist IV with hazmat Closed Classification	12	IBEW898X	\$60.76													Hourly	12/14/2024		
50051788	Material Specialist II with class A Closed Classification	12	IBEW862C	\$52.39													Hourly	12/14/2024		
50052075	Material Specialist III with class A Closed Classification	12	IBEW879A	\$57.12													Hourly	12/14/2024		
50154141	Mechanic	12	IBEW865B	\$52.14													Hourly	12/14/2024		
50051791	Mechanic Closed Classification	12	IBEW884A	\$56.95													Hourly	12/14/2024		
50154142	Mechanic with Class A	12	IBEW865C	\$53.29													Hourly	12/14/2024		
50051792	Mechanic with class A Closed Classification	12	IBEW888G	\$58.10													Hourly	12/14/2024		
50154143	Mechanic with hazmat	12	IBEW865D	\$53.41													Hourly	12/14/2024		
50051793	Mechanic with hazmat Closed Classification	12	IBEW888X	\$58.22													Hourly	12/14/2024		
50154165	Mechanical Foreman/Woman Light	12	IBEW921G	\$65.40													Hourly	12/14/2024		
50099005	Mechanical Foreman/Woman Light Closed Classification	12	IBEW937G	\$71.40													Hourly	12/14/2024		
50164526	Meter & Service Designer	6	OSE0711A	\$37.60	\$38.54	\$39.51	\$40.49	\$41.52									Hourly	12/14/2024		
50051796	Meter Technician	12	IBEW925A	\$67.66													Hourly	12/14/2024		
50051797	Meter Technician Apprentice	48	IBEW912E	\$43.98	\$46.88	\$49.79	\$52.68	\$55.60	\$58.46	\$61.37	\$64.26						Hourly	12/14/2024		
6100007	Network Assistant	12	IBEW802G	\$33.43	\$34.96	\$36.49	\$38.01										Hourly	12/14/2024		
6100005	Network Assistant W/CL A	12	IBEW802L	\$34.58	\$36.11	\$37.64	\$39.16										Hourly	12/14/2024		
50051833	Network Cable Foreman/Woman Light	12	IBEW941M	\$74.23													Hourly	12/14/2024		
50051841	Network Electrician Foreman/Woman Light	12	IBEW941M	\$74.23													Hourly	12/14/2024		
50051843	Network Electrician Foreman/Woman Light with hazmat	12	IBEW941X	\$75.50													Hourly	12/14/2024		
50165507	Network Engineer Operations Technology Entry Level	F	PAS00450	\$81,244.80													\$107,577.60	Annually	12/14/2024	
50165508	Network Engineer Operations Technology Journey	12	PAS00590	\$114,712.00														\$151,985.60	Annually	12/14/2024
50051846	Office Assistant		OSE0548A	\$17.00	\$17.48	\$17.99	\$18.54	\$19.09	\$19.67	\$20.26	\$20.86	\$21.48					Hourly	12/14/2024		
50051847	Office Specialist I	6	OSE0615A	\$23.44	\$24.03	\$24.63	\$25.21	\$25.84	\$26.51	\$27.17	\$27.85	\$28.56					Hourly	12/14/2024		
50051848	Office Specialist II	6	OSE0647A	\$28.06	\$28.78	\$29.50	\$30.24	\$31.00	\$31.78	\$32.60	\$33.39	\$34.24					Hourly	12/14/2024		
50122178	Office Specialist II Confidential	6	CONF647A	\$30.25	\$31.01	\$31.78	\$32.60	\$33.41	\$34.24	\$35.11	\$35.98	\$36.90					Hourly	12/14/2024		
50051849	Office Technician	6	OSE0672A	\$31.11	\$31.89	\$32.71	\$33.53	\$34.31	\$35.23	\$36.04	\$36.97	\$37.90					Hourly	12/14/2024		
50085707	Office Technician Confidential	6	CONF672A	\$34.02	\$34.85	\$35.76	\$36.64	\$37.90	\$38.53	\$39.50	\$40.45	\$41.49					Hourly	12/14/2024		
50051851	Operations Support Supervisor	12	PAS00520	\$96,553.60													\$127,878.40	Annually	12/14/2024	
50125955	Organization Effectiveness Specialist Entry Level	F	PAS00470	\$85,384.00													\$113,027.20	Annually	12/14/2024	
50125953	Organization Effectiveness Specialist Journey Level	12	PAS00560	\$106,537.60													\$141,148.80	Annually	12/14/2024	
50155433	Paralegal Confidential	6	CONF735A	\$42.14	\$43.18	\$44.28	\$45.37	\$46.51	\$47.67	\$48.87	\$50.08	\$51.33					Hourly	12/14/2024		
50092672	Payroll Technician Confidential	6	CONF702A	\$37.64	\$38.59	\$39.59	\$40.62	\$41.66	\$42.68	\$43.81	\$44.92	\$46.07					Hourly	12/14/2024		
50051857	Physical Network Specialist Closed Classification	12	PAS00540	\$101,400.00													\$134,284.80	Annually	12/14/2024	
50159569	Physical Security Program Manager	12	PAS00640	\$129,771.20													\$171,891.20	Annually	12/14/2024	
50051861	Plant Mechanic	12	IBEW908A	\$62.42													Hourly	12/14/2024		
50083241	Plant Mechanic Apprentice	48	IBEW879E	\$40.57	\$43.25	\$45.94	\$48.61	\$51.27	\$53.95	\$56.62	\$59.31						Hourly	12/14/2024		
50083242	Plant Mechanic Apprentice with class A	48	IBEW879H	\$41.72	\$44.44	\$47.13	\$49.80	\$52.45	\$55.13	\$57.81	\$60.50						Hourly	12/14/2024		
50051861	Plant Mechanic Apprentice with hazmat	48	IBEW874X	\$41.84	\$44.57	\$47.25	\$49.91	\$52.60	\$55.26	\$57.93	\$60.62						Hourly	12/14/2024		
50100942	Plant Mechanic Welder	12	IBEW920A	\$66.34													Hourly	12/14/2024		
50051862	Plant Mechanic with class A	12	IBEW908L	\$63.57													Hourly	12/14/2024		
50083244	Plant Mechanic with hazmat	12	IBEW908X	\$63.69													Hourly	12/14/2024		
50083244	Power Contracts Specialist Entry Level	F	PAS00490	\$89,648.00													\$118,788.80	Annually	12/14/2024	
50161142	Power Contracts Specialist Intermediate Level	F	PAS00540	\$101,400.00													\$134,284.80	Annually	12/14/2024	
50067464	Power Contracts Specialist Journey	12	PAS00590	\$114,712.00													\$151,985.60	Annually	12/14/2024	
50139834	Power Generation Asset Supervisor	12	PAS00621	\$123,531.20													\$193,481.60	Annually	12/14/2024	
50051904	Power Quality Technician	6	OSE0760A	\$48.07	\$49.31	\$50.54	\$51.83	\$53.09	\$54.44	\$55.78	\$57.20	\$58.63					Hourly	12/14/2024		
50088324	Power System Analyst Entry	F	PAS00470	\$85,384.00													\$113,027.20	Annually	12/14/2024	
50051903																				

N/ designates non-civil service jobs

F designates non-journey nonrepresented flex jobs

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50121215	Quality Auditor Journey Level	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50083247	Rate Analyst Entry	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50051916	Rate Analyst Journey	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50095131	Rate Pricing Advisor	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50130984	Regulatory Compliance Analyst Entry level	F	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50130983	Regulatory Compliance Analyst Journey	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50131203	Regulatory Coordinator Generation	12	PAS00620	\$123,531.20									\$163,592.00	Annually	12/14/2024
50104213	Relay Specialist	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50160580	Reliability Compliance Manager	N/	PAS00720	\$158,059.20									\$209,414.40	Annually	12/14/2024
50051616	Reliability Risk Engineer	12	PAS00690	\$146,806.40									\$194,438.40	Annually	12/14/2024
50167851	Resource Planning Analyst Entry Level	F	PAS00470	\$85,384.00									\$113,027.20	Annually	12/14/2024
50167850	Resource Planning Analyst Journey	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50092218	Retail Partner Coordinator	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50150275	Revenue Analyst Entry	F	PAS00430	\$77,334.40									\$102,440.00	Annually	12/14/2024
50116324	Revenue Analyst Journey	12	PAS00520	\$96,553.60									\$127,878.40	Annually	12/14/2024
50154601	Revenue Protection Representative (IBEW)	12	IBEW873N	\$48.59	\$50.09	\$51.89	\$54.34							Hourly	12/14/2024
50051924	Revenue Protection Representative (IBEW) Closed Classification	12	IBEW903A	\$54.69	\$56.44	\$58.43	\$61.19							Hourly	12/14/2024
50051918	Risk Management Analyst Journey Level	12	PAS00520	\$96,553.60									\$127,878.40	Annually	12/14/2024
50051921	Safety and Loss Prevention Specialist Journey	12	PAS00490	\$89,648.00									\$118,788.80	Annually	12/14/2024
50051922	Safety Coordinator	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50083249	Safety Loss Prevention Specialist Entry Level	F	PAS00410	\$73,611.20									\$97,489.60	Annually	12/14/2024
50170250	Scheduling & Interchange Services Specialist I	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50170252	Scheduling & Interchange Services Specialist II	12	PAS00690	\$146,806.40									\$194,438.40	Annually	12/14/2024
50051933	Scheduling Technician	6	OSE0670D	\$30.90	\$31.66	\$32.43	\$33.22	\$34.05	\$34.92	\$35.81	\$36.65	\$37.60		Hourly	12/14/2024
50051926	Secretary	6	OSE0637A	\$26.34	\$27.05	\$27.71	\$28.40	\$29.14	\$29.85	\$30.62	\$31.40	\$32.17		Hourly	12/14/2024
50083605	Security Administrator	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50166825	Security Investigator	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50124535	Security Operations Dispatcher	12	SECU248L	\$30.58	\$31.35	\$32.14	\$32.96	\$33.78	\$34.65	\$35.52	\$36.46	\$37.38		Hourly	12/14/2024
50113765	Security Operations Supervisor	12	SECU450A	\$44.15	\$45.24	\$46.39	\$47.54	\$48.73	\$49.95	\$51.21	\$52.48	\$53.79		Hourly	12/14/2024
50094275	Senior Accountant	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50052030	Senior Administrative Assistant	N/	PAS00450	\$81,244.80									\$107,577.60	Annually	12/14/2024
50052032	Senior Architect	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50052033	Senior Attorney	N/	PAS00722	\$158,059.20									\$261,456.00	Annually	12/14/2024
50052034	Senior Business Technology Analyst	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50120601	Senior Cable Locator	12	IBEW888L	\$57.94										Hourly	12/14/2024
50122282	Senior Cable Locator with class A	12	IBEW888N	\$59.09										Hourly	12/14/2024
50052037	Senior Calibration Technician	12	IBEW937A	\$72.35										Hourly	12/14/2024
50052038	Senior Civil Engineer	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50161721	Senior Claims Administrator	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50166301	Senior Community Engagement Representative	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50052039	Senior Computer Hardware Support Specialist Closed Classification	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50122284	Senior Construction Contract Analyst	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
60000020	Senior Contract Administrator	12	PAS0059A	\$111,092.80									\$150,883.20	Annually	2/10/2024
60000020	Senior Contract Administrator	12	PAS0059A	\$114,712.00									\$155,792.00	Annually	12/14/2024
50052036	Senior Cost Schedule Specialist	12	PAS00540	\$101,400.00									\$134,284.80	Annually	12/14/2024
50052040	Senior Custodian	12	IBEW814A	\$40.17										Hourly	12/14/2024
50083251	Senior Customer Services Field Representative	6	OSE0745B	\$44.67	\$45.75	\$46.92	\$48.07	\$49.31	\$50.54	\$51.83	\$53.09	\$54.45		Hourly	12/14/2024
50052043	Senior Customer Services Representative	6	OSE0700A	\$35.81	\$36.65	\$37.60	\$38.54	\$39.47	\$40.49	\$41.52	\$42.53	\$43.59		Hourly	12/14/2024
50167111	Senior Cybersecurity Engineer	12	PAS00640	\$129,771.20									\$171,891.20	Annually	12/14/2024
50167118	Senior Cybersecurity Governance & Compliance Specialist	12	PAS00640	\$129,771.20									\$171,891.20	Annually	12/14/2024
50167210	Senior Cybersecurity Risk Specialist	12	PAS00640	\$129,771.20									\$171,891.20	Annually	12/14/2024
50165225	Senior Data Center Operations Specialist	12	PAS00520	\$96,553.60									\$127,878.40	Annually	12/14/2024
50052045	Senior Database Administrator	12	PAS00640	\$129,771.20									\$171,891.20	Annually	12/14/2024
50052046	Senior Designer Drafter	6	OSE0735B	\$42.53	\$43.58	\$44.67	\$45.75	\$46.92	\$48.07	\$49.31	\$50.55	\$51.84		Hourly	12/14/2024
50052047	Senior Desktop Support Specialist Closed Classification	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50052047	Senior Distribution Design Engineer	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
61000013	Senior Distribution Operations Engineer	12	PAS00660	\$132,080.00									\$174,928.00	Annually	1/8/2024
61000013	Senior Distribution Operations Engineer	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50052048	Senior Distribution System Engineer	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50159861	Senior Distribution System Operator	12	IBEW986D	\$101.98										Hourly	12/14/2024
50052050	Senior Document Records Specialist	6	OSE0650B	\$28.29	\$28.99	\$29.75	\$30.46	\$31.26	\$32.04	\$32.85	\$33.65	\$34.50		Hourly	12/14/2024
50090303	Senior Document Records Specialist-Confidential	6	CONF650A	\$30.99	\$31.77	\$32.57	\$33.38	\$34.22	\$35.08	\$35.95	\$36.86	\$37.79		Hourly	12/14/2024
50052052	Senior Electrical Engineer	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50137575	Senior Electrical Technician	12	IBEW960B	\$85.58										Hourly	12/14/2024
50164848	Senior End User Computing Analyst	12	PAS00470	\$85,384.00									\$113,027.20	Annually	12/14/2024
50131801	Senior Energy Advisor	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50139897	Senior Energy Management System Engineer	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50168851	Senior Energy Specialist	6	OSE0770A	\$53.09	\$54.43	\$55.78	\$57.20	\$58.63	\$60.08	\$61.58	\$63.11	\$64.71		Hourly	12/14/2024
50108901	Senior Energy Trading Specialist	12	PAS00670	\$139,796.80									\$185,099.20	Annually	12/14/2024
50052055	Senior Engineering Technician	6	OSE0735A	\$42.52	\$43.58	\$44.67	\$45.80	\$46.95	\$48.14	\$49.35	\$50.56	\$51.87		Hourly	12/14/2024
50083624	Senior Enterprise Application Administrator	12	PAS00640	\$129,771.20									\$171,891.20	Annually	12/14/2024
50166432	Senior Enterprise Architect	12	PAS00640	\$129,771.20									\$171,891.20	Annually	12/14/2024
50158753	Senior Enterprise Performance Planning Coordinator	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50090324	Senior Enterprise Technology Analyst	12	PAS00640	\$129,771.20									\$171,891.20	Annually	12/14/2024
50089611	Senior Enterprise Technology Development	12	PAS00640	\$129,771.20									\$171,891.20	Annually	12/14/2024
50138502	Senior Enterprise Technology Infrastructure Specialist	12	PAS00640	\$129,771.20									\$171,891.20	Annually	12/14/2024
50052057	Senior Financial Analyst	12	PAS00590	\$114,712.00									\$151,985.60	Annually	12/14/2024
50142686	Senior Financial Analyst Budget Office	12	PAS00560	\$114,712.00									\$151,985.60	Annually	12/14/2024
50111253	Senior Fire Protection Engineer	12	PAS00660	\$136,364.80									\$180,606.40	Annually	12/14/2024
50163933	Senior Geographic Information Systems Data Analyst	12	PAS00560	\$106,537.60									\$141,148.80	Annually	12/14/2024
50164575	Senior Geographic Information Systems Data Technician	6	OSE0750A	\$45.75	\$46.92	\$48.07	\$49.31	\$50.54	\$51.83	\$53.09	\$54.44	\$55.78		Hourly	12/14/2024
50052059	Senior Graphic Artist	6	OSE0720D	\$39.46	\$40.48	\$41.51	\$42.53	\$43.58	\$44.67	\$45.75	\$46.92	\$48.08		Hourly	12/14/2024

N/ designates non-civil service jobs

F designates non-journey nonrepresented flex jobs



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50166436	SMUD Cares Program Manager	12	PAS0056B	\$106,537.60													\$148,283.20	Annually	12/14/2024	
50068118	Social Media Specialist	12	PAS0054O	\$101,400.00													\$134,284.80	Annually	12/14/2024	
50051751	Software Quality Assurance Specialist	12	PAS0054O	\$101,400.00													\$134,284.80	Annually	12/14/2024	
50165227	Space and Move Management Specialist	12	PAS0043O	\$77,334.40													\$102,440.00	Annually	12/14/2024	
50051940	Special Assistant to Board of Directors	N/	PAS0059O	\$114,712.00													\$151,985.60	Annually	12/14/2024	
50051928	Staff Secretary	6	OSE0655A	\$28.67	\$29.43	\$30.12	\$30.90	\$31.66	\$32.43	\$33.22	\$34.05	\$34.92						Hourly	12/14/2024	
50068677	Staff Secretary Confidential	6	CONF655A	\$30.95	\$31.74	\$32.53	\$33.32	\$34.14	\$35.01	\$35.89	\$36.80	\$37.68						Hourly	12/14/2024	
50151393	Station Recorder Closed Classification	12	IBEW872I	\$53.47														Hourly	12/14/2024	
50052118	Station Recorder Closed Classification 1//	12	IBEW861C	\$34.22	\$35.79	\$46.11	\$48.08	\$51.08										Hourly	12/14/2024	
50162807	STEM Cooperative Organization Student Assistant	N/	OSE0550A	\$23.63	\$24.23	\$24.83	\$25.44	\$26.08	\$26.74	\$27.39	\$28.08	\$28.80						Hourly	12/14/2024	
50051657	STEM Student Assistant	N/	OSE0550A	\$23.63	\$24.23	\$24.83	\$25.44	\$26.08	\$26.74	\$27.39	\$28.08	\$28.80						Hourly	12/14/2024	
50160145	Strategic Account Advisor I	F	PAS0045O	\$81,244.80													\$107,577.60	Annually	12/14/2024	
50160202	Strategic Account Advisor II	12	PAS0054O	\$101,400.00													\$134,284.80	Annually	12/14/2024	
50160192	Strategic Account Advisor III	12	PAS0056C	\$106,537.60													\$151,985.60	Annually	12/14/2024	
50051626	Strategic Business Planner I	12	PAS0056O	\$106,537.60													\$141,148.80	Annually	12/14/2024	
50052044	Strategic Business Planner II	12	PAS0062O	\$123,531.20													\$163,592.00	Annually	12/14/2024	
50052119	Student Staff Assistant	N/	OSE0549A	\$19.14	\$19.62	\$20.11	\$20.62	\$21.12	\$21.64	\$22.19	\$22.77	\$23.32						Hourly	12/14/2024	
50170857	Student Staff Assistant Confidential		CONF549A	\$19.62	\$20.10	\$20.61	\$21.12	\$21.65	\$22.18	\$22.74	\$23.32	\$23.90						Hourly	12/14/2024	
50137994	Substation Assets Supervisor	12	PAS0062I	\$123,531.20													\$193,481.60	Annually	12/14/2024	
50091428	Substation Construction Foreman/Woman	12	IBEW945A	\$78.10														Hourly	1/31/2024	
50091428	Substation Construction Foreman/Woman	12	IBEW945A	\$80.64														Hourly	12/14/2024	
50091429	Substation Construction Foreman/Woman with class A 1//	12	IBEW942E	\$81.79														Hourly	12/14/2024	
50091430	Substation Construction Foreman/Woman with hazmat	12	IBEW945X	\$81.91														Hourly	12/14/2024	
61000009	Substation Electrical Inspector	12	IBEW940A	\$76.82														Hourly	12/14/2024	
50051929	Substation Foreman/Woman_Light	12	IBEW940A	\$76.82														Hourly	12/14/2024	
50051930	Substation Foreman/Woman_Light with class A	12	IBEW940B	\$77.97														Hourly	12/14/2024	
50051931	Substation Foreman/Woman_Light with hazmat	12	IBEW940C	\$78.09														Hourly	12/14/2024	
50165789	Substation Maintenance Worker I	12	IBEW861A	\$41.91	\$44.02													Hourly	12/14/2024	
50125721	Substation Maintenance Worker II	12	IBEW861B	\$46.20	\$48.52	\$50.93	\$53.47											Hourly	12/14/2024	
50051933	Substation SubForeman/Woman	12	IBEW936D	\$72.29															Hourly	12/14/2024
50051933	Substation Subforeman/Woman with class A	12	IBEW936E	\$73.44															Hourly	12/14/2024
50051934	Substation Subforeman/Woman with hazmat	12	IBEW936F	\$73.56															Hourly	12/14/2024
50091625	Superintendent Project Development and Engineering	12	PAS0071O	\$154,190.40													\$204,318.40	Annually	12/14/2024	
50051957	Supervising Accounting Tech	12	PAS0047O	\$85,384.00													\$113,027.20	Annually	12/14/2024	
50165907	Supervising Administrative Analyst I	F	PAS0041O	\$73,611.20													\$97,489.60	Annually	12/14/2024	
50165911	Supervising Administrative Analyst II	12	PAS0049O	\$89,648.00													\$118,788.80	Annually	12/14/2024	
50165909	Supervising Administrative Analyst III	12	PAS0052O	\$96,553.60													\$127,878.40	Annually	12/14/2024	
50051972	Supervising Customer Representative	12	PAS0049O	\$89,648.00													\$118,788.80	Annually	12/14/2024	
50051973	Supervising Customer Services Field Representative	12	PAS0052B	\$96,553.60													\$134,284.80	Annually	12/14/2024	
50166563	Supervising Human Resources Analyst	12	PAS0062O	\$123,531.20													\$163,592.00	Annually	12/14/2024	
50135194	Supervising Paralegal	12	PAS0047O	\$85,384.00													\$113,027.20	Annually	12/14/2024	
50150059	Supervising Procurement Specialist Closed Classification	12	PAS0059A	\$114,712.00													\$155,792.00	Annually	12/14/2024	
50052015	Supervising Resource Planner	12	PAS0069O	\$146,806.40													\$194,438.40	Annually	12/14/2024	
50130191	Supervisor Business Technology Resources & Planning	12	PAS0071O	\$154,190.40													\$204,318.40	Annually	12/14/2024	
50129649	Supervisor Apprenticeship & Operations Training	12	PAS0064O	\$129,771.20													\$171,891.20	Annually	12/14/2024	
50163093	Supervisor Budget Office	12	PAS0066O	\$136,364.80													\$180,806.40	Annually	12/14/2024	
50090727	Supervisor Business Process Support	12	PAS0062O	\$123,531.20													\$163,592.00	Annually	12/14/2024	
50124592	Supervisor Construction Management Inspection	12	PAS0064O	\$129,771.20													\$171,891.20	Annually	12/14/2024	
50051994	Supervisor Data Management	12	PAS0064O	\$129,771.20													\$171,891.20	Annually	12/14/2024	
50126020	Supervisor Distribution Services New Business	12	PAS0069O	\$146,806.40													\$194,438.40	Annually	12/14/2024	
50051852	Supervisor Distribution System Operations-Field Operation	12	PAS0069O	\$146,806.40													\$194,438.40	Annually	12/14/2024	
50162517	Supervisor Energy Management System	12	PAS0069B	\$146,806.40													\$204,318.40	Annually	12/14/2024	
50160221	Supervisor Energy Trading & Contracts	12	PAS0070O	\$158,059.20													\$209,414.40	Annually	12/14/2024	
50160265	Supervisor Engineering	12	PAS0071O	\$154,190.40													\$204,318.40	Annually	12/14/2024	
50158442	Supervisor Environmental, Health & Safety Services	12	PAS0066O	\$136,364.80													\$180,806.40	Annually	12/14/2024	
50051981	Supervisor Facilities & Maintenance	12	PAS0069O	\$146,806.40													\$194,438.40	Annually	12/14/2024	
50162321	Supervisor Field Metering	12	PAS0059B	\$114,712.00													\$159,702.40	Annually	12/14/2024	
50051697	Supervisor Fleet Operations	12	PAS0059O	\$114,712.00													\$151,985.60	Annually	12/14/2024	
50094154	Supervisor Health & Safety Services Closed Classification	12	PAS0066C	\$136,364.80													\$194,438.40	Annually	12/14/2024	
50051729	Supervisor Hydr License Implementation	12	PAS0066O	\$136,364.80													\$180,806.40	Annually	12/14/2024	
50051994	Supervisor Image Production Postal Service & Administrative	12	PAS0052C	\$96,553.60													\$137,654.40	Annually	12/14/2024	
50136693	Supervisor Load Research and Forecasting	12	PAS0069O	\$146,806.40													\$194,438.40	Annually	12/14/2024	
50091651	Supervisor Maintenance Engineering	12	PAS0069O	\$146,806.40													\$194,438.40	Annually	12/14/2024	
50083477	Supervisor Material Planning & Coordination	12	PAS0062O	\$123,531.20													\$163,592.00	Annually	12/14/2024	
50116025	Supervisor Operations & Availability	12	PAS0071O	\$154,190.40													\$204,318.40	Annually	12/14/2024	
50052007	Supervisor Operations Scheduling & Productivity	12	PAS0059O	\$114,712.00													\$151,985.60	Annually	12/14/2024	
50163671	Supervisor Program Delivery	12	PAS0064O	\$129,771.20													\$171,891.20	Annually	12/14/2024	
50160909	Supervisor Project Management Office	12	PAS0067O	\$139,796.80													\$185,099.20	Annually	12/14/2024	
50052012	Supervisor Rates	12	PAS0069O	\$146,806.40													\$194,438.40	Annually	12/14/2024	
50052014	Supervisor Real Estate Services	12	PAS0062O	\$123,531.20													\$163,592.00	Annually	12/14/2024	
50160146	Supervisor Strategic Account Management	12	PAS0062D	\$123,531.20													\$180,627.20	Annually	12/14/2024	
50052021	Supervisor Survey	12	PAS0062O	\$123,531.20													\$163,592.00	Annually	12/14/2024	
50051925	Supervisor Threat Management and Corporation Security Operations	12	PAS0062O	\$123,531.20													\$163,592.00	Annually	12/14/2024	
50126184	Supervisor Transmission and Distribution Line Maintenance	12	PAS0069O	\$146,806.40													\$194,438.40	Annually	12/14/2024	
50128769	Supervisor, Emerging Technologies	12	PAS0066O	\$136,364.80													\$180,606.40	Annually	12/14/2024	
5009972																				

2025 SMUD Wage Schedule  
Effective 12/14/2024

50052124	Technical Writer Entry Level	12	PAS0052O	\$96,553.60										\$127,878.40	Annually	12/14/2024	
50154313	Telecommunications Technician Apprentice	48	IBEW845A	\$40.60	\$44.36	\$48.10	\$51.85	\$55.60	\$59.34						Hourly	12/14/2024	
50083255	Telecommunications Technician Apprentice Closed Classification	48	IBEW921A	\$45.25	\$49.43	\$53.63	\$57.75	\$61.94	\$66.13						Hourly	12/14/2024	
50052125	Telecommunications Technician Closed Classification	12	IBEW928I	\$69.60											Hourly	12/14/2024	
50154499	Telecommunications Technician I	12	IBEW915A	\$62.46											Hourly	12/14/2024	
50161055	Telecommunications Technician II	12	IBEW928I	\$69.60											Hourly	12/14/2024	
50154625	Telephone Technician	12	IBEW915A	\$62.46											Hourly	12/14/2024	
50154626	Telephone Technician Apprentice	36	IBEW845A	\$40.60	\$44.36	\$48.10	\$51.85	\$55.60	\$59.34						Hourly	12/14/2024	
50100562	Telephone Technician Apprentice Closed Classification	36	IBEW921A	\$45.25	\$49.43	\$53.63	\$57.75	\$61.94	\$66.13						Hourly	12/14/2024	
50100561	Telephone Technician Closed Classification	12	IBEW928I	\$69.60											Hourly	12/14/2024	
50052131	Tool Repairer	12	IBEW874G	\$48.36	\$49.36	\$51.73	\$54.28								Hourly	12/14/2024	
50052132	Tool Repairer with class A	12	IBEW874M	\$49.51	\$51.07	\$52.88	\$55.43								Hourly	12/14/2024	
50052133	Tool Repairer with hazmat	12	IBEW874Z	\$49.63	\$51.19	\$53.00	\$55.55								Hourly	12/14/2024	
50086933	Tool Room Foreman/Woman	12	IBEW936A	\$71.24											Hourly	12/14/2024	
50092673	Trade Show Coordinator	6	OSE0743A	\$44.46	\$45.54	\$46.69	\$47.87	\$49.04	\$50.29	\$51.55	\$52.83	\$54.16			Hourly	12/14/2024	
50111034	Training & Compliance Coordinator	12	PAS0052O	\$96,553.60											\$127,878.40	Annually	12/14/2024
50160075	Training Coordinator	12	PAS0045O	\$81,244.80											\$107,577.60	Annually	12/14/2024
50140033	Transmission and Distribution Line Construction Consultant	12	PAS0066C	\$136,364.80											\$194,438.40	Annually	12/14/2024
50151305	Transmission and Distribution Supervisor Projects	12	PAS0062U	\$123,531.20											\$188,115.20	Annually	12/14/2024
50052134	Troubleshooter	12	IBEW941R	\$83.89											Hourly	12/14/2024	
50093281	Troubleshooter with class A	12	IBEW941D	\$85.04											Hourly	12/14/2024	
50163132	User Experience Specialist Entry Level	F	PAS0045O	\$81,244.80											\$107,577.60	Annually	12/14/2024
50092219	User Experience Specialist Journey	12	PAS0054O	\$101,400.00											\$134,284.80	Annually	12/14/2024
50151422	Utility Assistant	12	IBEW785A	\$20.48	\$23.42										Hourly	12/14/2024	
50083807	Utility Compliance Specialist	12	IBEW828G	\$33.43	\$34.96	\$37.64	\$40.22	\$43.07							Hourly	12/14/2024	
50151392	Utility Compliance Specialist Closed Classification	12	IBEW872L	\$53.47											Hourly	12/14/2024	
50151322	Utility Compliance Specialist I//	12	IBEW872L	\$54.74											Hourly	12/14/2024	
50166507	Utility Compliance Specialist II	12	IBEW919J	\$45.29											Hourly	12/14/2024	
50052154	Utility Crew Foreman/Woman with hazmat	12	IBEW888X	\$58.22											Hourly	12/14/2024	
50052155	Utility Worker I with class A	12	IBEW802L	\$34.58	\$36.11	\$37.64	\$39.16								Hourly	12/14/2024	
50052155	Utility Worker I	12	IBEW802G	\$33.43	\$34.96	\$36.49	\$38.01								Hourly	12/14/2024	
50163854	Utility Worker II	12	IBEW814A	\$40.17											Hourly	12/14/2024	
50161210	Utility Worker III	12	IBEW816H	\$35.45	\$36.86	\$38.46	\$40.03	\$41.74							Hourly	12/14/2024	
50052157	Utility Worker I with hazmat	12	IBEW802X	\$34.70	\$36.23	\$37.76	\$39.28								Hourly	12/14/2024	
50154631	Vegetation Management Specialist with class A	12	IBEW878H	\$56.06											Hourly	12/14/2024	
50150003	Vegetation Management Specialist With class A Closed Classification	12	IBEW901L	\$61.62											Hourly	12/14/2024	
50052148	Vegetation Management Supervisor I	12	PAS0056O	\$106,537.60											\$141,148.80	Annually	12/14/2024
50162373	Vegetation Management Supervisor II	12	PAS0059O	\$114,712.00											\$151,985.60	Annually	12/14/2024
50154627	Vegetation Work Planner	12	IBEW878G	\$54.91											Hourly	12/14/2024	
50052143	Vegetation Work Planner Closed Classification	12	IBEW901A	\$60.47											Hourly	12/14/2024	
50154628	Vegetation Work Planner with class A	12	IBEW878H	\$56.06											Hourly	12/14/2024	
50052144	Vegetation Work Planner with class A Closed Classification	12	IBEW901L	\$61.62											Hourly	12/14/2024	
50154633	Vegetation Work Planner with hazmat	12	IBEW878J	\$56.18											Hourly	12/14/2024	
50052145	Vegetation Work Planner with hazmat Closed Classification	12	IBEW901X	\$61.74											Hourly	12/14/2024	
50052158	Vehicle Attendant	12	IBEW816G	\$34.53	\$35.98	\$37.59	\$39.16	\$40.85							Hourly	12/14/2024	
50083257	Vehicle Attendant with class A	12	IBEW817B	\$35.68	\$37.13	\$38.74	\$40.31	\$42.00							Hourly	12/14/2024	
50052159	Vehicle Attendant with hazmat	12	IBEW817X	\$35.80	\$37.25	\$38.86	\$40.43	\$42.12							Hourly	12/14/2024	
50099034	Vehicle Maintenance Aide	12	IBEW790A	\$24.60	\$30.37										Hourly	12/14/2024	
50052161	Vehicle Maintenance Aide with class A	12	IBEW790L	\$25.75	\$31.52										Hourly	12/14/2024	
50052165	Vehicle Maintenance Aide with hazmat	12	IBEW790X	\$25.87	\$31.64										Hourly	12/14/2024	
50154169	Vehicle Mechanic	12	IBEW858A	\$49.68											Hourly	12/14/2024	
50154049	Vehicle Mechanic Apprentice with hazmat	48	IBEW851D	\$33.04	\$35.24	\$37.40	\$39.56	\$41.73	\$43.89	\$46.09	\$48.22				Hourly	12/14/2024	
50052161	Vehicle Mechanic Apprentice with hazmat Closed Classification	48	IBEW866X	\$36.56	\$38.88	\$41.22	\$43.55	\$45.87	\$48.19	\$50.53	\$52.85				Hourly	12/14/2024	
50052161	Vehicle Mechanic Closed Classification	12	IBEW874C	\$54.28											Hourly	12/14/2024	
50168474	Vehicle Mechanic Welder	12	IBEW851I	\$51.97											Hourly	12/14/2024	
50154213	Vehicle Mechanic Welder Apprentice with class A	48	IBEW851F	\$34.58	\$36.88	\$39.14	\$41.39	\$43.71	\$45.95	\$45.99	\$50.53				Hourly	12/14/2024	
50125309	Vehicle Mechanic Welder Apprentice with class A Closed Classification	48	IBEW888A	\$37.95	\$40.37	\$42.87	\$45.37	\$47.87	\$50.33	\$52.81	\$55.27				Hourly	12/14/2024	
50154214	Vehicle Mechanic Welder Apprentice with hazmat	48	IBEW851K	\$34.64	\$36.93	\$39.18	\$41.43	\$43.74	\$45.99	\$48.25	\$50.56				Hourly	12/14/2024	
50125304	Vehicle Mechanic Welder Apprentice with hazmat Closed Classification	48	IBEW888B	\$37.99	\$40.42	\$42.92	\$45.40	\$47.88	\$50.37	\$52.85	\$55.31				Hourly	12/14/2024	
50154218	Vehicle Mechanic Welder with class A	12	IBEW874A	\$53.12											Hourly	12/14/2024	
50052168	Vehicle Mechanic Welder with class A Closed Classification	12	IBEW888G	\$58.10											Hourly	12/14/2024	
50154219	Vehicle Mechanic Welder with hazmat	12	IBEW872H	\$53.24											Hourly	12/14/2024	
50052167	Vehicle Mechanic Welder with hazmat Closed Classification	12	IBEW888X	\$58.22											Hourly	12/14/2024	
50154225	Vehicle Mechanic with class A	12	IBEW858D	\$50.83											Hourly	12/14/2024	
50052162	Vehicle Mechanic with class A Closed Classification	12	IBEW878A	\$55.42											Hourly	12/14/2024	
50154240	Vehicle Mechanic with hazmat	12	IBEW858K	\$50.95											Hourly	12/14/2024	
50052168	Vehicle Mechanic with hazmat Closed Classification	12	IBEW878X	\$55.55											Hourly	12/14/2024	
50052168	Vehicle Parts Clerk	6	OSE0680B	\$32.43	\$33.22	\$34.05	\$34.92	\$35.81	\$36.65	\$37.60	\$38.54	\$39.47			Hourly	12/14/2024	
50161540	Warehouse Operations Supervisor	12	PAS0062O	\$123,531.20											\$163,592.00	Annually	12/14/2024

N/ designates non-civil service jobs

F designates non-journey nonrepresented flex jobs

**Sacramento Municipal Utility District  
2025 Other Pay Compensation Policy**

OTHER COMPENSATION CATEGORY	WAGE TYPE	ELIGIBLE EMPLOYEE GROUPS					EFFECTIVE DATE
		OSE	IBEW	PAS/MGMT	PSOA	CONF	
Special Assignment Pay	2nd Shift Differential Pay	\$ 2.88	\$ 3.89	*6%		4%	12/14/2024
Special Assignment Pay	3rd Shift Differential Pay	\$ 3.85	\$ 5.19	*8%		6%	12/14/2024
Special Assignment Pay	4th Shift Diff Pay - R.S.	\$ 4.81	\$ 5.19	*8%		8%	12/14/2024
Special Assignment Pay	PSOA 2nd Shift Differential Pay				8%		12/14/2024
Special Assignment Pay	Dbltm 4th Shift Diff	2X + \$4.81	2X + \$5.19	*2X + 8%	2X + 8%	0	12/14/2024
Special Assignment Pay	Instructor/Training Officer				8%		12/14/2024
Special Assignment Pay	Mutual Aid		2X				12/14/2024
Statutory Items	DT Incentive Erngs	2X	2X	*2X	2X		12/14/2024
Incentive Pay	Employer Paid Member Contributions	0.00%	0.00%	1.75%	0.00%	1.75%	12/14/2024
Statutory Items	FRC Cleaning Allowance	Up to \$1,550 / yr	Up to \$1,550 / yr	Up to \$1,550 / yr			12/14/2024
Manual Adjustment Required to correct	LUMP SUM ADJ - PERS	**	**	**	**	**	12/14/2024
Statutory Items	Overtime Incentive Erngs	2X	2X	*2X	2X		12/14/2024
Statutory Items	PERS Uniform Allowance	Up to \$1,559 / yr	Up to \$2,078 / yr	Up to \$2,078 / yr			12/14/2024
Special Assignment Pay	Relief Shift Differential	\$ 4.81	\$ 5.19	*8%	8%	8%	12/14/2024
Special Assignment Pay	Sch Hol Wk Shft 2 Dif-PAS			*1.5X + 6%			12/14/2024
Special Assignment Pay	Sch Hol Wk Shft 3 Dif-PAS			*1.5X + 8%			12/14/2024
Special Assignment Pay	Sch Hol Wk Shft 4 Dif-PAS			*1.5X + 8%			12/14/2024
Statutory Items	Sch Holiday Dbl Time	2X	2X	*2X	2X		12/14/2024
Statutory Items	Sch Holiday Work	2X	2X	*1.5X	2X		12/14/2024
Statutory Items	Sch Holiday Worked - PAS			*1.5X			12/14/2024
Special Assignment Pay	Schd Hol DT Shft 2 Diff	2X + \$2.88	2X + \$3.89	*2X + 6%	2X + 8%		12/14/2024
Special Assignment Pay	Schd Hol DT Shft 3 Diff	2X + \$3.85	2X + \$5.19	*2X + 8%	2X + 8%		12/14/2024
Special Assignment Pay	Schd Hol DT Shft 4 Diff	2X + \$4.81	2X + \$5.19	*2X + 8%	2X + 8%		12/14/2024
Special Assignment Pay	Sched Hol Wrk Shft 2 Diff	2X + \$2.88	2X + \$3.89	*1.5X + 6%	2X + 8%		12/14/2024
Special Assignment Pay	Sched Hol Wrk Shft 3 Diff	2X + \$3.85	2X + \$5.19	*1.5X + 8%	2X + 8%		12/14/2024
Special Assignment Pay	Sched Hol Wrk Shft 4 Diff	2X + \$4.81	2X + \$5.19	*1.5X + 8%	2X + 8%		12/14/2024
Premium Pay	WOC DT Incentive	2X	2X		2X	2X	12/14/2024
Premium Pay	WOC Hol Special	2X	2X		2X	2X	12/14/2024
Premium Pay	WOC OT Incentive	2X	2X		2X	1.5X	12/14/2024
Premium Pay	WOC Reg	1X	1X		1X	1X	12/14/2024
Special Assignment Pay	Temporary Upgrade 2.5%	2.50%	2.50%	2.50%	2.50%	2.50%	12/14/2024
Special Assignment Pay	Temporary Upgrade 5%	5%	5%	5%	5%	5%	12/14/2024
Special Assignment Pay	Temporary Upgrade 7.5%	7.50%	7.50%	7.50%	7.50%	7.50%	12/14/2024
Special Assignment Pay	Temporary Upgrade 10%	10%	10%	10%	10%	10%	12/14/2024
Short Term Incentives - Exec	STI			11%			12/14/2024
Short Term Incentives - Dir	STI			6%			12/14/2024
Individual Performance Award	Pay for Performance Award			0 - 9%			12/14/2024
Incentive Pay	Off-Salary-Schedule Pay						12/14/2024

**Labor Policy:**

Other compensation will be reported as pensionable compensation in accordance with CalPERS rules & regulations. The above table provides information related to other compensation items for employee groups. Represented employee other compensation may also be found in the applicable labor agreements. For unrepresented employees, this document shall be used to delineate other compensation items, including Special Assignment Pay and Statutory Items designated for employees working 12 hour work schedules and/or shift schedules within Security Operations, Energy Trading & Contracts and any other designated 24/7 operational area.

\*applies to PAS employees in Energy Trading & Contracts working a shift schedule

\*\*manual adjustment amount required to correct records varies depending upon situation

**DRAFT**

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, the Board of Directors currently delegates the authority to approve pay schedules and special compensation items to the Chief Executive Officer and General Manager; and

**WHEREAS**, the **California Public Employees' Retirement System (CalPERS)** adopted California Code of Regulations, Title 2, Sections 570.5 and 571(b), which require this Board to formally adopt pay schedules and special compensation items for purposes of calculating CalPERS retirement benefits; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

Adopt Sacramento Municipal Utility District's Pay Schedule and Special Compensation items for employees pursuant to California Code of Regulations, Title 2, Sections 570.5 and 571(b), substantially in the form of **Attachment \_\_\_\_** and **Attachment \_\_\_\_**.



SSS No. SCS 24-315

# BOARD AGENDA ITEM

## STAFFING SUMMARY SHEET

Committee Meeting & Date Finance & Audit – 12/10/24
Board Meeting Date December 12, 2024

TO				TO			
1.	James Frasher	6.					
2.	Casey Fallon	7.					
3.	Scott Martin	8.					
4.	Lora Anguay	9.	Legal				
5.	Jose Bodipo-Memba	10.	CEO & General Manager				
<b>Consent Calendar</b>	X	Yes	No If no, schedule a dry run presentation.	Budgeted	X	Yes	No (If no, explain in Cost/Budgeted section.)
FROM (IPR)	Andrew McDermott	DEPARTMENT	Procurement	MAIL STOP	EXT.	DATE SENT	EA404 5862 11/15/24

**NARRATIVE:**

**Requested:** Authorize the Chief Executive Officer and General Manager to negotiate and execute a sole source contract with Electric Power Research Institute (EPRI) to provide market and technical research services to SMUD for the five-year period from January 1, 2025, through December 31, 2029, for a not-to-exceed amount of \$6 million.

**Summary:** EPRI is a non-profit organization, funded by utility membership participation in its research activities. EPRI members represent more than 90% of the electricity generated and delivered in the U.S. In 2022, SMUD entered into a Master Agreement for EPRI Membership Participation, the terms of which govern the research selected under the 2025-2029 Research Portfolio Agreement. SMUD is a member of EPRI and has for many years evaluated EPRI's annual programs to determine if they will bring value to SMUD and are aligned with SMUD research plans for that given year. Past research areas that SMUD joined have included renewable resources and integration, electric transportation and energy storage. This request is to authorize the Chief Executive Officer and General Manager to negotiate and execute a sole source contract with EPRI over multiple years (2025-2029) for a not-to-exceed amount of \$6 million. Under the existing Master Agreement with EPRI, these may include agreements necessary to participate in EPRI's Annual Research Portfolio and EPRI's supplemental projects and to procure EPRI's services. In the past, SMUD has taken one-year agreements with EPRI to the Board, but this five-year approach results in a 25% discount on the EPRI program prices to SMUD. For 2025, SMUD Research & Development (R&D) staff have selected the following EPRI collaborative research, development and demonstration (RD&D) programs. Over the next five years, SMUD retains flexibility to add additional programs of value and R&D will help the enterprise assess the optimal portfolio of programs for each year. The following table contains the program selections identified by SMUD R&D staff for 2025. Specific program areas for subsequent years will be determined by SMUD staff based on value to SMUD and alignment with SMUD research plans:

Research Area	Program	Program Description	Price
Advanced Generation	221	Bulk Energy Storage	\$32,480
Advanced Generation	222	Advanced Generation & Carbon Capture and Storage	\$32,480
Renewable Energy	208	Hydropower Generation	\$32,480
Thermal Optimization and Emissions Controls	223	Heat Rate and Flexibility: Generation Fleet Optimization	\$32,479
Transmission and Substations	34	Transmission Asset Management Analytics	\$29,513
Transmission and Substations	173	Bulk System Integration of Renewables and DERS	\$70,425
Transmission and Substations	37.114	Substation Physical Security	\$6,875

Distribution	94	Energy Storage and Distributed Generation	\$105,597
Distribution	174	DER Integration	\$62,467
Sustainability and Ecosystem Stewardship	198	Strategic Sustainability Science	\$36,147
Electrification and Customer Solutions	18	Electric Transportation	\$64,105
Electrification and Customer Solutions	10D	Grid-Edge Customer Technologies	\$68,573
Electrification and Customer Solutions	182	Customer Insights	\$43,748
Electrification and Customer Solutions	204	Advanced Buildings	\$42,261
Information, Communication, and Cyber Security	PS161A	Emerging ICT and Technology Transfer	\$6,049
Information, Communication, and Cyber Security	PS161F	Advanced Metering Systems	\$30,244
Worker and Community Health and Safety	62	Occupational Health and Safety	\$28,984
		<b>2025 Total Cost to SMUD:</b>	<b>\$693,865</b>

**Recommendation:** Issue a Sole Source contract

Award to:

Electric Power Research Institute (EPRI)
3420 Hillview Ave
Palo Alto, CA 94304

**Board Policy:** Board-Staff Linkage BL-8; Delegation to the CEO with Respect to Procurement; Strategic Direction SD-10, Innovation. Supports: Strategic Direction SD-9, Resource Planning; Strategic Direction SD-6 Safety Leadership; Strategic Direction SD-7, Environmental Leadership; Strategic Direction SD-2, Competitive Rates

**Benefits:** EPRI is the only known source in the United States providing this collaborative service where SMUD can leverage significant research funds with other utilities around the country. The SMUD cost share is just a percentage of the actual value (cost) of each program and program development allows for SMUD input. The resulting products could not be consistently obtained by SMUD at a comparable price. This research supports SMUD's Integrated Resource Plan (IRP), Renewables Portfolio Standard (RPS) and Zero Carbon goals.

**Cost/Budgeted:** \$6,000,000; Budgeted for 2025-2029 by the Research and Development team.

**Alternatives:** Do not approve and lose the ability to leverage the ability to conduct research activities with the EPRI membership providing cost share.

**Affected Parties:** Research & Development, Distributed Energy Solutions, Grid Planning & Operations, IT Strategic Initiatives, Environmental Services, Vegetation Management, Sustainable Communities, Health & Safety Services, Government Affairs, Generation Management, Resource Planning, Customer Solutions, Supply Chain Services, and EPRI

**Coordination:** Advanced Renewable and Distributed Generation Technologies and Supply Chain Services.

**Presenter:** James Frasher, Director, Research & Development, Grants & Partnerships

**Additional Links:**

SUBJECT	ITEM NO. (FOR LEGAL USE ONLY)
EPRI Sole Source Contract	6

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, in 2022, SMUD entered into a **Master Agreement for Electric Power Research Institute (EPRI) Member Participation (EPRI Master Agreement)**, the terms of which govern the research selected under the 2025-2029 Research Portfolio Agreement; and

**WHEREAS**, EPRI is a non-profit organization, funded by utility membership participation in its research activities whose members represent more than 90% of the electricity generated and delivered in the United States; and

**WHEREAS**, each year, SMUD evaluates EPRI's annual programs to determine if proposed annual research projects will bring value to and are aligned with SMUD research plans; and

**WHEREAS**, EPRI is the only known source in the United States providing this electric utility collaborative service where SMUD can significantly leverage its limited research funds with the funds of other participating utilities to take advantage of valuable research projects and information; and

**WHEREAS**, it would not be productive or in the best interest of SMUD to advertise for competitive bids for the products and services referred to above because they can only be obtained from EPRI; and

**WHEREAS**, SMUD desires to participate in the following EPRI collaborative research and development programs for 2025, with specific program areas for subsequent years to be determined by staff in alignment with SMUD's research plans:

# DRAFT

221	Bulk Energy Storage	\$32,480
222	Advanced Generation & Carbon Capture and Storage	\$32,480
208	Hydropower Generation	\$32,480
223	Heat Rate and Flexibility: Generation Fleet Optimization	\$32,479
34	Transmission Asset Management Analytics	\$29,513
173	Bulk System Integration of Renewables and DERS	\$70,425
37.114	Substation Physical Security	\$6,875
94	Energy Storage and Distributed Generation	\$105,597
174	DER Integration	\$62,467
198	Strategic Sustainability Science	\$36,147
18	Electric Transportation	\$64,105
10D	Grid-Edge Customer Technologies	\$68,573
182	Customer Insights	\$43,748
204	Advanced Buildings	\$42,261
PS161A	Emerging ICT and Technology Transfer	\$6,049
PS161F	Advanced Metering Systems	\$30,244
62	Occupational Health and Safety	\$28,984
<b>2025 Total Cost to SMUD:</b>		<b>\$693,865</b>

and;

# **DRAFT**

**WHEREAS**, by entering into a five-year agreement for **EPRI** research, development and demonstration (RD&D) programs, SMUD will receive a 25% discount on **EPRI** program prices; and

**WHEREAS**, the performance of research and other activities of **EPRI** has resulted, and will continue to result, in benefits to electric utility systems throughout the country, including SMUD; **NOW, THEREFORE,**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

**Section 1.** The Chief Executive Officer and General Manager, or his designee, is authorized, on behalf of SMUD, to negotiate and execute a sole source contract with **Electric Power Research Institute (EPRI)** to provide market and technical research services to SMUD for the five-year period from January 1, 2025, through December 31, 2029, for a not-to-exceed amount of \$6,000,000.

**Section 2.** The Chief Executive Officer and General Manager, or his designee, is authorized to make future changes to the terms and conditions of the contract that, in his prudent judgment: (a) further the primary purpose of the contract; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized contract amount and applicable contingencies.



# BOARD AGENDA ITEM

## STAFFING SUMMARY SHEET

Committee Meeting & Date Finance & Audit – 12/10/24
Board Meeting Date December 12, 2024

TO				TO			
1.	Scott Martin	6.					
2.	Lora Anguay	7.					
3.	Jose Bodipo-Memba	8.					
4.		9.	Legal				
5.		10.	CEO & General Manager				
<b>Consent Calendar</b>	X	Yes		<b>Budgeted</b>	X	Yes	
FROM (IPR) Laura Lewis			DEPARTMENT Executive Office		MAIL STOP B308	EXT. 6123	DATE SENT 12/04/24

**NARRATIVE:**

**Requested Action:** Certify November 5, 2024, election results from the County of Sacramento and the County of Placer electing Brandon D. Rose to serve as SMUD's Director for Ward 1 and from the County of Sacramento electing Rob Kerth to serve as SMUD's Director for Ward 5 for the four-year term beginning January 1, 2025.

**Summary:** A statewide election was held on November 5, 2024, wherein SMUD Wards 1 and 5 were on said ballot. The results of the election for the Wards which were up for election are as follows:

Ward No. 1	Sacramento County Votes Cast	Placer County Votes Cast	Total Votes Cast
Brandon D. Rose	54,769	2,049	56,818
Robert P. "Bob" Wichert	20,211	709	20,920
Chet Corcos	8,199	339	8,538

Ward No. 5	Total Votes Cast
Rob Kerth	40,123
Fatima Malik	20,447
Nkiruka Catherine Ohaegbu	12,255

**Board Policy:** Governance Process GP-3, Board Job Description – j) Take such other actions as may be required by law.

*(Number & Title)*

**Benefits:** Comply with state law.

**Cost/Budgeted:** There is no budgetary impact for this request.

**Alternatives:** None; this action is a legal requirement.

**Affected Parties:** Board of Directors, Legal

**Coordination:** Legal

**Presenter:** Laura Lewis, Chief Legal & Government Affairs Officer

**Additional Links:**

SUBJECT <b>Certify Election Results for SMUD Wards 1 and 5</b>	ITEM NO. (FOR LEGAL USE ONLY) <b>7</b>
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.



# COUNTY OF SACRAMENTO VOTER REGISTRATION AND ELECTIONS CERTIFICATE OF FACTS

STATE OF CALIFORNIA      }  
County of Sacramento      } ss.

I, HANG NGUYEN, Registrar of Voters of the County of Sacramento, State of California, do hereby certify that the names of the candidates shown below were submitted to the known qualified electors in Sacramento County in the:

## Sacramento Municipal Utility District, Ward 1

for the purpose of electing:

**One (1) Director**

at the **November 5, 2024 Presidential General Election**

The results of the Official Canvass conducted by this office are as follows:

Name	Sacramento Votes Cast	Placer Votes Cast	Total Votes Cast
*Brandon D. Rose	54,769	2,049	56,818
Robert P. "Bob" Wichert	20,211	709	20,920
Chet Corcos	8,199	339	8,538

I further certify that the conduct of the election and canvass of the ballots was, in every respect, in accordance with the election laws of the State of California.

IN WITNESS WHEREOF I have set my hand and affixed my official seal on this  
**3rd day of December 2024**, in accordance with the laws of the State of California.

  
HANG NGUYEN  
REGISTRAR OF VOTERS  
County of Sacramento  
State of California



\*Elected



# COUNTY OF SACRAMENTO VOTER REGISTRATION AND ELECTIONS CERTIFICATE OF FACTS

STATE OF CALIFORNIA      }  
County of Sacramento      } ss.

I, HANG NGUYEN, Registrar of Voters of the County of Sacramento, State of California, do hereby certify that the names of the candidates shown below were submitted to the known qualified electors in Sacramento County in the:

**Sacramento Municipal Utility District, Ward 5**

for the purpose of electing:

**One (1) Director**

at the **November 5, 2024 Presidential General Election**

The results of the Official Canvass conducted by this office are as follows:

Name	Total Votes Cast
*Rob Kerth	40,123
Fatima Malik	20,447
Nkiruka Catherine Ohaegbu	12,255

I further certify that the conduct of the election and canvass of the ballots was, in every respect, in accordance with the election laws of the State of California.

IN WITNESS WHEREOF I have set my hand and affixed my official seal on this  
**3rd day of December 2024**, in accordance with the laws of the State of California.



  
HANG NGUYEN  
REGISTRAR OF VOTERS  
County of Sacramento  
State of California

\*Elected

# **DRAFT**

## **RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, this Board has received the Certificate of Facts from the Registrar of Voters of the County of Sacramento determining the results of the election held on November 5, 2024, for the Director from SMUD Ward 1 and the Director from SMUD Ward 5; and

**WHEREAS**, those results are as follows:

<b>Ward No. 1</b>	<b>Sacramento County Votes Cast</b>	<b>Placer County Votes Cast</b>	<b>Total Votes Cast</b>
Brandon D. Rose	54,769	2,049	56,818
Robert P. "Bob" Wichert	20,211	709	20,920
Chet Corcos	8,199	339	8,538

<b>Ward No. 5</b>	<b>Total Votes Cast</b>
Rob Kerth	40,123
Fatima Malik	20,447
Nkiruka Catherine Ohaegbu	12,255

### **BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board hereby determines that Brandon D. Rose has been elected to the position of Director Ward 1 and Rob Kerth has been elected to the position of Director Ward 5 pursuant to **Attachment \_\_\_\_\_**.



SSS No.
LEG 2024-0139

# BOARD AGENDA ITEM

## STAFFING SUMMARY SHEET

Committee Meeting & Date Policy – 12/11/24
Board Meeting Date December 12, 2024

TO				TO						
1. Steve Lins	6.									
2. Brandy Bolden	7.									
3. Farres Everly	8.									
4. Suresh Kotha	9. <b>Legal</b>									
5.	10. <b>CEO &amp; General Manager</b>									
<b>Consent Calendar</b>	<input checked="" type="checkbox"/>	<b>Yes</b>	<input type="checkbox"/>	<b>No</b> <i>If no, schedule a dry run presentation.</i>	<b>Budgeted</b>	<input checked="" type="checkbox"/>	<b>Yes</b>	<input type="checkbox"/>	<b>No</b> <i>(If no, explain in Cost/Budgeted section.)</i>	
FROM (IPR)				DEPARTMENT				MAIL STOP	EXT.	DATE SENT
Dani Roberts				Government Affairs				B404	6419	11/18/24
<b>NARRATIVE:</b>										
<p><b>Requested Action:</b> Accept the monitoring report for <b>Strategic Direction SD-11, Public Power Business Model</b>.</p> <p><b>Summary:</b> The 2024 annual monitoring report (link below) provides the Board with a status report of legislation and regulations that impact SD-11, Public Power Business Model. This core value was established to support public power and preserve local decision making.</p> <p><b>Board Policy:</b> Strategic Direction SD-11, Public Power Business Model <i>(Number &amp; Title)</i></p> <p><b>Benefits:</b> Receive input and opportunity to make corrections, additions, or changes if necessary.</p> <p><b>Cost/Budgeted:</b> Costs contained in internal labor budget.</p> <p><b>Alternatives:</b> Provide to the Board via memo or written report.</p> <p><b>Affected Parties:</b> SMUD and Board of Directors</p> <p><b>Coordination:</b> Executive Office, Board Office, Government Affairs and Legal Department</p> <p><b>Presenter:</b> Steve Lins, Deputy General Counsel and Director of Government Affairs</p>										

<b>Additional Links:</b>
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SUBJECT	<b>Monitoring Report – SD-11, Public Power Business Model</b>	ITEM NO. (FOR LEGAL USE ONLY)
		<b>8</b>

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

# SACRAMENTO MUNICIPAL UTILITY DISTRICT

## OFFICE MEMORANDUM

**TO:** Board of Directors

**DATE:** November 25, 2024

**FROM:** Claire Rogers *CR 11/25/24*

**SUBJECT:** Audit Report No. 28007757  
Board Monitoring Report; SD-11: Public Power Business Model

Internal Audit Services (IAS) received the SD-11 *Public Power Business Model* 2024 Annual Board Monitoring Report and performed the following:

- Selected a sample of statements and assertions in the report for review.
- Interviewed report contributors and verified the methodology used to prepare the statements in our sample.
- Validated the reasonableness of the statements in our sample based on the data or other support provided to us.

During the review, nothing came to IAS' attention that would suggest the items sampled within the SD Board Monitoring report did not fairly represent the source data available at the time of the review.

CC:

Paul Lau

# Board Monitoring Report 2024

## SD-11, Public Power Business Model



### 1. Background

Strategic Direction [11](#), Public Power Business Model states that:

Supporting and strengthening the public power business model is a core value. Local decision making and flexibility are essential to effective and responsible local governance. Community-owned utilities are primarily accountable to their customers, not stockholders. Community citizens have a direct voice in public power decisions.

Preservation of this business model is vital to ensure public power systems continue to provide innovative solutions tailored to best meet the needs of their customers and communities.

### 2. Executive Summary

#### **SMUD is in compliance with SD-11.**

The SD-11 monitoring report updates the Board on our efforts to insulate SMUD from issues that may impact our local governance and provide the Board with a final status report on 2024 issues impacting this strategic directive. SMUD's interests are advanced in the legislative and regulatory arenas to the greatest extent possible. For instance, SMUD meets with key federal and state officials, both elected and appointed, with the driving purpose of educating them on the impact of new and existing policy.

*State Legislative.* SMUD had several victories this year in the California Legislature that advanced the public power business model to ensure local decision making and flexibility. SMUD sponsored legislation to extend our nonstock security authority for another 10 years [Assembly Bill (AB) 2457] and also defended against legislation that would have forced publicly-owned utilities (POUs) to allow attachments to utility poles without appropriate safeguards in place if a short shot-clock approval timeline was not met (AB 2221). SMUD also worked through our trade associations to remove notification requirements for hot work (AB 3062) and reduce the scope of a bill seeking to cap the amount of money utilities can recover for new housing construction service [Senate Bill (SB) 1210].

*State Regulatory.* SMUD engaged in numerous proceedings before state agencies this year, chiefly the California Energy Commission (CEC) and California Air Resources Board (CARB), to advance the public power business model. Most notably, SMUD and our associations advocated for several amendments to CARB's Low Carbon Fuel Standard (LCFS). The LCFS encourages the use of low and zero carbon transportation fuels through a declining limit on carbon intensity. SMUD uses revenue from monetizing LCFS credits to fund numerous transportation electrification programs and projects. CARB approved the proposed amendments to the LCFS program at a hearing on November 8. We expect these changes will provide SMUD with a greater number of LCFS credits, increase LCFS credit prices, and maintain flexibility in utility spending requirements.

SMUD tracked and participated in numerous agency proceedings for opportunities to advance SMUD's strategic directives, protect jurisdictional limits, and monitor potential changes to industry standards. These include, but are not limited to:

- CARB's Cap-and-Trade pre-rulemaking proceeding (ongoing) where SMUD continues

to advocate to preserve allowance allocations for POUs and flexibility regarding allowance disposition.

- CEC's Demand Side Grid Support (DSGS) and Distributed Electricity Backup Assets (DEBA) program implementation, where SMUD and the California Municipal Utilities Association (CMUA) influenced program guidelines and solicitations to provide greater flexibility for POU-administered programs and dedicated funding for projects in POU service areas.
- CEC's Power Source Disclosure (PSD) rulemaking proceeding (currently ongoing), where SMUD and our associations are advocating to ensure that implementation of hourly greenhouse gas (GHG) accounting requirements and other changes to the PSD program are accurate and within the statutory authority. Additionally, SMUD has supported pathways for recognizing carbon capture, utilization, and sequestration (CCUS) in the Power Content Label (PCL), which are based on data reported in the PSD program.
- State Water Resources Control Board (SWRCB) rulemaking to develop statewide utility wildfire general order, where SMUD and our associations are advocating for balanced regulatory oversight for only those utility activities that pose a risk to water quality.
- CEC's Load Management Standards (LMS) regulation and implementation, which required coordination with other California utilities in the development of a single statewide tool and continued coordination with CEC staff on SMUD's LMS Compliance Plan.
- In 2023, SMUD and our associations successfully influenced the development of the CARB's Advanced Clean Fleets regulation, which requires public agencies and large commercial fleets to transition all medium- and heavy-duty (MHD) vehicles to zero-emission beginning in 2024. SMUD has continued to work with our associations on the implementation of AB 1594 (Garcia), which provides regulatory flexibility to publicly owned utilities for the purchase of traditional utility-specialized vehicles that are needed to maintain reliable service.

*Federal.* In 2023, SMUD was awarded a \$50 million grant from the Department of Energy's (DOE) Grid Resilience and Innovation Partnership (GRIP) Program which will help fund our Connected Clean PowerCity Project. This year, SMUD worked to negotiate the terms of the award with the Department of Energy for the \$142 million project to develop the next generation of smart grid infrastructure, executing the grant agreement on September 30. Once completed, the Connected Clean PowerCity project will showcase public power's ingenuity by deploying a technology ecosystem enabling interactive energy management relationships between SMUD and our customers. SMUD submitted two applications in the second round of GRIP funding and worked to secure support from the federal delegation for the proposals. In October, SMUD was notified that it was not selected for a second round award.

On the legislative front, SMUD has joined other utilities in advocating for permitting reform legislation. Throughout the year, permitting reform was frequently discussed, but a formal legislative proposal remained elusive until July, when Senate Energy and Natural Resources Committee Chairman Joe Manchin III (I-WV) and Ranking Member John Barrasso (R-WY) introduced a bill that was quickly advanced through their committee. Unfortunately, the legislation includes a provision to subject not-for-profit electric utilities like SMUD to the jurisdiction of the Federal Energy Regulatory Commission (FERC) for purposes of interregional planning and cost allocation. SMUD expressed serious concerns with this provision to Sen. Alex Padilla (D-CA), who sits on the Committee. Chairman Manchin pledged to continue discussions about public power's concerns about the provision, but the final disposition will not be known until legislators return to Washington, D.C. for a lame duck session after the November

elections.

In the regulatory arena, SMUD tracked and weighed in on the implementation of tax credits in the Inflation Reduction Act, particularly the implementation of the “elective pay” mechanism for not-for-profit utilities to receive cash payments for eligible projects since they have no tax burden to offset and the development of the new 45V tax credit for hydrogen production. SMUD also worked with numerous coalitions to follow the U.S. Environmental Protection Agency’s (EPA) final rule to curb greenhouse gases from new and existing fossil-fueled power plants. Finally, SMUD engaged with its national trade association, the American Public Power Association (APPA), to provide feedback on a proposal by the Cybersecurity and Infrastructure Security Agency’s (CISA) to require onerous and duplicative reporting of cyber incidents.

SMUD also continued engagement with FERC on dockets related to cost allocation and transmission planning. SMUD continues to develop its enterprise-wide grant capture program to respond to federal funding opportunity announcements and build relationships with key officials and new offices within the DOE in charge of IIJA grant guidance and implementation efforts.

*Community Choice Aggregators (CCA).* AB 117 (2002) created Community Choice Aggregation and authorized local governments to aggregate customer electric load and become the default power provider in the service territory of an incumbent investor-owned utility (IOU). SMUD responded by offering to provide operational services to CCAs.

Today, SMUD offers 11 comprehensive services to CCAs: contact center, billing, debt collections, customer relationship management systems, data management, market research, data analytics, custom reporting, customer programs, electrification concierge, and marketing services. SMUD supports seven CCAs: Valley Clean Energy (VCE), Ava Community Energy (formerly known as East Bay Community Energy), Silicon Valley Clean Energy (SVCE), Marin Clean Energy (MCE), Sonoma Clean Power (SCP), Central Coast Community Energy (3CE), and San Jose Clean Energy (SJCE). CCAs enable their customers to access many of the same public power benefits that SMUD and other POUs have provided millions of Californians. Our support of CCAs promotes public power. CCAs also have aggressive carbon reduction goals similar to SMUD’s. Our support of CCAs promotes carbon reduction regionally. SMUD is leveraging our decades of experience as a utility, staff expertise, and existing systems to provide skilled services to CCAs, generating new revenue and strengthening SMUD’s ability to provide cost effective public power service to our customers. There are currently over 25 active CCAs in California, representing nearly half of the state, and additional ones emerging or investigating the feasibility of starting a new CCA. The potential for new CCA clients for SMUD is great.

*California Independent System Operator Corporation (CAISO) Markets and Pathways Initiative*  
SMUD continues to see significant benefits with its participation in the CAISO’s Western Energy Imbalance Market (EIM) since joining in 2019 through the Balancing Authority of Northern California (BANC). On March 25, 2021, the remaining BANC Balancing Authority Area (BAA) footprint joined the EIM. This broader BANC resource participation has resulted in greater economic benefits and a better ability to integrate and manage intermittent resources within the BANC footprint.

SMUD and BANC, as well as other EIM participants, have supported the extension of the EIM real-time framework to the CAISO’s day ahead market under the CAISO’s Extended Day Ahead Market (EDAM) initiative. After a few years of discussions, direct involvement with the CAISO and a handful of other stakeholders, and broader stakeholder meetings to develop an EDAM proposal, the CAISO filed a tariff amendment with FERC in August 2023 which FERC approved in June. EDAM implementation activities have begun with EDAM launch planned for Spring of

2026. SMUD plans to join EDAM with the other BANC participants beginning in 2027.

To support EDAM, and further development of a west-wide market, multiple state commissioners in the west, including California, issued a letter to the Western Interstate Energy Board in summer of 2023 calling for the creation of an independent entity that could serve as a means of delivering a market for western states. A West-Wide Governance Pathways Initiative (Pathways Initiative) was created, and a broad stakeholder committee has proposed a multi-step process to create an independent governing body that would enable a path forward for a potential west-wide fully organized market (a Regional Transmission Organization, or RTO). An independent governing body is seen by many entities outside of California as critical to participating in EDAM and other future markets. Earlier in 2024, as the first step, the CAISO approved elevating the EIM/EDAM Governing Body joint authority with the CAISO Board to primary authority over EIM/EDAM market matters. The second step is creation of a non-profit entity and transfer of governance authority over EIM/EDAM markets from the CAISO to this new “Regional Organization.” This will occur after California legislation is introduced in 2025, and if approved, it amends existing California law applicable to the CAISO governance. And step 3 is potential continued future expansion of regionalized functions and services offered by the Regional Organization. SMUD views EDAM, and the Pathways Initiative, as important steps forward in the evolution of Western energy markets and it aligns well with SMUD’s 2030 Zero Carbon Plan goals.

As SMUD’s Strategic Plan indicates, internal and external factors are driving our business and shaping our business model. Legislative and regulatory uncertainty continues to be a threat to the Public Power Business Model (SD-11). SMUD takes positions on legislation and regulations based on the Board’s Strategic Direction.

### **3. Additional Supporting Information**

Local decision making and flexibility are essential to effective and responsible local governance. We continued to guard local decision-making and flexibility as we pursue innovative solutions that meet the needs of our customers and our community. High priority 2024 issues were as follows:

- Meetings with state legislators to highlight SMUD’s legislative priorities to advance the public power business model.
- Sponsoring legislation to extend SMUD’s nonstock security authority.
- Securing amendments to remove applicability of onerous requirements to SMUD (e.g., AB 2221, AB 3062, SB 1210).
- Grants capture initiatives to support SMUD’s 2030 Zero Carbon Plan, including the GRIP II grant, the Recompete grant, and Matsui earmark.
- Advocating for favorable outcomes in the federal appropriations process, which determines the level of funding available for high-priority grant programs authorized in the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA).
- Defending against proposals to reverse the direct pay provisions enacted in the IRA.
- Meetings with CEC Commissioners to educate key policy decision-makers on activities and needs related to SMUD’s 2030 Zero Carbon Plan, including transportation electrification, building electrification, and load flexibility, to advance the public power business model.
- Advocating to preserve POU allowance allocations and flexibility regarding allowance value within the Cap-and-Trade program.

- Continued outreach to the CEC regarding SMUD's compliance approach to the Load Management Standards regulation, as well as the development of SMUD's revised compliance plan.
- Working with the California Electric Transportation Coalition (CalETC) and partners to encourage changes to strengthen the LCFS program and update utility spending requirements.
- Advocating for a balanced regulatory approach regarding the SWRCB's Draft Utility Wildfire General Order.

## **4. Challenges:**

SMUD continues to face prescriptive legislative and regulatory mandates for carbon reduction, renewable energy, resources planning, and building and vehicle electrification, in part because of the State's robust climate change goals and their potential interplay with pending federal regulations. With SMUD customers still struggling as energy costs continue to rise, it is particularly important to defend against mandates that increase costs for SMUD.

While state policy is increasingly recognizing the importance of a diverse set of resources to reliably and affordably achieve electric sector decarbonization goals, uncertainty remains regarding the definition of "zero-carbon resources," particularly emerging technologies, for purposes of the state's long-term goals. This uncertainty and potential lag time in updating state policy and regulations may pose some challenges for SMUD, as a POU that is making early investments in emerging technologies to support decarbonization goals that are faster than those of the state. The CEC is in the process of developing the next SB 100 Joint Agency Report, which is evaluating the tradeoffs of various scenarios – including one with no combustion of biogas, carbon capture, or hydrogen – to inform state policymakers. SMUD will continue to advocate for policies that recognize the renewable and zero-carbon resources needed to decarbonize our grid.

Changes to Cap-and-Trade are on the horizon, and CARB staff has signaled both a need to reduce allowance allocations and the potential for more prescriptive requirements regarding the disposition of allowance value. In addition, the CEC has initiated a rulemaking to implement hourly GHG emissions accounting and reporting requirements for SMUD and other large utilities as part of the Power Source Disclosure program. The new requirements are highly complex, and it is critical to ensure that implementation is accurate, understandable, and fair.

SMUD will continue to advocate for the advancement of beneficial transportation and building electrification, along with consideration of utility needs for accelerating the enabling infrastructure. Transportation electrification has been a priority for the Newsom Administration, with Governor Newsom's executive order to require that all new cars and passenger trucks sold in California be zero-emission vehicles by 2035 and CARB's Advanced Clean Cars II regulation that took effect at the end of 2022.

Additionally, SMUD continues to monitor CPUC proceedings that may attempt to assert jurisdiction over POUs (e.g., pole and conduits database, demand flexibility through dynamic rates, discharge permitting for electric utility maintenance tasks, resiliency activities, and General Orders).

## **5. Recommendation**

It is recommended that the Board accept the Monitoring Report for SD-11.

## Appendices

### **State Legislation that Impacted SD-11**

#### **AB 2457 (McCarty) – Nonstock Security Authority**

SMUD-sponsored legislation, [AB 2457](#), which extends the sunset and limit on the number of acquisitions under our current pilot project authority, granted through [AB 689](#) in 2019 that allows us to hold nonstock security in a corporation or other private entity under certain conditions.

*Status:* Signed by the Governor

*SMUD Position:* Sponsor. SMUD drafted the legislative language, developed and executed the legislative strategy, led all advocacy, testified in legislative committees, and developed a large support coalition of 18 organizations.

*Staff Comment:* New programs are often met with resistance from the legislature, particularly on more complicated topics such as nonstock security. While we initially sought to completely remove the sunset, rather than extend it, the passage of this bill is a significant victory for SMUD. We will be able to continue with this innovative authority to potentially seek additional financial upside in our various partnerships. Importantly, the bill also explicitly allows us to include services or access to SMUD facilities (e.g., workforce development training) as something SMUD can provide in exchange for nonstock security. This is a helpful clarification to existing law.

#### **AB 2221 (J. Carrillo) – Broadband Pole Attachments**

[AB 2221](#), sponsored by Crown Castle, sought to install problematic, burdensome, and limiting timelines (called shot clocks) for broadband pole attachment applications. If utilities did not approve or deny the pole attachment applications in accordance with the shot clocks, the applications would be deemed approved. SMUD worked with CMUA in opposing this bill, and the bill was held in the Assembly Appropriations Committee and died.

*Status:* Dead

*SMUD Position:* Worked through the California Municipal Utilities Association in opposing the bill.

*Staff Comment:* This bill would have had very significant safety implications. This was Crown Castle's second bite at the apple – as their AB 965 last year sought to institute similar provisions, but we were able to successfully get publicly owned utilities removed from that bill. SMUD worked closely with a coalition of publicly owned utilities to defeat this bill this year as well.

#### **AB 3062 (Bauer-Kahan) – Hot Work Notification**

[AB 3062](#), as introduced, would have required utilities to provide 24 hours' notice to fire protection agencies before performing any hot work. The bill was amended in the Assembly Utilities and Energy Committee and was limited to providing this notice at least 24 hours in advance of a controlled or prescribed burn.

*Status:* Signed by Governor

*SMUD Position:* SMUD worked through the California Municipal Utilities Association to oppose this bill

unless it was limited to controlled burns only. Once the amendments were in print, the California Municipal Utilities Association moved to neutral.

*Staff Comment:* While SMUD always coordinates closely with relevant agencies in our work, this bill as introduced would have imposed an additional bureaucratic requirement to performing our routine maintenance and managing our infrastructure. Limiting the notification or prescribed burns is much more reasonable, particularly since prescribed burns are usually conducted by the Bureau of Land Management, United States Forest Service or Cal Fire, and not SMUD.

### **AB 2619 (Connolly) – Net Energy Metering**

[AB 2619](#) would have required the California Public Utilities Commission to develop by 2027 a new solar tariff to replace the current tariff (e.g., Net Energy Metering (NEM) 3.0). The bill would have reverted all NEM 3.0 customers to the prior NEM 2.0 tariff until the new tariff was developed.

*Status:* This bill was never heard in committee and is dead.

*SMUD Position:* Watch

*Staff Comment:* SMUD was neutral on the bill but watched very closely. The author said the bill was not intended to impact publicly owned utilities but the language was not as clear as we would have liked.

### **Energy Resources Surcharge**

The Governor proposed a [budget trailer bill](#) to assess additional fees on the delivery of electricity to fund the CEC. The Energy Resources Surcharge Law imposes a surcharge on consumers for the consumption of electricity purchased from an electric utility at a rate annually fixed by the CEC not to exceed a surcharge rate cap of \$0.0003/kilowatt-hour, which the CEC states costs the average customer about \$2 per year. This bill would have expanded the applicability of the surcharge to additionally include the consumption of electricity generated by solar energy systems that are connected to the grid and would increase the surcharge rate cap from \$0.0003 per kilowatt-hour to \$0.00066 per kilowatt-hour, which would be subject to an annual adjustment based on the Consumer Price Index.

*Status:* Much to the CEC's chagrin, the Governor's Office and legislative leadership held the proposal for this year.

*SMUD Position:* SMUD worked closely with CMUA and other publicly-owned utilities to seek revisions from the CEC.

*Staff Comment:* Not only were we concerned with the doubling of the surcharge, but the methodology for including solar customers would be technologically challenging and confusing for our customers.

### **AB 2037 (Papan) – Weights and Measures: Electric Vehicle Chargers**

[AB 2037](#) authorizes county sealers to test and verify as correct electrical vehicle (EV) chargers operated by a public agency that is located in the county in which the sealer has jurisdiction. If the EV charger is found to be incorrect, the bill requires the county sealer to mark it with a tag and require the charger to be repaired or corrected. This is only related to the weights and measures of the EV charger, not the operation of the charger, which was a point of confusion with the bill as it moved through the legislature. The bill seeks to ensure the right amount is charged to customers for the amount of electricity consumed – similar to what is done at gas stations.

*Status:* Signed by Governor

**SMUD Position:** Worked with the author to secure amendments.

**Staff Comment:** Through SMUD's eFuel program, we offer leases on EV chargers for commercial customers. Thanks to help from the Board, we were successful in securing an amendment to make sure the operator of that leased charger is responsible for the bill's requirements, as opposed to SMUD. SMUD also worked with CMUA on amendments to allow publicly-owned utilities to self-verify the accuracy of our commercially available EV chargers. The author accepted these amendments, but instead of requiring the verification to occur every two years, like it does for the County Sealer, the author wants publicly-owned utilities to verify our chargers every six months, which is where the bill language ultimately landed.

### **Taxpayer Deception Act**

There was a significant [ballot measure](#) that SMUD watched closely this year. Called the Taxpayer Protection Act by its proponents and Taxpayer Deception Act by the opposition, this initiative would have changed voter thresholds for fee and tax increases and, importantly for us, would have changed our "reasonable cost of service" metric to "actual cost of service."

**Status:** The initiative was removed from the November 2024 ballot by the California Supreme Court in a ruling that came out in late June. The Court stated that the initiative would have substantially altered the state's basic plan of government and, therefore, cannot be enacted by initiative. It is rather governed by the procedures to revise the California Constitution.

**SMUD Position:** SMUD watched very closely but did not take an official position. The California Special Districts Association (CSDA), of which SMUD is a member, was heavily involved, filing an amicus brief to the California Supreme Court.

**Staff Comment:** The impacts of the initiative, if passed, were far-reaching and broad – a significant threat to the public power business model and SMUD's ability to set rates and provide reliable and safe electricity to our customers.

### **AB 1465 (Wicks) – Title V Fee Increases**

[AB 1465](#) increases existing air district civil penalty limits by a factor of up to three for emissions from a Title V source that contain one or more air contaminants.

**Status:** Signed by the Governor

**SMUD Position:** SMUD worked through CMUA in opposition to this bill last year, and it was held. The bill was brought back in the 11<sup>th</sup> hour this year and passed quickly.

**Staff Comment:** If a SMUD Title V emissions source was found to be in violation, the local air district may impose penalties that are triple the current rate. Typically, penalties are now assessed at \$5,000 per day (\$15,000 by January 1, 2025). Working with CMUA, SMUD was able to get a letter on record that clarifies that this does not apply during declared emergencies.

### **AB 2204 (Bennett) - Hydrogen**

[AB 2204](#) sought to impose a concept called the 3 pillars, which would require all hydrogen produced or used in California to be from new and incremental renewable generation resources, include temporal matching of renewable generation resources, and geographic deliverability of renewable energy resources.

**Status:** Dead.

*SMUD Position:* SMUD did not have an official position.

*Staff Comment:* SMUD worked with the Northern California Power Agency, the building trades, International Brotherhood of Electrical Workers (IBEW) and the Alliance for Renewable Clean Hydrogen Energy Systems (also known as ARCHES, a public/private partnership to create a hydrogen hub in California) to meet with members of the legislature to share our concerns with the 3 pillars model, primarily that it could make it more difficult for federal dollars to flow to California.

### **SB 1210 (Skinner) – New Housing Construction**

[SB 1210](#) initially would have imposed a cap on how much utilities can recover to provide service and upgrade capacity to serve new housing construction. The cap would have been one percent of the reported building permit value of a housing unit. The bill was ultimately amended to focus more on transparency of fees – the bill requires utilities to post on their websites both the schedule of estimated fees for typical service connections as well as the estimated time frames for completing service connections.

*Status:* Signed by the Governor

*SMUD Position:* SMUD worked with CMUA to express concerns with the bill as initially drafted.

*Staff Comment:* The bill as initially written was in conflict with how utilities provide service to new housing construction.

### **State Regulation that Impacted SD-11**

#### ***Low Carbon Fuel Standard Program***

The LCFS program is designed to encourage the use and production of low carbon transportation fuels. The LCFS is a market-based program that is based on declining carbon intensity (CI) benchmarks; transportation fuels that have a CI lower than the benchmark generate LCFS credits, and those with higher a CI generate credit deficits. LCFS credits associated with electricity can be generated in several categories, depending on the type and location of the charging; proceeds must generally support transportation electrification projects or programs. Utilities, including SMUD, currently receive “base credits” that are allocated based on estimated EV charging within their service areas. A minimum portion of these base credits fund the statewide Clean Fuel Reward (CFR) program; the remaining “holdback” credits fund utility-specific programs, with minimum spending requirements for projects benefiting low-income and disadvantaged communities. SMUD also generates credits through partnerships with dairies that produce digester gas for low-carbon electricity.

CARB started a formal rulemaking process in January 2024 with proposed amendments to the LCFS regulatory language. CARB then issued two rounds of changes to the proposed amendments, most recently in October, and approved the amendments at its November 8 hearing.

*Status:* CARB’s adopted amendments to the LCFS regulation will go into effect in 2025. There were several important changes to the LCFS program. First, CARB increased the stringency of the program, which is designed to displace the use of additional fossil fuels and potentially increase LCFS credit prices. Additionally, the regulatory changes will allow SMUD to retain a greater number of credits, contributing fewer credits to the statewide CFR program, and also preserve flexibility in how SMUD spends the credit value. CARB staff have indicated that they do not anticipate any further amendments to the LCFS program until after CARB’s next Scoping Plan Update, which is expected to occur in 2027.

### ***Cap-and-Trade Amendments (Pre-Rulemaking)***

The Cap-and-Trade program is a key element of California's strategy to reduce GHG emissions by setting an economy-wide, declining cap on annual GHG emissions. Covered entities must surrender compliance instruments, or allowances, for each metric ton of GHG emissions. The current regulation provides SMUD, and other electric utilities, a specified amount of directly allocated allowances through 2030 to mitigate the cost impacts to ratepayers of compliance with the Cap-and-Trade program. As a POU, SMUD has the option of depositing allowances to meet our compliance obligations or consigning allowances to auction and using the proceeds to benefit ratepayers, in accordance with certain regulatory requirements.

Over the past two years, CARB has engaged in pre-rulemaking activities for potential updates to the Cap-and-Trade regulation. The primary objective of the update is to align the Cap-and-Trade program with CARB's 2022 Scoping Plan Update, which calls for additional emissions reductions by 2030 in order to achieve carbon neutrality by 2045. As part of the update, CARB will also consider changes to improve program implementation. While CARB has not yet proposed any formal amendments, potential changes under consideration that are key to SMUD include:

- Reductions to allowance budgets, including utility allowance allocations, through 2030.
- Reduced flexibility for POUs to either consign allowances to auction or deposit for compliance.
- Reduced flexibility for POUs regarding use of allowance proceeds.

POU allowance allocations provide important ratepayer benefits and are critical to advancing the state's GHG reduction goals. Reductions in allowance allocations may directly impact ratepayers during a time when the state is suffering from an affordability crisis. SMUD and our associations have urged CARB to minimize changes to utility allowance allocations to the extent possible. SMUD also does not support changes that would require POUs to consign all allowances and restrict proceeds; preserving POUs' flexibility to determine how best to use allowance value is the most efficient, effective, and suitable way to respond to local communities' needs and reduce GHG emissions in our service areas.

Status: CARB has held several pre-rulemaking workshops but has not yet released draft regulatory amendments. The formal rulemaking is expected to begin in late 2024.

### ***Power Source Disclosure Amendments***

SB 1158 (Becker) established new hourly GHG reporting requirements for retail suppliers of electricity, including SMUD, which the CEC is tasked with implementing. Under the new law, retail suppliers will be required to report the following information beginning January 1, 2028:

- Sources of electricity used to serve hourly loss-adjusted retail load.
- The GHG emissions associated with each source.
- Annual total and average GHG emissions intensity.
- Annual avoided GHG emissions.

In May 2024, the CEC issued proposed amendments to the Power Source Disclosure (PSD) program to update the PSD program, incorporate the requirements of SB 1158, and make changes to the Power Content Label (PCL) that relies on data reported through the PSD program. SMUD submitted comments both individually and in coordination with CMUA, which highlighted several clarifications necessary to improve accuracy and avoid ambiguity. SMUD also advocated for the inclusion of a pathway for counting natural gas paired with carbon capture, utilization and sequestration (CCUS) technology.

The CEC subsequently issued revised proposed amendments in October 2024. These amendments made several of the clarifications requested by SMUD and CMUA, as well as incorporating a new

category for emerging technologies, which could include technologies like CCUS and green hydrogen. Status: Through CMUA, SMUD will continue to advocate for simplifying the PSD process and ensuring that CCUS has a path to being recognized. Following the current comment period, we expect that the CEC will adopt the proposed changes in 2025.

### **Demand Side Grid Support (DSGS) Program**

The CEC's Demand Side Grid Support (DSGS) program was established as part of the Strategic Reliability Reserve created by AB 205 (2022). The program provides incentives to utility customers that provide incremental net load reductions during grid emergencies or extreme events. DSGS providers, which may include POUs, enroll customers and administer the program; depending on the participation option, providers receive administrative cost reimbursement or incentives for committed load reduction capacity. The CEC revised the program guidelines in 2023 to reflect lessons learned, expand eligibility, allow third-party aggregators to serve as program administrators under certain conditions, and pilot new participation options.

The current DSGS program includes three participation pathways, originally designed with the CAISO in mind:

- Option 1, which provides incentives to customers that voluntarily reduce net load in response to Energy Emergency Alerts (EEAs) issued by a California balancing authority (BA).
- Option 2, which provides monthly capacity payments for demand response resources participating in electricity markets that can provide additional load reduction capability.
- Option 3, which provides monthly capacity payments for behind-the-meter battery virtual power plants that dispatch based on market or other reliability-related signals.

SMUD successfully advocated for flexibility allowing non-CAISO balancing authority areas to benefit from the DSGS program and for POUs to propose alternative program requirements that are best suited for the reliability needs of the POU and their BA. In coordination with CMUA, SMUD also successfully advocated for changes requiring third-party aggregators to obtain written permission from the host POU before becoming a DSGS provider, to ensure any DSGS activities are coordinated with POU needs and operations.

In October 2024, the CEC released additional revisions to the DSGS guidelines. The proposed changes would primarily revise certain requirements for Option 3 and add a new Option 4, which would provide an emergency load flexibility virtual power plant (VPP) that would allow participation by smart thermostats and electric water heaters. The proposed DSGS program retains POU flexibility and continues to ensure coordination between DSGS providers and host POUs.

Status: SMUD is enrolled as a DSGS provider for "Option 1" and plans to expand the program to additional customers in the future. SMUD supported CMUA comments, submitted October 30, 2024, which generally supported the DSGS program, but sought clarification that DSGS providers will be able to recover administrative costs. The revised DSGS guidelines are expected to be adopted by the CEC in February or March 2025.

### **2025 Energy Code – Rulemaking Activities**

The CEC released the proposed 2025 Energy Code in March 2024. The new code continued the trend toward more heat pump space heating (HPSH) and heat pump water heating (HPWH) through prescriptive requirements for new single-family homes, multifamily, and select nonresidential building types. Separately, the new code proposed a voluntary measure (Part 11) that included a heat pump space heating baseline for alterations of existing single-family homes. The changes also included

updates to efficiency standards and certain photovoltaic and energy storage requirements, including a minor clarification to community solar requirements.

SMUD supported the expansion of heat pump baselines and prescriptive requirements for space and water heating. Additionally, SMUD supported proposed electric ready requirements for new multi-family and non-residential buildings.

Status: The CEC adopted the 2025 Energy Code in September 2024 and the requirements will go into effect for construction permits that are applied for on or after January 1, 2026.

### ***Load Management Standard (LMS) Regulation***

The amended LMS regulations were adopted by the CEC in October 2022 and took effect on April 1, 2023, expanding on efforts to increase efficiency and demand flexibility in California's electricity grid. While the standard has been in statute since 1978, the most recent amendments are intended to form the foundation of a statewide system that automates the creation of hourly or sub-hourly costs and signals that can be used by end-use automation to provide real-time demand flexibility on the grid. The amended regulations require the state's three largest IOUs and CCAs, the Los Angeles Department of Water, and Power (LADWP) and SMUD to develop marginal cost-based rates that change at least hourly for each customer class that is determined to materially reduce peak load, among other requirements.

During the rulemaking process, SMUD staff advocated to CEC staff, Commissioners, and other key policymakers to help guide the development of the LMS and ensure that SMUD can continue to offer pilots and programs as an alternative to dynamic rates. The final regulations largely reflected our recommendations for a separate compliance pathway for POUs that provides greater implementation flexibility.

SMUD adopted its LMS Compliance Plan and submitted for CEC approval in November 2023. Thereafter, CEC staff indicated that they did not believe that SMUD's Compliance Plan met the requirements of the LMS regulations, and this ultimately resulted in a Deficiency Notice (Notice) from the CEC's Executive Director. The Notice indicated the CEC's view that SMUD must incorporate dynamic rates or programs incorporating dynamic price signals or must update the analysis provided in the Compliance Plan. SMUD is currently preparing a response to the CEC's letter, which is due in December 2024.

Status: The new LMS regulations went into effect in April 2023. This year, SMUD fulfilled several regulatory requirements, including incorporating the Rate Identification Number (RIN) onto customer bills, participated in a joint utility group to develop the concept paper for a "single statewide tool" that would enable customers and third parties to evaluate rates or make rate changes, and submitted a list of load-modifying programs. SMUD will continue preparing a response to the CEC's Notice and will continue coordination with CEC staff to resolve any issues.

### ***Draft Utility Wildfire General Order***

In June, the State Water Resources Control Board (SWRCB) issued the *Draft Utility Wildfire and Similar Operations and Maintenance Activities Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements General Order and Associated CEQA EIR* (Draft GO). The Draft GO covers twelve "project activities" related to wildfire risk mitigation, response, and cleanup activities that may cause or threaten to cause discharge of waste into waters of the state and applies to these activities even if the activity is not directly related to wildfire. The Draft GO applies to a project activity when the activity causes soil disturbance within specific distances from waters of the state (WOTS) or

due to the slope and soil characteristics where the work is being performed. If the Draft GO applies, then the utility must comply with a variety of project conditions and reporting requirements.

SMUD, CMUA and an informal joint utility group advocated for changes that would refocus the scope of the Draft GO on activities that pose a greater risk to water quality and ensure that any project conditions or reporting requirements balance the need for oversight with needed utility mitigation and maintenance work.

Status: Interested parties filed comments in early September 2024. SWRCB staff intends to submit a final utility wildfire general order in February 2025 for board approval, and SMUDs anticipates ongoing advocacy prior to adoption.

### **Delta Water and Hydro Impacts**

Two substantial Delta planning processes could potentially affect energy available for SMUD's purchase from the Central Valley Project (CVP) and flows within the Upper American River Project (UARP) watershed: the Bay–Delta Water Quality Control Plan (Bay–Delta Plan), and the Delta Conveyance Project (successor to the California WaterFix Project, which was in turn successor to the Bay Delta Conservation Plan).

Phase 2 of the Bay–Delta Plan is ongoing and could potentially affect SMUD by increasing the volume of water required for outflow into the Bay (Phase 3 would, if carried out, implement Phase 2 through modifications to water rights). A substantial change in Delta outflow and tributary flow requirements could, among other things, have a major impact on the timing of hydroelectric energy generation. The State Water Resources Control Board (SWRCB) staff released a draft of one of the Phase 2 documents identifying an environmental need for significantly more outflows (in short, 35 to 75% of all water is allegedly needed for outflow with staff recommending 45 to 65%).

Governor Newsom requested the SWRCB explore negotiation of voluntary agreements with water purveyors in lieu of imposing a strict plan. Work on the voluntary agreements process has been picking up speed and is now known as the Healthy Rivers and Landscapes Program. If adopted by its numerous sponsors and the SWRCB, the program would initiate aquatic habitat restoration and release of flows to support a healthier Delta ecosystem,

Although the earlier, two-tunnel Delta conveyance WaterFix Project was cancelled and its environmental documents rescinded in 2019, the Department of Water Resources (DWR) quickly relaunched the project as a one-tunnel option, renamed the Delta Conveyance Project. The Draft Environmental Impact Report was released in July 2022. The project would involve building one new intake and a tunnel to complement the historical diversion of water through the Delta channels for the State Water Project (SWP). It had been expected the Project would involve the CVP as well, though that does not appear to be the case and the U.S. Bureau of Reclamation has not been participating, suggesting no CVP power would be used for the project. This is important because if provided by the CVP, power for the estimated 10-year construction effort and long-term operations would come out of supplies otherwise sold to public power contractors, the single largest share of which goes to SMUD under an existing long-term contract (which will be succeeded a new contract). Using the tunnels would be part of an effort to maintain or even increase Delta watershed exports to Southern and Central California. Proponents have claimed the project would help reduce the historical impacts of the South of Delta pumps on special status fish species, though modeling by Northern California interests of the prior project suggests the reduced impacts have not been proven and in fact the opposite could be true. Modeling of the

newly proposed project is under way. Changes in the timing of the energy generation due to the project are as yet unclear. DWR approved the Project on December 21, 2023.

In the meantime, the Delta Conveyance Project faces numerous legal challenges.

- (1) In January of this year, dozens of plaintiffs filed nine lawsuits challenging the Project approval under the California Environmental Quality Act (CEQA) and Sacramento Superior Court issued a preliminary injunction against DWR. This ruling is on appeal.
- (2) Also in January, in another lawsuit the Court held that DWR lacked the authority to fund the project using revenue bonds. This ruling is also on appeal.
- (3) Yet another lawsuit is challenging the SWRCB's authority to rule on the water rights petitions that DWR filed in support of the Project until another proceeding is completed.

Staff Comment: SMUD is working closely with a coalition of water interests to evaluate the impacts of the Bay-Delta Plan and the Delta Conveyance Project to understand the implications for power generation and SMUD's water rights and hopefully to agree upon a voluntary agreement process as a substitute for a regulated process. SMUD is also working with DWR on how to serve the Project with power.

### **Federal Legislation that Impacted SD-11**

#### ***S. 4753 (Manchin): the “Energy Permitting Reform Act”***

While SMUD has supported the intent of permitting reform proposals, S. 4753 includes a provision that would require public power entities, Power Marketing Administrations, and other non-jurisdictional entities to come under the jurisdiction of the Federal Energy Regulatory Commission (FERC) for purposes of interregional planning and cost allocation. This would upend the regime adopted by FERC in Order 1000 that provides for public power's voluntary participation in interregional planning, as well as require public power entities to file a tariff in order to build a transmission line in a national interest transmission corridor. SMUD expressed concerns about this provision to Sen. Alex Padilla (D-CA), who sits on the committee of jurisdiction, and SMUD has coordinated with APPA and the Large Public Power Council (LPPC) to relay the same concerns in their discussions with committees. SMUD will continue to monitor this legislation.

#### ***Tax Policy***

As a municipal utility, SMUD relies on municipal bonds and utilizes all available financing mechanisms to decrease the financing costs of infrastructure investments and projects. Therefore, SMUD has continued to advocate for maintaining the longstanding tax exemption for municipal bond interest as well as preserving the ability of municipal utilities to access elective payment of energy tax credits as authorized under the Inflation Reduction Act (IRA).

The 2017 Tax Cuts and Jobs Act (TCJA) preserved the general exemption, but removed it for advance refunding bonds, which are used to effectively refinance an original bond. SMUD has worked individually and through coalitions to restore the exemption for advance refunding bonds. Bipartisan bills in both the House and Senate have been proposed that would restore advanced refunding. Such legislation is unlikely to be passed as a stand-alone bill; however, restoring advance refunding may be considered as part of a tax reform package as several tax provisions in the TCJA are set to expire at the end of 2025.

The 2022 IRA includes a provision that allows tax-exempt entities to receive refundable elective payments of various energy tax credits, making them directly available to public power utilities for the first time. Both the House and Senate have introduced provisions in various legislation that would

repeal energy tax credits authorized under the law; however, none have been advanced. SMUD has worked individually and through coalitions like the American Public Power Association (APPA) and Large Public Power Council (LPPC) to preserve the energy incentives and the ability of municipal utilities to elect elective payment of various energy tax credits. Most recently, Congress passed S.J. Res. 38, a resolution under the Congressional Review Act that would invalidate a secretarial waiver of provisions in the IRA that require a certain percentage of project components to be domestically sourced in order to receive a full elective payment. President Biden vetoed this resolution, preserving the full value of elective payment for projects where a domestic supply chain is infeasible. Federal Affairs will continue to track this issue.

### ***H.R. 8790 (Westerman): the Fix Our Forests Act***

In September, the House passed H.R. 8790, the “Fix Our Forests Act,” which would expedite forest management activities on federal land, including several provisions to allow local governments and special districts to participate in assessing firesheds, provide a categorical exclusion for vegetation management in utility rights-of-way, and automatically approve utility vegetation management plans 120 days after submittal. SMUD Federal Affairs will continue to follow this legislation, although it is unlikely to advance in the Senate.

### ***Pole Attachments***

Municipal utilities are exempt from federal regulation of pole attachments under Section 224 of the Federal Communications Act. However, the Federal Communications Commission (FCC) has taken steps in recent years that impact public power pole attachments. In September 2018 the FCC issued a declaratory order and ruling reinterpreting other sections of the law to impose fee limits and timelines on pole attachment applications. Most recently, in March 2022, the FCC approved a Further Notice of Proposed Rulemaking (FNPRM) on the allocation of pole replacement costs and the resolution of pole attachment disputes. SMUD has expressed to its delegation concerns about this federal intrusion, noting that it has developed pole attachment agreements with telecom carriers. Rep. Anna Eshoo (D-CA) introduced legislation in January 2019 to nullify the 2018 FCC order, and Senator Dianne Feinstein (D-CA) sponsored similar legislation in the Senate in June 2019. The bills have failed to gain bipartisan support or traction in either chamber, and they have not been reintroduced in subsequent congressional sessions.

### ***Appropriations***

As has been customary for many years, Congressional appropriators failed to pass yearly funding bills before the end of the fiscal year (September 30). The federal government is currently operating under a continuing resolution (CR) to keep the government funded through Dec. 20, 2024. It is expected that Congress will pass a year-end omnibus spending bill, but the outcome of the November election could alter that trajectory.

### ***Spent Nuclear Fuel Removal***

Unable to make progress on removing spent nuclear fuel to interim storage facilities, congressional attention has turned to reprocessing and establishing a consent-based process for siting new facilities. The House Fiscal Year 25 Energy & Water Appropriations bill prohibits funds from being used to site a private interim storage facility, and the Senate bill authorizes the Department of Energy to identify a site for interim storage using consent-based principles. Meanwhile, the Biden Administration has made progress on establishing a consent-based siting process and issued a Request for Information seeking partners interested in developing interim storage facilities. Finally, Rep. Mike Levin (D-CA) introduced legislation to create a new government agency tasked with the disposition of used nuclear fuel, the “Nuclear Waste Administration Act.” This legislation is not expected to advance in the current Congress.

## **Federal Regulatory Issues that Impacted SD-11**

### ***FERC Order 1000 and Order 1920***

SMUD has participated in Order 1000 regional transmission planning through WestConnect, a regional planning entity that is comprised of member transmission providers (both jurisdictional and non-jurisdictional transmission providers) with service areas consisting of all or portions of eleven states. WestConnect members work collaboratively to jointly plan transmission facilities, assess stakeholder and market needs and develop cost-effective enhancements to the western wholesale electricity market.

In 2015, FERC accepted WestConnect's withdrawal rights for non-jurisdictional transmission providers such as SMUD. Accordingly, if costs are allocated for particular transmission projects that are unacceptable, the non-jurisdictional transmission provider has a right to withdraw from the cost allocation determination. El Paso Electric, a WestConnect jurisdictional transmission provider, appealed FERC's decision in the 5th Circuit Court of Appeals contending that a non-jurisdictional's decision not to accept cost allocation for a project will cause free ridership. On August 2, 2023, the 5<sup>th</sup> Circuit issued a decision reversing FERC's WestConnect order, concluding that FERC's order implementing Order 1000 for the WestConnect region is not a just and reasonable application of cost causation. In 2024, the WestConnect transmission providers began to discuss next steps to address the court's decision and Order 1920 (see below) together in a FERC filing. Meanwhile, in response to the court's decision, FERC issued an order on October 17 directing the jurisdictional transmission providers to revise their tariffs removing the opt-out provisions for non-jurisdictional transmission providers. The jurisdictional and non-jurisdictional transmission providers are discussing a response to FERC's order and exploring alternative options for continued planning that will ensure we are able to decide whether to accept costs for transmission projects. Accordingly, there is uncertainty at this time on the future of WestConnect's regional planning process.

In May 2024, FERC finalized its long-awaited rule known as "Building for the Future Through Electric Regional Transmission Planning and Cost Allocation and Generator Interconnection" (Order 1920) reforming existing regulations under Order 1000. SMUD worked with LPPC, APPA, and the Transmission Agency of Northern California (TANC) to develop comments in response to the proposal. FERC also hosted a technical conference with industry experts to discuss certain transmission planning and cost allocation issues, including proposals in the Notice of Proposal Rulemaking (NOPR). The final Order requires transmission providers to engage in a long-term, forward-looking planning process once every five years, developing scenarios and identifying transmission needs as well as allocating costs to the various entities within the planning region. It imposes a set of seven benefits to be considered, including aging infrastructure replacement, reduced congestion, and mitigation of extreme weather events, among other things. On cost allocation, Order 1920 requires each transmission provider to consult with state regulators on a cost allocation methodology, but it does not require state approval. SMUD had advocated for cost containment elements, and two such controls were included: reevaluation of projects in changed circumstances and right-sizing transmission rebuilds. Some entities sought rehearing of the Order at FERC and subsequently appealed the Order in the 4<sup>th</sup> Circuit Court of Appeals, arguing among other things that public power entities should be given some of the same privileges as state entities in developing cost allocation methodologies. We expect FERC to issue its order on rehearing by the end of 2024 and the 4<sup>th</sup> Circuit will begin proceedings in 2025.

### ***CAISO Markets and Pathways Initiative***

SMUD has a direct interest in finding long-term solutions to the challenges posed by the integration of intermittent resources, such as wind and solar. One solution has been the

development of an EIM operated by the CAISO, and another solution is the CAISO's EDAM. In general, the EIM is a sub-hourly energy platform that automatically clears and dispatches the lowest cost electricity available to serve demand on a real-time basis, with EDAM providing similar functionality but with a day-ahead resource and scheduling commitment.

SMUD joined in spring of 2019 under what is referred to as "Phase 1" of BANC's EIM participation as the first municipal participant. SMUD has successfully participated in the EIM since go-live on April 3, 2019, which has provided reliability, operational flexibility, and financial benefits.

The rest of BANC, including the Western Area Power Administration (WAPA) – Sierra Nevada Region, joined the EIM on March 25, 2021, under what is referred to as BANC EIM "Phase 2." This broader BANC resource participation in EIM has resulted in additional economic benefits and a greater ability to integrate and manage intermittent resources within the BANC BAA.

Given the success of EIM, the CAISO, with the support of SMUD and BANC, as well as other EIM participants, launched a stakeholder initiative to develop an extension of the EIM real time framework to the CAISO's day ahead market, referred to as the EDAM. Like EIM, EDAM would broaden the access to regional resources for the reliable integration of renewable generation and better optimization of resources, only over a longer (day ahead) time horizon, and participation is voluntary. SMUD (along with BANC) was given a seat at the table in the development of EDAM. After a few years of negotiations, along with discussions and stakeholder meetings, the CAISO Board of Governors and Western Energy Imbalance Market Governing Body jointly approved the EDAM framework in February of 2023. On August 22, 2023, the CAISO filed an EDAM tariff amendment with the FERC, to which SMUD filed supportive comments. FERC approved the bulk of the EDAM proposal in December 2023, but it rejected the EDAM transmission access charge component without prejudice. The CAISO subsequently filed a revised EDAM access charge tariff amendment providing additional details and addressing the deficiencies in its original filing, which FERC approved on June 11, 2024. The CAISO began EDAM implementation activities in 2024 with EDAM launch scheduled for 2026 with PacifiCorp and Portland General Electric as the first participants. SMUD, along with the other BANC participants, plans to join EDAM beginning in Spring 2027, with SMUD/BANC implementation activities beginning in 2025. Other EIM entities have also informed the CAISO of their interest in joining EDAM in 2027, including Los Angeles Department of Water & Power (LADWP) and NV Energy. Like EIM, EDAM remains a voluntary market, allowing SMUD the added flexibility to time its participation and pivoting later, should better options arise in the future.

Some parties outside of California have stated that a day-ahead market decision, such as participation in EDAM and market services beyond EDAM, hinges on the potential for representative, independent governance. In response, multiple western state commissioners, including California, issued a letter to the Western Interstate Energy Board in summer of 2023 calling for the creation of an independent entity that could serve as a means of delivering a market for western states. The West-Wide Governance Pathways Initiative (Pathways Initiative) was created and a stakeholder committee was formed to develop a governance proposal. Following an inclusive and broad set of stakeholder meetings and comment periods throughout 2024, the committee proposed a multi-step process to create an independent governing body that would enable a path forward for a potential west-wide fully organized market (a Regional Transmission Organization, or RTO). Earlier in 2024, as the first step, the CAISO approved elevating the EIM/EDAM Governing Body joint authority with the CAISO Board to primary authority over EIM/EDAM market matters. This transition will be triggered when the following

criteria are met: i) execution of EDAM Implementation Agreements by utilities representing load equal or greater than 70% of CAISO load, and ii) at least one new participant from both the Northwest and Southwest, beyond PacifiCorp, BANC, and LADWP. The second step is creation of a non-profit entity and transfer of governance authority over EIM/EDAM markets from the CAISO to this new “Regional Organization.” The CAISO would retain authority over its other functions such as balancing authority responsibilities, resource adequacy, transmission planning, and reliability coordination. The market governance transition would occur after FERC approval of a CAISO tariff filing. However, a condition precedent of this filing is the passage of California legislation in 2025 that would amend existing California law which currently requires the CAISO operate a market for California. And step 3 is a longer-term process that envisions future expansion of regionalized functions and services offered by the Regional Organization.

SMUD believes EDAM and the Pathways Initiative are important steps forward in the evolution of Western energy markets. EDAM enables improved intermittent resource integration by allowing participants to decommit less efficient resources in the day ahead timeframe, as opposed to only in the shorter real time window. The Pathways Initiative is aimed at solving a critical independent governance gating issue for broader participation in EDAM and other future market offerings. As we have seen with EIM’s gradual expansion that now covers 80% of the load in the west, broader and more diverse participation throughout the west unlocks more reliability, operational flexibility, and financial benefits through regional diversity. Thus, EDAM and the Pathways Initiative align well with SMUD’s 2030 Zero Carbon Plan goals.

### ***Implementing Clean Energy Tax Credits***

The Department of the Treasury and Internal Revenue Service have been jointly issuing guidance to implement the clean energy tax provisions of the Inflation Reduction Act. These guidance documents can have significant and material impacts on the value of the credits, particularly with respect to the elective pay provisions that allow public power systems to directly avail themselves of the credits. In 2024, Treasury and the IRS released guidance on elective pay generally as well as separate guidance on the pre-registration system established as a prerequisite to access elective pay. SMUD engaged with trade groups and coalitions to provide comments on these guidance documents as well as volunteered as a beta tester of the pre-registration portal. In addition to the elective pay guidance, Treasury and IRS are working to finalize guidance on domestic content requirements, which erode the value of elective payments if they are not met or waived. After 2025, failing to meet domestic content targets will preclude entities from accessing elective pay, making it a crucial element of the process. SMUD is awaiting final guidance on post-2025 domestic content requirements.

**DRAFT**

**RESOLUTION NO. \_\_\_\_\_**

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF THE SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

This Board accepts the monitoring report for **Strategic Direction SD-11, Public Power Business Model**, substantially in the form set forth in **Attachment \_\_\_\_\_** hereto and made a part hereof.

**9a**

# BOARD AGENDA ITEM

## STAFFING SUMMARY SHEET

Committee Meeting &amp; Date

Finance and Audit

November 6 &amp; 7, 2024

Board Meeting Date

December 12, 2024

TO				TO			
1.	Scott Martin	6.					
2.	Lora Anguay	7.					
3.	Jose Bodipo-Memba	8.					
4.		9.	Legal				
5.		10.	CEO & General Manager				
<b>Consent Calendar</b>	<b>Yes</b>	<b>No</b> <i>If no, schedule a dry run presentation.</i>		<b>Budgeted</b>	<b>Yes</b>	<b>No</b> <i>(If no, explain in Cost/Budgeted section.)</i>	
FROM (IPR) Jennifer Restivo	DEPARTMENT Planning and Revenue Strategy			MAIL STOP A309	EXT. 5193	DATE SENT 10/24/24	

**NARRATIVE:**

**Requested Action:** Approve the following:

- 2025 SMUD Budget Resolution
- 2025 Debt Resolution
- Pay Schedule and Special Compensation Items

**Summary: 2025 Budget Resolution**

The 2025 Proposed SMUD Budget Resolution is comprised of Operations and Maintenance budget of \$1,463.9 million, Debt Service budget of \$205.4 million, and Capital budget of \$612 million. The proposed 2025 Budget Resolution limits spending to \$2,281.3 million (total of prior amounts), plus 10% contingency, plus the commodity contingency and adjustments for Hydro Generation Adjustment transfers or revenue, Western Area Power Administration (WAPA) energy delivery shortfall, and higher retail sales. Additionally, SMUD participates in regulatory programs such as Low Carbon Fuel Standard (LCFS) and Cap-and-Trade. When SMUD collects revenues through these program's sales, it is required to apply the proceeds toward specific expenses that support the program's goals. Should actual sales proceeds exceed the budgeted amount for these programs, the budgeted amount may be increased to match the sales proceeds without the prior specific approval of this Board. The proposed resolution also limits authorized permanent full-time positions to 2,300 plus 5 percent.

**Public Good Charge**

The Public Goods Charge shall be adjusted for expenditures of \$104.8 million, which exceeds the minimum of 2.85% of 1994 revenues. The percentage allocation for the public goods charge expenditures shall apply to low-income assistance, energy efficiency, research and development, and new renewable generation.

**2025 Debt Resolution**

The 2025 Proposed Debt Resolution contains the official Declaration of Intent to Issue Debt to create \$400 million of additional bonding authority to reimburse for qualifying capital expenditures. The resolution also contains the Official Intent to reimburse for 2025, 2024 and 2023 capital expenditures from bond proceeds, which is required to maintain tax-exempt financing capability.

**Pay Schedule and Special Compensation Items**

Approve/Accept SMUD's pay schedule and special compensation pursuant to California Code of Regulations (CCR).

**Board Policy:** The 2025 SMUD Budget funds programs and initiatives that contribute to meeting Board strategic directives.  
*(Number & Title)* GP-3 (e) Board will adopt SMUD's budget on an annual basis.

**Benefits:** Approval of the 2025 SMUD Budget meets the requirements of the MUD Act and will authorize spending within the limits prescribed.

**Cost/Budgeted:** Approval of the 2025 SMUD Budget Resolution will authorize spending within the limits prescribed.

**Alternatives:** Approval of a budget for SMUD is required before January 1, 2025, otherwise, SMUD will not have the authority to make purchases or pay employees.

**Affected Parties:** SMUD

**Coordination:** Budget Office, Treasury, Accounting, People, Services & Strategies, Legal.

**Presenter:** Scott Martin, Chief Financial Officer  
Laura Lewis, Chief Legal & Government Affairs Officer  
Brandy Bolden, Chief Customer Officer  
Lora Anguay, Chief Zero Carbon Officer  
Frankie McDermott, Chief Operating Officer  
Suresh Kotha, Chief Information Officer  
Jose Bodipo-Memba, Chief Diversity Officer

**Additional Links:**

SUBJECT	ITEM NO. (FOR LEGAL USE ONLY)
2025 Proposed SMUD Budget	9a

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, the proposed 2025 Budget is expected to result in a positive net income for 2025; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

**Section 1.** This resolution may be referred to as the 2025 Budget Resolution.

**Section 2.** (a) There is hereby appropriated from the General Fund sufficient monies for the payment of demands against SMUD which relate to obligations incurred for the purposes and within the amount specified for such purposes in the following projection of SMUD's program for the period January 1, 2025, through December 31, 2025.

Operations and maintenance:

Commodity - purchased power, fuel, and wheeling	\$610,000,000
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Public Goods	67,630,890
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Customer, energy delivery, zero carbon, workforce diversity & enterprise partnerships, information technology, corporate services & Rancho Seco	786,248,204
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Sub-Total	\$1,463,879,094
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Debt Service	205,393,922
Capital and reserve	612,031,708

<b>TOTAL</b>	\$2,281,304,724
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(b) The Commodity line-item budget is based on assumptions of average rainfall and temperatures during 2025. SMUD has in place a Hydro Generation Adjustment (SMUD HGA) mechanism whereby, based on the actual rainfall amounts between April 1, 2024, and March 31, 2025 in comparison to the budget assumptions, SMUD may transfer funds to or from the Hydro Rate Stabilization Fund and, once pre-established limits are met, increase or decrease customer rates. The Commodity line-item budget will be increased or reduced based on the actual transfer and/or change in customer revenues from the SMUD HGA adjustment.

(c) SMUD has budgeted to receive energy in 2025 under its contract with the Western Area Power Administration (WAPA). SMUD has in place a WAPA Hydro Generation Adjustment (WAPA HGA) mechanism whereby, based on the actual delivery from WAPA between April 1, 2024, and March 31, 2025 in comparison to the budget assumptions, SMUD may transfer funds to or from the WAPA Rate Stabilization Fund and, once pre-established limits are met, increase or decrease customer rates. This energy primarily is generated at Central Valley Project hydroelectric plants, and the actual quantity of energy received will be dependent on rainfall, carryover water storage and operation of the WAPA system to meet contractual water deliveries. Because WAPA generation facilities are spread over a wide area, insurance is not practical for offsetting variations of energy deliveries due to weather. One purpose of the Rate Stabilization Fund is to mitigate such variations. The

Commodity line-item budget will be increased or reduced based on the actual transfer and/or change in customer revenues from the WAPA HGA adjustment

(d) Budgeted energy purchases necessary to meet customer energy sales requirements (10,500 GWh) are based on average weather conditions and expected customer growth in 2025. Should actual weather conditions or growth levels cause SMUD retail sales and related energy requirements to be higher, the Commodity line item budget will be increased by the NP15 power price per megawatt-hour of additional retail energy sales to offset the cost of these sales.

(e) SMUD participates in regulatory programs such as Low Carbon Fuel Standard (LCFS) and Cap-and-Trade. Under these programs, SMUD has the option to monetize the credits and allowances applicable to these programs through sales transactions. When SMUD collects revenues through these sales, it is required to apply the proceeds toward specific expenses that support the program goals. An additional purpose of the Rate Stabilization Fund is to mitigate fluctuations from regulatory programs. The Accountant is hereby authorized to transfer funds to or from the Rate Stabilization Fund to match LCFS and Cap-and-Trade revenues with expenses. The budgeted amount will be increased or decreased accordingly.

(f) For purposes of Section 11891.6 of the Municipal Utility District Act, there shall be deemed added to each line item, in section 2a, a 10 percent contingency. Demands against SMUD which relate to obligations incurred for each line item and are within such line item amount plus the 10

percent contingency may be paid without prior specific approval of this Board, provided the total of such payments during 2025 may not exceed the total budget amount plus this 10% contingency, plus the commodity contingency and adjustments for weather hedge contracts, higher retail sales and Rate Stabilization transfers as set forth in paragraphs (b), (c), (d), (e) and (f) above.

**Section 3.** Demands against SMUD may be paid without the prior specific approval of this Board if they relate to obligations incurred for the purpose and within the amounts specified in Section 2, provided such demands are approved by the CEO & General Manager or someone to whom he has delegated such approval authority. It is the purpose and intent of this paragraph to delegate to the CEO & General Manager authority to make purchases, to negotiate and execute contracts, and expend funds in any manner necessary or appropriate to the administration of the business affairs of SMUD, all within the amounts and for the purposes set forth above, and subject to the provisions of existing law and of all the duly passed resolutions of this Board, including the Board-approved delegations of authority.

**Section 4.** At monthly intervals, the Treasurer shall transfer from the General Fund appropriate amounts into each of the various funds established to service SMUD's general obligation indebtedness, its Electric System Revenue Bond indebtedness, and its Electric Revenue Bond indebtedness in approximately equal installments as set forth in the tabulations on file with the Accountant. Investment authority, for all funds, is delegated to the Treasurer for a one-year period in accordance with California Code Section 53607.

**Section 5.** The number of permanent full-time employees during 2025 shall not exceed 2,300 employees plus a five percent contingency without further authorization of this Board.

**Section 6.** The Public Goods Charge shall be adjusted for expenditures of \$104.8 million, which exceeds the minimum of 2.85% of 1994 revenues. The percentage allocation for the public goods charge expenditures shall apply to low-income assistance, energy efficiency, research and development, and new renewable generation.

**Section 7.** The CEO & General Manager, or his designee, is authorized to make future changes to the **Budget** that, in his prudent judgment: (a) further the primary purpose of the **Budget**; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized **Budget** amounts and applicable contingencies.

**9b**

# BOARD AGENDA ITEM

## STAFFING SUMMARY SHEET

Committee Meeting &amp; Date

Finance and Audit

November 6 &amp; 7, 2024

Board Meeting Date

December 12, 2024

TO				TO			
1.	Scott Martin	6.					
2.	Lora Anguay	7.					
3.	Jose Bodipo-Memba	8.					
4.		9.	Legal				
5.		10.	CEO & General Manager				
<b>Consent Calendar</b>	<b>Yes</b>	<b>No</b> <i>If no, schedule a dry run presentation.</i>		<b>Budgeted</b>	<b>Yes</b>	<b>No</b> <i>(If no, explain in Cost/Budgeted section.)</i>	
FROM (IPR) Jennifer Restivo	DEPARTMENT Planning and Revenue Strategy			MAIL STOP A309	EXT. 5193	DATE SENT 10/24/24	

**NARRATIVE:****Requested Action:** Approve the following:

- 2025 SMUD Budget Resolution
- 2025 Debt Resolution
- Pay Schedule and Special Compensation Items

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**Public Good Charge**

The Public Goods Charge shall be adjusted for expenditures of \$104.8 million, which exceeds the minimum of 2.85% of 1994 revenues. The percentage allocation for the public goods charge expenditures shall apply to low-income assistance, energy efficiency, research and development, and new renewable generation.

**2025 Debt Resolution**

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**Pay Schedule and Special Compensation Items**

Approve/Accept SMUD's pay schedule and special compensation pursuant to California Code of Regulations (CCR).

**Board Policy:** The 2025 SMUD Budget funds programs and initiatives that contribute to meeting Board strategic directives.  
*(Number & Title)* GP-3 (e) Board will adopt SMUD's budget on an annual basis.

**Benefits:** Approval of the 2025 SMUD Budget meets the requirements of the MUD Act and will authorize spending within the limits prescribed.

**Cost/Budgeted:** Approval of the 2025 SMUD Budget Resolution will authorize spending within the limits prescribed.

**Alternatives:** Approval of a budget for SMUD is required before January 1, 2025, otherwise, SMUD will not have the authority to make purchases or pay employees.

**Affected Parties:** SMUD

**Coordination:** Budget Office, Treasury, Accounting, People, Services & Strategies, Legal.

**Presenter:** Scott Martin, Chief Financial Officer  
Laura Lewis, Chief Legal & Government Affairs Officer  
Brandy Bolden, Chief Customer Officer  
Lora Anguay, Chief Zero Carbon Officer  
Frankie McDermott, Chief Operating Officer  
Suresh Kotha, Chief Information Officer  
Jose Bodipo-Memba, Chief Diversity Officer

**Additional Links:**

SUBJECT	ITEM NO. (FOR LEGAL USE ONLY)
2025 Proposed SMUD Budget	<b>9b</b>

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

**DRAFT****RESOLUTION NO. \_\_\_\_\_**

Supplemental Resolution (Supplemental )  
to Resolutions No. 6457, 8107, 83-7-26 )  
as amended by Resolution No. 87-10-22, )  
No. 92-12-29, No. 93-12-19, No. 94-12-16, )  
No. 95-12-10, No. 96-12-07, No. 97-12-18, )  
No. 98-11-12, No. 99-12-10, No. 00-12-11, )  
No. 01-12-02, No. 02-11-04, No. 03-12-14, )  
No. 04-12-11, No. 05-12-13, No. 06-12-08, )  
No. 07-12-08, No. 08-12-05, No. 09-12-08, )  
No. 10-12-03, No. 11-12-08, No. 12-12-06, )  
No. 13-12-09, No. 14-12-13, No. 15-12-08, )  
No. 16-12-14, No. 17-12-13, No. 18-12-12, )  
No. 19-11-05, No. 20-12-14, No. 21-12-11, )  
No. 22-12-06, and No. 23-12-10) declaring the )  
intention of the Board of Directors of the )  
Sacramento Municipal Utility District to )  
Authorize the issuance of additional )  
Revenue Bonds )  
)

**WHEREAS**, Sacramento Municipal Utility District (“SMUD”) on July 23, 1970, May 2, 1974, and July 21, 1983, by the adoption by its Board of Directors of Resolutions No. 6457, 8107, and 83-7-26, as amended by Resolution No. 87-10-22 adopted October 1, 1987; Resolutions No. 92-2-11, No. 92-12-29, No. 93-12-19, No. 94-12-16, No. 95-12-10, No. 96-12-07, No. 97-12-18, No. 98-11-12, No. 99-12-10, No. 00-12-11, No. 01-12-02, No. 02-11-04, No. 03-12-14, No. 04-12-11, No. 05-12-13, No. 06-12-08, No. 07-12-08, No. 08-12-05, No. 09-12-08, No. 10-12-03, No. 11-12-08, No. 12-12-06, No. 13-12-09, No. 14-12-13, No. 15-12-08, No. 17-12-13, No. 18-12-12, No. 19-11-05, 20-12-14, 21-12-11, 22-12-06, 23-12-14 adopted by the Board of Directors on February 6, 1992, December 17, 1992, December 16, 1993, December 15, 1994, December 14, 1995, December 19, 1996, December 17,

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1997, November 30, 1998, December 2, 1999, December 7, 2000, December 6, 2001, November 7, 2002, December 4, 2003, December 2, 2004, December 1, 2005, December 7, 2006, December 6, 2007, December 4, 2008, December 3, 2009, December 3, 2010, December 1, 2011, December 6, 2012, December 5, 2013, December 4, 2014, December 3, 2015, December 1, 2016, December 21, 2017, December 20, 2018, November 21, 2019, December 10, 2020, December 9, 2021, December 8, 2022, and December 14, 2023, respectively (collectively, the "Prior Resolutions"), found and determined that it was necessary to raise funds by the issuance of revenue bonds in the maximum principal amount of \$9,055,000,000 pursuant to Sections 12850, et seq., of the California Public Utilities Code (the "Act"); and

**WHEREAS**, in order to provide reliable electric service to its customers, it is necessary for SMUD to make certain capital improvements and other capital expenditures to its system, which capital improvements and other capital expenditures are designed to have useful lives of up to 40 years, or more; and

**WHEREAS**, to fairly apportion the costs of such capital improvements and other capital expenditures among SMUD's customers who will receive the benefits of such improvements, SMUD has determined to authorize the financing of such improvements and expenditures with bonds of SMUD; and

**WHEREAS**, to provide bond financing for such improvements and expenditures, it now appears necessary to increase the authorized issue of revenue bonds that may be issued by SMUD pursuant to the Act; and

**DRAFT**

**WHEREAS**, the Board of Directors of SMUD desires to inform its customers and the public of its plans for financing capital improvements and other capital expenditures to its system by specifying certain items for which the proceeds of said revenue bonds are to be used, which uses shall not include daily maintenance and operations costs; **NOW, THEREFORE**,

**BE IT RESOLVED BY THE BOARD OF DIRECTORS  
OF SACRAMENTO MUNICIPAL UTILITY DISTRICT:**

**Section 1.** The Board of Directors of SMUD declares its intention to authorize the issuance of additional revenue bonds or Clean Renewable Energy Bonds for the purpose of financing, in whole or in part, the costs of the capital items identified in SMUD's 2025 capital budget, 2023 and 2024 capital expenditures not previously financed, the prepayment of purchased power or natural gas and the purchase of natural gas reserves, pipelines or storage facilities, for all of which SMUD is authorized by law to issue such bonds. SMUD has paid or reasonably expects to pay certain expenditures (the "Reimbursement Expenditures") in connection with such capital items prior to the issuance of such bonds, and hereby officially declares its intent to use certain proceeds of such bonds to reimburse the Reimbursement Expenditures. The declarations contained in this section are made solely for purposes of establishing compliance with Section 1.150-2 of the U. S. Treasury Regulations, and do not bind SMUD to make any expenditure, incur any indebtedness or proceed with the above-mentioned capital expenditures.

**Section 2.** The maximum principal amount of the additional revenue bonds proposed to be issued under this supplemental resolution is

# **DRAFT**

\$400,000,000. Such maximum principal amount is in addition to the \$9,055,000,000 principal amount of revenue bonds authorized pursuant to the Prior Resolutions. Such additional bonds may be issued in series from time to time, and it shall not be necessary that all of the bonds proposed to be issued be issued at any one time.

Proceeds from the issuance of these bonds will be used to finance capital improvements identified in SMUD's 2025 capital budget, 2023 and 2024 capital expenditures not previously financed, capital expenditures for the prepayment of purchased power or natural gas and the purchase of natural gas reserves, pipelines, or storage facilities. The declarations in this section are made solely to establish compliance with Section 12852 of the California Public Utilities Code, and do not bind SMUD to make any expenditure, incur any indebtedness or proceed with the above-mentioned capital expenditures.

**Section 3.** The maximum term of any of such bonds is 40 years. In the event the maximum authorized amount under a series of bonds is divided into two or more series, the said maximum term shall be calculated in each case from the date of each divided series of bonds.

**Section 4.** The maximum rate of interest to be payable upon such bonds shall not exceed the interest rate per annum equal to the greater of fifteen percent (15 percent) per annum or the yield of United States Treasury bonds having a remaining term equal, as nearly as practicable, to the final maturity of such bonds, as determined by SMUD as of the date of sale of such

# **DRAFT**

bonds, plus three percent (3 percent). The maximum discount with respect to such bonds shall not exceed ten percent (10 percent).

**Section 5.** This resolution shall take effect immediately, subject only to the right of referendum provided in Article 6a of Chapter 6 of Division 6 of the California Public Utilities Code (beginning at Section 12850 thereof).

**Section 6.** The Secretary of SMUD is hereby directed to publish a copy of this resolution once a week for two successive weeks in a newspaper of general circulation published within SMUD's boundaries. At any time within 60 days after the date of the second such publication, a referendum petition signed by voters in number equal to at least three percent (3 percent) of the total vote cast, as defined in Section 11507 of the California Public Utilities Code, demanding the submission of this resolution to a vote of the voters of SMUD for their assent to the issuance of the proposed bonds, may be filed with the Secretary of SMUD. Upon presentation to the Secretary of SMUD of such a referendary petition, this resolution shall not be of effect unless and until it has been assented to by the voters.



SSS No. LEG 2024-0142

# BOARD AGENDA ITEM

## STAFFING SUMMARY SHEET

Committee Meeting & Date N/A
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Board Meeting Date December 12, 2024
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TO				TO			
1.	Jose Bodipo-Memba			6.			
2.				7.			
3.				8.			
4.				9.	<b>Legal</b>		
5.				10.	<b>CEO &amp; General Manager</b>		
<b>Consent Calendar</b>		<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> X	<b>No</b> <i>If no, schedule a dry run presentation.</i>			
FROM (IPR) Laura Lewis		DEPARTMENT Executive Office				MAIL STOP B308	EXT. 6123
<b>NARRATIVE:</b>							
<p><b>Requested Action:</b> Discuss possible merit increase to the Chief Executive Officer and General Manager's base salary and/or performance bonus, pursuant to the Chief Executive Officer and General Manager's employment contract.</p> <p><b>Summary:</b> The Chief Executive Officer and General Manager's employment contract provides that the Board of Directors may authorize a merit increase and/or performance bonus, if deemed appropriate, based upon his annual evaluation and review. Any recommendation is typically made to the full Board by the Board President. The Board may adopt any such increase in compensation only in open session and following a discussion.</p> <p><b>Board Policy:</b> Governance Process GP-1, Purpose of Board – d) Make certain operational decisions as designated by law (<i>Number &amp; Title</i>) and e) ...evaluate...the CEO.</p> <p><b>Benefits:</b> Allows the Board to discuss the Chief Executive Officer and General Manager's compensation based upon his annual performance.</p> <p><b>Cost/Budgeted:</b> Contained in budget for internal labor.</p> <p><b>Alternatives:</b> Take no action.</p> <p><b>Affected Parties:</b> Chief Executive Officer and General Manager</p> <p><b>Coordination:</b> Board of Directors, Legal, and People Services &amp; Strategies</p> <p><b>Presenter:</b> President Herber</p>							
<b>Additional Links:</b>							
<b>SUBJECT</b> <b>Compensation – Chief Executive Officer and General Manager</b>							<b>ITEM NO. (FOR LEGAL USE ONLY)</b> <b>10</b>

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

**RESOLUTION TO BE  
DRAFTED BASED ON  
BOARD MEMBERS'  
DISCUSSION**