



MARIN COUNTY | NAPA COUNTY | UNINCORPORATED CONTRA COSTA COUNTY | UNINCORPORATED SOLANO COUNTY
BENICIA | CONCORD | DANVILLE | EL CERRITO | LAFAYETTE | MARTINEZ | MORAGA | OAKLEY | PINOLE
PITTSBURG | RICHMOND | SAN PABLO | SAN RAMON | WALNUT CREEK

Agenda Page 1 of 2

Executive Committee Meeting Friday, December 6, 2019 12:15 P.M.

Charles F. McGlashan Board Room, 1125 Tamalpais Avenue, San Rafael, CA 94901
Mt. Diablo Room, 2300 Clayton Road, Suite 1150, Concord, CA 94920

1. Roll Call/Quorum
2. Board Announcements (Discussion)
3. Public Open Time (Discussion)
4. Report from Chief Executive Officer (Discussion)
5. Consent Calendar (Discussion/Action)
 - C.1 Approval of 9.6.19 Meeting Minutes
 - C.2 Approval of 11.1.19 Meeting Minutes
 - C.3 Approval of 11.20.19 Special Meeting Minutes
 - C.4 Second Amendment to the First Agreement with Hall Energy Law PC
 - C.5 Fourth Agreement with Recurve Analytics
 - C.6 Fourth Agreement with The Energy Alliance Association
 - C.7 First Agreement with EV Charging Pros
 - C.8 Second Amendment to the 4th Agreement with Keyes & Fox
6. Amended and Restated Master Professional Services Agreement with Calpine Energy Solutions (Discussion/Action)
7. Charles F. McGlashan Advocacy Award 2019 Nominations (Discussion/Action)
8. Format of Approved Contracts Update (Discussion)



Agenda material can be inspected at 1125 Tamalpais Avenue, San Rafael, CA 94901 on the Mission Avenue side of the building and at One Concord Center, 2300 Clayton Road, Concord, CA 94520 at the Clayton Road entrance. The meeting facilities are in accessible locations. If you are a person with a disability and require this document in an alternate format (example: Braille, Large Print, Audiotape, CD-ROM), you may request it by using the contact information below. If you require accommodation (example: ASL Interpreter, reader, note taker) to participate in any MCE program, service or activity, you may request an accommodation by calling (415) 464-6032 (voice) or 711 for the California Relay Service or by e-mail at djackson@mceCleanEnergy.org not less than **four work days** in advance of the event.

9. Committee Matters & Staff Matters (Discussion)

10. Adjourn

DRAFT

MCE EXECUTIVE COMMITTEE MEETING MINUTES
Friday, September 6, 2019
12:00 P.M.

Mt. Diablo Room
2300 Clayton Road, Suite 1150
Concord, CA 94520

Charles F. McGlashan Board Room
1125 Tamalpais Avenue
San Rafael, CA 94901

Present: Denise Athas, City of Novato (*San Rafael*)
Sloan Bailey, Town of Corte Madera (*San Rafael*)
Barbary Coler, Town of Fairfax (*San Rafael*)
Ford Greene, Town of San Anselmo (*San Rafael*)
Kevin Haroff, City of Larkspur (*Concord*)
Bob McCaskill, City of Belvedere (*San Rafael*)
Carlyn Obringer, City of Concord Alternate (*Concord*)
Renata Sos, Town of Moraga (*Concord*)

Absent: Kate Sears, County of Marin
Lisa Blackwell, Town of Danville
Tom Butt, City of Richmond

**Staff
& Others:** Jessica Brooks, Assistant Board Clerk
Sherry Clark, Administrative Services Associate
Alice Havenar-Daughton, Director of Customer Programs
Darlene Jackson, Board Clerk
Vicken Kasarjian, Chief Operating Officer
Shaheen Khan, Director of Human Resources
Jay Marshall, IT Systems Manager
Garth Salisbury, Director of Finance
Heather Shepard, Director of Public Affairs
Shalini Swaroop, General Counsel
Dawn Weisz, Chief Executive Officer

1. Roll Call

Acting Chair Sloan Bailey called the regular Executive Committee meeting to order at 12:01 p.m. with quorum established by roll call.

2. Board Announcements (Discussion)

There were none.

3. Public Open Time (Discussion)

DRAFT

Acting Chair Bailey opened the public comment period and there were no comments.

4. Report from Chief Executive Officer (Discussion)

CEO, Dawn Weisz, reported the following:

- Extended a thank you to Director Sloan Bailey for chairing the meeting.
- Ribbon cutting for the first FIT project in Napa County, took place in American Canyon on August 14th.
- CalCCA submitted a Resource Adequacy Settlement in the CPUC's RA docket last Friday.
- Discussions are underway regarding PCIA including resource sale and possible GHG-free resource allocations.
- MCE will soon engage in a power supply solicitation to fill some of the hedge positions per our Risk Management Policy.
- Reminder of the Board Retreat on Wednesday, September 18th from 9AM-5PM at the City of Richmond Memorial Auditorium. Board members please RSVP if you've not already done so. CPUC Commissioners Guzman-Aceves and Randolph are expected to be in attendance.
- CalCCA will hold its 2019 Annual Meeting in Redondo Beach on November 6-7. Registration is now open. Please let us know if you are interested in attending.
- Reminder that MCE's Holiday Party will take place on Friday, December 6 at the Napa Valley Marriott. A block of discounted rooms will be made available again this year for party-goers and the link will be sent out within the next two weeks. Please book your room early as there will be a limited number of rooms available at the discounted rate. More information to come soon.

5. Consent Calendar (Discussion/Action)

C.1 Approval of 6.7.19 Meeting Minutes

Acting Chair Bailey opened the public comment period and there were no comments.

Action: It was M/S/C (Bailey/Coler) **to approve Consent Calendar**. Motion carried by unanimous vote. (Abstain on C.1: Director Sos) (Absent: Directors Blackwell, Butt and Sears).

6. Fiscal Year 2018 -19 Audited Financials and April – July FY 2019 – 20 Financial Update (Discussion)

Garth Salisbury, Director of Finance, presented this item and addressed questions from Committee members.

Acting Chair Bailey opened the public comment period and there were no comments.

Action: No action required.

DRAFT**7. MCE's 2021 – 2026 Energy Savings Assistance Program Application (Discussion)**

Alice Havenar-Daughton, Director of Customer Programs, presented this item and addressed questions from Committee members.

Acting Chair Bailey opened the public comment period and there were no comments.

Action: No action required.

8. Formation of Ad Hoc CEO Evaluation Committee (Discussion/Action)

Shaheen Khan, Director of Human Resources, presented this item and addressed questions from Committee members.

Acting Chair Bailey opened the public comment period and there were no comments.

Action: It was M/S/C to approve the Formation of Ad Hoc CEO Evaluation Committee with Directors Bailey, Coler, Lyman, Patterson, Perkins and Sears. Motion carried by unanimous vote. (Coler/Athas) (Absent: Directors: Blackwell, Butt, Greene and Sears).

9. Committee & Staff Matters (Discussion)

Acting Chair Bailey opened the public comment period and there were no comments.

10. Adjournment

Acting Chair Bailey adjourned the meeting at 1:05 p.m. to the next scheduled Executive Committee Meeting on October 4, 2019.

Sloan Bailey, Acting Committee Chair

Attest:

Dawn Weisz, Secretary

DRAFT

MCE EXECUTIVE COMMITTEE MEETING MINUTES
Friday, November 1, 2019
12:18 P.M.

Mt. Diablo Room
2300 Clayton Road, Suite 1150
Concord, CA 94520

Charles F. McGlashan Board Room
1125 Tamalpais Avenue
San Rafael, CA 94901

Hyatt Regency Hotel
1209 L Street
Sacramento, CA 95814

Present: Denise Athas, City of Novato (*San Rafael*)
Sloan Bailey, Town of Corte Madera (*San Rafael*)
Lisa Blackwell, Town of Danville (*Concord*)
Tom Butt, City of Richmond (*Sacramento*)
Kevin Haroff, City of Larkspur (*Concord*)
Bob McCaskill, City of Belvedere (*San Rafael*)
Tim McGallian, City of Concord (*Concord*)
Kate Sears, County of Marin (*San Rafael*)

Absent: Barbara Coler, Town of Fairfax
Ford Greene, Town of San Anselmo
Renata Sos, Town of Moraga

**Staff
& Others:** Jesica Brooks, Assistant Board Clerk
John Dalessi, Operations and Development
Jenna Famular, Community Development Manager
Darlene Jackson, Board Clerk
Vicken Kasarjian, Chief Operating Officer
Shaheen Khan, Director of Human Resources
Garth Salisbury, Director of Finance
Shalini Swaroop, General Counsel
Dawn Weisz, Chief Executive Officer

1. Roll Call

Chair Kate Sears called the regular Executive Committee meeting to order at 12:18 p.m. with quorum established by roll call.

DRAFT**2. Board Announcements (Discussion)**

There were none.

3. Public Open Time (Discussion)

Chair Sears opened the public comment period and there were no comments.

The Committee adjourned to Closed Session at 12:23p.m. and reconvened at 1:15 p.m.

4. Report from Chief Executive Officer (Discussion)

Due to limited time and pressing action items, CEO Dawn Weisz did not present a report.

5. Consent Calendar (Discussion/Action)

C.1 Approval of 6.7.19 Meeting Minutes

Action: Due to the amount of time consumed during Closed Session, this item was deferred to the 12.6.19 Executive Committee meeting.

6. Resolution 2019-05 Establishing the Annual Salary of the Chief Executive Officer (Discussion/Action)

Chair Sears announced no action was taken on this item during Closed Session.

Action: No action was taken. This item was deferred to be discussed at a later meeting to be determined and noticed accordingly.

7. Receive Applicant Analysis and Consider Recommendation to the Board to Approve the Cities of Vallejo and Pleasant Hill as MCE Members for a 2021 Enrollment (Discussion/Action)

Jenna Famular, Community Development Manager, presented this item along with John Dalessi, Operations and Development, and both addressed questions from Committee members.

Acting Chair Bailey opened the public comment period and there were no comments.

Action: It was M/S/C (Haroff/Bailey) **to recommend to the Board to Approve the Cities of Vallejo and Pleasant Hill as MCE Members for a 2021 Enrollment.** Motion carried by unanimous vote. (Absent: Directors: Coler, Greene and Sos).

DRAFT**8. FY 2019/20 Operating Fund Budget Amendment (Discussion/Action)**

Garth Salisbury, Director of Finance, presented this item and addressed questions from Committee members.

Chair Sears opened the public comment period and there were no comments.

Action: It was M/S/C (McCaskill/Athas) to recommend that the MCE Board approve the proposed FY 2019/20 Operating Fund Budget Amendment to include the creation and initial funding of a Resiliency Reserve in the amount of \$3,000,000. Absent: Directors, Coler, Greene and Sos).

9. Creation of an Operating Reserve Fund (Discussion/Action)

Acting Chair Sloan Bailey assumed facilitator responsibilities.

Garth Salisbury, Director of Finance, presented this item and addressed questions from Committee members.

Chair Bailey opened the public comment period and there were no comments.

Action: No action was taken. This item will be placed on the 11.21.19 Board Agenda.

10. Amendments to MCE Policy 013: Reserve Policy (Discussion/Action)

Garth Salisbury, Director of Finance, presented this item and addressed questions from Committee members.

Chair Bailey opened the public comment period and there were no comments.

Action: No action was taken. This Item will be placed on the 11.21.19 Board Agenda. Absent: Directors Blackwell, Butt, Coler, Greene, McGallian, Sears and Sos).

11. Revolving Credit Facility Agreement with JPMorgan Chase Bank, N.A. (Discussion/Action)

Maira Strauss, Senior Finance Analyst, presented this item and addressed questions from Committee members.

Chair Bailey opened the public comment period and there were no comments.

Action: No action was taken. This item will be placed on the 11.21.19 Board Agenda. Absent: Directors Blackwell, Butt, Coler, Greene, McGallian, Sears and Sos).

DRAFT

12. Review Draft 11.21.19 Board Agenda (Discussion)

This item was not discussed due to time constraints.

Action: No action was required.

13. Adjournment

Acting Chair Bailey adjourned the meeting at 2:51 p.m. to the next scheduled Executive Committee Meeting on December 6, 2019.

Sloan Bailey, Acting Committee Chair

Attest:

Dawn Weisz, Secretary

DRAFT

MCE Executive Committee Special Meeting Minutes
Wednesday, November 20, 2019
10:30 A.M.

The Charles F. McGlashan Board Room, 1125 Tamalpais Ave., San Rafael, CA 94901
Mt. Diablo Room, 2300 Clayton Road, Suite 1150, Concord, CA 94920
HUB LAW OFFICES, 711 Sir Francis Drake Blvd., San Anselmo, CA 94960-1949

Present: Sloan Bailey, Town of Corte Madera (*San Rafael*)
Tom Butt, City of Richmond (*Sacramento*)
Ford Greene, Town of San Anselmo
Bob McCaskill, City of Belvedere (*San Rafael*)
Kate Sears, County of Marin (*San Rafael*)
Renata Sos, Town of Moraga (*Concord*)

Absent: Denise Athas, City of Novato (*San Rafael*)
Barbara Coler, Town of Fairfax
Lisa Blackwell, Town of Danville (*Concord*)
Kevin Haroff, City of Larkspur (*Concord*)
Tim McGallian, City of Concord (*Concord*)

Staff

& Others: Jessica Brooks, Assistant Board Clerk
Darlene Jackson, Board Clerk
Vicken Kasarjian, Chief Operating Officer
Shaheen Khan, Director of Human Resources
Catalina Murphy, Legal Counsel
Garth Salisbury, Director of Finance
Shalini Swaroop, General Counsel
Dawn Weisz, Chief Executive Officer

1. Roll Call

Chair Tom Butt called the regular Executive Committee meeting to order at 10:30 a.m. with quorum established by roll call.

2. Public Open Time (Discussion)

Chair Butt opened the public comment period and there were no comments.

The Committee adjourned to Closed Session at 10:35 a.m. and reconvened at 11:03 a.m.

DRAFT

3. Roll Call/Quorum
4. **Board Announcements (Discussion)**

There were none.

5. **Resolution 2019-08 Establishing the Annual Salary of the Chief Executive Officer (Discussion/Action)**

Chair Butt opened the public comment period and there were no comments.

Action: It was M/S/C (McCaskill/Bailey) to approve Resolution 2019-08 Establishing the Annual Salary for the Chief Executive Officer. Motion carried by unanimous roll call vote. Absent: Directors Athas, Blackwell, Coler, Haroff, and McGallian.
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6. **Adjournment**

Chair Butt adjourned the meeting at 11:08 a.m. to the next scheduled Executive Committee Meeting on December 6, 2019.

Tom Butt, Committee Chair

Attest:

Dawn Weisz, Secretary



December 6, 2019

TO: MCE Executive Committee

FROM: Lindsay Saxby, Manager of Power Resources

RE: Second Amendment to First Agreement with Hall Energy Law PC
(Agenda Item #05 – C.4)

ATTACHMENTS: A. Draft Second Amendment to First Agreement with Hall Energy Law PC
B. First Amendment to First Agreement with Hall Energy Law PC
C. First Agreement with Hall Energy Law PC

Dear Executive Committee Members:

SUMMARY:

Hall Energy Law PC provides legal services pertaining to new and existing power purchase agreements, including transaction support in drafting, negotiations, finalization and implementation. Hall Energy Law is also working closely with MCE staff on updates to standard form energy supply agreements and future power purchase agreements. Staff recommends amending the existing contract with Hall Energy to a total contract amount of \$289,000 for energy transaction and related services.

Fiscal Impacts: Costs related to the referenced agreement are included in the FY 2019/20 Operating Fund Budget that was approved by the Board of Directors at its March 21, 2019 meeting.

Recommendation: Approve the Second Amendment to the First Agreement with Hall Energy Law PC.

This SECOND AMENDMENT is made and entered into on December 6, 2019, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and HALL ENERGY LAW PC (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and Contractor entered into an agreement to provide legal services related to new and existing power purchase agreements as directed by MCE COO or Director of Power Resources dated February 27, 2019 and as amended on May 17, 2019 ("Agreement"); and

WHEREAS, Section 4 and Exhibit B to the Agreement, as amended, provided for Contractor to be compensated in an amount not to exceed \$189,000 for the legal services described within the scope therein; and

WHEREAS the parties desire to further amend the Agreement to increase the contract amount by \$100,000 for total consideration not to exceed \$289,000.

NOW, THEREFORE, the parties agree to modify Section 4 and Exhibit B as set forth below.

AGREEMENT

1. Section 4 is hereby amended to read as follows:

MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$289,000**.

2. The last sentence of Exhibit B is hereby amended to read as follows:

In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of \$289,000 for the term of the Agreement.

3. Except as otherwise provided herein all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment on the day first written above.

CONTRACTOR:

MARIN CLEAN ENERGY:

By: _____

By: _____

Date: _____

Date: _____

MARIN CLEAN ENERGY:

By: _____

Date: _____

**FIRST AMENDMENT TO FIRST AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND HALL ENERGY LAW PC**

This FIRST AMENDMENT is made and entered into on May 17, 2019, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and HALL ENERGY LAW PC (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and Contractor entered into an agreement to provide legal services related to new and existing power purchase agreements as directed by MCE COO or Director of Power Resources dated February 27, 2019 ("Agreement"); and

WHEREAS, Section 4 and Exhibit B to the Agreement provided for Contractor to be compensated in an amount not to exceed \$89,000 for the legal services described within the scope therein; and

WHEREAS the parties desire to amend the Agreement to increase the contract amount by \$100,000 for total consideration not to exceed \$189,000.

NOW, THEREFORE, the parties agree to modify Section 4 and Exhibit B as set forth below.

AGREEMENT

1. Section 4 is hereby amended to read as follows:

MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$189,000**.

2. The last sentence of Exhibit B is hereby amended to read as follows:

In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of \$189,000 for the term of the Agreement.

3. Except as otherwise provided herein all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the day first written above.

CONTRACTOR:

MARIN CLEAN ENERGY:

By: Stephen Hall
Date: 5/21/2019

By: Dawn Weisz
Date: 5/21/2019

FIRST AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND HALL ENERGY LAW PC

THIS FIRST AGREEMENT ("Agreement") is made and entered into this day **February 27, 2019** by and between **MARIN CLEAN ENERGY**, hereinafter referred to as "MCE" and **HALL ENERGY LAW PC**, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the following services: legal services related to new and existing power purchase agreements as requested by the COO or Director of Power Resources;

WHEREAS, Contractor warrants that it is qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by MCE, the parties agree to the following:

1. SCOPE OF SERVICES:

Contractor agrees to provide all of the services described in **Exhibit A** attached hereto and by this reference made a part hereof.

2. FURNISHED SERVICES:

MCE agrees to make available all pertinent data and records for review, subject to MCE Policy 001 - Confidentiality.

3. FEES AND PAYMENT SCHEDULE; INVOICING:

The fees and payment schedule for furnishing services under this Agreement shall be based on the rate schedule which is attached hereto as **Exhibit B** and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the Agreement. Contractor shall provide MCE with his/her/its Federal Tax I.D. number prior to submitting the first invoice. Contractor is responsible for billing MCE in a timely and accurate manner. Contractor shall email invoices to MCE on a monthly basis for any services rendered or expenses incurred hereunder. Fees and expenses invoiced beyond 90 days will not be reimbursable. The final invoice must be submitted within 30 days of completion of the stated scope of services or termination of this Agreement.

4. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$89,000**.

5. TIME OF AGREEMENT:

This Agreement shall commence on **January 10, 2019**, and shall terminate on **March 31, 2020**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

6. INSURANCE AND SAFETY:

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to MCE. The general liability policy shall be endorsed naming Marin Clean Energy and its employees, officers and agents as additional insureds. The certificate(s) of insurance and required endorsement shall be furnished to MCE prior to commencement of work. Each certificate shall provide for thirty (30) days advance written notice to MCE of any cancellation or reduction in coverage. Said policies shall remain in force through the life of this Agreement and shall be payable on a per occurrence basis only, except those required by paragraph 6.4 which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation on Contractor's obligations under paragraph 16 of this Agreement to indemnify, defend and hold MCE harmless from any and all liabilities arising from the Contractor's negligence, recklessness or willful misconduct in the performance of this Agreement. MCE agrees to timely notify the Contractor of any negligence claim.

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

6.1 GENERAL LIABILITY

The Contractor shall maintain a commercial general liability insurance policy in an amount of no less than one million dollars (\$1,000,000) with a two million dollar (\$2,000,000) aggregate limit. MCE shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page. (see sample form: ISO - CG 20 10 11 85).

6.2 AUTO LIABILITY

Where the services to be provided under this Agreement involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars combined single limit (\$1,000,000.00).

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED)

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

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Agreement without prior written approval of MCE except for any subcontract work identified herein. If Contractor hires a subcontractor under this Agreement, Contractor shall require subcontractor to provide and maintain insurance coverage(s) identical to what is required of Contractor under this Agreement and shall require subcontractor to name Contractor as additional insured under this Agreement. It shall be Contractor's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to MCE evidence of same. Nothing contained in this Agreement or otherwise stated between the parties shall create any legal or contractual relationship between MCE and any subcontractor, and no subcontract shall relieve Contractor of any of its duties or obligations under this Agreement. Contractor shall be solely responsible for ensuring its subcontractors' compliance with the terms and conditions of this Agreement. Contractor's obligation to pay its subcontractors is an independent obligation from MCE's obligation to make payments to Contractor. As a result, MCE shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

9. ASSIGNMENT:

The rights, responsibilities and duties under this Agreement are personal to the Contractor and may not be transferred or assigned without the express prior written consent of MCE.

10. RETENTION OF RECORDS AND AUDIT PROVISION:

Contractor and any subcontractors authorized by the terms of this Agreement shall keep and maintain on a current basis full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to this Agreement. Such records shall include, but not be limited to, documents supporting all income and all expenditures. MCE shall have the right, during regular business hours, to review and audit all records relating to this Agreement during the Contract period and for at least five (5) years from the date of the completion or termination of this Agreement. Any review or audit may be conducted on Contractor's premises or, at MCE's option,

Al #05_C.4_Att. C.:1st Agreement with Hall Energy Law PC

Contractor shall provide all records within a maximum of fifteen (15) days upon receipt of written notice from MCE. Contractor shall refund any monies erroneously charged. Contractor shall have an opportunity to review and respond to or refute any report or summary of audit findings, and shall promptly refund any overpayments made by MCE based on undisputed audit findings.

11. WORK PRODUCT:

All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Contractor, its officers, employees and agents in the course of implementing this Agreement shall become the sole property of MCE upon payment to Contractor for such work. MCE shall have the exclusive right to use such materials in its sole discretion without further compensation to Contractor or to any other party. Contractor shall, at MCE's expense, provide such reports, plans, studies, documents and writings to MCE or any party MCE may designate, upon written request. Contractor may keep file reference copies of all documents prepared for MCE.

12. TERMINATION:

- A. If the Contractor fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, MCE may terminate this Agreement by giving five (5) business days' written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days' written notice to the other party. Notice of termination shall be by written notice to the other parties and be sent by registered mail or by email to the email address listed in Section 19 Invoices; Notices.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s).
- E. MCE may terminate this Agreement if funding for this Agreement is reduced or eliminated by a third-party funding source.

13. AMENDMENT:

This Agreement may be amended or modified only by written agreement of all parties.

14. ASSIGNMENT OF PERSONNEL:

The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to MCE, as is evidenced in writing.

15. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

16. INDEMNIFICATION:

Contractor agrees to indemnify, defend, and hold MCE, its employees, officers, and agents, harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of Contractor's negligence, recklessness or willful misconduct in the performance of this Agreement. This indemnity is expressly subject to the terms and limits of Contractor's professional liability insurance.

17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. MCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not make any claims, take any actions or assert any remedies against any of MCE's constituent members in connection with this Agreement.

18. COMPLIANCE WITH APPLICABLE LAWS:

The Contractor shall comply with any and all applicable federal, state and local laws and resolutions (including, but not limited to the County of Marin Nuclear Free Zone, Living Wage Ordinance, and Resolution #2005-97 of the Marin County Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Agreement.

19. INVOICES; NOTICES

This Agreement shall be managed and administered on MCE's behalf by the Contract Manager named below. All invoices shall be submitted by email to:

Email Address: invoices@mcecleanenergy.org

All other notices shall be given to MCE at the following location:

Contract Manager: Troy Nordquist

MCE Address: 1125 Tamalpais Avenue

San Rafael, CA 94901

Email Address: contracts@mcecleanenergy.org

Telephone No.: (415) 464-6027

Notices shall be given to Contractor at the following address:

Contractor: Stephen Hall

Address: 1161 NW Overton Street, Suite 701




Portland, OR 97209

Email Address: steve@hallenergylaw.com

Telephone No.: (503) 477-9354

20. ACKNOWLEDGEMENT OF EXHIBITS

In the event of a conflict between the Terms of this Agreement and the terms in any of the following Exhibits, the terms in this Agreement will govern.

	<input checked="" type="checkbox"/>	<u>Check applicable Exhibits</u>	<u>CONTRACTOR'S INITIALS</u>
<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/>	<u>Scope of Services</u>	
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	<u>Fees and Payment</u>	
<u>EXHIBIT C.</u>	<input checked="" type="checkbox"/>	<u>Insurance Waiver/Reduction</u>	

21. SEVERABILITY

Should any provision of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, such invalidity will not invalidate the whole of this Agreement, but rather, the remainder of the Agreement which can be given effect without the invalid provision, will continue in full force and effect and will in no way be impaired or invalidated.

22. COMPLETE AGREEMENT

This Agreement along with any attached Exhibits constitutes the entire Agreement between the parties. No modification or amendment shall be valid unless made in writing and signed by each party. Failure of either party to enforce any provision or provisions of this Agreement will not waive any enforcement of any continuing breach of the same provision or provisions or any breach of any provision or provisions of this Agreement.

23. COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

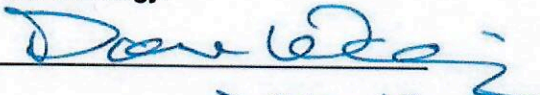
24. PERFORMANCE AND PAYMENT BOND (REQUIRED IF CHECKED)

Contractor shall furnish, concurrently with signing the contract, a Performance & Payment Bond for a sum not less than 100 percent (100%) of the total amount of the contract. The bond shall be in the form of a bond and not a deposit in lieu of a bond. The bond shall be executed by an admitted surety insurer. The bond shall guarantee payment by Contractor of all materials, provisions, provender, supplies, and equipment used in, upon, for, or about the performance of said construction, and protect MCE from any liability, losses, or damages arising therefrom.

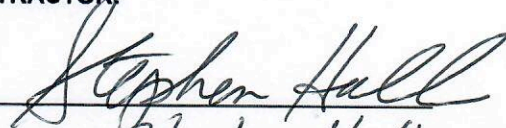
IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

APPROVED BY

Marin Clean Energy:

By: 
CEO
Date: 2-27-19

CONTRACTOR:

By: 
Name: Stephen Hall
Date: 3/6/19

MODIFICATIONS TO STANDARD SHORT FORM

Standard Short Form Content Has Been Modified

List sections affected: Section 16

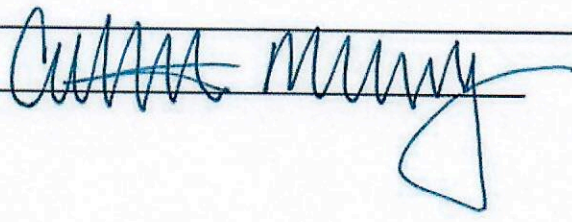
Approved by MCE Counsel:  Date: 2/27/19

EXHIBIT A
SCOPE OF SERVICES (required)

Contractor will provide legal services to MCE as requested and directed by the COO or the Director of Power Resources related to: new and existing power purchase agreements; new and existing scheduling coordination and portfolio management agreements; and new and existing project development agreements, up to the maximum time/fees allowed under this Agreement. Services may also include transaction support in drafting, negotiations, finalization, and appropriate implementation of power supply transactions.

**EXHIBIT B
FEES AND PAYMENT SCHEDULE**

For services provided under this Agreement, MCE shall pay Contractor in accordance with the amount(s) and the payment schedule as specified below:

Stephen Hall \$595 per hour

Contractor shall bill monthly in .10-hour increments. Contractor services will be task-specific with MCE providing direction on tasks to be undertaken by letter, voice communication, or email.

In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of **\$89,000** for the term of the Agreement.

EXHIBIT C
INSURANCE REDUCTION/WAIVER (if applicable)

AL #05, C.4 Att. C: 1st Agreement with Hall Energy Law PC

CONTRACTOR: Hall Energy Law PC

CONTRACT TITLE: 1st Agreement by and between MCE and Hall Energy Law PC

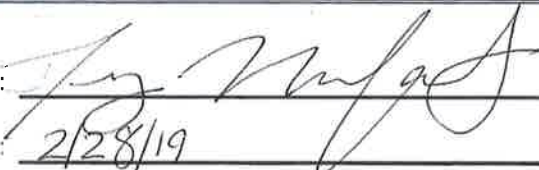
This statement shall accompany all requests for a reduction/waiver of insurance requirements. Please check the box if a waiver is requested or fill in the reduced coverage(s) where indicated below:

	Check Where Applicable	Requested Limit Amount	MCE Use Only
General Liability Insurance	<input type="checkbox"/>	\$	
Automobile Liability Insurance	<input checked="" type="checkbox"/>	\$	
Workers' Compensation Insurance* *Sole Proprietors must provide representation of their exempt status below	<input type="checkbox"/>		
Professional Liability Deductible	<input type="checkbox"/>	\$	


Please set forth the reasons for the requested reductions or waiver.

Auto Liability Insurance requirement waived as Contractor will not be required to drive to complete work with MCE

WORKERS' COMPENSATION STATEMENT OF EXEMPTION	
By signing below, I notify MCE that I am a	
<input type="checkbox"/> sole proprietor	<input type="checkbox"/> partnership
<input type="checkbox"/> nonprofit organization	<input type="checkbox"/> closely held corporation
and do not have any employees whose employment requires me to carry workers' compensation insurance. Therefore, I do not carry worker's compensation insurance coverage.	
Contractor Signature	_____
Printed Name of Contractor	_____
Date	_____

Contract Manager Signature: 
 Date: 2/28/19

Telephone: (415) 464 - 6027

Approved by: 
 Date: 2/28/19



December 6, 2019

TO: MCE Executive Committee

FROM: Joey Lande, Manager of Customer Programs

RE: Proposed Fourth Agreement with Recurve Analytics, Inc. (Agenda Item #05 - C.5)

ATTACHMENT: Proposed Fourth Agreement with Recurve Analytics, Inc.

Dear Executive Committee Members:

SUMMARY:

The proposed Fourth Agreement with Recurve Analytics, Inc. is a contract for services in support of meter-based energy efficiency savings assessments. At the core of the service is a subscription for a web-based platform, which uses advanced metering infrastructure (AMI) data, customer data, project data and weather data to accurately monitor impacts, analyze baseline and retrofit conditions, and target customers for program participation. Together, these services enable the deployment of pay-for-performance (P4P) energy efficiency programs, and the evaluation of programs with impacts that can be measured at the meter.

P4P programs such as those enabled by Recurve's platform allow for market-based solutions to drive program results, which support the Customer Program team's goal of scalable program results. In addition, Recurve's platform will be used to conduct measurement and verification of other projects and programs. Recurve's services enable the Customer Programs team to analyze savings claims from implementers, and also generate new data (e.g. measurement of peak load reduction) to quantify program impacts.

The proposed Fourth Agreement with Recurve includes a not-to-exceed contract value of \$242,000.

Fiscal Impacts: Expenditures related to the proposed Fourth Agreement with Recurve Analytics, Inc. would be funded from MCE's energy efficiency programs budget allocated by the California Public Utilities Commission (CPUC).

Recommendation: Approve the proposed Fourth Agreement with Recurve Analytics, Inc.

**MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT**

**FOURTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND RECURVE ANALYTICS, LLC**

THIS FOURTH AGREEMENT ("Agreement") is made and entered into this day **December 6, 2019** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and RECURVE ANALYTICS, LLC, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the following services; upgrades to and use of the Recurve Meter Platform and the RecurveOS Operations Platform (including any services, websites (including hosting), solutions, platforms, and products that Contractor makes available under or in relation to the foregoing, including the software, equipment, technology, and services necessary for Contractor to provide the foregoing), development of custom configuration for implementing MCE's energy savings programs, and additional services as set forth in **Exhibit A**;

WHEREAS, Contractor warrants that it is qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by MCE, the parties agree to the following:

1. SCOPE OF SERVICES:

Contractor agrees to provide all of the services described in **Exhibit A** attached hereto and by this reference made a part hereof. Contractor will deliver the services and Deliverables in accordance with the milestone schedule in **Exhibit A**. Unless otherwise mutually agreed pursuant to Milestone 1 in **Exhibit A**, MCE will evaluate each Deliverable (including any upgrades to the services) and accept or reject it within 15 business days after receipt. If MCE does not accept or reject or request more time to evaluate the Deliverable within that time period, the Deliverable is deemed accepted. Contractor will fix rejected Deliverable within 10 business days after receiving notice of rejection from MCE ("Correction Period"). This process shall be repeated until MCE provides Contractor with written notice of its acceptance of a Deliverable ("Acceptance"). "Deliverables" means all intellectual property or other work product developed by Contractor for MCE under this Agreement, including Exhibit A, or as part of the services. Subject to MCE's payment of applicable fees, Contractor grants MCE a non-exclusive, worldwide, unlimited, fully-paid, right to access and use of the services for its business purposes during the term stated in this Agreement.

Business continuity. Contractor will be responsible for establishing, implementing, testing, and maintaining an effective business continuity program, which includes disaster recovery and crisis management procedures, in order to provide continuous access to, and support for, the Services. Contractor must at all times back up, archive and maintain duplicate or redundant systems that (i) are located at a secure physical location (other than the location of primary system(s) used to provide the Services), (ii) are updated and tested at least annually, and (iii) can fully recover the Services on a daily basis. On request, Contractor will provide MCE with an overview of Contractor's business continuity program and promptly respond to MCE's inquiries in connection with that business continuity program.

2. MCE DATA AND MATERIALS:

MCE grants Contractor a nonexclusive, revocable license to copy and use MCE Materials provided to it as necessary to perform services. MCE retains all right, title, and interest in and to MCE Materials and related intellectual property. Contractor will not: (i) sublicense the right to use MCE Materials; (ii) modify the MCE Materials; and (iii) will not distribute the MCE Materials. "MCE Materials" means tangible or intangible materials (including related intellectual property, documentation, methodologies, know how, processes, techniques, ideas, concepts, technologies, and data) provided by or on behalf of MCE to Contractor to perform the services. MCE Materials include modifications to, or derivative works of, the foregoing materials and any data entered into any Contractor database as part of the services.

3. FEES AND PAYMENT SCHEDULE; INVOICING:

The fees and payment schedule for furnishing services under this Agreement shall be based on the milestone schedule which is attached hereto as Exhibit A and the rate schedule which is attached hereto as Exhibit B and by this reference incorporated herein. The services will be provided on a fixed fee or time and material fee basis, as specified in Exhibit A. Said fees shall remain in effect for the entire term of the Agreement. MCE will pay the applicable fees after MCE's Acceptance of the applicable Deliverable.

Contractor shall provide MCE with his/her/its Federal Tax I.D. number prior to submitting the first invoice. Unless otherwise specified in Exhibit A, Contractor shall invoice MCE monthly. Contractor is responsible for billing MCE in a timely and accurate manner. Contractor shall email invoices to MCE on a monthly basis for any services rendered or expenses incurred hereunder. Fees and expenses invoiced beyond 90 days will not be reimbursable. The final invoice must be submitted within 30 days of completion and Acceptance by MCE of the stated scope of services or termination of this Agreement.

4. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$242,000**.

5. TIME OF AGREEMENT:

This Agreement shall commence on January 1, 2020 and shall continue, unless terminated earlier in accordance with the terms of this Agreement, until December 31, 2020. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

6. INSURANCE AND SAFETY:

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to MCE. The general liability policy shall be endorsed naming Marin Clean Energy and its employees, officers and agents as additional insureds. The certificate(s) of insurance and required endorsement shall be furnished to MCE prior to commencement of work. Each certificate shall provide for thirty (30) days advance written notice to MCE of any cancellation or reduction in coverage. Said policies shall remain in force through the life of this Agreement and shall be payable on a per occurrence basis only, except those required by paragraph 6.4 which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation on Contractor's obligations under paragraph 16 of this Agreement to indemnify, defend and hold MCE harmless. MCE agrees to timely notify the Contractor of any negligence claim.

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

6.1 GENERAL LIABILITY

The Contractor shall maintain a commercial general liability insurance policy in an amount of no less than one million dollars (\$1,000,000) with a two million dollar (\$2,000,000) aggregate limit. MCE shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page. (see sample form: ISO - CG 20 10 11 85).

6.2 AUTO LIABILITY

Where the services to be provided under this Agreement involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars combined single limit (\$1,000,000.00).

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED)

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

6.5 PRIVACY AND CYBERSECURITY LIABILITY. Privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs) of at least \$1,000,000 US per occurrence.

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Agreement without prior written approval of MCE except for any subcontract work identified herein. Except for Contractor's cloud infrastructure providers, if Contractor hires a subcontractor under this Agreement, Contractor shall require subcontractor to provide and maintain insurance coverage(s) identical to what is required of Contractor under this Agreement and shall require subcontractor to name Contractor as additional insured under this Agreement. It shall be Contractor's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to MCE evidence of same. Nothing contained in this Agreement or otherwise stated between the parties shall create any legal or contractual relationship between MCE and any subcontractor, and no subcontract shall relieve Contractor of any of its duties or obligations under this Agreement. Contractor shall be solely responsible for ensuring its subcontractors', including Contractor's cloud infrastructure providers, compliance with all of the terms and conditions of this Agreement. Contractor's obligation to pay its subcontractors is an independent obligation from MCE's obligation to make payments to Contractor. As a result, MCE shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor. Approved subcontractors and required insurances as of the date hereof are set forth in **Exhibit C**.

9. ASSIGNMENT:

The rights, responsibilities and duties under this Agreement are personal to the Contractor and may not be transferred or assigned without the express prior written consent of MCE, such consent will not be unreasonably withheld.

10. RETENTION OF RECORDS AND AUDIT PROVISION:

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

11. WORK PRODUCT:

All finished and unfinished data (including performance data, metered savings calculation data and other data generated as a result of MCE's use of the services) reports, plans, studies, documents and other writings prepared by and for Contractor, its officers, employees and agents in the course of implementing this Agreement ("Work Product") shall become the sole property of MCE upon payment to Contractor for such work. MCE shall have the exclusive right to use such Work Product in its sole discretion without further compensation to Contractor or to any other party. Contractor shall, at MCE's expense, provide such data, reports, plans, studies, documents and writings to MCE or any party MCE may designate, upon written request. Contractor may keep file reference copies of all documents prepared for MCE. Except for MCE's Work Product, unless otherwise specifically agreed in writing by the parties, Contractor shall retain ownership of and all subsequent rights in its proprietary systems, software, or other intellectual property developed by Contractor and utilized in the course of this Agreement.

12. TERMINATION:

- A. If the Contractor fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, MCE may terminate this Agreement by giving five (5) business days' written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days' written notice to the other party. Notice of termination shall be by written notice to the other parties and be sent by registered mail or by email to the email address listed in Section 19 Invoices; Notices.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s).

E. MCE may terminate this Agreement if funding for this Agreement is reduced or eliminated by a third-party funding source.

13. AMENDMENT:

This Agreement may be amended or modified only by written agreement of all parties.

14. NO SUBSTITUTION OF PERSONNEL:

The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to MCE, as is evidenced in writing.

15. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

16. REPRESENTATIONS; WARRANTIES; INDEMNIFICATION:

16.1 Contractor continuously represents and warrants:

- (a) It has full rights and authority to enter into, perform under, and grant the rights in, this Agreement;
- (b) Its performance will not violate any agreement or obligation between it and any third party;
- (c) Deliverables and Work Product (including any data generated as a result of the services) will be true and accurate and conform to their documentation and specifications in Exhibit A;
- (d) Services will be performed professionally and be of high grade, nature, and quality;
- (e) Services, Work Product, and Deliverables will not: (i) infringe any third party patent, copyright, trademark, trade secret, or other proprietary right, or (ii) contain viruses or other malicious code that will degrade or infect any Deliverables, products, services, software, or MCE's network or systems; and
- (f) Contractor will comply with all applicable laws, including data protection laws.

Further, Contractor continuously represents and warrants that the Deliverables will not require, as a condition of use, modification, or distribution by MCE: (1) disclosure or distribution of the Deliverables in source code form, (2) a license to a third party to make derivative works of the Deliverables, or (3) redistribution of the Deliverables at no charge.

16.2 If Contractor fails to meet its warranty obligations in Sections 16.1(b), (c) or (d), Contractor will correct such deficiency within thirty (30) days to MCE's reasonable satisfaction. If Contractor is unable to cure such deficiency within such time, MCE may terminate all or a portion of this Agreement by giving thirty (30) calendar days' written notice to Contractor. Such notice shall be sent by registered mail or by email to the email address listed in Section 19 Invoices; Notices.

16.3 Indemnification. Contractor agrees to indemnify, defend, and hold MCE, its employees, officers, and agents, (each a "MCE Indemnified Party"), harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of Contractor's negligence, recklessness or willful misconduct in the performance of this Agreement. Additionally, Contractor will defend, indemnify, and hold MCE Indemnified Parties harmless from and against all Claims to the extent such Claims arise out of or relate to:

- (a) Contractor's breach of Section 16.1, 16.4 and Section 24,
- (b) Contractor's infringement, misuse, or misappropriation of third-party intellectual property or proprietary rights, or
- (c) Contractor's non-compliance with applicable laws, rules, or regulations.

"Claim(s)" means any and all (1) third-party claims, actions, demands, lawsuits, or proceedings and (2) damages, costs (including reasonable fees of attorneys and other professionals), or liabilities of any kind (including any fine, penalty, judgement or order issued by a governmental, regulatory or judicial body), in each case arising out of that third party claim, action, demand, lawsuit, or proceeding.

Contractor will have no liability under this Agreement or otherwise to the extent a Claim is based upon: (1) use of the Application in combination with software, hardware or technology not provided by Contractor, if infringement would have been avoided in the absence of the combination; (2) modifications to the Application not made by Contractor, if infringement would have been avoided by the absence of the modifications; or (3) use of any version other than a current release of the Application, if infringement would have been avoided by use of a current release and provided that Contractor notifies MCE that the new release is available and necessary to avoid an infringement claim.

16.4 Contractor shall, at its expense, adopt and continuously implement, maintain and enforce reasonable technical and organizational measures, consistent with the sensitivity of Personal Information (as defined below), including, but not limited to, measures designed to (1) prevent unauthorized access to, and otherwise physically and electronically protect, the Services and Personal Information, and (2) protect Customer content and data against accidental, unauthorized or unlawful access, disclosure, alteration, loss, or destruction. At Contractor's cost, Contractor will maintain a valid certification under the

International Organization for Standardization standard ISO 27001 or similar audit as may be approved or required by Customer ("Contractor Certification"). Contractor will promptly provide to Customer upon Customer's request and at least annually (i) a full copy of the Contractor Certification and report on which the Contractor Certification is based, and (ii) a current certification and report applicable to each cloud infrastructure provider(s) identified on the cover page ("CIP") under Service Organization Controls (SOC) 2 Type 2 or the International Organization for Standardization standard ISO 27001. The Contractor Certification will cover all Services, except cloud infrastructure services provided by CIP(s) other than Contractor. Contractor will only use cloud infrastructure providers that are approved subcontractors via the approval process in Section 8 of this Agreement, in providing Services and will notify Customer at least 90 days before it changes, or undertakes any plan to change, the cloud infrastructure provider and at least 30 days before any change in location of any Customer content or data. Contractor warrants that its software is tested against OWASP Top 10 Most Critical Web Application Security Risks at least semiannually and will provide confirmation of such testing upon request and at least annually. Without limiting Contractor's obligations under this Agreement, with respect to Personal Data, on becoming aware of any Security Incident (as defined below), Contractor will: (1) immediately notify MCE of the Security Incident (in any case no later than forty-eight (48) hours after becoming aware of the Security Incident); (2) promptly investigate or perform required assistance in the investigation of the Security Incident and provide MCE with detailed information about the Security Incident; and (3) promptly take all commercially reasonable steps to mitigate the effects of the Security Incident, at Contractor's cost. "Personal Information" has the meaning set forth under applicable law. "Security Incident" means any: (1) accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Information transmitted, stored, or otherwise processed by Contractor or its Subcontractors; or (2) security vulnerability related to Contractor's handling of Personal Information.

16.5 In addition to all other remedies available to MCE,

- (a) if use of services or Deliverables under this Agreement is enjoined or injunction is threatened, Contractor, at its expense, will notify MCE and immediately
 - (i) procure for MCE the right to continue using such services and Deliverables, or
 - (ii) replace or modify such services and Deliverables so that they are noninfringing and useable to MCE's satisfaction.

If Contractor does not comply with this Section 16.4, then in addition to any amounts reimbursed under this Section 16, Contractor will refund all amounts paid by MCE for infringing services and Deliverables and pay reasonable costs to transition Services to a new supplier.

16.6 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY PROVIDED HEREIN, CONTRACTOR DOES NOT WARRANT THAT THE APPLICATION WILL MEET MCE'S NEEDS OR REQUIREMENTS OR THAT THE PROVISION OF THE APPLICATION WILL BE UNINTERRUPTED OR THAT THE APPLICATION WILL BE AVAILABLE AT ANY PARTICULAR TIME OR ERROR-FREE. EXCEPT AS EXPRESSLY PROVIDED HEREIN, FURTHER, CONTRACTOR DOES NOT WARRANT THAT ALL ERRORS IN THE APPLICATION ARE CORRECTABLE OR WILL BE CORRECTED. MCE acknowledges that, notwithstanding the taking by Contractor of security precautions, use of, or connection to, the Internet provides the opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to the Application and MCE Data. Accordingly, Contractor cannot and does not guaranty the privacy, security, integrity or authenticity of any information so transmitted over or stored in any system connected to the Internet or that any security precautions taken will be adequate or sufficient.

17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. MCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not make any claims, take any actions or assert any remedies against any of MCE's constituent members in connection with this Agreement.

18. COMPLIANCE WITH APPLICABLE LAWS:

The Contractor shall comply with any and all applicable federal, state and local laws and resolutions (including, but not limited to the County of Marin Nuclear Free Zone, Living Wage Ordinance, and Resolution #2005-97 of the Marin County Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Agreement.

19. INVOICES; NOTICES

This Agreement shall be managed and administered on MCE’s behalf by the Contract Manager named below. All invoices shall be submitted by email to:

 Email Address: invoices@mcecleanenergy.org

All other notices shall be given to MCE at the following location:

 Contract Manager: Troy Nordquist

 MCE Address: 1125 Tamalpais Avenue

 San Rafael, CA 94901

 Email Address: contracts@mcecleanenergy.org

 Telephone No.: (415) 464-6027

Notices shall be given to Contractor at the following address:

 Contractor: Matt Golden, Chief Executive Officer

 Address: 364 Ridgewood Avenue

 Mill Valley, CA 94901

 Email Address: matt@recurve.com

 Telephone No.: (415) 902-4546

20. ACKNOWLEDGEMENT OF EXHIBITS

In the event of a conflict between the Terms of this Agreement and the terms in any of the following Exhibits, the terms in this Agreement will govern.

	<input checked="" type="checkbox"/>	<u>Check applicable Exhibits</u>	<u>CONTRACTOR’S INITIALS</u>
<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/>	Scope of Services	
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	Fees and Payment	
<u>EXHIBIT C.</u>	<input checked="" type="checkbox"/>	Approved Subcontractors	

21. SEVERABILITY

Should any provision of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, such invalidity will not invalidate the whole of this Agreement, but rather, the remainder of the Agreement which can be given effect without the invalid provision, will continue in full force and effect and will in no way be impaired or invalidated.

22. COMPLETE AGREEMENT

This Agreement along with any attached Exhibits constitutes the entire Agreement between the parties. No modification or amendment shall be valid unless made in writing and signed by each party. Failure of either party to enforce any provision or provisions of this Agreement will not waive any enforcement of any continuing breach of the same provision or provisions or any breach of any provision or provisions of this Agreement.

23. COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

24. CONFIDENTIALITY AND DATA PROTECTION

Information shared under this Agreement is confidential information subject to the Marin Clean Energy Non-Disclosure Agreement between the parties dated October 5, 2018.

25. LIMITATION ON LIABILITY

EXCEPT FOR CONTRACTOR'S INDEMNIFICATION OBLIGATIONS HEREIN OR A BREACH OF CONFIDENTIALITY AND PRIVACY INCLUDING FINES IMPOSED BY REGULATORS AS A RESULT OF SUCH BREACH, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EITHER PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNT PAID BY MCE HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER.

26. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES

EXCEPT FOR CONTRACTOR'S INDEMNIFICATION OBLIGATIONS HEREIN OR A BREACH OF CONFIDENTIALITY AND PRIVACY INCLUDING FINES IMPOSED BY REGULATORS AS A RESULT OF SUCH BREACH, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF THIS AGREEMENT OR ANY LIMITED REMEDY HEREUNDER.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

APPROVED BY

Marin Clean Energy:

CONTRACTOR:

By: _____

By: _____

Title: _____

Name: _____

Date: _____

Date: _____

By: _____

Chairperson

Date: _____

MODIFICATIONS TO STANDARD SHORT FORM

Standard Short Form Content Has Been Modified

List sections affected: Sections 1, 2, 3, 5, 6, 11, 14, 16, 24, 25, & 26

Approved by MCE Counsel: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES (required)

Contractor will assist MCE with evaluating and reporting site-based, normalized meter energy consumption (“NMEC”) from an existing conditions baseline.

The Recurve Platform and Contractor Services – Work Packages

Task 1. Metered Savings Package

Description: The metered savings package provides MCE with unlimited tracking of projects with a single extracting, transforming and loading (ETL) process. Contractor will calculate metered savings for MCE on a monthly basis through the Recurve meter platform. Metered savings calculations will follow methodological guidance specified in CalTRACK 2.0 methods guidance (www.CalTRACK.org). Contractor will work with aggregators, implementers and MCE to match buildings to their meters to ensure that efficiency calculations properly reflect implemented projects. MCE will be able to view historical metered savings as well as normal year metered savings for each tracked project in each program portfolio. This will allow MCE to track any number of programs and any number of meters.

- *NMEC Metered Savings Program Tracking and Normal Weather Year Analytics* based on daily and hourly methods.
- Guarantee compliance assessment of each project with CalTRACK NMEC methodology by offering *Recurve Scorecard*, which contains the results of a comprehensive audit of the methodology.
- *Deploy and provide access to data warehouse tables* containing Recurve Platform assets in a concise, complete, accessible and query-ready format.
- Ensure that all choices and assumptions made as updates to or customizations of NMEC methods are *documented and publicly available*.
- *Track historical changes to savings estimates* as results are updated in response to data corrections, bug fixes, or methodological updates.
- *Includes baseline load profiles, CalTRACK modeled counterfactuals, and energy savings resource curves (savings profiles)*

Contractor will maintain the following security, data transfer, and visualization elements:

- Dashboard views and visualizations of daily and hourly energy savings for all programs and projects being metered.
- Accommodated and continually maintained permissioned dashboard access.
- Maintain permissioned data download capabilities.
- Drill-down capabilities by project to view performance details.
- Outlier detection and record flagging.
- Unlimited cohort filtering capability by metadata provided during ETL, project performance, or model metrics.
- Load shape and resource curve visualization and 8760 downloads

Task 2: Program Management

Description: Contractor will provide MCE a program management platform to support its Single-Family Comprehensive program. The program management platform includes support for tracking aggregator portfolios, segmenting cohorts within portfolios, customizing kWh to MMBTU conversions, setting thresholds for project uncertainty, creating remote portfolios for sharing with third parties, loading custom portfolio valuation functions, creating payment recommendations, reporting non-routine events and project eligibility changes, and flagging outliers. This package includes support for one aggregator within this program.

Contractor will serve as a data-pass through entity for MCE on request. Contractor will make AMI data and project and program performance data available on request to third party aggregators and/or implementers.

Contractor will be tasked with tracking payments and savings achieved within the Single-Family Comprehensive Program, and providing monthly and quarterly reports, both to the MCE’s Single Family Comprehensive Implementer and to MCE for reporting purposes to the CPUC.

Third party aggregators must be able to submit projects (and portfolios of projects) that meet the criteria established by MCE. The Recurve third party support module allows aggregators to submit projects with the appropriate metadata that will be needed to calculate payable savings (e.g., project dates and locations, customer account numbers). In addition, Third-party aggregators value visibility into the performance of their portfolios of projects. The Third-party support module will provide portfolio-aggregated savings results to aggregators upon approval by MCE. An optional Reporting-only module can be made available to third parties who need access to limited savings reporting data, such as contractors or regulators.

Task 3: Analytics

Description: Contractor will provide additional support based on specific use cases and needs for data analysis. These are grouped into broad categories described below and priced based primarily on the size of the program. Analytics can be ordered a la carte and are generally one-time deliverables.

Analytics Options:

- Program planning - This is a dedicated statistical analysis designed to help Program Administrators and their implementers properly size NMEC programs in order to achieve the CPUC's stated goal of 25% Fractional Savings Uncertainty at the 90% confidence level. This analysis typically takes into account model fit (CVRMSE) for planned participant base, the number of projects anticipated, and the expected savings depth (savings as a percentage of building usage). Always billed at Medium Portfolio rate.
- Comparison Group Development - This analytics package can be applied to any program as a step towards a savings claim to support a quasi-experimental program design. Drawing from a broad population of customers, Contractor will perform a load shape matching analysis to identify the best non-participants for comparison at an individual customer-level.
- Savings Claim Assessment - Programs with at least one year of implementation can submit savings claims under NMEC. Even if these programs have been using proprietary or non-standard methods (or no methods) to track savings, Contractor can provide an NMEC analysis that meets CPUC guidelines to avoid custom review. When coupled with Comparison Group Development, Contractor will conduct a difference of differences calculation between the normalized metered savings of the treatment group and the comparison group, which adjusts the "gross" metered savings for exogenous factors observed in the comparison group.
- Portfolio Optimization - To increase cost effectiveness, most NMEC programs are leaning on customer targeting through AMI data analytics as a core intervention strategy. This analytics package is built to test various program optimization strategies on past programs. This package computes a number of usage characteristics from customers' pre-program AMI data and assesses how each feature correlates with metered savings performance and cost-effectiveness. Contractor can automatically identify the best 1-dimensional and 2-dimensional targeting strategies for any program backcast, and provide recommendations for future program optimization strategies.
- Customer Targeting - MCE can assist third parties in the identification of cost-effective savings potential via AMI-data derived customer targeting parameters and has offered these services as part of their recent third party program solicitations. This analytics package takes AMI data on an unlimited number of customers and computes a host of targeting features that can be utilized by MCE and its implementers to actively recruit high potential customers.

Task 4: Support

Contractor will provide ongoing support for MCE's data analysis, program administration, and regulatory reporting needs. For routine support, Contractor will bill a monthly support fee that will include a monthly check in call, data processing, and other ad hoc needs up to 10 hours per month. Contractor will be available for special projects billed at time and materials rates. Special programs will include:

- 1) Supporting the Measurement and Verification (M&V) of MCE's Strategic Energy Management models on an NMEC basis, in nonresidential programs and/or other site specific NMEC projects. Both types of projects will generate site specific NMEC savings claims.
- 2) Developing filters and other data analytics tools to screen customers fitting specific profiles, such as residential versus non-residential, geographical location, rate schedule, and other factors using data from MCE's 4013 data.

Additional Terms

Contractor will maintain and support the Deliverables and services to ensure solid and reliable connectivity and access by MCE and their users and that the Deliverables and services perform and operate with in accordance with the specifications and as set forth in this Exhibit and the other terms and conditions of this Agreement. Contractor will promptly repair or replace, without any additional charge, the Deliverables or any portion thereof, that have any bugs, defects or errors (collectively, "**Errors**").

Availability:

Contractor will provide services on a 24 x 7 x 365 basis with an uptime guarantee of 98% as calculated on a monthly basis, excluding a Maintenance Window (defined below) of up to 120 minutes. Contractor will schedule any service upgrades or maintenance between 12:00 am and 4:00 am Pacific Standard Time on Saturday ("Maintenance Window").

If Contractor fails to meet the availability obligations above, then MCE will receive the credits specified below:

Service Availability	Credit (against monthly fee for affected Cloud Service)
98% or greater	0%
97% – 97.9%	5%
96% – 96.9%	10%
95% – 95.9%	15%
94% – 94.9%	30%
Less than 94%	100%

Error Correction:

In the event that MCE reports to Contractor any Error (the Severity Level to be reasonably determined by MCE), Contractor will respond to such reports as follows:

“**Severity Level 1**” is an emergency condition which makes the use or continued use of any one or more functions of the Deliverables impossible or significantly impaired. The condition requires an immediate solution that is not already available to MCE.

“**Severity Level 2**” is, other than any Severity Level 1 problem, any condition which makes the use or continued use of any one or more functions of the Deliverables difficult and which MCE cannot reasonably circumvent or avoid on a temporary basis without the expenditure of significant time or effort.

“**Severity Level 3**” is, other than any Severity Level 1 Problem or Severity Level 2 Problem, any limited problem condition which is not critical in that no loss of MCE data occurs and which MCE can reasonably circumvent or avoid on a temporary basis without the expenditure of significant time or effort.

“**Severity Level 4**” is, other than any Severity Level 1 Problem, Severity Level 2 Problem or Severity Level 3 Problem, a minor problem condition or Documentation error which MCE can easily circumvent or avoid. Additional requests for new feature suggestions, which are defined as new functionality in existing Deliverables, are also classified as Severity Level 4.

Response Times:

Contractor will respond to and resolve an Error, depending on the Severity Level, within the time frames set forth in the chart below, starting from the time MCE notifies Contractor of the Error.

Severity Level	Assignment Time	Initial Response Time	Workaround Time	Resolution Time
Severity Level 1 Problem	Immediate	Within 30 minutes	4 hours	24 hours
Severity Level 2 Problem	Immediate	Within 30 minutes	1 day	4 days
Severity Level 3 Problem	One Hour	Within 1 day	3 days	One week
Severity Level 4 Problem	One Hour	Within 1 day		One week

Maintenance Services:

Contractor will provide MCE with maintenance services to maintain:

- (a) the functionality of the services, as described in herein and Documentation;
- (b) the functionality of the services in accordance with the warranties set forth herein, including but not limited to, the Services conforming in all material respects to the specifications, functions, descriptions, standards, and criteria set forth herein and the Documentation;
- (c) the access availability of the services to Authorized Users, where such availability is equal to or greater than the Service Level set forth herein; and,
- (d) the compatibility of the services with the then-current version and the three prior versions of Internet Explorer, Mozilla Firefox, Google Chrome, and any other internet browser described herein.

The Services Fees shall be inclusive of the fees for maintenance services.

“Documentation” means all user manuals, handbooks, training material, requirements, and other written or electronic materials Contractor makes available for, or that result from use of, the services.

Required Notice of Upgrades and Maintenance:

Unless otherwise provided for herein, Contractor shall provide no less than thirty (30) calendar day’s prior written notice to MCE of all Major Platform Upgrades, including but not limited to new versions that will provide a staging environment to MCE. Such written notice including a detailed description of all upgrades to be performed. For Emergency Maintenance, Contractor shall provide as much prior notice as commercially practicable to MCE and shall provide a detailed description of all maintenance performed no greater than one (1) calendar day following the implementation of the Emergency Maintenance.

Option to Revert Services:

Notwithstanding MCE’s acceptance of the upgrades, Contractor shall revert services back to a prior release or version where MCE: (i) discovers that the upgrades adversely affect MCE’s ability to use the services; and, (ii) provides Contractor with written notice requesting Contractor revert services to a prior build or version. Contractor shall reintroduce the prior release or version of services into production within one (1) business day of its receipt of MCE’s notice.

Option to Upgrade to New Version:

Should Contractor supply to any other customer a new version of the services, MCE shall have the option to upgrade to the new version of the services at no cost provided that MCE is current in payment of Services Fees. As used herein, services shall consider a “New Version” if it utilizes similar functionality for similar applications, regardless of whether there is a code, language or platform change.

EXHIBIT B
FEES AND PAYMENT SCHEDULE AL #05, C 5, Att: 4th Agreement w/Recurve Analytics, LLC

For services provided under this Agreement, MCE shall pay Contractor in accordance with the rates specified below:

Licensing Fees and Payment Schedule for Tasks 1-4

Task	Completion Timeline (Estimates)	Fees	Invoice Timing
Task 1: Metered Savings Package	On-going activities	\$60,000 fixed annual fee (\$5,000/month)	Monthly
Task 2: Program Management	On-going activities	\$72,000 fixed annual fee (\$6,000/month)	Monthly
Task 3: Analytics	On-going activities	Estimated not to exceed \$60,000 (by task, on request), billed per the following schedule: <ul style="list-style-type: none"> • Small Portfolio (up to 2,000 meters) - \$20,000 • Medium Portfolio (from 2,001 to 10,000 meters) - \$40,000 • Large Portfolio (from 10,001 to 50,000 meters) - \$55,000 • Huge Portfolio (greater than 50,000 meters) - by negotiation 	As needed
Task 4: Support	On-going activities	\$25,000 fixed annual fee (\$2,083.33 per month) \$25,000 flex (billed hourly)	Monthly
Total 2020 Contract Budget		Not to Exceed \$242,000	

Rate schedule for all hourly work performed (Task 4)

Title	Personnel	Hourly Rate
Lead Project Consultant	McGee Young	\$230
Senior Policy Consultant	Carmen Best	\$230
Product Manager	Alyssa Byers	\$200
Senior Data Scientist	Hassan Shaban	\$220
Data Scientist	Vikhyati Singh	\$200
Senior Software Engineer	Dave Yeager	\$220
Senior Software Engineer	Phil Ngo	\$220
Senior Software Engineer	Arpan Kotecha	\$220
Senior Software Engineer	Steve Suffian	\$220

Contractor shall invoice MCE upon receiving MCE's written Acceptance of the completed Deliverable in a given task. For Deliverables that are billed at an hourly rate, Contractor shall bill on a monthly basis for the hours performed on the applicable Deliverable after Acceptance. In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of **\$242,000** for the term of the Agreement.

EXHIBIT C
APPROVED SUBCONTRACTORS

AI #05-C-5 Att: 4th Agreement w/Recurve Analytics, LLC

The following list of subcontractors are approved by MCE as of the date hereof and includes the insurances required for each approved subcontractor:

Subcontractor	Provide and Maintain the following insurances to Contractor
Salesforce and Google	Insurance not required but subject to Section 8 indicating that Contractor shall be solely responsible for ensuring its subcontractors' compliance with all of the terms and conditions of this Agreement.



December 6, 2019

TO: MCE Executive Committee

FROM: Joey Lande, Manager of Customer Programs

RE: Proposed Fourth Agreement with The Energy Alliance Association (TEAA) (Agenda Item #05 – C.6)

ATTACHMENT: Proposed Fourth Agreement with TEAA

Dear Executive Committee Members:

SUMMARY:

The proposed Fourth Agreement with The Energy Alliance Association (TEAA) would provide a continuation of services to MCE for implementation of the commercial energy efficiency program in 2020.

Background

MCE has contracted with TEAA for support of its commercial energy efficiency program since March 2017. In June 2019, the Executive Committee approved the First Amendment to the Third Agreement with TEAA to continue services through the end of 2019. TEAA is currently the top-performing contractor in MCE's commercial energy efficiency program, and a key driver in achieving program impacts.

TEAA is compensated on a pay-for-performance basis, at \$0.22 per net kWh saved, and \$0.80 per net therm saved. The proposed Third Agreement includes savings goals of 1,400,000 net kWh and 25,000 net therms. The not to exceed contract value is \$393,600.

Fiscal Impacts: Expenditures related to the proposed Fourth Agreement would be funded completely from the energy efficiency program funds allocated by the CPUC.

Recommendation: Approve the Fourth Agreement with TEAA.

**MARIN CLEAN ENERGY
ENERGY EFFICIENCY PROGRAMS STANDARD SHORT FORM CONTRACT**

**FOURTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND THE ENERGY ALLIANCE ASSOCIATION (TEAA)**

THIS FOURTH AGREEMENT ("Agreement") is made and entered into this day **December 6, 2019** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and THE ENERGY ALLIANCE ASSOCIATION (TEAA), hereinafter referred to as "Implementer."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the services described in **Exhibit A**;

WHEREAS, Implementer is a third-party program implementer that will implement the contracted-for energy efficiency program ("Program");

WHEREAS, Implementer warrants that it is qualified and competent to render the aforesaid Services;

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by MCE, the parties agree to the following:

1. SCOPE OF SERVICES:

Implementer agrees to provide all of the services described in **Exhibit A** attached hereto and by this reference made a part hereof. "Services" shall mean all of the services described in **Exhibit A**, and any other work performed by Implementer pursuant to the Agreement and any related purchase orders.

2. FURNISHED SERVICES:

MCE agrees to make available all pertinent data and records for review, subject to MCE Policy 001 - Confidentiality.

3. FEES AND PAYMENT SCHEDULE: INVOICING:

The fees and payment schedule for furnishing services under this Agreement shall be based on the rate schedule which is attached hereto as **Exhibit B** and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the Agreement. Implementer shall provide MCE with his/her/its Federal Tax I.D. number prior to submitting the first invoice. Implementer is responsible for billing MCE in a timely and accurate manner. Implementer shall email invoices to MCE on a monthly basis for any services rendered or expenses incurred hereunder. Fees and expenses invoiced beyond 90 days will not be reimbursable. The final invoice must be submitted within 30 days of completion of the stated scope of services or termination of this Agreement. MCE will process payment for undisputed invoiced amounts within 30 days.

4. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$393,600**.

5. TERM OF AGREEMENT:

This Agreement shall commence on **January 1, 2020**, and shall continue, unless terminated earlier in accordance with the terms of this Agreement, until **March 31, 2021** Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Implementer.

6. INSURANCE AND SAFETY:

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to MCE. The general liability policy shall be endorsed naming Marin Clean Energy and its employees, officers and agents as additional insureds. The certificate(s) of insurance and required endorsement shall be furnished to MCE prior to commencement of work. Each certificate shall provide for thirty (30) days advance written notice to MCE of any cancellation or reduction in coverage. Said policies shall remain in force through the life of this Agreement and shall be payable on a per occurrence basis only, except those required by paragraph 6.4 which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation on Implementer's obligations under paragraph 17 of this Agreement to indemnify, defend and hold MCE harmless from any and all liabilities arising from the Implementer's negligence, recklessness or willful misconduct in the performance of this Agreement. MCE agrees to timely notify the Implementer of any negligence claim.

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

6.1 GENERAL LIABILITY

The Implementer shall maintain a commercial general liability insurance policy in an amount of no less than one million dollars (\$1,000,000) with a two million dollar (\$2,000,000) aggregate limit. MCE shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page. (see sample form: ISO - CG 20 10 11 85).

6.2 AUTO LIABILITY

Where the services to be provided under this Agreement involve or require the use of any type of vehicle by Implementer in order to perform said services, Implementer shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars combined single limit (\$1,000,000.00).

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED)

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

6.5 PRIVACY AND CYBERSECURITY LIABILITY. Privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs) of at least \$1,000,000 US per occurrence.

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. SUBCONTRACTING:

The Implementer shall not subcontract nor assign any portion of the work required by this Agreement without prior written approval of MCE except for any subcontract work identified herein. If Implementer hires a subcontractor under this Agreement, Implementer shall require subcontractor to provide and maintain insurance coverage(s) identical to what is required of Implementer under this Agreement and shall require subcontractor to name Implementer as additional insured under this Agreement. It shall be Implementer's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to MCE evidence of same. Nothing contained in this Agreement or otherwise stated between the parties shall create any legal or contractual relationship between MCE and

any subcontractor, and no subcontract shall relieve Implementer of any of its duties or obligations under this Agreement. Implementer shall be solely responsible for ensuring its subcontractors' compliance with the terms and conditions of this Agreement. Implementer's obligation to pay its subcontractors is an independent obligation from MCE's obligation to make payments to Implementer. As a result, MCE shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

9. ASSIGNMENT:

The rights, responsibilities and duties under this Agreement are personal to the Implementer and may not be transferred or assigned without the express prior written consent of MCE.

10. RETENTION OF RECORDS AND AUDIT PROVISION:

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

11. WORK PRODUCT:

All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Implementer, its officers, employees and agents in the course of implementing this Agreement shall become the sole property of MCE upon payment to Implementer for such work. MCE shall have the exclusive right to use such materials in its sole discretion without further compensation to Implementer or to any other party. Implementer shall, at MCE's expense, provide such reports, plans, studies, documents and writings to MCE or any party MCE may designate, upon written request. Implementer may keep file reference copies of all documents prepared for MCE.

12. TERMINATION:

- A. If Implementer fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, MCE may terminate this Agreement by giving five (5) business days' written notice to the party involved.
- B. Implementer shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which Implementer has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days' written notice to the other party. Notice of termination shall be by written notice to the other parties and be sent by registered mail or by email to the email address listed in Section 20 Invoices; Notices.
- D. In the event of termination not the fault of Implementer, Implementer shall be paid for services performed to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s). Notwithstanding anything contained in this Section 12, in no event shall MCE be liable for lost or anticipated profits or overhead on uncompleted portions of the Services. Implementer shall not enter into any agreement, commitments or subcontracts that would incur significant cancellation or termination costs without prior written approval of MCE, and such written approval shall be a condition precedent to the payment of any cancellation or termination charges by MCE under this Section 12. Also, as a condition precedent to the payment of any cancellation or termination charges by MCE under this Section 12, Implementer shall have delivered to MCE any and all reports, drawings, documents and deliverables prepared for MCE before the effective date of such cancellation or termination.
- E. This Agreement shall be subject to changes, modifications, or termination by order or directive of the California Public Utilities Commission ("CPUC"). The CPUC may from time to time issue an order or directive relating to or affecting any aspect of this Agreement, in which case MCE shall have the right to change, modify or terminate this Agreement in any manner to be consistent with such CPUC order or directive. MCE may also terminate this Agreement if funding for this Agreement is reduced or eliminated by a third-party funding source.
- F. Upon MCE's termination of this Agreement for any reason, Implementer shall, and shall cause each Implementer Party to, bring the Services to an orderly conclusion as directed by MCE. Implementer and each Implementer Party shall vacate the worksite but shall not remove any material, plant or equipment thereon without the approval of MCE. MCE, at its option, may take possession of any portion of the Services paid for by MCE.

13. AMENDMENT:

This Agreement may be amended or modified only by written agreement of all parties.

14. ASSIGNMENT OF PERSONNEL:

The Implementer shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to MCE, as is evidenced in writing.

15. GOVERNING LAW AND VENUE:

This Agreement shall be governed by the internal laws of the State of California, with reference to its conflict of laws principles. In the event of any litigation to enforce or interpret any terms of this Agreement, such action shall be brought in a Superior Court of the State of California located in Marin County (or if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in the U.S. District Court for the Northern District of California), and the parties hereby submit to the exclusive jurisdiction of such courts.

16. DISPUTES:

Either Party may give the other Party written notice of any dispute which has not been resolved at a working level. Any dispute that cannot be resolved between Implementer's contract representative and MCE's contract representative by good faith negotiation efforts shall be referred to Legal Counsel of MCE and an officer of Implementer for resolution. Within 20 calendar days after delivery of such notice, such persons shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute. If MCE and Implementer cannot reach an agreement within a reasonable period of time (but in no event more than 30 calendar days), MCE and Implementer shall have the right to pursue all rights and remedies that may be available at law or in equity. In particular, Implementer shall have right to request arbitration or mediation to resolve the dispute and MCE shall be required to participate in arbitration or mediation in good faith. All negotiations and any mediation agreed to by the Parties are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and Section 1119 is incorporated herein by reference.

17. REPRESENTATIONS; WARRANTIES; INDEMNIFICATION:

17.1 LICENSING. At all times during the performance of the Services, Implementer represents, warrants and covenants that it has and shall, and shall cause each Implementer Party to obtain and maintain, at its sole cost and expense, all required licenses and registrations required for the operation of its business and the performance of the Services. Implementer shall promptly provide copies of such licenses and registrations to MCE at the request of MCE.

17.2 PERFORMANCE ASSURANCE; BONDING. At all times during the performance of the Services, Implementer providing any direct installation services represents, warrants and covenants that it has and shall, and shall cause each Implementer Party, obtain and maintain, at its sole cost and expense, all bonding requirements of the California State License Board, as may be applicable. Regardless of the specific Services provided, Implementer shall also maintain any payment and/or performance assurances as may be requested by MCE during the performance of the Services.

17.3 GOOD STANDING. Implementer represents and warrants that (a) it is a **corporation** duly organized, validly existing and in good standing under the laws of the State of **California** and (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to engage in the business it presently conducts and contemplates conducting, and is and will be duly licensed or qualified to do business and in good standing under the laws of the State of California and each other jurisdiction wherein the nature of its business transacted by it makes such licensing or qualification necessary and where the failure to be licensed or qualified would have a material adverse effect on its ability to perform its obligations hereunder.

17.4 SAFETY. During the term of this Agreement, Implementer continuously represents, warrants and covenants that it shall, and shall cause each Implementer Party to:

- (a) abide by all applicable federal and state Occupational Safety and Health Administration requirements and other applicable federal, state, and local rules, regulations, codes and ordinances to safeguard persons and property from injury or damage;
- (b) abide by all applicable MCE security procedures, rules and regulations and cooperate with MCE security personnel whenever on MCE's property;
- (c) abide by MCE's standard safety program contract requirements as may be provided by MCE to Implementer from time to time;
- (d) provide all necessary training to its employees, and require subcontractors to provide training to their employees, about the safety and health rules and standards required under this Agreement; and
- (e) have in place an effective Injury and Illness Prevention Program that meets the requirements all applicable laws and regulations, including but not limited to Section 6401.7 of the California Labor Code. Additional safety requirements (including MCE's standard safety program contract requirements) are set forth elsewhere in the Agreement, as applicable, and in MCE's safety handbooks as may be provided by MCE to Implementer from time to time.

17.5 BACKGROUND CHECKS.

(a) Implementer hereby represents, warrants and certifies that any personnel of Implementer or Implementer Party having or requiring access to MCE's assets, premises or customer property ("Covered Personnel") shall have successfully passed background screening on each such individual, prior to receiving access, which screening may include, among other things to the extent applicable to the Services, a screening of the individual's educational background, employment history, valid driver's license, and court record for the seven (7) year period immediately preceding the individual's date of assignment to the project.

(b) Notwithstanding the foregoing and to the extent permitted by applicable law, in no event shall Implementer permit any Covered Personnel to have one or more convictions during the seven (7) year period immediately preceding the individual's date of assignment to the project, or at any time after the individual's date of, assignment to the project, for any of the following ("Serious Offense"): (i) a "serious felony," similar to those defined in California Penal Code Sections 1192.7(c) and 1192.8(a), or a successor statute, or (ii) any crime involving fraud (such as, but not limited to, crimes covered by California Penal Code Sections 476, 530.5, 550, and 2945, California Corporations Code 25540), embezzlement (such as, but not limited to, crimes covered by California Penal Code Sections 484 and 503 et seq.), or racketeering (such as, but not limited to, crimes covered by California Penal Code Section 186 or the Racketeer Influenced and Corrupt Organizations("RICO") Statute (18 U.S.C. Sections 1961-1968)).

(c) To the maximum extent permitted by applicable law, Implementer shall maintain documentation related to such background and drug screening for all Covered Personnel and make it available to MCE for audit if required pursuant to the audit provisions of this Agreement.

(d) To the extent permitted by applicable law, Implementer shall notify MCE if any of its Covered Personnel is charged with or convicted of a Serious Offense during the term of this Agreement. Implementer will also immediately prevent that employee, representative, or agent from performing any Services.

17.6 FITNESS FOR DUTY. Implementer shall ensure that all Covered Personnel report to work fit for their job. Covered Personnel may not consume alcohol while on duty and/or be under the influence of drugs or controlled substances that impair their ability to perform their work properly and safely. Implementer shall, and shall cause its subcontractors to, have policies in place that require their employees report to work in a condition that allows them to perform the work safely. For example, employees should not be operating equipment under medication that creates drowsiness.

17.7 INDEMNIFICATION. Implementer agrees to indemnify, defend, and hold MCE, its employees, officers, and agents, harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of Implementer's negligence, recklessness or willful misconduct in the performance of this Agreement.

18. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. MCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Implementer shall have no rights and shall not make any claims, take any actions or assert any remedies against any of MCE's constituent members in connection with this Agreement.

19. COMPLIANCE WITH APPLICABLE LAWS:

The Implementer shall comply with any and all applicable federal, state and local laws, regulations and resolutions (including, but not limited to all CPUC policies and guidance for energy efficiency programs, the County of Marin Nuclear Free Zone, Living Wage Ordinance, and Resolution #2005-97 of the Marin County Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Agreement.

20. INVOICES; NOTICES:

This Agreement shall be managed and administered on MCE’s behalf by the Contract Manager named below. All invoices shall be submitted by email to:

Email Address: invoices@mcecleanenergy.org

All other notices shall be given to MCE at the following location:

Contract Manager: Troy Nordquist

MCE Address: 1125 Tamalpais Avenue

 San Rafael, CA 94901

Email Address: contracts@mcecleanenergy.org

Telephone No.: (415) 464-6027

Notices shall be given to Implementer at the following address:

Implementer: Katie Moore

Address: 1400 N. Dutton Ave, Ste 17

 Santa Rosa, CA 95401

Email Address: katie@teaa.net

Telephone No.: (707) 542-3171

21. ACKNOWLEDGEMENT OF EXHIBITS:

In the event of a conflict between the Terms of this Agreement and the terms in any of the following Exhibits, the terms in this Agreement will govern.

	<input checked="" type="checkbox"/>	<u>Check applicable Exhibits</u>	<u>IMPLEMENTER’S INITIALS</u>
<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/>	Scope of Services	
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	Fees and Payment	

22. DATA COLLECTION AND OWNERSHIP REQUIREMENTS:

22.1. DEFINITION OF “MCE DATA”. “MCE Data” shall mean all data or information provided by or on behalf of MCE, including but not limited to, customer Personal Information; energy usage data relating to, of, or concerning, provided by or on behalf of any customers; all data or information input, information systems and technology, software, methods, forms, manual’s, and designs, transferred, uploaded, migrated, or otherwise sent by or on behalf of MCE to Implementer as MCE may approve of in advance and in writing (in each instance); account numbers, forecasts, and other similar information disclosed to or otherwise made available to Implementer. MCE Data shall also include all data and materials provided by or made available to Implementer by MCE’s licensors, including but not limited to, any and all survey responses, feedback, and reports subject to any limitations or restrictions set forth in the agreements between MCE and their licensors.

“Confidential Information” under this Agreement shall have the same meaning as defined in the Marin Clean Energy Non-Disclosure Agreement between the parties dated **March 9, 2017** (“MCE NDA”).

22.2. DEFINITION OF “PERSONAL INFORMATION”. “Personal Information” includes but is not limited to the following: personal and entity names, e-mail addresses, addresses, phone numbers, any other public or privately-issued identification numbers, IP addresses, MAC addresses, and any other digital identifiers associated with entities, geographic locations, users, persons, machines or networks, and “personal information” as defined in Section 1798.140(o)(1) of the California Civil Code.. Implementer shall comply with all applicable laws, rules, and regulations related to the use, collection, storage, and transmission of Personal Information.

22.3. DATA SECURITY MEASURES. Prior to Implementer receiving any MCE Data, Implementer shall comply, and at all times thereafter continue to comply, in compliance with MCE’s data security policies set forth in MCE Policy 009 and MCE’s Advanced Metering Infrastructure (AMI) Data Security and Privacy Policy (“Security Measures”) and pursuant to MCE’s Confidentiality provisions in Section 5 of the MCE NDA. MCE’s Security Measures and Confidentiality provisions require Implementer to adhere to reasonable administrative, technical, and physical safeguard protocols to protect the MCE’s Data from unauthorized handling, access, destruction, use, modification or disclosure.

22.4. IMPLEMENTER DATA SECURITY MEASURES. Additionally, Implementer shall, at its own expense, adopt and continuously implement, maintain and enforce reasonable technical and organizational measures, consistent with the sensitivity of Personal Information and Confidential Information including, but not limited to, measures designed to (1) prevent unauthorized access to, and otherwise physically and electronically protect, the Personal Information and Confidential Information, and (2) protect MCE content and data against unauthorized or unlawful access, disclosure, alteration, loss, or destruction.

22.5. RETURN OF MCE DATA. Promptly after this Agreement or a Statement of Work terminates or expires, and for each completed Statement of Work (i) Implementer will securely destroy all MCE Data in its possession with respect to each terminated or expired Statement of Work and certify the secure destruction in writing to MCE, and (ii) each party will return (or if requested by the disclosing party, destroy) all other Confidential Information and property of the other (if any) with respect to each terminated or expired Statement of Work, provided that Implementer’s attorney shall be permitted to retain a copy of such records or materials solely for legal purposes.

22.6. OWNERSHIP AND USE RIGHTS.

- a) **MCE Data.** Unless otherwise expressly agreed to by the Parties, MCE shall retain all of its rights, title and interest in MCE’s Data.
- b) **Program Intellectual Property.** Unless otherwise expressly agreed to by the Parties, any and all materials, information, or other work product created, prepared, accumulated or developed by Implementer or any Implementer Party under this Agreement with Program funds (“Program Intellectual Property”), including inventions, processes, templates, documents, drawings, computer programs, designs, calculations, maps, plans, workplans, text, filings, estimates, manifests, certificates, books, specifications, sketches, notes, reports, summaries, analyses, manuals, visual materials, data models and samples, including summaries, extracts, analyses and preliminary or draft materials developed in connection therewith, shall be owned by MCE on behalf and for the benefit of their respective customers.
- c) **Program Intellectual Property will be owned by MCE upon its creation.** Implementer agrees to execute any such other documents or take other actions as MCE may reasonably request to perfect MCE’s ownership in the Program Intellectual Property.
- d) **Implementer’s Pre-Existing Materials.** If, and to the extent Implementer retains any preexisting ownership rights (“Implementer’s Pre-Existing Materials”) in any of the materials furnished to be used to create, develop, and prepare the Program Intellectual Property, Implementer hereby grants MCE and the Program Participants on behalf of their respective customers and the CPUC for governmental and regulatory purposes an irrevocable, assignable, non-exclusive, perpetual, fully paid up, worldwide, royalty-free, unrestricted license to use and sublicense others to use, reproduce, display, prepare and develop derivative works, perform, distribute copies of any intellectual or proprietary property right of Implementer or any Implementer Party for the sole purpose of using such Program Intellectual Property for the conduct of MCE’s business and for disclosure to the CPUC for governmental and regulatory purposes related thereto. For the avoidance of doubt, Implementer shall retain all of its rights, title and interest in Implementer’s proprietary calculator titled “TEAA Proprietary Excel Calculator” used in the performance of this Agreement. Unless otherwise expressly agreed to by the Parties, Implementer shall retain all of its rights, title and interest in Implementer’s Pre-Existing Materials. Any and all claims to Implementer’s Pre-Existing Materials to be furnished or used to prepare, create, develop or otherwise manifest the Program Intellectual Property must be expressly disclosed to MCE prior to performing any Services under this Agreement. Any such Pre-Existing Material that is modified by work under this Agreement is owned by MCE.

22.7 BILLING, ENERGY USE, AND PROGRAM TRACKING DATA.

- a) Implementer shall comply with and timely cooperate with all CPUC directives, activities, and requests regarding the Program and Project evaluation, measurement, and verification ("EM&V"). For the avoidance of doubt, it is the responsibility of Implementer to be aware of all CPUC requirements applicable to the Services of this Agreement.
- b) Implementer shall make available to MCE upon demand, detailed descriptions of the program, data tracking systems, baseline conditions, and participant data, including financial assistance amounts.
- c) Implementer shall make available to MCE any revisions to Implementer's program theory and logic model ("PTLM") and results from its quality assurance procedures, and comply with all MCE EM&V requirements, including reporting of progress and evaluation metrics.

23. WORKFORCE STANDARDS:

At all times during the term of the Agreement, Implementer shall comply with, and shall cause all Implementer Parties to comply with, the workforce qualifications, certifications, standards and requirements set forth in this Section 23 ("Workforce Standards"). The Workforce Standards shall be included in their entirety in Implementer's Final Implementation Plan. Final Implementation Plan shall mean as it is defined in the deliverables for the Services listed in Exhibit A. Prior to commencement of any Services, once per calendar year thereafter, and at any other time as may be requested by MCE, Implementer shall provide all documentation necessary to demonstrate to MCE's reasonable satisfaction that Implementer has complied with the Workforce Standards.

23.1 HVAC STANDARDS. For any non-residential project pursuant to this Agreement installing, modifying or maintaining a Heating Ventilation and Air Conditioning ("HVAC") system or component with incentives valued at \$3,000 or more, Implementer shall ensure that each worker or technician involved in the project, including all employees and agents of its subcontractors, meets at least one of the following workforce criteria:

- a) Completed an accredited HVAC apprenticeship;
- b) Is enrolled in an accredited HVAC apprenticeship;
- c) Completed at least five years of work experience at the journey level as defined by the California Department of Industrial Relations, Title 8, Section 205, of the California Code of Regulations, passed a practical and written HVAC system installation competency test, and received credentialed training specific to the installation of the technology being installed; or
- d) Has a C-20 HVAC contractor license issued by the California Contractor's State Licensing Board.

This standard shall not apply where the incentive is paid to any manufacturer, distributor, or retailer of HVAC equipment, unless the manufacturer, distributor, or retailer installs or contracts for the installation of the equipment.

23.2 ADVANCED LIGHTING CONTROLS STANDARDS. For any non-residential project pursuant to this Agreement involving installation, modification, or maintenance of lighting controls with incentives valued at \$2,000 or more, Implementer shall ensure that all workers or technicians involved in the project, including those of its subcontractors are certified by the California Advanced Lighting Controls Training Program ("CALTP"). This requirement shall not apply where the incentive is paid to a manufacturer, distributor, or retailer of lighting controls unless the manufacturer, distributor, or retailer installs or contracts for installation of the equipment.

24. FINANCIAL STATEMENTS:

Implementer shall deliver financial statements on an annual basis or as may be reasonably requested by MCE from time to time. Such financial statements or documents shall be for the most recently available audited or reviewed period and prepared in accordance with generally-accepted accounting principles. MCE shall keep such information confidential if requested by Implementer, except as provided by law and to provision to the CPUC may be required from time to time under confidentiality procedures, where applicable.

25. QUALITY ASSURANCE PROCEDURES:

Implementer shall comply with the Quality Assurance Procedures identified in Exhibit A. Additionally, Quality Assurance Procedures must include, but are not limited to: (i) industry standard best practices; and (ii) procedures that ensure Measure functionality, customer satisfaction, and that the Minimum Qualifications are satisfied.

26. COORDINATION WITH OTHER PROGRAM ADMINISTRATORS:

Implementer shall coordinate with other Program Administrators, including investor-owned utilities and local government agencies authorized by the CPUC to implement CPUC-directed energy efficient programs, administering energy efficiency programs in the same geographic area as MCE. These other Program Administrators include: Pacific Gas and Electric Company and Bay Area Regional Energy Network. The CPUC may develop further rules related to coordination between Program Administrators in the same geographic area, and any Implementer is required to comply with such rules.

27. ACCESS TO CUSTOMER SITES:

Implementer shall be responsible for obtaining any and all access rights from customers and other third parties to the extent necessary to perform the Services. Implementer shall also procure any and all access rights from Implementer Parties, customers and other third parties in order for MCE and CPUC employees, representatives, designees and contractors to inspect the Services.

28. MEASUREMENT AND VERIFICATION REQUIREMENTS, INCLUDING GUIDELINES ABOUT NORMALIZED METERED ENERGY CONSUMPTION (“NMEC”) DESIGN REQUIREMENTS:

Implementer shall:

1. Only enroll customers that qualify for Program services.
2. Comply with current policies, procedures, and other required documentation as required by MCE;
3. Report Customer Participation Information to MCE.
4. Work with MCE’s evaluation team to define Program-specific data collection and evaluability requirements, and in the case of NMEC which independent variables shall be normalized.

Throughout the Term, MCE may identify new net lifecycle energy savings estimates, net-to-gross ratios, effective useful lives, or other values that may alter Program Net Lifecycle Energy Savings, as defined in Exhibit A, if applicable. Implementer shall use modified values upon MCE’s request, provided MCE modifies Implementer’s Program budget and/or overall Program net lifecycle Energy Savings consistent with the requested change. MCE will determine any budget increases or decreases in its sole discretion.

For Programs claiming to-code savings: Implementer shall comply with Applicable Law and work with MCE to address elements in its Program designs and Implementation Plans, such as:

1. Identifying where to-code savings potential resides;
2. Specifying which equipment types, building types, geographic allocations, and/or customer segments promise cost-effective to-code savings;
3. Describing the barriers that prevent code-compliant equipment replacements;
4. Explaining why natural turnover is not occurring within certain markets or for certain technologies; and
5. Detailing the program interventions that would effectively accelerate equipment turnover.

29. SEVERABILITY:

Should any provision of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, such invalidity will not invalidate the whole of this Agreement, but rather, the remainder of the Agreement which can be given effect without the invalid provision, will continue in full force and effect and will in no way be impaired or invalidated.

30. COMPLETE AGREEMENT:

This Agreement along with any attached Exhibits constitutes the entire Agreement between the parties. No modification or amendment shall be valid unless made in writing and signed by each party. Failure of either party to enforce any provision or provisions of this Agreement will not waive any enforcement of any continuing breach of the same provision or provisions or any breach of any provision or provisions of this Agreement.

31. COUNTERPARTS:

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

APPROVED BY

Marin Clean Energy:

By: _____

CEO

Date: _____

By: _____

Chairperson

Date: _____

IMPLEMENTER:

By: _____

Name: _____

Date: _____

MODIFICATIONS TO ENERGY EFFICIENCY STANDARD SHORT FORM

Standard Short Form Content Has Been Modified

List sections affected: Section 22.6(d)

Approved by MCE Counsel: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES (required)

Implementer will provide the following program implementation services as requested and directed by MCE staff for MCE's nonresidential energy efficiency program, up to the maximum time/fees allowed under this Agreement.

Program overview

Timeline: January 1, 2020 through December 31, 2020

Implementer will implement (the "Program"), as outlined in Appendix A. This scope of work summarizes requirements and expectations of Implementer as an implementer of MCE's commercial energy efficiency program, covering administration, project development, evaluation, promotion of commercial energy efficiency programs, and coordination with other program implementers who work alongside Implementer.

Task 1: Maintenance of a pre-qualified products catalog

Timeline for completion: Initial version on January 17th, updates as needed

Implementer will maintain in coordination with MCE, a pre-qualified products catalog that will include approved products and/or measures for inclusion in the Program. This catalog will be revised and/or updated as required by CPUC rules, MCE direction, and/or input from Implementer. Vendors who participate in the Program will utilize approved equipment, and Implementer will conduct regular review of vendor pricing. Implementer will provide a comprehensive product portfolio which includes lighting, HVAC, refrigeration, water heating, and controls measures such as occupancy sensors and PTAC controls.

Task 2: Management Plan of Customer Incentives, Rebates and Project Pricing

Timeline for completion: Ongoing

Implementer will develop a management plan of its project portfolio to deliver projects using both Deemed and Customized, and meter-based (normalized metered energy consumption or "NMEC") savings strategies to achieve the targeted average customer incentive payment rate.

The average customer incentive payments at the portfolio level for Implementer are to be at \$.22/kWh (net first year energy savings), and \$1.50/therm (net first year energy savings), for projects beginning after June 5, 2020. Average incentive rates are subject to change as directed by MCE and noticed to Implementer.

All projects with anticipated customer incentive payments of over \$10,000 are to be sent to MCE staff for review prior to installation. If these projects are not approved in writing by MCE before installation MCE cannot guarantee the payment of the Implementer's quoted customer incentive or Implementer's performance fees.

Implementer shall conduct a due diligence review of all quoted and invoiced pricing from participating vendors who install projects at customer facilities. Implementer's review and project verification shall include vetting: (i) the project specifications, (ii) the products used, (iii) equipment pricing, which may include requesting wholesale price sheets for comparisons, and (iv) the net first year energy savings calculated for the project. Projects where equipment price is beyond 140% of distributor/wholesale pricing shall be questioned by Implementer, and may not be covered by MCE incentives. Implementer is expected to act as an advocate for the customer, advocating for lower costs wherever possible.

For all project leads that are generated by MCE or Implementer and have an anticipated incentive of over \$2,000, a minimum of two (2) competitive bids must be received for the project.

Acceptable claims types may include deemed calculations and custom calculations. Once available to the Program as an approved savings methodology and when MCE deems appropriate, meter-based savings may also be used as the basis for savings claims.

Task 3: Qualify and Manage Vendors

Timeline for completion: Ongoing

Implementer must perform vendor qualification, training, and management using existing processes. Implementer's screening of vendors includes an application, verification of California contractor's license, and verification of insurance (general liability, auto, workers' compensation) coverage. Enrolled vendors receive support and training, including an initial one-on-one training with Implementer as well as ongoing support. Program vendors may be assigned individual projects, and/or they may bring in their own project leads.

Implementer will also provide support to customers or facilities managers who opt to self-install a project or otherwise complete a project without a vendor's involvement.

Quality Assurance: Implementer will inspect 100 percent of completed projects. If any vendor receives a poor customer satisfaction review or unsatisfactory inspection results from a project, they may be suspended from Program participation.

Task 4: Coordinate with other Programs and/or Contractors**Timeline for completion: Ongoing**

At the direction of MCE, Implementer will coordinate and cooperate with other energy efficiency programs and/or other Program contractors to streamline Program delivery, reduce customer confusion, and align measures and customer incentives as directed by MCE. This may result in a request by MCE to limit scope of services (by geographic area served, or targeted measures), or to focus services in specific areas.

Task 5: Program Operations**Timeline for completion: Ongoing**

Implementer will employ a customer engagement program strategy which leverages direct customer outreach, contractor-sourced customer enrollment, and referrals. The key elements are listed below in chronological order:

- Lead Generated
- Customer Contact Sequence
 - Introductions
 - Discuss efficiency program details
 - Schedule a site visit
 - Complete Access Agreement form (TBD)
- Site Visit
 - Perform detailed audit/survey
 - Obtain copy of utility bill
 - Determine building type and usage data
 - Obtain customer objectives, areas of concern/importance
 - Discuss Program details and respond to questions
- Generate Proposal
 - Data entry
 - Obtain pricing
 - Generate written proposal
- Presentation of Proposal to Customer
- Installation
- Verification
- Monthly reporting

Task 6: MCE & CPUC Reporting**Timeline for completion: Ongoing through March 31, 2021**

Implementer will submit application paperwork to MCE in accordance with MCE's current reporting practices. Such Monthly Reporting documentation will include:

- Monthly Invoice
- Monthly Reporting (MCE's mandatory sections), Running totals of projects and a Monthly Report
- Scanned project paperwork as required by MCE program managers.

Reporting practices will change as MCE launches a project management platform, for which Implementer will use a tailored portal to enter in new project details, which will be updated through various project stages through to the final invoicing and payment. The platform will capture key project details based on Implementer's input, which MCE staff will then use for reporting needs. In addition, Contractor will report the quarterly data to external reviewers, which covers:

- Claims
- Contract Claim
- Contact Info
- Custom Measures
- Deemed Measures
- Program Cost
- Site claims
- Site-PII Claims
- Water Measures

EXHIBIT B
FEES AND PAYMENT SCHEDULE

For program implementation services provided under this Agreement, MCE shall pay Implementer a performance fee for net kWh savings claimed with the CPUC, in accordance with the following payment schedule:

2020 Implementation Budget for services delivered between January 1 and December 31, 2020				
<i>Cost Item</i>	<i>Unit Cost</i>	<i>Unit</i>	<i>Quantity</i>	<i>Estimated Total Cost (NTE)</i>
Program Performance Fees* per net kWh saved	\$0.22	kWh	1,400,000	\$308,000
Program Performance Fees* per net therm saved	\$0.80	therm	25,000	\$20,000
Additional projects as requested				\$65,600
Total Contract (NTE)				\$393,600
*Performance fees will be invoiced and paid on a monthly basis, with an annual true-up to account for revisions to final savings claims, based on MCE, EM&V and/or CPUC review. This payment is predicated upon substantial progress or completion, as applicable, of the Tasks set forth in Exhibit A. Customer rebates and incentives will be paid at average rates of \$0.28/kWh and \$1.50/therm saved				

Implementer shall bill MCE monthly. In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of **\$393,600** for the term of the Agreement.



December 6, 2019

TO: MCE Executive Committee
FROM: Brett Wiley, Customer Programs Manager
RE: First Agreement with EV Charging Pros (Agenda Item #05 - C.7)
ATTACHMENT: Proposed First Agreement with EV Charging Pros

Dear Executive Committee Members:

SUMMARY:

The proposed First Agreement with EV Charging Pros would provide MCE with a technical assistance provider to support our customers in assessing their site, electrical system, and vendor proposals to more efficiently and effectively complete their EV charging projects.

Background:

Since 2018, MCE's MCEv Charging Program has provided rebates and customer support for the installation and hardware of EV charging at workplaces and multi-family properties. During the FY 2018/19 program, the main reason customers did not move forward with a project despite their interest and property qualifications was the lack of in-house expertise to manage these projects. In launching MCE's FY 2019/20 program, MCE staff are seeking to add a technical assistance provider that has the experience in this field and can provide a value-added technical service to our customers. Their services would include:

- Visiting and assessing the site to educate the customer and improve the location of EV chargers;
- Completing a load study to assess the ability of the customer's current electric system to handle EV technology and to determine what upgrades may be needed to move forward with the project;
- Supporting the customer's review of EV charging vendors proposals so they can make a more informed decision; and
- Availability to answer technical questions that could otherwise slow or stop a project. Examples include recommending charger user fees and complying with ADA.

The proposed First Agreement is the result of due diligence in reviewing vendors who could provide this service and determination to sole source. EV Charging Pros, a Marin County business, has provided independent consultation and technical assistance on hundreds of EV charging projects throughout the Bay Area since 2011. Their experience with commercial property owners, workplaces, multi-family property owners, and Home Owners Associations is aligned with the customers in our EV charging program.

Under the proposed First Agreement, services would be provided by EV Charging Pros during the contract term beginning December 6, 2019 and ending on November 30, 2020. The maximum cost to MCE under the Agreement would be \$140,000.

Fiscal Impact: The proposed budget of \$140,000 would be covered under the already approved \$1,500,000 FY19/20 budget for MCE's transportation electrification programs. These funds are sourced from the Local Renewable Energy & Program Development Fund, which is generated by half of the 1 cent adder for every kWh of Deep Green electricity purchased by MCE customers.

Recommendation: Approve the proposed First Agreement with EV Charging Pros.

**MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT**

**FIRST AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND EV CHARGING PROS**

THIS FIRST AGREEMENT ("Agreement") is made and entered into this day **December 6, 2019** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and EV CHARGING PROS, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the following services: technical support for multifamily and workplace electric vehicle program;

WHEREAS, Contractor warrants that it is qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by MCE, the parties agree to the following:

1. SCOPE OF SERVICES:

Contractor agrees to provide all of the services described in **Exhibit A** attached hereto and by this reference made a part hereof.

2. FURNISHED SERVICES:

MCE agrees to make available all pertinent data and records for review, subject to MCE Policy 001 - Confidentiality.

3. FEES AND PAYMENT SCHEDULE; INVOICING:

The fees and payment schedule for furnishing services under this Agreement shall be based on the rate schedule which is attached hereto as **Exhibit B** and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the Agreement. Contractor shall provide MCE with his/her/its Federal Tax I.D. number prior to submitting the first invoice. Contractor is responsible for billing MCE in a timely and accurate manner. Contractor shall email invoices to MCE on a monthly basis for any services rendered or expenses incurred hereunder. Fees and expenses invoiced beyond 90 days will not be reimbursable. The final invoice must be submitted within 30 days of completion of the stated scope of services or termination of this Agreement. MCE will process payment for undisputed invoiced amounts within 30 days.

4. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$145,000**.

5. TIME OF AGREEMENT:

This Agreement shall commence on **December 6, 2019**, and shall terminate on **November 30, 2020**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

6. INSURANCE AND SAFETY:

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to MCE. The general liability policy shall be endorsed naming Marin Clean Energy and its employees, officers and agents as additional insureds. The certificate(s) of insurance and required endorsement shall be furnished to MCE prior to commencement of work. Each certificate shall provide for thirty (30) days advance written notice to MCE of any cancellation or reduction in coverage. Said policies shall remain in force through the life of this Agreement and shall be payable on a per occurrence basis only, except those required by paragraph 6.4 which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation on Contractor's obligations under paragraph 16 of this Agreement to indemnify, defend and hold MCE harmless from any and all liabilities arising from the Contractor's negligence, recklessness or willful misconduct in the performance of this Agreement. MCE agrees to timely notify the Contractor of any negligence claim.

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

6.1 GENERAL LIABILITY

The Contractor shall maintain a commercial general liability insurance policy in an amount of no less than one million dollars (\$1,000,000) with a two million dollar (\$2,000,000) aggregate limit. MCE shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page. (see sample form: ISO - CG 20 10 11 85).

6.2 AUTO LIABILITY

Where the services to be provided under this Agreement involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars combined single limit (\$1,000,000.00).

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED)

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

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Agreement without prior written approval of MCE except for any subcontract work identified herein. If Contractor hires a subcontractor under this Agreement, Contractor shall require subcontractor to provide and maintain insurance coverage(s) identical to what is required of Contractor under this Agreement and shall require subcontractor to name Contractor as additional insured under this Agreement. It shall be Contractor's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to MCE evidence of same. Nothing contained in this Agreement or otherwise stated between the parties shall create any legal or contractual relationship between MCE and any subcontractor, and no subcontract shall relieve Contractor of any of its duties or obligations under this Agreement. Contractor shall be solely responsible for ensuring its subcontractors' compliance with the terms and conditions of this Agreement. Contractor's obligation to pay its subcontractors is an independent obligation from MCE's obligation to make payments to Contractor. As a result, MCE shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

9. ASSIGNMENT:

The rights, responsibilities and duties under this Agreement are personal to the Contractor and may not be transferred or assigned without the express prior written consent of MCE.

10. RETENTION OF RECORDS AND AUDIT PROVISION:

Contractor and any subcontractors authorized by the terms of this Agreement shall keep and maintain on a current basis full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to this Agreement. Such records shall include, but not be limited to, documents supporting all income and all expenditures. MCE shall have the right, during regular business hours, to review and audit all records relating to this Agreement during the Contract period and for at least five (5) years from the date of

the completion or termination of this Agreement. Any review or audit may be conducted on Contractor's premises or, at MCE's option, Contractor shall provide all records within a maximum of fifteen (15) days upon receipt of written notice from MCE. Contractor shall refund any monies erroneously charged. Contractor shall have an opportunity to review and respond to or refute any report or summary of audit findings, and shall promptly refund any overpayments made by MCE based on undisputed audit findings.

11. WORK PRODUCT:

All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Contractor, its officers, employees and agents in the course of implementing this Agreement shall become the sole property of MCE upon payment to Contractor for such work. MCE shall have the exclusive right to use such materials in its sole discretion without further compensation to Contractor or to any other party. Contractor shall, at MCE's expense, provide such reports, plans, studies, documents and writings to MCE or any party MCE may designate, upon written request. Contractor may keep file reference copies of all documents prepared for MCE.

12. TERMINATION:

- A. If the Contractor fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, MCE may terminate this Agreement by giving five business days' written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving 30 calendar days' written notice to the other party. Notice of termination shall be by written notice to the other parties and be sent by registered mail or by email to the email address listed in Section 19 Invoices; Notices.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s).
- E. MCE may terminate this Agreement if funding for this Agreement is reduced or eliminated by a third-party funding source.

13. AMENDMENT:

This Agreement may be amended or modified only by written agreement of all parties.

14. ASSIGNMENT OF PERSONNEL:

The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to MCE, as is evidenced in writing.

15. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

16. INDEMNIFICATION:

Contractor agrees to indemnify, defend, and hold MCE, its employees, officers, and agents, harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of Contractor's negligence, recklessness or willful misconduct in the performance of this Agreement.

17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. MCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not make any claims, take any actions or assert any remedies against any of MCE's constituent members in connection with this Agreement.

18. COMPLIANCE WITH APPLICABLE LAWS:

The Contractor shall comply with any and all applicable federal, state and local laws and resolutions (including, but not limited to the County of Marin Nuclear Free Zone, Living Wage Ordinance, and Resolution #2005-97 of the Marin County Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Agreement.

19. INVOICES; NOTICES

This Agreement shall be managed and administered on MCE’s behalf by the Contract Manager named below. All invoices shall be submitted by email to:

 Email Address: invoices@mcecleanenergy.org

All other notices shall be given to MCE at the following location:

 Contract Manager: Troy Nordquist

 MCE Address: 1125 Tamalpais Avenue

 San Rafael, CA 94901

 Email Address: contracts@mcecleanenergy.org

 Telephone No.: (415) 464-6027

Notices shall be given to Contractor at the following address:

 Contractor: John Kalb

 Address: 2052 Shady Lane

 Novato, CA 94945

 Email Address: Johnk@evchargingpros.com

 Telephone No.: (415) 717-5241

20. ACKNOWLEDGEMENT OF EXHIBITS

In the event of a conflict between the Terms of this Agreement and the terms in any of the following Exhibits, the terms in this Agreement will govern.

	<input checked="" type="checkbox"/>	<u>Check applicable Exhibits</u>	<u>CONTRACTOR’S INITIALS</u>
<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/>	Scope of Services	
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	Fees and Payment	
<u>EXHIBIT C.</u>	<input checked="" type="checkbox"/>	Insurance Reduction/Waiver	

21. SEVERABILITY

Should any provision of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, such invalidity will not invalidate the whole of this Agreement, but rather, the remainder of the Agreement which can be given effect without the invalid provision, will continue in full force and effect and will in no way be impaired or invalidated.

22. COMPLETE AGREEMENT

This Agreement along with any attached Exhibits constitutes the entire Agreement between the parties. No modification or amendment shall be valid unless made in writing and signed by each party. Failure of either party to enforce any provision or provisions of this Agreement will not waive any enforcement of any continuing breach of the same provision or provisions or any breach of any provision or provisions of this Agreement.

23. COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

APPROVED BY
Marin Clean Energy:

CONTRACTOR:

By: _____

By: _____

Title: _____

Name: _____

Date: _____

Date: _____

By: _____

Chairperson

Date: _____

MODIFICATIONS TO STANDARD SHORT FORM

Standard Short Form Content Has Been Modified

List sections affected: _____

Approved by MCE Counsel: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES (required)

Contractor will provide the following services as directed by MCE.

Contractor will provide technical support for MCE's multifamily and workplace electric vehicle ("EV") charging program. Contractor will work directly with property owners and/or authorized representatives ("Property Owners") to assist up to 40 individual multifamily and workplace properties as they plan how to deploy EV charging infrastructure.

Contractor will complete the following tasks at up to 40 properties ("Planning Project") with an expected 6 weeks, not including holidays or planned vacations, to complete Task 1-4 for each Planning Project:

Task 1 – Perform an Initial Site Visit

Contractor will perform an initial site visit at each property.

1. Contractor will review the physical property, including:
 - a. Electrical considerations
 - b. Parking layout
 - c. Potential ADA issues
2. Contractor will take site photos and request site maps and electrical bills for rate analysis
3. Contractor will provide Property Owners with educational resources approved by MCE, including:
 - a. Documents
 - b. Workshops
4. Contractor will provide Property Owners with a list of items to be gathered and shared with MCE
5. For each initial site visit, Contractor will provide MCE with a site assessment template intended to act as a guide for Contractor's on-site assessment and data collection
6. Contractor will provide site visit documentation to MCE and third-party electricians. Site visit documentation is intended to provide data, perspectives, and photos from the site visit. Site visit documentation will not include any infrastructure recommendations

Task 2 – Perform a Load Study

Contractor will work with third-party electricians to perform load studies and provide EV Ready Upgrade Estimates.

Contractor will perform the following tasks for each Load Study:

1. Contractor will provide a Load Study Template to standardize load study results and EV Ready estimates
2. Contractor will manage Load Studies completed by third-party electricians. Load Studies will include:
 - a. Application and removal of a load logging device
 - b. Analysis of data collected by load logging device
 - c. Load logging devices will be left in place at each property for one week
3. Contractor will provide a report including documentation for both Load Studies and EV Ready Estimates

Contractor will make commercially reasonable efforts to perform 3-5 Load Studies per month dependent on third-party electrician availability.

Task 3 – Create an EV Charging Planning Report

1. Contractor will complete a final report that considers the site requirements, the load study and comparison of up to 3 EVSE and network vendors meeting MCE criteria
 - a. Contractor will create and provide a table/spreadsheet to assist Property Owner in comparing products and services of available EV charging and network vendor.
 - b. Contractor will not make formal recommendations to Property Owners regarding their selection of a EV charging and network vendor
2. EV Charging Planning Report will include budgets with MCE and other rebates included and consideration for costs that might be charged to drivers along with ongoing operating costs (i.e. electricity rates and usage, vendor fees, maintenance)

Task 4 – Perform a Final Site Visit or Call

Contractor will host a meeting or call with Property Owner to present and review the EV Charging Planning Report.

Task 5 – Ongoing Support and Project Review

1. Contractor will be available to answer questions, review bids and explore issues by phone with Property Owner
2. Contractor will work with MCE to review the EV Program and their performance after the completion of 5, 20, and 40 EV Charging Planning Reports

EXHIBIT B
FEES AND PAYMENT SCHEDULE

Contractor will bill upon start and completion of each Planning Project according to the rate schedule below:

Start of Planning Project	\$1,812.50
Upon completion of Final Site Visit or Call	\$1,812.50
Total (per Planning Project)	\$3,625

In no event will the total cost of services included under this Agreement exceed the maximum sum of **\$145,000**.

EXHIBIT C
INSURANCE REDUCTION/WAIVER (if applicable) AI #05_C.7_Att: 1st Agrmt w/EV Charging Pros

CONTRACTOR: EV Charging Pros
 CONTRACT TITLE: 1st Agreement by and between Marin Clean Energy and EV Charging Pros

This statement shall accompany all requests for a reduction/waiver of insurance requirements. Please check the box if a waiver is requested or fill in the reduced coverage(s) where indicated below:

	<i>Check Where Applicable</i>	<i>Requested Limit Amount</i>	<i>MCE Use Only</i>
General Liability Insurance	<input type="checkbox"/>	\$	
Automobile Liability Insurance	<input type="checkbox"/>	\$	
Workers' Compensation Insurance* *Sole Proprietors must provide representation of their exempt status below	<input checked="" type="checkbox"/>		
Professional Liability Deductible	<input type="checkbox"/>	\$	

Please set forth the reasons for the requested reductions or waiver.

Workers' Compensation Insurance requirement waived because Contractor is a sole proprietor, as evidenced by the statement below

WORKERS' COMPENSATION STATEMENT OF EXEMPTION	
By signing below, I notify MCE that I am a	
<input type="checkbox"/> sole proprietor	<input type="checkbox"/> partnership
<input type="checkbox"/> nonprofit organization	<input type="checkbox"/> closely held corporation
and do not have any employees whose employment requires me to carry workers' compensation insurance. Therefore, I do not carry worker's compensation insurance coverage.	
Contractor Signature	_____
Printed Name of Contractor	_____
Date	_____

Contract Manager Signature: _____

Date: _____

Telephone: _____

Approved by: _____

Date: _____



December 6, 2019

TO: MCE Executive Committee

FROM: Shalini Swaroop, General Counsel

RE: Second Amendment to the Fourth Agreement with Keyes & Fox, LLP (Agenda Item #05 – C.8)

ATTACHMENTS: A. Draft Second Amendment to Fourth Agreement with Keyes & Fox, LLP
B. First Amendment to the Fourth Agreement with Keyes & Fox, LLP
C. Fourth Agreement with Keyes & Fox, LLP

Dear Executive Committee Members:

SUMMARY:

Keyes and Fox, LLP provides legal and regulatory services for MCE. Specifically, Keyes & Fox has provided assistance on the Electric Energy Resource Recovery Account (ERRA) proceedings, the PG&E General Rate Case, energy efficiency issues, including the Low Income Families and Tenants application, and other regulatory proceedings as requested. In addition, Keyes and Fox, LLP, provides legal support for complex contract transactions, such as the Calpine contract for billing and data services.

MCE staff has prepared the Second Amendment to the Fourth Agreement with Keyes & Fox, LLP adding \$20,000 to continue the above services with a new maximum cost not to exceed \$120,000.

Fiscal Impacts: Costs related to this Agreement are included in the FY 2019/20 Operating Fund Budget that was approved by the Board of Directors at its meeting on March 21, 2019.

Recommendation: Approve the Second Amendment to the Fourth Agreement with Keyes & Fox, LLP.

**SECOND AMENDMENT TO FOURTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND KEYES & FOX, LLP**

This SECOND AMENDMENT is made and entered into on December 6, 2019, by and between MARIN CLEAN ENERGY, (hereinafter referred to as “MCE”) and KEYES & FOX, LLP (hereinafter referred to as “Contractor”).

RECITALS

WHEREAS, MCE and Contractor entered into an agreement to provide regulatory filings and advocacy before the CPUC as directed by MCE dated April 17, 2019 and amended on July 3, 2019 (“Agreement”); and

WHEREAS, Section 4 and Exhibit B to the Agreement, as amended, provided for Contractor to be compensated in an amount not to exceed \$100,000 for the regulatory filings and advocacy described within the scope therein; and

WHEREAS the parties desire to further amend the Agreement to increase the contract amount by \$20,000 for total consideration not to exceed \$120,000; and

WHEREAS, Exhibit B to the Agreement, as amended, specified the hourly rates at which MCE would compensate Contractor for the regulatory filings and advocacy described within the scope therein; and

WHEREAS, the parties desire to further amend the Agreement to modify the hourly rates.

NOW, THEREFORE, the parties agree to modify Section 4 and Exhibit B as set forth below.

AGREEMENT

1. Section 4 is hereby amended to read as follows:

MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$120,000**.

2. Exhibit B is hereby replaced in its entirety to read as follows:

For services provided under this Agreement, MCE shall pay Contractor in accordance with the amount(s) and the payment schedule as specified below:

2019 Rates (April 1, 2019 – December 31, 2019)

Staff Member	Hourly Rate
Attorneys	
Jason Keyes	\$310/hr
Kevin Fox	\$340/hr
Sheridan Pauker	\$330/hr and \$360/hr for transactional work
Tim Lindl	\$275/hr
Jake Schlesinger	\$250/hr
S Dunbar	\$220/hr
Julia Kantor	\$230/hr
Beren Artesinger	\$200/hr

Non-Attorneys

Miriam Makhyoun	\$190/hr
Justin Barnes	\$170/hr
Laurel Passera	\$140/hr
Ben Inskeep	\$135/hr
Blake Elder	\$110/hr
Vannessa Luthringer	\$90/hr

2020 Rates (Effective January 1, 2020 – March 31, 2020)

Staff Member Hourly Rate

Attorneys

Jason Keyes	\$320/hr
Kevin Fox	\$360/hr
Sheridan Pauker	\$350/hr and \$385/hr for transactional work
Tim Lindl	\$295/hr
Jake Schlesinger	\$275/hr
S Dunbar	\$245/hr
Julia Kantor	\$225/hr
Melissa Birchard	\$220/hr
Beren Artesinger	\$210/hr

Non-Attorneys

Miriam Makhyoun	\$185/hr
Justin Barnes	\$180/hr
Laurel Passera	\$150/hr
Ben Inskeep	\$145/hr
Blake Elder	\$120/hr
Vannessa Luthringer	\$95/hr

For any matter requested through an executed Joint Representation Agreement, Contractor shall only bill MCE for its respective share for the cost of Contractor’s services under the mutually agreed upon not to exceed amount for that matter. In no event shall MCE be liable for any amount(s) owed to Contractor by any other Joint client for its respective share of the costs of Contractor’s services, unless otherwise agreed in writing by MCE.

Contractor shall bill in .10-hour increments on a monthly basis for all services rendered. In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of **\$120,000** for the term of the Agreement.

3. Except as otherwise provided herein all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment on the day first written above.

CONTRACTOR:

MARIN CLEAN ENERGY:

By: _____

By: _____

Date: _____

Date: _____

MARIN CLEAN ENERGY:

By: _____

Date: _____

**FIRST AMENDMENT TO FOURTH AGREEMENT
BY AND BETWEEN MARIN CLEAN ENERGY
AND KEYES & FOX, LLP**

This FIRST AMENDMENT is made and entered into on July 3, 2019, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and KEYES & FOX, LLP, (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and the Contractor entered into an agreement on April 17, 2019, to provide regulatory filings and advocacy before the CPUC ("Agreement"); and

WHEREAS, Exhibit A to the Agreement specified the tasks Contractor will complete for the regulatory filings and advocacy as described in the scope therein; and

WHEREAS the parties desire to amend the Agreement to modify the scope of work of the Agreement; and

WHEREAS, Exhibit B to the Agreement specified the fees and payment schedule MCE would use to compensate Contractor for services provided; and

WHEREAS the parties desire to amend the Agreement to modify the fees and payment schedule of the agreement:

NOW, THEREFORE, the parties agree to modify Exhibits A and B as set forth below.

AGREEMENT

1. The following language is hereby added to the end of Exhibit A:

Contractor from time to time may work at the direction of MCE and other CCA entities (collectively "Joint Clients) to provide joint legal representation before the California Public Utilities Commission for matters regarding PG&E ERRAs proceedings and PCIA proceedings, or other proceedings requested by the Joint Clients, through a Joint Representation Agreement. Contractor's services will include the necessary filings of the proceeding and any other services requested by the Joint Clients. Contractor and the Joint Clients shall mutually agree on the not to exceed amount for the matter needing joint representation.

Additional Special Terms:

Notwithstanding any other provision in this Agreement, Parties agree that certain work product may be shared and distributed between the Joint Clients when (i) a Joint Representation Agreement has been executed, and (ii) the Joint Clients are responsible for co-funding the joint legal services.

2. The following language is hereby added after the rate table in Exhibit B:

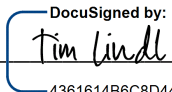
For any matter requested through an executed Joint Representation Agreement, Contractor shall only bill MCE for its respective share for the cost of Contractor's services under the mutually agreed upon not to exceed amount for that matter. In no event shall MCE be liable for any amount(s) owed to Contractor by any other Joint client for its respective share of the costs of Contractor's services, unless otherwise agreed in writing by MCE.

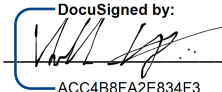
3. Except as otherwise provided herein all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the day first written above.

CONTRACTOR:

MARIN CLEAN ENERGY:

By:  _____
Date:  7/3/2019 _____

By:  _____
Date:  7/3/2019 _____

**MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT**

**FOURTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND KEYES & FOX, LLP**

THIS FOURTH AGREEMENT ("Agreement") is made and entered into this day **April 17, 2019** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and KEYES & FOX, LLP, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the following services: Regulator filings and advocacy before the CPUC as needed and requested by MCE;

WHEREAS, Contractor warrants that it is qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by MCE, the parties agree to the following:

1. SCOPE OF SERVICES:

Contractor agrees to provide all of the services described in **Exhibit A** attached hereto and by this reference made a part hereof.

2. FURNISHED SERVICES:

MCE agrees to make available all pertinent data and records for review, subject to MCE Policy 001 - Confidentiality.

3. FEES AND PAYMENT SCHEDULE; INVOICING:

The fees and payment schedule for furnishing services under this Agreement shall be based on the rate schedule which is attached hereto as **Exhibit B** and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the Agreement. Contractor shall provide MCE with his/her/its Federal Tax I.D. number prior to submitting the first invoice. Contractor is responsible for billing MCE in a timely and accurate manner. Contractor shall email invoices to MCE on a monthly basis for any services rendered or expenses incurred hereunder. Fees and expenses invoiced beyond 90 days will not be reimbursable. The final invoice must be submitted within 30 days of completion of the stated scope of services or termination of this Agreement. MCE will process payment for undisputed invoiced amounts within 30 days.

4. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$100,000**.

5. TIME OF AGREEMENT:

This Agreement shall commence on **April 1, 2019**, and shall terminate on **March 31, 2020**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

6. INSURANCE AND SAFETY:

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to MCE. The general liability policy shall be endorsed naming Marin Clean Energy and its employees, officers and agents as additional insureds. The certificate(s) of insurance and required endorsement shall be furnished to MCE prior to commencement of work. Each certificate shall provide for thirty (30) days advance written notice to MCE of any cancellation or reduction in coverage. Said policies shall remain in force through the life of this Agreement and shall be payable on a per occurrence basis only, except those required by paragraph 6.4 which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation on Contractor's obligations under paragraph 16 of this Agreement to indemnify, defend and hold MCE harmless from any and all liabilities arising from the Contractor's negligence, recklessness or willful misconduct in the performance of this Agreement. MCE agrees to timely notify the Contractor of any negligence claim.

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

6.1 GENERAL LIABILITY

The Contractor shall maintain a commercial general liability insurance policy in an amount of no less than one million dollars (\$1,000,000) with a two million dollar (\$2,000,000) aggregate limit. MCE shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page. (see sample form: ISO - CG 20 10 11 85).

6.2 AUTO LIABILITY

Where the services to be provided under this Agreement involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars combined single limit (\$1,000,000.00).

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED)

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

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Agreement without prior written approval of MCE except for any subcontract work identified herein. If Contractor hires a subcontractor under this Agreement, Contractor shall require subcontractor to provide and maintain insurance coverage(s) identical to what is required of Contractor under this Agreement and shall require subcontractor to name Contractor as additional insured under this Agreement. It shall be Contractor's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to MCE evidence of same. Nothing contained in this Agreement or otherwise stated between the parties shall create any legal or contractual relationship between MCE and any subcontractor, and no subcontract shall relieve Contractor of any of its duties or obligations under this Agreement. Contractor shall be solely responsible for ensuring its subcontractors' compliance with the terms and conditions of this Agreement. Contractor's obligation to pay its subcontractors is an independent obligation from MCE's obligation to make payments to Contractor. As a result, MCE shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

9. ASSIGNMENT:

The rights, responsibilities and duties under this Agreement are personal to the Contractor and may not be transferred or assigned without the express prior written consent of MCE.

10. RETENTION OF RECORDS AND AUDIT PROVISION:

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

11. WORK PRODUCT:

All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Contractor, its officers, employees and agents in the course of implementing this Agreement shall become the sole property of MCE upon payment to Contractor for such work. MCE shall have the exclusive right to use such materials in its sole discretion without further compensation to Contractor or to any other party. Contractor shall, at MCE's expense, provide such reports, plans, studies, documents and writings to MCE or any party MCE may designate, upon written request. Contractor may keep file reference copies of all documents prepared for MCE.

12. TERMINATION:

- A. If the Contractor fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, MCE may terminate this Agreement by giving five business days' written notice to the party involved.

- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving 30 calendar days' written notice to the other party. Notice of termination shall be by written notice to the other parties and be sent by registered mail or by email to the email address listed in Section 19 Invoices; Notices.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s).
- E. MCE may terminate this Agreement if funding for this Agreement is reduced or eliminated by a third-party funding source.

13. AMENDMENT:

This Agreement may be amended or modified only by written agreement of all parties.

14. ASSIGNMENT OF PERSONNEL:

The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to MCE, as is evidenced in writing.

15. JURISDICTION AND VENUE:

This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

16. INDEMNIFICATION:

Contractor agrees to indemnify, defend, and hold MCE, its employees, officers, and agents, harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of Contractor's negligence, recklessness or willful misconduct in the performance of this Agreement.

17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. MCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Contractor shall have no rights and shall not make any claims, take any actions or assert any remedies against any of MCE's constituent members in connection with this Agreement.

18. COMPLIANCE WITH APPLICABLE LAWS:

The Contractor shall comply with any and all applicable federal, state and local laws and resolutions (including, but not limited to the County of Marin Nuclear Free Zone, Living Wage Ordinance, and Resolution #2005-97 of the Marin County Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Agreement.

19. INVOICES; NOTICES

This Agreement shall be managed and administered on MCE's behalf by the Contract Manager named below. All invoices shall be submitted by email to:

Email Address: invoices@mcecleanenergy.org

All other notices shall be given to MCE at the following location:

Contract Manager: Troy Nordquist

MCE Address: 1125 Tamalpais Avenue

San Rafael, CA 94901

Email Address: contracts@mcecleanenergy.org

Telephone No.: (415) 464-6027

Notices shall be given to Contractor at the following address:

Contractor: Tim Lindl

Address: 436 14th Street, Suite 1305

Oakland, CA 94612

Email Address: tlindle@keyesfox.com

Telephone No.: (510) 314-8385

20. ACKNOWLEDGEMENT OF EXHIBITS

In the event of a conflict between the Terms of this Agreement and the terms in any of the following Exhibits, the terms in this Agreement will govern.

	<input checked="" type="checkbox"/>	<u>Check applicable Exhibits</u>	<u>CONTRACTOR'S INITIALS</u>
<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/>	Scope of Services	DS TL
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	Fees and Payment	DS TL

21. SEVERABILITY

Should any provision of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, such invalidity will not invalidate the whole of this Agreement, but rather, the remainder of the Agreement which can be given effect without the invalid provision, will continue in full force and effect and will in no way be impaired or invalidated.

22. COMPLETE AGREEMENT

This Agreement along with any attached Exhibits constitutes the entire Agreement between the parties. No modification or amendment shall be valid unless made in writing and signed by each party. Failure of either party to enforce any provision or provisions of this Agreement will not waive any enforcement of any continuing breach of the same provision or provisions or any breach of any provision or provisions of this Agreement.

23. COUNTERPARTS

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

APPROVED BY

Marin Clean Energy:

By: DocuSigned by: Dawn Weisz
A59878416EBC4F8...
 Title: CEO
 Date: 4/16/2019

CONTRACTOR:

By: DocuSigned by: Tim Lindl
4361614B4C8D412...
 Name: Tim Lindl
 Date: 4/17/2019

MODIFICATIONS TO STANDARD SHORT FORM

Standard Short Form Content Has Been Modified

List sections affected: _____

Approved by MCE Counsel: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES (required)

Contractor will provide task-specific legal and regulatory services and assistance at the direction of the General Counsel up to the maximum time/fees allowed under this Agreement.

EXHIBIT B
FEES AND PAYMENT SCHEDULE

For services provided under this Agreement, MCE shall pay Contractor in accordance with the amount(s) and the payment schedule as specified below:

Staff Member	Hourly Rate
Attorneys	
Jason Keyes	\$310/hr
Kevin Fox	\$340/hr
Sheridan Pauker	\$330/hr and \$360/hr for transactional work
Tim Lindl	\$275/hr
Jake Schlesinger	\$250/hr
S Dunbar	\$220/hr
Julia Kantor	\$230/hr
Beren Artesinger	\$200/hr
Non-Attorneys	
Miriam Makhyoun	\$190/hr
Justin Barnes	\$170/hr
Laurel Passera	\$140/hr
Ben Inskeep	\$135/hr
Blake Elder	\$110/hr
Vannessa Luthringer	\$90/hr

Contractor shall bill in .10 hour increments on a monthly basis for all services rendered. In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of **\$100,000** for the term of the Agreement.



December 6, 2019

TO: MCE Executive Committee

FROM: Heather Shepard, Director of Public Affairs
Catalina Murphy, Legal Counsel

RE: Amended and Restated Master Professional Services Agreement
with Calpine Energy Solutions (Agenda Item #06)

ATTACHMENTS: A. Draft Proposed Amended and Restated Master Professional
Services Agreement with Calpine Energy Solutions
B. Appendix A

Dear Executive Committee Members:

SUMMARY:

In May 2010 Calpine Energy Solutions (formerly Noble Americas Energy Solutions LLC and Sempra) began providing MCE with data management, billing and call center operations and QRE services. The proposed Amended and Restated Master Professional Services Agreement (“MPSA”) would allow for Calpine Energy Solutions to continue providing these essential services between December 06, 2019 and December 31, 2022. Based on current MCE customer account volume, the projected annual cost savings from this Agreement is 7% less than the current fiscal year budgeted amount of \$6,270,000.

Term	Meter Count	Current Agreement	Proposed Agreement (MPSA)	Estimated Savings
3 year (36 months)	484,000	\$1.05/meter	\$25,000/month fixed charge \$.895 per Service Account/month	
Estimated Annual Totals		\$6,098,400	\$5,498,160	7%

Proposed Agreement Amendments: Managing MCE's data, billing and contact center operations are critical functions that support our data exchanges with PG&E and ensure MCE's charges are accurately reflected on customer bills. Additional changes and enhancements of the proposed Amended and Restated MPSA include:

- Moved contract to new standard Master Professional Services Agreement form using MCE's standard terms and conditions.
- Created one scope of work where previously the Data Manager and Qualified Reporting Entity (QRE) services were outlined in separate addenda.
- Pricing structure has fixed and variable components, cost efficiencies were identified and annual costs are estimated to be ~7% less than current contract. However, this assumes a static customer account base and no change to agreed upon service levels. When MCE adds customers in 2020 and 2021, new accounts would be subject to the per service account fee.
- Structured to support MCE's development of our own data warehouse/repository with Calpine's assistance.
- Removal of auto renewal from existing contract.
- Contract Termination: At the 24 and 30 month mark MCE has the option to terminate for convenience with 6 months' notice.
- At the end of this proposed Agreement, MCE would have the option of issuing an RFP for future support or propose to this Committee that MCE enters in new Agreement with Calpine.

Staff are finalizing some of the outstanding commercial terms and the most current draft copy is attached to this staff report.

Fiscal Impacts: This Amended and Restated Agreement will yield a savings of approximately 7%. The fees will include a base fixed price of \$25,000/month and two variable components: a per service account fee that varies (\$.895 to \$.88) depending on service level; and, a \$150/hour charge for additional a la carte services that are not specified in Exhibit A.

MCE has budgeted \$6,270,000 for these services in fiscal year 2019/20 and this Amended and Restated Agreement will result in a savings during this fiscal year. Costs related to the referenced agreement will be included in the fiscal year 2020/21 budget, and other future budgets as applicable.

Recommendation: Direct staff to complete the contract negotiations and execute the Amended and Restated Master Professional Services Agreement with Calpine Energy Solutions.

AMENDED AND RESTATED MASTER PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN MARIN CLEAN ENERGY AND CALPINE ENERGY SOLUTIONS

THIS AMENDED AND RESTATED MASTER PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this December 6, 2019 (the "Effective Date") by and between MARIN CLEAN ENERGY ("MCE") and CALPINE ENERGY SOLUTIONS, LLC ("Calpine"). (Each individually a "Party" and collectively "Parties").

RECITALS:

WHEREAS, Marin Energy Authority ("MEA") and Sempra Energy Solutions LLC entered into a Master Professional Services Agreement on March 15, 2010 (the "MPSA").

WHEREAS, MEA entered into that certain Qualified Reporting Entity Services Agreement with Noble Americas Energy Solutions LLC ("NES") on February 20, 2013 (the "QRES Agreement").

WHEREAS, MEA changed its name to Marin Clean Energy on December 5, 2013, as filed with the California Secretary of State on January 27, 2014, and MCE is the successor entity to Marin Energy Authority.

WHEREAS, Calpine Energy Solutions is the successor entity to Sempra Energy Solutions LLC and to NES.

WHEREAS, the "Addendum" to the MPSA was amended five (5) times, and most recently MCE and Calpine entered into that certain Sixth Addendum for Data Manager Services to the MPSA on March 15, 2018 (the "Sixth Addendum").

WHEREAS, MCE and Calpine wish to amend and restate the MPSA in its entirety and replace it with this Agreement.

WHEREAS, MCE and Calpine wish to amend and restate the Sixth Addendum in its entirety and replace it with **Exhibit A** hereto;

WHEREAS, MCE and Calpine wish to amend and restate the QRES Agreement in its entirety, replacing it with this Agreement and **Exhibit B** hereto.

WHEREAS, Calpine warrants that it is qualified and competent to render the Services set forth herein;

NOW, THEREFORE, for and in consideration of the mutual benefits, obligations, covenants and consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, MCE and Calpine agree to amend and restate the MPSA as follows:

AGREEMENT:

1. SCOPE OF SERVICES:

Calpine agrees to provide all of the services described in **Exhibit A** and **Exhibit B** attached hereto and by this reference made a part hereof. "Services" shall mean all of the services described in **Exhibit A** and **Exhibit B**, and any other work performed by Calpine pursuant to the Agreement and any related purchase orders.

2. FURNISHED SERVICES:

MCE agrees to make available all pertinent data and records for review, subject to MCE Policy 001 - Confidentiality.

3. FEES AND PAYMENT SCHEDULE; INVOICING:

The fees and payment schedule for furnishing Services under this Agreement shall be as set forth in **Exhibit A** and **Exhibit B** and by this reference incorporated herein. Calpine shall provide MCE with its Federal Tax I.D. number prior to submitting an invoice. Calpine is responsible for billing MCE in a timely and accurate manner. Calpine shall email invoices to MCE on a monthly basis for any Services rendered or expenses incurred hereunder. *[Fees and expenses invoiced beyond 90 days will not be reimbursable. The final invoice must be submitted within 30 days of completion of the stated scope of services or termination of this Agreement.]* MCE will process payment for undisputed invoiced amounts within 30 days of receipt. MCE shall have the right to set off against such payment any amounts due and owing by Calpine to MCE.

- 4. FORCE MAJEURE:** *["A Party shall be excused from performance under this Agreement and shall not be considered in default with respect to any obligation hereunder (other than obligations to pay money), if, and to the extent, its failure of, or delay in, performance is due to a Force Majeure Event; provided, however, that (a) such claiming Party gives written notice and full particulars of such Force Majeure Event to the other Party promptly after the occurrence of the event relied on, (b) such notice shall estimate the expected duration and probable impact on the performance of such Party's obligations hereunder, (c) such affected Party shall continue to furnish timely regular reports with respect thereto during the continuation of the delay in the affected Party's performance, (d) the suspension of such obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure Event, (e) no obligation or liability of either Party which became due or arose before the occurrence of the event causing the suspension of performance shall be excused as a result of the occurrence; (f) the affected Party shall exercise all commercially reasonable efforts to mitigate or limit the interference, impairment and losses to the other Party by promptly taking appropriate and sufficient corrective action; (g) when the affected Party is able to resume performance of the affected obligations under this Agreement, the affected Party shall give the other Party written notice to that effect, and (h) the affected Party promptly shall resume performance under this Agreement. The term "Force Majeure Event" means the occurrence of any event beyond the reasonable control and without the fault or negligence of the Party affected that results in the failure or delay by such Party of some performance under this Agreement, in full or part, including but not limited to the following: drought, flood, earthquake, storm, fire, volcanic eruption, lightning, epidemic, war, pests, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a governmental authority, . Notwithstanding the foregoing, Force Majeure Events shall expressly not include lack of financial resources, material cost increases in commodities or labor, or other economic conditions."]*

5. TERM OF AGREEMENT:

This Agreement shall become effective on **December 6, 2019**, and shall continue, unless terminated earlier in accordance with the terms of this Agreement, until **December 31, 2019** (the "Term"). Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Calpine.

6. INSURANCE AND SAFETY:

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to MCE. The general liability policy shall be endorsed naming Marin Clean Energy and its employees, officers and agents as additional insureds. *[The certificate(s) of insurance and required endorsement shall be furnished to MCE prior to commencement of work. Each certificate shall provide for thirty (30) days advance written notice to MCE of any cancellation or reduction in coverage.]* Said policies shall remain in force through the life of this Agreement and shall be payable on a per occurrence basis only, except those required by paragraph 6.4 and 6.5 which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation on Calpine's obligations under paragraph 17 of this Agreement. MCE agrees to timely notify Calpine upon MCE learning of any negligence claim.

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

6.1 GENERAL LIABILITY

Calpine shall maintain a commercial general liability insurance policy in an amount of no less than two million dollars (\$2,000,000) with a four million dollar (\$4,000,000) aggregate limit. MCE shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include a blanket copy of the endorsement. (see sample form: ISO - CG 20 10 11 85).

6.2 AUTO LIABILITY

Where the Services to be provided under this Agreement involve or require the use of any type of vehicle by Calpine in order to perform said Services, Calpine shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars combined single limit (\$1,000,000.00).

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED)

Coverages required by this paragraph may be provided on a claims-made basis with a "Retroactive Date" either prior to the date of the Agreement or the beginning of the contract work. If the policy is on a claims-made basis, coverage must extend to a minimum of twelve (12) months beyond completion of contract work. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "retroactive date" prior to the Agreement effective date, Calpine must purchase "extended reporting" coverage for a minimum of twelve (12) months after completion of contract work. Calpine shall maintain a policy limit of no less than \$1,000,000 per incident. Any deductible or self-insured retention amounts shall be borne by Calpine.

6.5 PRIVACY AND CYBERSECURITY LIABILITY. Privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs) of at least \$1,000,000 US per incident.

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. SUBCONTRACTING:

Calpine shall not subcontract nor assign any portion of the work required by this Agreement without prior written approval of MCE except for any subcontract work identified herein, which such approval shall not be unreasonably withheld, conditioned or delayed. If Calpine hires a subcontractor under this Agreement, Calpine shall require subcontractor to provide and maintain insurance coverage(s) *["identical to what is required of Calpine under this Agreement and shall require subcontractor to name Calpine as additional insured under this Agreement that are reasonable and customary to the services being performed."]* It shall be Calpine's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to MCE evidence of same. Nothing contained in this Agreement or otherwise stated between the Parties shall create any legal or contractual relationship between MCE and any subcontractor, and no subcontract shall relieve Calpine of any of its duties or obligations under this Agreement. Calpine shall be solely responsible for ensuring its subcontractors' compliance with the terms and conditions of this Agreement. Calpine's obligation to pay its subcontractors is an independent obligation from MCE's obligation to make payments to Calpine. As a result, MCE shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

9. ASSIGNMENT:

The rights, responsibilities and duties under this Agreement are personal to Calpine and may not be transferred or assigned without the express prior written consent of MCE, which shall not be unreasonably withheld, conditioned or delayed.

10. RETENTION OF RECORDS AND AUDIT PROVISION:

Calpine and any subcontractors authorized by the terms of this Agreement shall keep and maintain on a current basis full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to this Agreement. Such records shall include, but not be limited to, documents supporting all income and all expenditures. *["No more than once per calendar year, unless required more by law, MCE shall have the right, at its own cost and expense, to review and audit all records relating to this Agreement during the Contract period and for at least five (5) years from the date of the completion or termination of this Agreement. Any review or audit may be conducted off of Calpine's premises, or, Calpine shall have the option to provide all records within a maximum of fifteen (15) days upon receipt of written notice from MCE."]* Calpine shall have an opportunity to review and respond to or refute any report or summary of audit findings, and shall promptly refund any overpayments made by MCE based on undisputed audit findings.

11. WORK PRODUCT:

["All finished and unfinished reports, records, databases, lists, data files, customer communications and correspondence, customer bills and invoices, training materials, recordings, plans, studies, documents and other writings prepared by and for Calpine, its officers, employees and agents in the course of implementing this Agreement shall become the sole property of MCE upon payment to Calpine for such work. MCE shall have the exclusive right to use such materials in its sole discretion without further compensation to Calpine or to any other party. Calpine shall, at MCE's expense, provide such reports, plans, studies, documents and writings to MCE or any party MCE may designate, upon written request. Calpine may keep file reference copies of all documents prepared for MCE."]

12. TERMINATION:

[MCE & Calpine are still discussing final terms.]

13. AMENDMENT:

This Agreement may be amended or modified only by written agreement of all Parties.

14. ASSIGNMENT OF PERSONNEL:

Calpine may substitute any key personnel performing the Services for those specifically named in a list provided to MCE (the "Calpine Applicable Personnel List") with personnel with substantially equal or better qualifications and experience as determined by Calpine. Calpine shall update the Calpine Applicable Personnel List and provide it to MCE whenever such a change is made.

15. GOVERNING LAW AND VENUE:

This Agreement shall be governed by the internal laws of the State of California, without giving effect to any choice of law rules that may require the application of the laws of another jurisdiction. In the event of any litigation to enforce or interpret any terms of this Agreement, such action shall be brought in a Superior Court of the State of California located in Marin County (or if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in the U.S. District Court for the Northern District of California), and the parties hereby submit to the exclusive jurisdiction of such courts, [*provided, however, that if such courts decline jurisdiction, then a Party may bring suit in any court of competent jurisdiction.*"]

16. DISPUTES:

Either Party may give the other Party written notice of any dispute which has not been resolved at a working level. Any dispute that cannot be resolved between Calpine's contract representative and MCE's contract representative by good faith negotiation efforts shall be referred to legal counsel of MCE and such representative(s) as Calpine may designate for resolution. Within 20 calendar days after delivery of such notice, such persons shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute. If MCE and Calpine cannot reach an agreement within a reasonable period of time (but in no event more than 30 calendar days), MCE and Calpine shall have the right to pursue all rights and remedies that may be available at law or in equity. In particular, Calpine shall have right to request arbitration or mediation to resolve the dispute and MCE shall be required to participate in arbitration or mediation in good faith. All negotiations and any mediation agreed to by the Parties are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and Section 1119 is incorporated herein by reference. [*Notwithstanding anything in the foregoing to the contrary, (i) either Party may take such reasonable measures to perfect/preserve its rights at law and or equity during the pendency of such dispute resolution, and (b) any relevant statute of limitations shall be tolled during the pendency of such attempted resolution.*"]

17. REPRESENTATIONS; WARRANTIES; INDEMNIFICATION:

17.1 LICENSING. At all times during the performance of the Services, Calpine represents, warrants and covenants that it has and shall, and shall cause each Calpine Party to obtain and maintain, at its sole cost and expense, all required licenses and registrations required for the operation of its business and the performance of the Services. Calpine shall promptly provide copies of such licenses and registrations to MCE at the request of MCE.

17.2 GOOD STANDING. Calpine represents and warrants that (a) it is limited liability company duly organized, validly existing and in good standing under the laws of the State of California, (b) it has full power and authority and all regulatory authorizations required to execute, deliver and perform its obligations under this Agreement and all exhibits and addenda and to engage in the business it presently conducts and contemplates conducting, (c) it is and will be duly licensed or qualified to do business and in good standing under the laws of the State of California and each other jurisdiction wherein the nature of its business transacted by it makes such licensing or qualification necessary and where the failure to be licensed or qualified would have a material adverse effect on its ability to perform its obligations hereunder, (d) the execution, delivery and performance of this Agreement and all exhibits and addenda hereto are within its powers and do not violate the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it, (e) this Agreement and each exhibit and addendum constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, and (f) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt.

17.3 SAFETY. During the Term of this Agreement, Calpine continuously represents, warrants and covenants that it shall, and shall cause each Calpine Party to:

(a) abide by all applicable federal and state Occupational Safety and Health Administration requirements and other applicable federal, state, and local rules, regulations, codes and ordinances to safeguard persons and property from injury or damage;

(b) abide by all applicable MCE security procedures, rules and regulations and cooperate with MCE security personnel whenever on MCE's property;

- (c) provide all necessary training to its employees, and require subcontractors to provide training to their employees, about the safety and health rules and standards required under this Agreement; and
- (d) have in place an effective Injury and Illness Prevention Program that meets the requirements all applicable laws and regulations, including but not limited to Section 6401.7 of the California Labor Code. Additional safety requirements (including MCE's standard safety program contract requirements) are set forth elsewhere in the Agreement, as applicable, and in MCE's safety handbooks as may be provided by MCE to Calpine from time to time.

17.4 INDEMNIFICATION. Calpine agrees, [*"to the extent of its negligence or willful misconduct,"*] to indemnify, defend, and hold MCE, its employees, officers, and agents, harmless from any and all losses, claims, damages and liabilities including, but not limited to, third-party claims, litigation costs, attorney's fees, and fines or penalties imposed by a governmental authority arising from any and all claims and losses to any persons or property who may be injured or damaged by reason of Calpine's negligence, recklessness, fraud, breach, violation of applicable law or willful misconduct in the performance of this Agreement. MCE shall promptly notify Calpine in writing about the claim or action for which it seeks indemnification, and provide Calpine with reasonable information and assistance (at Calpine's reasonable expense) to enable Calpine to defend such claim or action. Calpine shall not settle any indemnified claim or disclose the terms of any such settlement, without the MCE's prior written consent, which may not be unreasonably withheld, conditioned or delayed.

17.5 LIMITATION ON DAMAGES. [*"FOR ANY BREACH HEREOF, LIABILITY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, SUCH DIRECT, ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING LOST PROFITS OR BUSINESS INTERRUPTION DAMAGES, WHETHER BASED ON STATUTE, CONTRACT, TORT, UNDER ANY INDEMNITY, INCLUDING ANY CLAIMS FOR MONETARY PENALTIES ASSESSED BY THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR ASSOCIATED WITH THE SETTLEMENT QUALITY METER DATA REPORTING OR OTHERWISE, WITHOUT REGARD TO CAUSE OR THE NEGLIGENCE OF ANY PARTY, WHETHER SOLE, JOINT, ACTIVE OR PASSIVE, AND EACH PARTY HEREBY RELEASES THE OTHER PARTY FROM ANY SUCH LIABILITY, EVEN IF DURING THE TERM HEREOF IT ADVISES THE OTHER OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO ANY CLAIM ARISING FROM A BREACH OF THE CONFIDENTIALITY PROVISIONS OF THIS AGREEMENT AND THE MCE NON-DISCLOSURE AGREEMENT BETWEEN THE PARTIES DATED {DATE}."*] NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, OR OTHER RIGHT UNDER SECTION 17.4, IN NO EVENT SHALL CALPINE'S LIABILITY TO MCE HEREUNDER EXCEED THE AMOUNT OF THE ANNUAL FEES PAID TO CALPINE BY MCE FOR THE SERVICES PROVIDED HEREUNDER. THE PROVISIONS OF THIS SECTION 17.5 SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

18. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. MCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. Calpine shall have no rights and shall not make any claims, take any actions or assert any remedies against any of MCE's constituent members in connection with this Agreement.

19. COMPLIANCE WITH APPLICABLE LAWS:

Calpine shall comply with any and all applicable federal, state and local laws, regulations and resolutions (including, but not limited to all CPUC policies and guidance for energy efficiency programs, the County of Marin Nuclear Free Zone, Living Wage Ordinance (for services performed within the County of Marin), and Resolution #2005-97 of the Marin County Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting Services covered by this Agreement.

20. INVOICES; NOTICES:

This Agreement shall be managed and administered on MCE's behalf by the Contract Manager named below. All invoices shall be submitted by email to:

Email Address: invoices@mcecleanenergy.org

All other notices shall be given to MCE at the following location:

Contract Manager: Troy Nordquist

MCE Address: 1125 Tamalpais Avenue

 San Rafael, CA 94901

Email Address: contracts@mcecleanenergy.org

Telephone No.: (415) 464-6027

Notices shall be given to Calpine at the following address:

Calpine: *[Calpine to provide best contact for notices]*

Address:

Email Address:

Telephone No.:

21. ACKNOWLEDGEMENT OF EXHIBITS:

In the event of a conflict between the Terms of this Agreement and the terms in any of the following Exhibits, the terms in this Agreement will govern.

	<input checked="" type="checkbox"/>	<u>Check applicable Exhibits</u>	<u>CALPINE'S INITIALS</u>
<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/>	Data Manager Services	
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	Qualified Reporting Entity Services	
<u>APPENDIX A.</u>	<input checked="" type="checkbox"/>	General Description of Reports	

22. DATA COLLECTION AND OWNERSHIP REQUIREMENTS:

22.1. DEFINITION OF "MCE DATA". "MCE Data" shall mean all data or information provided by or on behalf of MCE, including but not limited to, customer Personal Information; energy usage data relating to, of, or concerning, provided by or on behalf of any customers; all data or information input, information systems and technology, software, methods, forms, manuals, and designs, transferred, uploaded, migrated, or otherwise sent by or on behalf of MCE to Calpine as MCE may approve of in advance and in writing (in each instance); account numbers, forecasts, account status, information obtained during a customer call, and other similar information disclosed to or otherwise made available to Calpine. MCE Data shall also include all data and materials provided by or made available to Calpine by MCE's licensors, including but not limited to, any and all survey responses, feedback, and reports subject to any limitations or restrictions set forth in the agreements between MCE and their licensors.

“Confidential Information” under this Agreement shall have the same meaning as defined in the Marin Clean Energy Non-Disclosure Agreement between the Parties dated [MONTH YEAR].

22.2. DEFINITION OF “PERSONAL INFORMATION”. “Personal Information” includes but is not limited to the following: personal and entity names, e-mail addresses, addresses, phone numbers, any other public or privately-issued identification numbers, IP addresses, MAC addresses, and any other digital identifiers associated with entities, geographic locations, users, persons, machines or networks. Calpine shall comply with all applicable laws, rules, and regulations related to the use, collection, storage, and transmission of Personal Information.

22.3. DEFINITION OF “BUSINESS DAY”. “Business Day” shall be defined as a weekday that is not a MCE, Calpine or PG&E holiday.

22.4. MCE DATA SECURITY MEASURES. Prior to Calpine receiving any MCE Data, Calpine shall comply, and at all times thereafter continue to comply, in compliance with MCE’s Data security policies set forth in MCE Policy 009 and MCE’s Advanced Metering Infrastructure (AMI) Data Security and Privacy Policy (“Security Measures”) and pursuant to MCE’s Confidentiality provisions in Section 5 of the Marin Clean Energy Non-Disclosure Agreement between the Parties dated [MONTH YEAR]. MCE’s Security Measures and Confidentiality provisions require Calpine to adhere to reasonable administrative, technical, and physical safeguard protocols to protect the MCE’s Data from unauthorized handling, access, destruction, use, modification or disclosure.

22.5. CALPINE DATA SECURITY MEASURES. Additionally, Calpine shall, at its own expense, adopt and continuously implement, maintain and enforce reasonable technical and organizational measures, consistent with the sensitivity of Personal Information and Confidential Information including, but not limited to, measures designed to (1) prevent unauthorized access to, and otherwise physically and electronically protect, the Personal Information and Confidential Information, and (2) protect MCE content and data against unauthorized or unlawful access, disclosure, alteration, loss, or destruction.

22.6. RETURN OF MCE DATA. Promptly after this Agreement terminates or expires (i) Calpine will securely destroy all MCE Data in its possession with respect to each terminated and certify the secure destruction in writing to MCE, and (ii) each Party will return (or if requested by the disclosing Party, destroy) all other Confidential Information and property of the other (if any) with respect to each terminated, provided that Calpine’s attorney shall be permitted to retain a copy of such records or materials solely for legal purposes.

22.7. OWNERSHIP AND USE RIGHTS.

- a) **MCE Data.** Unless otherwise expressly agreed to by the Parties, MCE shall retain all of its rights, title and interest in MCE’s Data.
- b) **Intellectual Property.** Unless otherwise expressly agreed to by the Parties, any and all materials, information, or other work product created, prepared, accumulated or developed by Calpine or any Calpine Party under this Agreement (“Intellectual Property”), including inventions, processes, templates, documents, drawings, computer programs, designs, calculations, maps, plans, workplans, text, filings, estimates, manifests, certificates, books, specifications, sketches, notes, reports, summaries, analyses, manuals, visual materials, lists, data files, customer communications and correspondence, customer bills and invoices, training materials, recordings, data models and samples, including summaries, extracts, analyses and preliminary or draft materials developed in connection therewith, [*“shall be owned by MCE on behalf and for the benefit of their respective customers.*
- c) **Intellectual Property will be owned by MCE upon its creation.** *Calpine agrees to execute any such other documents or take other actions as MCE may reasonably request to perfect MCE’s ownership in the Intellectual Property.*
- d) **Calpine’s Pre-Existing Materials.** *If, and to the extent Calpine retains any preexisting ownership rights (“Calpine’s Pre-Existing Materials”) in any of the materials furnished to be used to create, develop, and prepare the Intellectual Property, Calpine hereby grants MCE on behalf of its customers and the CPUC for governmental and regulatory purposes an irrevocable, assignable, non-exclusive, perpetual, fully paid up, worldwide, royalty-free, unrestricted license to use and sublicense others to use, reproduce, display, prepare and develop derivative works, perform, distribute copies of any intellectual or proprietary property right of Calpine or any Calpine Party for the sole purpose of using such Intellectual Property for the conduct of MCE’s business and for disclosure to the CPUC for governmental and regulatory purposes related thereto. Unless otherwise expressly agreed to by the Parties, Calpine shall retain all of its rights, title and interest in Calpine’s Pre-Existing Materials. Any and all claims to Calpine’s Pre-Existing Materials to be furnished or used to prepare, create, develop or otherwise manifest the Intellectual Property must be expressly disclosed to MCE prior to performing any Services under this Agreement. Any such Pre-Existing Material that is modified by work under this Agreement is owned by MCE.”]*

23. FINANCIAL STATEMENTS:

Calpine shall deliver financial statements on an annual basis or as may be reasonably requested by MCE from time to time. Such financial statements or documents shall be for the most recently available audited or reviewed period and prepared in accordance with generally-accepted accounting principles. MCE shall keep such information confidential if requested by Calpine, except as provided by law and to provision to the CPUC may be required from time to time under confidentiality procedures, where applicable.

24. QUALITY ASSURANCE PROCEDURES:

Calpine shall comply with the quality assurance and quality control procedures for the Services as described in Section 3.6 of **Exhibit A**. Additionally, Quality Assurance Procedures must include, but are not limited to: (i) industry standard best practices; and (ii) procedures that ensure customer satisfaction.

25. SEVERABILITY:

Should any provision of this Agreement be held invalid or unenforceable by a court of competent jurisdiction, such invalidity will not invalidate the whole of this Agreement, but rather, the remainder of the Agreement which can be given effect without the invalid provision, will continue in full force and effect and will in no way be impaired or invalidated.

26. COMPLETE AGREEMENT:

This Agreement along with any attached Exhibits constitutes the entire Agreement between the Parties. No modification or amendment shall be valid unless made in writing and signed by each Party. Failure of either Party to enforce any provision or provisions of this Agreement will not waive any enforcement of any continuing breach of the same provision or provisions or any breach of any provision or provisions of this Agreement.

27. COUNTERPARTS:

This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall be deemed one and the same Agreement.

28. INDEPENDENT CONTRACTOR:

Calpine is an independent contractor to MCE hereunder. Nothing in this agreement shall establish any relationship of partnership, joint venture, employment or franchise between MCE and Calpine. Neither MCE nor Calpine will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided for herein.

29. TIME:

Time is of the essence in this Agreement and each and all of its provisions.

30. LIMITATIONS:

["Subject to Calpine's obligations under the Marin Clean Energy Non-Disclosure Agreement between the parties dated {month/year}, nothing contained in this Agreement shall in any way limit Calpine from marketing any of its products and services inside or outside of MCE's service territory."]

31. THIRD PARTY BENEFICIARIES:

The Parties agree that there are no third-party beneficiaries to this Agreement either expressed or implied.

32. WAIVER:

No waiver by either Party of any right or obligation hereunder, including in respect to any Default by the other Party, shall be considered a waiver of any future right or obligation, whether of a similar or different character. Any waiver shall be in writing.

33. FURTHER ACTIONS:

The Parties agree to take all such further actions and to execute such additional documents as may be reasonably necessary to effectuate the purposes of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above written.

APPROVED BY

Marin Clean Energy:

By: _____
CEO

Date: _____

By: _____
Chairperson

Date: _____

Calpine:

By: _____

Name: _____

Date: _____

MODIFICATIONS TO STANDARD SHORT FORM

Standard Content Has Been Modified

List sections affected: _____ *[To be updated upon finalization]* _____

Approved by MCE Counsel: _____

Date: _____

EXHIBIT A
To
AMENDED AND RESTATED MASTER PROFESSIONAL SERVICES AGREEMENT
Between Calpine Energy Solutions, LLC
And MARIN CLEAN ENERGY
Dated December 6, 2019
Effective Date: December 6, 2019

This Exhibit A supplements the above-referenced Amended and Restated Master Professional Services Agreement (“Agreement”) between MARIN CLEAN ENERGY (“MCE”) and CALPINE ENERGY SOLUTIONS, LLC (“Calpine”), collectively, the Parties. As of the Effective Date, this Exhibit A supersedes the Sixth Addendum for Data Manager Services dated March 15, 2018 and any previously executed addenda by the Parties. Capitalized terms not otherwise defined herein or in the Agreement shall have the meanings set forth in Section 2 below. The terms and conditions of the Agreement apply to this Exhibit. In the event of any conflict between the terms of Agreement and this Exhibit, the Agreement shall control.

1. **Operational Period.** This Exhibit A (“Exhibit A”) is hereby incorporated by reference to and made part of the above-referenced Agreement for the duration of the Operational Period of this Exhibit A, which shall be from December 6, 2019 through December 31, 2022.

2. **Definitions.**
 - 2.1. “Ad Hoc Request” or “Ad Hoc” refers to services, including: new services, additional services or significant modifications to current services, requested by MCE that fall outside the scope of what Calpine is contractually obligated to provide under the terms of this Agreement [including identified reports]. *[“In the event of MCE requesting Ad Hoc services, MCE shall specify in reasonable detail the nature, business reason and scope of the request and Calpine will use commercially reasonable efforts to deliver Ad Hoc items to MCE in a timely manner. Any Ad Hoc Request may be subject to the fee schedule set forth in Section 4.7.”]*
 - 2.2. “Billing Window” refers to the period starting on the meter read date and ending 10 calendar days later. Submission of bill data must occur during this period for the CCA charges to appear on the consolidated PG&E bill.
 - 2.3. *[“Billing Determinants” are used in the Rate Schedule to calculate the charge or credit due. Billing Determinants can define a time period, as in the case of Time-Of-Use rates that have various significance periods such as on-peak, off-peak, mid-peak, etc., or can be defined as factors that are to be considered when calculating the final customer charge such as discount services or additional charges that deviate from the Rate Schedule’s standard structure, among others.]*
 - 2.4. “Billing Error” refers to the incorrect billing of an account due to an error by Calpine. This does not include errors caused by incorrect or incomplete data provided by PG&E.
 - 2.5. “Budget Billing” refers to averaging annual energy costs over the previous 12 months to determine a monthly payment amount and is re-balanced every three months, adjusting the bill up or down based on the previous four months’ usage.
 - 2.6. “CARE” refers to the California Alternate Rates for Energy program administered by PG&E which provides discounts on energy bills for income qualified households designated by PG&E.
 - 2.7. “Customer Data Acquisition” refers to acquisition of customer electricity usage data from PG&E.
 - 2.8. “Community Choice Aggregation/Aggregator” or (“CCA”) refers to local government entities or joint powers agencies whose governing boards have elected to acquire and provide electric power and energy services to utility end-use customers located within their service area(s), as set forth in California Public Utilities Code Section 366.2 and other California Public Utilities Commission (CPUC) directives.

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 2.9. "CCA Service" means the sale of retail electric power by a Community Choice Aggregator, to utility end-use customers located within its service area(s), as set forth in California Public Utilities Code Section 366.2 and other California Public Utilities Commission (CPUC) directives.
- 2.10. "CCA Service Customer" means a PG&E customer taking CCA Service from MCE.
- 2.11. "CCA Service Request" or ("CCASR") means a request in a form approved by PG&E to change a CCA customer's or utility customer's choice of services, which could include returning a CCA customer to bundled utility service or direct access service.
- 2.12. [*"Cost of Funds" means MCE's cost of funds incurred due to a Calpine billing error, which is agreed to be simple interest accruing at the prime interest rate as established by the Wall Street Journal or equivalent source on any amounts not accurately and timely billed during the Default Period.*]
- 2.13. "Customer Information System" or ("CIS") refers to the systems used by Calpine to store MCE customer-specific information, including account enrollment status, rate tariff, payment history, collection status, correspondence and other information that is necessary for Calpine to effectively administer Data Manager Services.
- 2.14. "Customer Relationship Manager" or ("CRM") refers to an online software platform populated by a database, and designed to manage and analyze customer interactions and data through the customer lifecycle with the goal of improving business relationships with customers, assisting in customer retention and driving customer participation.
- 2.15. [*"Customer Retention Credits" means any credits MCE provides to its CCA Service Customers in the event of a failure of Calpine to meet a Specified Performance Standard for customer retention purposes, which amount shall be determined in the sole discretion of MCE.*]
- 2.16. [*"Data Portal" refers to methods of accessing and using customer information, including but not limited to the CRM system, Power BI, data extracts, and other reports supported by the data Calpine manages under this Exhibit A.*]
- 2.17. [*"Data Warehouse" refers to a repository of files and/or databases containing MCE data for reporting and analysis purposes and excludes databases used by Calpine applications.*]
- 2.18. [*"Default Period" shall commence on the latest date that the amount in question could have been paid to MCE without being delinquent, had the amount been accurately and timely billed. The "Default Period" shall end when all billing errors are corrected for the amount in question and an accurate bill is delivered to the customer.*]
- 2.19. "Direct Access Customer" refers to a PG&E customer purchasing retail power from an Electric Service Provider.
- 2.20. "Electronic Data Interchange" or ("EDI") refers to the transfer of data between PG&E and Calpine related to CCA Service Customers of. The EDI transaction sets used for Data Manager Services are as follows:
- 248 – Daily Billing Files
 - 810 – CCA invoice information that appears on customer's PG&E bill
 - 814 – CCA enrollments, changes, opt outs and disconnects
 - 820 – Remittance advice identifying the detail needed to perform cash application to accounts receivable by customer
 - 824 – Application Advice for Invoices, used to reject invoice transactions
 - 867 – Electric meter usage data by customer account
 - 997 - Functional Acknowledgement
- 2.21. "FERA" refers to the Family Electric Rate Assistance Program which is a statewide program in which families whose household income slightly exceeds the CARE allowance can qualify to receive FERA discounts on their electricity bill.
- 2.22. "First-Contact or First Call Resolution" refers to addressing a customer's need the first time they contact or call for assistance, thereby eliminating the need for the customer to follow up with a second call.

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 2.23. "Interactive Voice Response" or ("IVR") refers to the contact center voice-recorded system that enables customers, through keypad input, to select options related to their account or access a live contact center agent.
- 2.24. "Local Distribution Company" or "Utility Distribution Company" ("LDC" or "UDC") refers to the relevant electric utility (such as Pacific Gas and Electric Company).
- 2.25. "Mass Enrollment" refers to the phase-in of a group of new customers (who have not opted out prior to receiving CCASR) onto CCA Service over one billing cycle beginning with each customers' regularly scheduled meter read date, as further defined in PG&E's Electric Schedule E-CCA.
- 2.26. "MCE-Designated Third Party" refers to any third party that acts in the place or stead of MCE under the terms of the Agreement. For the avoidance of doubt, any such MCE-Designated Third Party shall abide by and be bound by the terms of the Agreement, in the same way as MCE.
- 2.27. "MCE Service Area" refers to all cities, towns, counties, and unincorporated areas that have selected electric generation service from MCE.
- 2.28. "Medical Baseline" refers to the Medical Baseline Allowance program administered by PG&E which provides a higher baseline quantity on energy bills for eligible customers designated by PG&E.
- 2.29. "Meter Data Management Agent" or ("MDMA") Services include: reading customers' meters, validating the meter reads, editing the meter reads if necessary and transferring the meter reading data to a server pursuant to MCE and PG&E standards.
- 2.30. "Net Energy Metering" refers to one of the various Net Energy Metering programs administered by PG&E as described in its Electric Schedules, for which MCE may provide bill credits for qualifying self-generation to participating CCA Service customers.
- 2.31. "North American Industry Classification System" or ("NAICS") refers to the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data.
- 2.32. "Non-Enrollment Period" refers to any other period that is not a Statutory Enrollment Period.
- 2.33. "On Bill Repayment" refers to a financing option in which a utility or private lender supplies capital to a customer to fund energy efficiency, renewable energy, or other projects and is repaid through regular payments on an existing utility bill.
- 2.34. "Operational Period" is defined in Section 1 of this Exhibit A.
- 2.35. "Qualified Reporting Entity" or ("QRE") refers to an entity authorized by WREGIS to submit meter data associated with renewable energy on behalf of the generator owner using the WREGIS application.
- 2.36. *["Rate Schedule" refers to the rate buildout, or formula, that includes all the necessary Billing Determinants, and the values applied to each, used to calculate charges or credits per unit of electricity consumed (kWh) or per unit of demand (kW)."]*
- 2.37. *["Rate Template" refers to a predefined format used to communicate Rate Schedule(s) from MCE to Calpine. A Rate Template is considered valid once Calpine has reviewed the information it contains to ensure it meets the expected formatting requirements and the Rate Schedule(s) it contains align with published MCE tariffs."]*
- 2.38. *["Self Service" refers to data that MCE can obtain and access through the Data Portal, upon its implementation, without the assistance of Calpine staff. Should MCE request data from Calpine that is available via Self Service shall be considered an Ad Hoc Request and is subject to the fees listed in Section 4."]*
- 2.39. "Service Agreement" refers to the agreement between customers and PG&E documenting the customer's billing arrangement, including rate plan, used to calculate PG&E charges.

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 2.40. "Settlement Quality Meter Data" or ("SQMD") refers to meter data gathered, edited, validated, and stored in a settlement-ready format, for settlement and auditing purposes.
- 2.41. "Statutory Enrollment Period" refers to the three-month period prior to a Mass Enrollment, the month in which the Mass Enrollment occurs, and the two months following Mass Enrollment. The Statutory Enrollment Period takes place over a six-month period.
- 2.42. [*"Structural Rate Change" refers to a rate change that alters one or more Billing Determinants within a Rate Schedule buildout by changing the definition of the Billing Determinant itself and/or adding and/or removing one or more Billing Determinants to an existing buildout.*]
- 2.43. [*"Value Only Rate Change" refers to a rate change that alters only the values applied to each of the Billing Determinants in a given Rate Schedule buildout, keeping the existing buildout intact.*]
- 2.44. "Western Region Energy Generation Information System" or ("WREGIS") refers to the independent, renewable energy tracking system for the region covered by the Western Electricity Coordinating Council (WECC).

3. Description of Data Manager Services. During the Operational Period, Calpine shall provide the Services listed below (the "Data Manager Services").

3.1. Electronic Data Exchange Services:

- 3.1.1. Process CCA Service Requests (CCASRs) from/to PG&E, which specify the changes to a customer's choice of services, such as enrollment in MCE's CCA Service or customer-initiated returns to bundled utility service or customer-initiated returns to direct access service (814 Electronic Data Interchange Files).
- 3.1.2. If no payment for CCA Service is received from the customer within 60 days of late payment notice being sent by Calpine, pursuant to Section 3.9.11, Calpine shall issue a CCASR to return customer to PG&E.
- 3.1.3. Obtain all customer usage data from PG&E's MDMA server, and validate usage data to ensure required billing determinants are provided to generate customer bills for CCA Service.
- 3.1.4. Ensure timely billing (according to PG&E requirements) of each CCA Service Customer (867 Electronic Data Interchange Files).
- 3.1.5. Calculate, record and communicate to PG&E the amount to be billed by PG&E for services provided by MCE (810 Electronic Data Interchange Files).
- 3.1.6. Receive, maintain, and make accessible to MCE or a MCE-Designated Third Party, all data related to payment transactions for MCE charges from PG&E after payment is received by PG&E from customers (820 Electronic Data Interchange Files).
- 3.1.7. Process CCASRs with PG&E when customer status changes.
- 3.1.8. Provide timely access to Advanced Metering Infrastructure data based on availability from PG&E; [*"Calpine shall make reasonable efforts to provide the raw PG&E-generated data files within two business days of receipt from PG&E, or data processed from such files within three business days of receipt from PG&E"*]

3.2. Qualified Reporting Entity (QRE) Services:

- 3.2.1. As part of the fixed fees listed herein, and consistent with terms and conditions of Exhibit B of this Agreement, Calpine shall serve as QRE for up to 30 of MCE's locally situated, small-scale renewable generators supplying electric energy to MCE through its Feed-in Tariff (FIT) programs.

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 3.2.2. Calpine shall receive applicable electric meter data from PG&E for MCE FIT projects, consistent with PG&E's applicable meter servicing agreement, and shall retain this data and provide such data to MCE monthly or, using commercially reasonable efforts, more frequently for purposes of performance tracking and invoice creation by MCE.
- 3.2.3. Submit a monthly generation extract file to WREGIS on MCE's behalf, which will conform to the characteristics and data requirements set forth in the WREGIS Interface Control Document for Qualified Reporting Entities.
- 3.3. Customer Data Information System/Customer Relationship Manager System:
- 3.3.1. Store, maintain and make accessible to MCE or a MCE-Designated Third Party, an accurate CRM application containing all accounts eligible for CCA Service which are located in the MCE Service Area and identify each such account's enrollment status (opt out, re-enrollment, Light Green, Deep Green, Local Sol and other MCE CCA Service offering), rate tariff election(s), , any correspondence with such customers. *["Additional information not currently provided in the CRM application, such as payment history, collection status, and on-site generating capacity, if applicable, as well as other information that may become necessary to effectively administer CCA Service may be added to the CRM application as mutually agreed to by Parties from time to time."]*
- 3.3.2. Receive, load, and make accessible to MCE or a MCE-Designated Third Party the following historical information by customer account provided by PG&E or MCE: energy usage data, service address, customer service notes and activity listed within the CRM, the 4013 file, historical and current rate information and NAICS codes as provided by PG&E.
- 3.3.3. Allow MCE to have functional access to the CRM to add customer interactions and other account notes.
- 3.3.4. Provide MCE with quarterly training and as-needed training for MCE employees, to functionally access CRM. Provide MCE with user guides describing CRM functionality and navigation within five (5) days of start of Operational Period.
- 3.3.5. *["Provide online access to customer data via the CRM application that allows MCE to generate reports and dashboards to track customer activity, including historical customer counts, product counts, selection by rate schedule, customer class, new community enrollments, opt outs and Deep Green enrollments over time, and ad hoc reporting."]*
- 3.3.6. At a mutually agreed upon time in 2020, Calpine shall establish the Data portal, under mutually agreed to requirements, which will provide query capability and access by MCE. *["MCE will provide staff with technical database expertise to represent MCE in the implementation and use of the Data Warehouse."]*
- 3.3.7. *["Provide a formal and mutually agreed upon proactive quality assurance (QA) and quality control (QC) process and support to ensure that data provided from the CRM and/or Calpine data warehouse is accurate and timely. The tasks required for this QA/QC process are validation of all data assets presented for use through all data access options, including but not limited to CCA Insights, Power BI dashboards, CRM reports, and standard reports."]*
- 3.3.8. Allow MCE to view customer email or written letter correspondence within the CRM.
- 3.3.9. Document in the CRM all email and telephone calls between Calpine and CCA Service Customers, using commercially reasonable efforts to add such data to the CRM within one (1) business day.
- 3.3.10. Store in CRM letter correspondence (including all billing error communications), late payment notifications, Net Energy Metering cash-out notifications, enrollment notices, California Energy Commission power content labels, PG&E joint cost and power comparison mailers, Green-e mailers and other notifications related to CCA Services provided by MCE staff.

- 3.3.11. Maintain and provide energy usage data with respect to all CCA Service Customers for a time period equal to the lesser of either (a) the start of service to present or (b) 5 years.
 - 3.3.12. Upon request for data relating to usage more than 5 years in the past according to written parameters provided by MCE through the Calpine service request portal, Calpine will use commercially reasonable efforts to provide within 10 business days.
 - 3.3.13. Maintain viewing access, available to appropriate MCE staff, to view PG&E bills for CCA Service Customers, including supporting the intuitive parsing and labeling of PG&E provided files. Billing records for usage within the past 18 months should be attached to their respective Service Agreement and shall be made accessible via the CRM.
 - 3.3.14. Upon request for billing records relating to usage more than 18 months prior to the date such request is received by Calpine through the Calpine service request portal, Calpine will use commercially reasonable efforts to provide within 10 business days.
 - 3.3.15. Maintain and communicate as needed record of customers who have been offered service with MCE but have elected to opt out, either before or after starting service with MCE.
 - 3.3.16. Maintain and communicate as needed records of Net Energy Metering credits and generation data for CCA Service Customers to be posted on bill and settled annually.
 - 3.3.17. When requested by MCE through the Calpine service request portal, identify appropriate Budget Billing type estimated charges and implement for CCA Service Customers.
 - 3.3.18. When requested by MCE through the Calpine service request portal, perform quarterly Budget Billing reviews to assess appropriate customer charge level.
- 3.4. Customer Contact Center:
- 3.4.1. Receive calls from CCA Service Customers referred to Calpine by PG&E and receive calls directly from CCA Service Customers.
 - 3.4.2. Provide Customer Service Representatives during business hours when one is available as the default option according to the contact center standards listed herein as Section 3.5. Provide professional Interactive Voice Response (IVR) recordings for MCE customer contact center after business hours, or upon MCE's election, during business hours and pursuant to the fees listed herein as Section 4.
 - 3.4.3. Maintain IVR self-service for use during off-business hours and according to parameters provided by MCE, and track how many customers start and complete self-service options without live-agent assistance. Provide updates to the IVR process map and scripts as needed according to parameters and changes provided by MCE.
 - 3.4.4. Staff a contact center during non-enrollment period between the hours of 8 AM and 5 PM Pacific Time Monday through Friday, excluding MCE, ["*Calpine*"] and PG&E holidays. These hours may be adjusted as mutually agreed by the parties in writing and pursuant to the fees listed herein as Section 4.
 - 3.4.5. Provide sufficient contact center staffing to meet the requirements set forth herein, including designating MCE specific agents to the extent needed to meet the performance standards in Sections 3.4 and 3.5.
 - 3.4.6. Provide a sufficient number of ["*data manager experts*"] to manage escalated calls during regular business hours between 8:00 a.m. and 5:00 p.m. Pacific Time, Monday through Friday, excluding MCE, ["*Calpine*"] and PG&E holidays. A call shall be deemed escalated when it meets certain criteria provided to Calpine by MCE and may be updated from time to time.
 - 3.4.7. The contact center will be staffed with personnel located within the continental United States.

- 3.4.8. Provide callers with the estimated hold time, if they are placed on hold. Provide an automated 'call back' option for callers who will be put on hold for an *["estimated five (5) minutes or longer."]*
- 3.4.9. Record all inbound calls and use commercially reasonable efforts to make recordings available to MCE as requested by MCE staff through the Calpine service request portal within three (3) Business Days. Maintain an archive of such recorded calls for a minimum period of 24 months.
- 3.4.10. Track contact center contact quality with criteria and utilization rates, including:
 - 3.4.10.1. Use of appropriate greetings and other contact center scripts
 - 3.4.10.2. Courtesy and professionalism
 - 3.4.10.3. Capturing key customer data
 - 3.4.10.4. Providing customers with correct and relevant information
 - 3.4.10.5. First-contact or first-call resolution
 - 3.4.10.6. Accuracy in data entry and call coding
 - 3.4.10.7. Appropriate grammar and spelling in text communication (email and chat)
 - 3.4.10.8. *["Accuracy on calls in languages other than English"]*
 - 3.4.10.9. *["Utilization rates for contact center staff included in monthly Contact Center report as listed in Section 3.10 and as described in Appendix A."]*
- 3.4.11. Evaluate customer satisfaction through voluntary customer surveys asking general questions about call quality, call resolution and the customer's overall satisfaction level with the service received.
- 3.4.12. Provide the contact center number on the CCA portion of the utility consolidated invoice allowing CCA customers to contact the contact center.
- 3.4.13. Respond to telephone inquiries from customers using a script developed by MCE. Ensure contact center staff are trained on and have fluency in the MCE scripts by monitoring and reporting on contact center recordings as described in the QA Call Recordings Report listed in Section 3.10. Escalate calls as needed for customers requiring additional handling by data manager experts within two (2) business days.
- 3.4.14. Respond to CCA Service Customer inquiries along the following guidelines for customer complaints:
 - 3.4.14.1. Customer complaints on matters under the control of MCE:
 - 3.4.14.1.1. Calpine will relay the complaint to MCE staff within 1 business day.
 - 3.4.14.1.2. MCE staff will decide on a course of action to resolve the complaint and communicate it to the customer within 3 business days.
 - 3.4.14.1.3. Calpine will communicate the complaint resolution to the customer within 5 business days.
 - 3.4.14.2. Customer complaints on matters under the control of PG&E: Calpine will refer the customer to PG&E.

- 3.4.15. Provide cross training and coordination with PG&E call center in coordination with MCE on an as-needed basis.
- 3.4.16. Provide Spanish speaking contact center staff available to customers during regular business hours.
- 3.4.17. Provide translation services for inbound calls for the following languages: Spanish, Vietnamese, Mandarin, Cantonese, Tagalog, Russian, Korean and Laotian. Use commercially reasonable efforts to provide translation services for additional languages requested by MCE.
- 3.4.18. Create and maintain online forms for the MCE websites so that customers may change their account status to enroll or opt out of various MCE programs under MCE's CCA Service. Calpine will use commercially reasonable efforts to develop functionality in the online forms to enable customers to opt down from various MCE programs.
 - 3.4.18.1. Update online forms. Calpine will use commercially reasonable efforts to implement updates to configurable text fields according to written parameters provided by MCE through the Calpine service request portal within 10 business days. In the event that platform, template or formatting constraints prevent Calpine from accurately and completely implementing MCE's mock-ups, designs, instructions or other requests, Calpine will inform MCE staff and, when possible, offer feasible alternatives. Calpine will coordinate with MCE and other CCAs to release new versions of the online forms, using commercially reasonable efforts to incorporate requested design updates beyond the scope of configurable text fields.
- 3.4.19. Supplemental Customer Service Representative ("CSR") Scripting. According to parameters provided by MCE, communicate the following to CCA Service Customers contacting the contact center via inbound calls or inbound emails:
 - 3.4.19.1. Invite CCA Service Customers to sign up for MCE's community newsletter;
 - 3.4.19.2. Request and/or confirm mailing address, email address and phone number;
 - 3.4.19.3. Collect permission (via voice recording and email request) from customers to send electronic correspondence instead of printed mail.
- 3.4.20. IVR enhancements. Enable IVR system to inform CSRs of IVR selections made by customers prior to handling the call, including translation service language selections, when such IVR capability is made available to Calpine.
- 3.4.21. Transition of Contact center Duties.
 - 3.4.21.1. MCE reserves the right to transition all Contact Center Duties set forth in this Section 3.4 ("Contact Center Duties") from Calpine to MCE, with at least 180 days' notice to Calpine ("Transition"). Upon completion of a Transition, the service fee will be reduced as stipulated in the Fees Section.
 - 3.4.21.2. Transition of Contact Center Duties may occur in phases, according to all needs and demands, overflow contact center options, and third-party translation services.
 - 3.4.21.3. MCE shall be responsible for any additional infrastructural or programming costs incurred by Calpine to facilitate this transition. Calpine will invoice these costs to MCE without any added charges.
 - 3.4.21.4. In the event MCE partially transitions a portion of the Contact Center Duties from Calpine by hiring internal customer service representatives, Calpine will reduce the monthly per SA ID fee as described in Section 4 of this Exhibit. Calpine will modify its IVR / VCQ system to route calls to any internal call center agents provided by MCE under this section, based on mutually defined configurations. Calpine will not be responsible for the training, setup cost or management of such MCE agents and

parties will mutually discuss necessary adjustments to the SLAs in this section due to Calpine's reliance on MCE agents.

- 3.4.21.5. Unless and until the Contact Center Duties are transitioned to MCE internally, Calpine agrees to host the contact center at a location selected by MCE, which is currently 329 E. Leland Rd., Pittsburg, CA 94565. Any request to change this location by Calpine requires the prior written approval of MCE, *["and MCE is not required to approve Calpine's request."]*

3.5. Contact Center Performance Standards and Contact Quality Tracking Criteria on a monthly basis:

3.5.1. During Non-Enrollment Periods, the following performance standards shall apply:

- 3.5.1.1. A minimum of 80% of all calls will be answered within 45 seconds.
- 3.5.1.2. *["A minimum of 98% of calls will be answered within 3 minutes."]*
- 3.5.1.3. 100% of voicemail messages will be answered within 1 business day *["using commercially reasonable efforts."]*
- 3.5.1.4. Achieve a no greater than 5% Abandon Rate for all calls. "Abandon Rate" refers to the percentage of inbound phone calls made to the contact center that is abandoned by the customer after selected to speak to a CSR but before speaking to a CSR.

3.5.2. During Statutory Enrollment Periods, the following changes in performance standards shall apply:

- 3.5.2.1. A minimum of 75% of all calls will be answered within 60 seconds.
- 3.5.2.2. Achieve a no greater than 10% Abandon Rate for all calls. "Abandon Rate" refers to the percentage of inbound phone calls made to the contact center that is abandoned by the customer before after selected to speak to a CSR but before speaking to a CSR
- 3.5.2.3. *["A minimum of 90% of calls will be answered within 3 minutes."]*

3.5.3. In accordance with the Contact center Statistics Report listed in Section 3.10 of this Exhibit A, Calpine shall provide monthly reports documenting whether the above performance standards have been met.

3.6. Quality Assurance:

- 3.6.1. Project list. Parties will maintain a project list of current MCE requests and other initiatives related to Data Manager Services in the Calpine service request portal, which will include request date, project owners, project status and next steps, expected completion date and actual completion date (the "Project List"). Parties will coordinate to make progress on items on the list and resolve issues.
- 3.6.2. Monthly operational call. Calpine will host a monthly call to discuss operational issues requested by MCE, including contact center performance, opportunities to improve contact center service and progress on projects. Parties will communicate items at least 1 business day in advance.
- 3.6.3. Calpine to provide a monthly performance report which includes, at a minimum, operational performance on performance standards listed herein as Section (e).
- 3.6.4. Quarterly management meeting. At MCE's request, Calpine will attend quarterly management meetings at MCE's offices. Parties will communicate discussion items at least 5 business days in advance of the meeting.

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 3.6.5. Review of work products. Calpine shall take reasonable care to ensure that its work products associated with carrying out the services in this Exhibit A are free of error including typographical, formatting (including logical and business process errors) and other inconsistencies.
- 3.6.6. *["MCE may ask for Calpine to provide operational reports not specified in this Exhibit A as an Ad Hoc Request through Calpine's service request portal."]*
- 3.7. Customer Enrollments (Statutory Enrollment Period):
- 3.7.1. Staff a contact center, during any MCE Statutory Enrollment Period, 7am to 7pm Pacific Time Monday through Friday, excluding MCE and PG&E holidays, at no additional cost to MCE, to process opt-out requests according to the provisions in Section 3.4. At the close of a MCE Statutory Enrollment Period, the contact center will revert back to staffing during 8am to 5pm Pacific Time, pursuant to Section 3.4 of this Exhibit A.
- 3.7.2. For new CCA Service Customers, update CIS and CRM to track enrollment status and store account information provided by PG&E.
- 3.7.3. Provide weekly update of opt-outs to MCE via the Opt-Out By Rate Class Report during Statutory Enrollment Periods.
- 3.8. Mailing Lists:
- 3.8.1. Generate and provide mailing lists to an MCE-designated printer. CCA will work with Calpine to ensure mail drops are reasonable for contact center support. Mailing lists will be provided to MCE's designated printer for each of the following:
- 3.8.1.1. Mass Enrollment notifications during Statutory Enrollment Periods;
- 3.8.1.2. Late payment notifications to CCA Service Customers for which bills are over 90 days and at least \$250 overdue, generated on a monthly basis;
- 3.8.1.3. New CCA Service account/new move-in customer enrollments (during non-enrollment and statutory enrollment periods) within 7 days of enrollment receipt of CCASR;
- 3.8.1.4. Deep Green residential welcome packets within 7 days of opt up request;
- 3.8.1.5. Opt-out confirmation letters within 7 days of opt out request;
- 3.8.1.6. Customers eligible for MCE's Net Energy Metering annual settlement process, where multiple balances occur under the same CCA Service Customer are aggregated and such aggregated amount is equal to or greater than \$100.
- 3.8.2. All mailing lists will adhere to the following parameters, unless otherwise specified by MCE through the Calpine service request portal:
- 3.8.2.1. Remove duplicate occurrences of identical Service Agreement account holder name and full mailing address.
- 3.8.2.2. Remove Direct Access Customers.
- 3.8.2.3. *["Send the above lists to MCE staff via SSH File Transfer Protocol ("SFTP") for approval within three (3) business days after mutual agreement, by MCE and Calpine, of scope and requirements."]*
- 3.8.2.4. *["Within two (2) business days of MCE approval, send a copy to MCE's designated printer via mutually accepted method of delivery."]*

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 3.8.2.5. Mailing lists will be provided to MCE's designated printer within two (2) business days, or mutually agreed upon date through the Calpine service request portal, of approval by MCE.
- 3.8.2.6. Mailing lists shall be sent via SSH File Transfer Protocol ("SFTP") or other mutually agreed upon protocol.

3.9 Billing Administration:

- 3.9.1. Receive usage data via EDI transaction coupled with 4013 account data on CCA Service Customers from PG&E, and provide PG&E with appropriate MCE charges for each applicable rate class, including Light Green, Deep Green, and Local Sol and other charges related to CCA Service.
- 3.9.2. Send On Bill Repayment (OBR) Charges to PG&E for non-MCE customers, when supported by PG&E, based on information provided to Calpine by MCE.
- 3.9.3. Send OBR and Solar Loan Charges as a separate line item to PG&E for placement on monthly bill during term of repayment.
- 3.9.4. Timely submit billing information for each CCA Service customer to PG&E to meet PG&E Billing Window.
- 3.9.5. Use commercially reasonable efforts to remedy CCA Service billing errors for any customer in a timely manner, within two billing cycles from discovery of the error. Calpine shall adhere to MCE's customer rebilling and billing error correction policies as provided by MCE to Calpine and updated from time to time, and in manner mutually agreed to by the Parties.
- 3.9.6. *["Calpine shall maintain an accuracy rate of 99% or higher in billing MCE charges on a monthly basis."]*
- 3.9.7. *["Provide Email and Letter Communications for Billing Errors. In the event of a billing error caused by an act or omission of Calpine, Calpine shall reach out to each affected customer at MCE's Request via email and a follow-up written letter explaining the billing error based on the following error thresholds:"]*

3.9.7.1. *["Billing error dollar threshold triggering Calpine communications:*

Customer Type	Threshold
<i>Non-Residential</i>	<i>Greater than or equal to \$1,000</i>
<i>Residential</i>	<i>Greater than or equal to \$100</i>
<i>Vulnerable (e.g. CARE, FERA, Medical Baseline customers)</i>	<i>Greater than or equal to \$50</i>

OR

Billing error number of customers threshold triggering Calpine communications"]
:

Customer Type	Threshold
<i>Non-Residential</i>	<i>Greater than or equal to 2,000 customers</i>
<i>Residential</i>	<i>Greater than or equal to 10,000 customers</i>

- 3.9.7.2. *["If two or more of the errors listed in (a) (dollar thresholds and/or number of customer thresholds) occur in a 12-month period, Calpine shall reach out at MCE's Request to each affected customer via email and letter follow-up communications explaining the billing error."]*

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 3.9.7.3. Calpine shall notify MCE within one (1) Business Day of Calpine's discovery of the Billing Error reaching any of the above-listed thresholds. Calpine shall use commercially reasonable efforts to timely recognize errors and assess customer dollar or number impact.
- 3.9.7.4. All content of communications must be approved by MCE prior to delivery to customers.
- 3.9.7.5. Within two (2) Business Days of MCE approving content of communications, Calpine shall send communications to all affected customers.
- 3.9.7.6. *[Customer Outreach in the event of a billing error.]*
- 3.9.8. Update MCE's CCA Service rates according to written parameters provided by MCE through the Calpine service request portal. *["Calpine will provide one (1) Structural Rate Change per calendar year of this Exhibit A and up to three (3) Value Only Rate Changes per calendar year of this Exhibit A."]* Additional rate changes requested by MCE will be done at a mutually agreed upon fixed fee or at the hourly rate listed herein, whichever is determined by the parties to be appropriate.
- 3.9.9. Conduct testing to ensure CCA Service rates are being applied correctly to all customers, and make testing results available to MCE upon request.
- 3.9.10. Assist with annual settlement process for Net Energy Metering customers by identifying eligible customers and providing accrued charges and credits.
- 3.9.11. Send late payment notifications to CCA Service Customers for which bills are over 90 days and at least \$250 overdue, generated on a monthly basis, and pursuant to MCE's collection policies that MCE provides to Calpine which may be updated from time to time. Calpine will assist MCE, as mutually agreed upon, if MCE modifies or changes its collection process.
- 3.10. Reporting:
- 3.10.1. *["Calpine will deliver reports described in Appendix A to MCE as follows:"]*

Report Name	Frequency
<i>Aging</i>	<i>Weekly & Monthly</i>
<i>Cash Receipts</i>	<i>Weekly & Monthly</i>
<i>County Invoice Summary Reports</i>	<i>Monthly</i>
<i>Days To Invoice</i>	<i>Weekly & Monthly</i>
<i>Utility User Tax (UUT) where applicable</i>	<i>Monthly</i>
<i>Invoice Summary Report</i>	<i>Weekly & Monthly</i>
<i>Monthly Transaction Summary</i>	<i>Monthly</i>
<i>Opt Out with Rate Class</i>	<i>Weekly & Monthly</i>
<i>Retroactive Returns</i>	<i>On Request</i>
<i>Sent to Collections</i>	<i>Monthly</i>
<i>Snapshot</i>	<i>Weekly</i>
<i>Snapshot with Addresses</i>	<i>Weekly</i>
<i>Unbilled Usage</i>	<i>Monthly</i>
<i>Full Volume Usage by Rate Class (CAISO MDEF Details)</i>	<i>Monthly</i>
<i>Calpine Security Data Breach Policies</i>	<i>Quarterly</i>
<i>Contact center Statistics</i>	<i>Monthly</i>

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 3.10.2. As of the date of delivery of the above-listed reports to MCE, Calpine represents and warrants that all reports reflect current data within Calpine's production systems used to perform the services under this Exhibit A and *["are true and accurate and conform to their documentation and general descriptions listed in Appendix A attached."]*
- 3.10.3. The listed reports in Section 3.10.1 will be scheduled for delivery via SFTP or another mutually agreed upon secure delivery method. The Parties agree that MCE may request through the Calpine service request portal these reports off-schedule, as needed, and that such reports will be delivered as indicated above or a mutually agreed upon secure method. *["Any deviation in delivery method must be approved in writing by MCE prior to implementing new delivery method."]*
- 3.10.4. In addition to the reports listed in Section 3.10.1, MCE may request Ad Hoc reports that are not included in 3.10.1 are subject to ad hoc fees.
- 3.10.5. Calpine will participate on calls as needed with MCE staff to discuss the Mass Enrollment ramp-on schedule.
- 3.11. Settlement Quality Meter Data:
- 3.11.1. Calpine shall provide MCE or MCE's designated Load Serving Entity ("LSE") with Settlement Quality Meter Data ("SQMD") based on usage data for CCA Service Customers as provided by PG&E and required by the CAISO.
- 3.11.2. Calpine shall submit the SQMD directly to the CAISO on behalf of MCE or MCE's designated LSE.
- 3.11.3. The parties shall work together and agree on an acceptable format for the SQMD.
- 3.11.4. MCE agrees that Calpine shall have no responsibility for any charges or penalties assessed by the CAISO associated with the SQMD under an indemnity provision or otherwise unless such charge/penalty is the result of error(s) by Calpine in processing the data, for which MCE's exclusive remedy will be in accordance with Section 7.
- 3.11.5. In the event of a deviation of *["six percent (6%)"]* or greater between the total T+8 estimated SQMD and T+48 actual SQMD reported for a calendar month to the CAISO, upon MCE's request through the Calpine service request portal Calpine will investigate the cause of the deviation and provide MCE with its findings within 10 business days or as required using commercially reasonable efforts to determine cause. If the deviation was caused by a Calpine error, MCE's exclusive remedy will be in accordance with Section 7.
- 3.11.6. Parties acknowledge that T+8 estimated SQMD data is comprised of data from prior periods due to unavailability of actual meter data for which the date the T+8 estimated SQMD is submitted, therefore does not reflect the T+48 actual SQMD.
- 3.11.7. Calpine shall prepare the SQMD using the same level of care that Calpine would use if preparing the SQMD for its own account as an LSE.
- 3.12. Letter templates. Calpine shall save customer letter templates in CRM specified below provided by MCE in the CRM, and use commercially reasonable efforts to update additional templates upon MCE's request through the Calpine service request portal. At MCE's request, parties will review letter templates during the monthly operational call.
- 3.12.1. Opt out confirmation emails
- 3.12.2. Opt out confirmation letters
- 3.12.3. Late payment letters
- 3.12.4. Billing error customer notification letters and email templates

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 3.13. Customer participation in programs. Identify and track customer participation in the following programs and make this information available via the CRM and reports: On-Bill Repayment, Balanced Payment Plan, CARE, FERA, and Medical Baseline.
- 3.14. Review of Summary Invoice Report. Calpine shall use commercially reasonable efforts to perform a review of Invoice Summary Report, according to written parameters provided by MCE through the Calpine service request portal, including large or unusual credits and comparison of current versus historical customer usage, within 5 business days.
- 3.15. *["Town or Territory (TOT) validation. Calpine shall use commercially reasonable efforts to validate TOT of addresses received from PG&E according to written parameters provided by MCE to ensure that the addresses are within MCE jurisdictions, within 10 business days."]*
- 3.16. Planned System Updates. Calpine shall use commercially reasonable efforts to provide information related to significant planned system updates to applications that generate billing and SQMD data. Such information will include a general description of work and estimated timing, but in no way limit or obligate Calpine to implement such system updates. *["This information will be provided as a supplement to the Project List described in 3.6.1 and be discussed during the monthly operational calls described in 3.6.2."]*

4. Fees

- 4.1. Fixed Monthly Fee: Calpine shall bill a fixed fee of \$25,000 per month for services provided herein.
- 4.2. Per SA ID Fee: Calpine shall bill \$0.895 per active Service Agreement ID ("SA ID") enrolled in MCE service within each month.
- 4.2.1. *["Valid accounts under an active SA ID:*
- 4.2.1.1. *Individual accounts with a single meter, counted as one*
- 4.2.1.2. *An individual account with PG&E name "MULTIMETER", counted as one (one 867 is processed for multiple meters on premise), where as individual SA IDs with more than one distinct meter served at the same time are counted by distinct, active meter under the SA ID (distinct 867 usage is provided under each distinct meter).*
- 4.2.1.3. *Unmetered Accounts, counted as one per*
- 4.2.1.4. *Move-ins counted as one per SA ID*
- 4.2.2. *Invalid accounts and therefore no charge to MCE:*
- 4.2.2.1. *Duplicate SA IDs*
- 4.2.2.2. *Accounts with zero (0) days of usage (i.e. same date for account opening and closing), unless such account was enrolled into MCE service by PG&E and required a drop transaction prior to usage receipt*
- 4.2.2.3. *Secondary channels within a single SA ID (such as separated channels on NEM accounts)*
- 4.2.2.4. *Multiple rating group set-up creating duplications."]*
- 4.3. Extending Contact Center Hours during Non-Enrollment Periods: In the event MCE elects to extend the contact center hours to have active customer service representatives available from 7am to 7pm Pacific Time, the per SA ID per month fee shall be increased by \$0.030 for each SA ID. This service can be added or removed at any point in the contract, however, extending to the 7am to 7pm schedule requires a 3 month notification period and minimum term of 6 months prior to reverting back to the standard 8am to 5pm schedule. Such fee increases shall be prorated in the event the 7am to 7pm schedule is implemented after the first day of the month.

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 4.4. Implementing IVR at the Contact Center during business hours: In the event that MCE elects to implement self-service IVR functionality that enables MCE residents and small commercial customers to Opt out, Opt Up & Down and Opt In as the default service options during business hours (8am to 5pm Pacific Time) the per SA ID per month fee shall be reduced by \$0.015 for each SA ID.
- 4.5. Implementing Rate-Ready Billing Administration: *["In the event MCE elects to use Rate Ready Billing services, a PG&E billing administration offering, the per SA ID per month fee shall be unchanged for each SA ID."]*
- 4.6. Without Full Contact Center: In the event that MCE elects to fully transition all contact center services described in Section 3.4 including oversight, quality control program, training and IVR, the per SA ID per month fee shall be reduced by \$0.15 per SA ID.
- 4.7. *["MCE may elect to partially transition a portion of the Contact Center duties from Calpine by hiring internal Customer Service Representatives. For each customer service representative Calpine is able to reduce from its contact center as a result of this transition, Calpine will reduce the monthly per-meter fee by \$0.02, up to \$0.10."]*
- 4.8. Unless otherwise agreed to by the parties to the Agreement any additional deliverable provided by Calpine to MCE shall be billed at a labor rate of \$150.00 per hour plus any out-of-pocket costs incurred by Calpine without mark-up. Any such additional deliverable shall be first agreed to by the parties in writing prior to the services being provided.
- 4.9. Rate Change Pricing: Additional Rate Changes beyond those included in the per active SA ID pricing noted above will be provided to MCE per the following price schedule: *[Price schedule under negotiation]*

5. Data Security

- 5.1. Calpine shall, at its own expense, adopt and continuously implement, maintain and enforce reasonable technical and organizational measures, consistent with the sensitivity of Personal Information, including but not limited to measures designed to (1) prevent unauthorized access to and otherwise physically and electronically protect, MCE customer information, and (2) protect MCE content and MCE Data against accidental, unauthorized or unlawful access, disclosure, alteration, loss or destruction.
- 5.2. Calpine and/or its employees, contractors, officers, agents or successors, shall comply with all applicable data security laws and regulations, and all data security measures set forth in the Agreement and this Exhibit A.
- 5.3. Calpine shall maintain all customer data in compliance with MCE's customer privacy policy attached hereto as Appendix B, the Non-Disclosure Agreement, attached hereto as Appendix C, and the requirements of all relevant current and future CPUC Decisions including but not limited to D.12-08-045, including a daily backup process.
- 5.4. Maintain Calpine Energy Solutions, LLC Covered Information Security Breach Policy and Procedure as Agent for Community Choice Aggregators attached hereto as Appendix D and provide any updates to such policy within 7 calendar days, excluding changes to the Covered Information Users Lists (as defined therein).
- 5.5. Return of Customer Data. Upon MCE request which shall be made with reasonable notice, Calpine shall provide to MCE, or MCE's designee, all existing MCE Data used by Calpine for administration of the Data Manager Services. Calpine shall maintain, return, or (if so directed by MCE) subsequently destroy or delete all customer-related data in accordance with the provisions of the Non-Disclosure Agreement between the Parties and any other applicable confidentiality requirements, subject to the Parties' reasonable mutual agreement that the data identified for return, destruction or deletion are not necessary for Calpine's performance of continuing obligations under the Agreement and this Exhibit A.
- 5.6. Return of Data Generally.

DRAFT Exhibit A to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 5.6.1. *["At MCE's reasonable direction during the Operational Period of the Agreement, Calpine shall provide to MCE or its designee a copy of all or specified items of MCE Data. Parties will confer to determine the method and form of delivering such data. In the event MCE controls its own data warehouse, Calpine agrees to provide replication of all MCE Data in a mutually agreed upon format and frequency, but at a minimum of no less than daily updates."]*
- 5.6.2. Upon termination or expiration of this Exhibit A and/or the Agreement for any reason, Calpine shall provide to MCE or its designee all MCE Data, whether in written, electronic or other form or media, and at MCE's written request, shall securely dispose of all copies of MCE Data. Calpine shall thereafter certify in writing to MCE that all such data has been returned to MCE and/or disposed of securely.
- 5.6.3. MCE reserves the right to request return and/or destruction of specified items of data during the term of this Exhibit A and the Agreement, subject to the Parties' reasonable mutual agreement that the data in question are no longer necessary for Calpine's performance of its obligations under this Exhibit A and Agreement.
- 5.7. In the event of any detected breach of data security or unauthorized access concerning any data, particularly data that includes Personal Information, in accordance with applicable MCE and Calpine privacy and data security policies, Calpine shall immediately investigate and mitigate the cause and extent of such breach and promptly notify MCE of any breach or unauthorized access. Further, Calpine shall assist and cooperate in obtaining the return of any misappropriated data and other appropriate remedies.

6. Third-Party Audit Requirement.

- 6.1. Within 30 days of the Effective Date, Calpine shall use commercially reasonable efforts to enter into an agreement with a qualified Certified Public Accounting firm to conduct a SOC 1 Type II Report audit. Calpine shall be responsible for all associated costs and fees of the SOC audit. *["Alternatively, MCE may select a third-party auditor to perform a similar audit of Calpine's systems and processes related to performance of its obligations under this Exhibit A and the Agreement. Parties shall agree to the scope, and MCE shall be responsible for all associated costs and fees, of such audit."]*

7. Remedies for Failure to Meet Certain Performance Standards.

["7.1 In the event of a breach of a covenant set forth herein which has not been remedied by the breaching party within 30 days of delivery of notice of such breach by the other party, the other party may pursue all remedies available to it.

7.2 The Parties acknowledge that Calpine's failure to achieve substantial compliance with the performance standards and reporting thereon as specified in Sections 3.1, 3.3.1, 3.3.2, 3.4, 3.5, 3.6, 3.7, 3.8, 3.10 and 3.11 of this Exhibit A (the "Specified Performance Standards") may cause MCE to incur substantial economic damages and losses of types and in amounts which may be impossible to compute and ascertain with certainty as a basis for recovery by MCE of actual damages, including increased opt-out rates, reputational harm and customer dissatisfaction, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, Calpine agrees that liquidated damages may be assessed and recovered by MCE against Calpine in the event of a failure to substantially meet the Specified Performance Standards. For any month in which MCE believes Calpine has failed to substantially meet the Specified Performance Standards MCE will provide notification to Calpine within 30 calendar days of its discovery of MCE's failure, describing the performance standard(s) that have not been met, and Parties shall then confer to establish a plan to remedy such failure. In the event Calpine is unable to achieve such remedy within 30 calendar days of notification, Calpine shall be liable to MCE for payment of liquidated damages in an amount of forty Thousand Dollars (\$40,000) for each month that Calpine fails to substantially meet the Specified Performance Standards.

7.3 Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Calpine shall pay them to MCE without limiting MCE's right to terminate this agreement for default as provided elsewhere herein.

7.4 Notwithstanding anything to the contrary in the Agreement or this Exhibit A, including, but not limited to Section 3.9.6 hereof, Calpine is liable to MCE for Billing Error Damages where a Billing Error has occurred and the Billing Error Damages associated with such Billing Error exceed Five Thousand Dollars (\$5,000) in the aggregate. "Billing Error Damages" means the correct amount owed by one or more current or former CCA Service Customers where such correct amount is either (a) not received by MCE within thirty (30) days of the corrected bill being delivered to such customer or customers, or (b) not recoverable by MCE as a result of a tariff, rule or regulation to which MCE is subject or to which MCE adheres."]

8. Primary Points of Contact.

- 8.1. Calpine shall provide a primary point of contact for each of the following areas: (1) day-to-day billing issues and customer contact including contact center interactions; (2) contact center operations, including reporting, staffing, training and scripting; (3) other services provided in this Exhibit A [“including data warehouse and data portal functions”]; (4) services not included in this Exhibit A and general client relationship issues. For email communication related to (1), (2) and (3) above, MCE shall copy distribution lists provided by Calpine.
- 8.2. MCE shall provide a primary point of contact for each of the following areas: (1) day-to-day billing issues and customer contact including contact center interactions; (2) contact center operations, including reporting, staffing, training and scripting; (3) other services provided in this Exhibit A; (4) services not included in this Exhibit A and general client relationship issues. For email communication related to (1), (2) and (3) above, Calpine shall copy distribution lists provided by MCE.
- 8.3. Each Party’s points of contact shall coordinate to ensure that all concurrently active requests and issues are managed in accordance with MCE priorities and availability of Calpine resources. Each Party shall apply diligence in maintaining current information for active requests and issues in the Calpine service request portal.

9. Pricing Assumptions.

- 9.1. The Fees defined herein include only the services and items expressly set forth in this Exhibit A.

10. Notices.

- 10.1. The notice addresses as set forth in Section 21 of the Agreement are updated as follows:

Contract Manager:	MCE; Attn.: Contracts Manager

MCE Address:	1125 Tamalpais Ave.

	San Rafael, CA 94901

Telephone No.:	(415) 464-6014

- 10.2. Notices shall be given to Contractor at the following address:

Contractor:	Calpine Energy Solutions LLC; Attn.: Drake Welch

MCE Address:	401 West A Street, Suite 500

	San Diego, CA 92101

Telephone No.:	(619) 684-8039

CALPINE ENERGY SOLUTIONS LLC
 By: _____

MARIN CLEAN ENERGY
 By: _____

Title: _____

Title: CEO

EXHIBIT B
To
AMENDED AND RESTATED MASTER PROFESSIONAL SERVICES AGREEMENT
Between Calpine Energy Solutions, LLC
And MARIN CLEAN ENERGY
Dated December 6, 2019
Effective Date: December 6, 2019

This Qualified Reporting Entity Services Agreement and Attachment 1 (this "QRES Exhibit" or "Exhibit B") is entered into by and between Calpine and MCE and supplements the above-referenced Amended and Restated Master Professional Services Agreement ("Agreement") between MARIN CLEAN ENERGY ("MCE") and CALPINE ENERGY SOLUTIONS, LLC ("Calpine"), individually as "Party" and collectively as the "Parties". As of the Effective Date, this Exhibit B supersedes the Qualified Reporting Entity Services Agreement dated February 20, 2013 and any previously executed addenda by the Parties. Capitalized terms not otherwise defined herein or in the Agreement shall have the meanings set forth in Section 1 below. The terms and conditions of the Agreement apply to this Exhibit. The terms and conditions of this Exhibit are intended to supplement the Agreement, however, in the event of conflict between the terms of Agreement and this Exhibit, the Agreement shall control.

QRES RECITALS

WHEREAS, MCE represents to Calpine that it owns or otherwise has the rights to all or part of the non-energy attributes of the generation from that certain electric generation facility more particularly described on Attachment 1 hereto (the "Facility"), or other rights respecting the Facility itself enabling it to lawfully enter hereinto; and

WHEREAS, The Western Renewable Energy Generation Information System ("WREGIS") is a system tracking quantities of renewable energy generation generated by electric generating facilities in the nature of the Facility, as a Facility pursuant to WREGIS Terms of Use ("TOU"); and

WHEREAS, WREGIS requires that each Facility have a designated Qualified Reporting Entity ("QRE"); and

WHEREAS, MCE is an Account Holder in WREGIS and wishes to register the Facility with WREGIS; and

WHEREAS, MCE wishes to retain Calpine to act as its WREGIS-defined QRE for the Facility.

QRES TERMS

1. Definitions; Rules of Construction.

- 1.1. Initially capitalized terms used and not otherwise defined herein are defined in the Operating Rules or in Attachment 1 of the WREGIS TOU or in that certain Amended and Restated Master Professional Services agreement by and between Calpine and MCE (the "Agreement") to which this Exhibit B is attached and made part of.
- 1.2. "Affiliate" means, with respect to any entity, each entity that directly or indirectly controls, is controlled by, or is under common control with, such designated entity, with "control" meaning the possession, directly or indirectly, of the power to direct management and policies, whether through the ownership of voting securities or by contract or otherwise.
- 1.3. "Business Day" means a day of the week other than Saturday, Sunday, or a federal holiday.
- 1.4. "CAISO" means California Independent System Operator.
- 1.5. "Electric System Authority" means each of NERC, WECC, WREGIS, CAISO, a regional or sub-regional reliability council or authority, and any other similar council, corporation, organization or body of recognized standing with respect to the operations of the electric system in the WECC region.
- 1.6. "FERC" means the Federal Energy Regulatory Commission.
- 1.7. "Facility" is defined in the QRES Recitals above.

DRAFT Exhibit B to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

- 1.8. "Facility Owner" is defined in Attachment 1 hereto. Attachment 1 to this Exhibit B may be revised upon the mutual, written consent of the Parties to the Agreement.
- 1.9. "Monthly Generation Extract File" means a data file that contains generation Data from MCE's Points of Metering and conforms to the characteristics and requirements set forth in the WREGIS Interface Control Document for Qualified Reporting Entities.
- 1.10. "NERC" means the North American Electric Reliability Corporation.
- 1.11. "Points of Metering" means the points at which electric generation is measured.
- 1.12. "QRE" means a WREGIS-defined Qualified Reporting Entity.
- 1.13. "Renewable" is defined in section 2 of the WREGIS Operating Rules.
- 1.14. "Requirements of Law" means any applicable federal, state and local law, statute, regulation, rule, code or ordinance enacted, adopted, issued or promulgated by any federal, state, local or other governmental authority or regulatory body (including those pertaining to electrical, building, zoning, environmental and occupational safety and health requirements).
- 1.15. "Settlement Estimation Procedures" means a calculation based on standard utility estimation rules using algorithms developed and approved by Calpine.
- 1.16. "Wholesale Generation Also Serving On-Site Loads" is defined in Section 2 of the WREGIS Operating Rules.
- 1.17. "WECC" means the Western Electricity Coordinating Council.
- 1.18. "WREGIS" means the Western Renewable Energy Generation Information System.
- 1.19. "WREGIS Certificate" or "Certificate" means "Certificate" as defined by the WREGIS Operating Rules.
- 1.20. "WREGIS Operating Rules" means the operating rules and requirements adopted by WREGIS, including the TOU.
- 1.21. General Rules of Interpretation. Unless otherwise required by the context in which any term appears, (a) the singular includes the plural and vice versa; (b) references to "Articles," "Sections," "Schedules," "Annexes," "Appendices" or "Exhibits" are to articles, sections, schedules, annexes, appendices or exhibits hereof; (c) all references to a particular entity or an electricity market price index include a reference to such entity's or index's successors; (d) "herein," "hereof" and "hereunder" refer to this Exhibit B as a whole; (e) all accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles consistently applied; (f) the masculine includes the feminine and neuter and vice versa; (g) "including" means "including, without limitation" or "including, but not limited to"; (h) all references to a particular law or statute mean that law or statute as amended from time to time; and (i) the word "or" is not necessarily exclusive.
- 1.22. Compliance with Requirements of Law. MCE and Calpine agree to conduct themselves in accordance with all Requirements of Law and all requirements of all applicable Electric System Authorities.

2. Term and Termination.

- 2.1. This Exhibit B shall be effective upon execution by the Parties and shall continue in effect for a period of three (3) years from the date of execution, and may be renewed in writing by mutual agreement of the Parties, unless earlier terminated pursuant to Section 12 of the Agreement. Notwithstanding the foregoing, (a) Calpine may terminate this Exhibit B if the Facility fails to meet the requirements of Section 3.1 hereof, (b) either Party may terminate this Exhibit B immediately upon notice to the other if MCE, Calpine or the Facility fail to comply with Section 1.21 hereof, and (c) this Exhibit B shall automatically terminate in the event the Facility is no longer registered in WREGIS with MCE if MCE provides Calpine advance written notice of MCE's intent to deregister the Facility. This Exhibit B may also be terminated as otherwise set forth herein.

3. QRE Services.

- 3.1. Conditions to QRE Services. Calpine will, subject to the terms set forth herein, serve as a QRE for the Facility so long as the Facility meets the definition of Renewable, is equipped with meters that meet all applicable WREGIS requirements and is conducted in accordance with all Requirements of Law and all requirements of all applicable Electric System Authorities.
- 3.2. Compensation to Calpine. In exchange for the services performed by Calpine hereunder, MCE shall pay Calpine a monthly reporting fee of Zero United States Dollars (US\$0.00) for which Calpine reports Data to WREGIS, provided that Calpine may, in its discretion, assess and bill for all fees due hereunder on an annual, rather than monthly, basis. Fees due hereunder shall be due within thirty (30) days of Calpine's issuance of an invoice for such fees. In the event WREGIS, WECC, or any other entity with the ability or jurisdiction to modify the QRE reporting process requires a change that materially increases the costs to Calpine of providing QRE services, Calpine may pass those costs to the MCE by increasing the monthly reporting fee. Calpine will use best efforts to provide MCE with prior notice before billing MCE for such increased costs. The fees set forth herein relate to Calpine serving as a QRE for MCE pursuant to the terms of this Exhibit B. The necessary metering is a prerequisite for this service and is not covered in the fees described above.
- 3.3. Points of Metering. The Points of Metering that Calpine will use are set forth in Attachment 1. MCE certifies that all Points of Metering listed in Attachment 1 measure data only from the Facility that meet the definition of Renewable. MCE shall notify Calpine at least thirty (30) Business Days prior to making any proposed material changes to the Points of Metering. Following such notification, the Parties will decide whether such changes are mutually acceptable. If such changes are not mutually acceptable, either Party may terminate this Exhibit B.
- 3.4. Expenses. Calpine shall not be responsible for any costs and expenses relating to metering or other equipment installed to accommodate the Facility.
- 3.5. Reporting. MCE hereby grants to Calpine sole and exclusive permission and authority to report Data, as defined in WREGIS's Interface Control Document for Qualified Reporting Entities and Attachment 1 of the WREGIS TOU, in a Monthly Generation Extract File to WREGIS and warrants and represents that neither MCE nor any other person or entity acting on behalf of MCE (and to the best of its knowledge, nor Facility Owner) has granted, or will hereafter grant during the term hereof any similar data reporting authority or permission to any other QRE or WREGIS Account Holder or to any other party or Agent for use in WREGIS, or any other energy tracking system, for the Facility.
- 3.5.1. Monthly Generation Extract File. Once a month Calpine shall submit a Monthly Generation Extract File to WREGIS on MCE's behalf, which will conform to the characteristics and data requirements set forth in the WREGIS Interface Control Document for Qualified Reporting Entities.
- 3.5.2. Reporting Cycle. Calpine shall submit the Monthly Generation Extract File to WREGIS no sooner than the last business day of each month for Data collected from the Points of Metering during the previous month, or previous portion of the month. Calpine shall submit such data no later than the end of the calendar month following the end date of the Data being reported.
- 3.5.3. Adjustments. After Calpine submits the Monthly Generation Extract File to WREGIS, any information contained in the Monthly Generation Extract File shall be final for purposes of WREGIS reporting, subject only to the adjustment procedures set forth in the WREGIS Operating Rules, which shall be MCE's responsibility to inform Calpine if any adjustments are necessary.
- 3.6. Obligations of MCE. MCE shall send, or cause Pacific Gas & Electric Company ("PG&E") to send, the generation Data of the Facility for WREGIS to Calpine in compliance with any protocols which Calpine may reasonably specify to MCE in accordance with this Exhibit B. MCE has a continuing duty to immediately notify Calpine, if and when any generation Data information has been sent in error or ceases to be truthful, accurate, or complete and to supply the corrected data as soon as practical, but not later than five (5) Business Days from the date MCE discovers that discrepancy in the Data information.
- 3.7. WREGIS Fees. MCE is solely responsible for the payment directly to WREGIS of any and all WREGIS fees and costs that are required to register the Facility and MCE is responsible for the payment directly to WREGIS of all other WREGIS fees incident to the reporting of generation Data to WREGIS. MCE acknowledges and agrees that Calpine shall have no obligation to advance or make payment of WREGIS fees or costs on MCE's behalf. Upon request by Calpine, if Calpine has received such a request from WREGIS or any regulator or third party, MCE shall provide Calpine with evidence of payment of WREGIS fees and costs; failure to provide such

information to Calpine, upon request, shall constitute an Event of Default under this Exhibit B.

- 3.8. WREGIS Accounts. MCE will be solely responsible to make arrangements and registrations and for entering into any such agreements that are necessary to establish transfer of Certificates directly to proper Accounts or Subaccounts of MCE. MCE agrees that such arrangements shall preclude the need for Calpine to act as custodian of such Certificates or to be responsible in any way to hold such Certificates in any Account or Subaccount of Calpine or bear any responsibility, possession, obligation, or risk of loss with respect to Certificates created, held, or owned, with respect to the Facility. MCE acknowledges that, pursuant to Section 11 of the WREGIS TOU, any generation Data that Calpine, acting as a QRE, provides to WREGIS shall reside in WREGIS and MCE will have no control over such data's use other than that provided for under the WREGIS TOU.
- 3.9. Obligations of Calpine. Calpine shall specify for MCE the protocols, reporting frequency, data file formats, and communication protocols for reporting generation Data, as necessary. Calpine shall timely report to WREGIS Data information as specified in the most current WREGIS Interface Control Document for Qualified Reporting Entities pertaining to the Facility on behalf of MCE. Calpine shall not use or disclose MCE generation Data for any other purpose than reporting the Data to WREGIS, except as may be required by law, the California Energy Commission, any other state, federal, municipal or other regulator or governmental authority with jurisdiction over Calpine or any of its assets, or a court of competent jurisdiction or as required under the terms of an existing agreement between the Parties. In the event that Calpine receives a request for MCE generation Data for any purpose other than reporting the Data to WREGIS, Calpine shall promptly notify MCE and shall provide MCE with sufficient opportunity to seek a protective order to prevent or limit disclosure of the Data prior to providing the Data. Notwithstanding the foregoing, Calpine shall not be responsible for handling, account administration, transfer, evidence of, or any determination of MCE Certificate ownership or any other obligations for Certificates of MCE with regard to Certificates; and MCE shall bear all responsibility for such handling, account administration, evidence of, or any determination of MCE Certificate ownership and all other obligations pertaining to creation and ownership of such Certificates.
- 3.10. Measurement.
- 3.10.1. Meter Data. MCE authorizes Calpine to provide Facility's meter data directly to WREGIS in the form of the Monthly Generation Extract File. Data will be gathered from the Points of Metering listed in Attachment 1 and provided to Calpine. For purposes of WREGIS, all such data is considered Data which MCE has created and submitted to WREGIS.
- 3.10.2. Wholesale Generation Also Serving On-Site Loads. If Facility has any Wholesale Generation Also Serving On-Site Loads (as defined in Article 1 above), MCE is hereby advised that such Facility will need to have the on-site load generation metered (and registered) separately from the generation that is supplied to the grid, in accordance with the WREGIS Operating Rules. Otherwise, Calpine will not report any data from such Facility. If such Facility exists, it must be specified in Attachment 1.
- 3.10.3. Estimates. When meter readings are not available due to meter hardware failure or data that is determined to be invalid due to meter malfunction or calibration or configuration error, to the extent deemed by Calpine to be appropriate and permitted pursuant to WREGIS TOU, Calpine will, if possible, rely on readings from redundant meters. If readings from redundant meters are not possible, Calpine will estimate and report meter data according to Calpine' Settlement Estimation Procedures.
- 3.10.4. Responsibility. Calpine is not responsible for the data created and submitted by MCE to Calpine, acting as a QRE, to forward to WREGIS.
- 3.11. Regulatory Requirements. Calpine may release information provided by MCE hereunder, or gathered by Calpine in connection herewith, to comply with any regulatory requirements applicable to Calpine or if requested by a Calpine regulator or if required by any other federal law or court order or Requirements of Law.
- 3.12. Grant by MCE. MCE hereby grants to, permits, and authorizes Calpine the following:
- 3.12.1. Calpine is hereby authorized to communicate and transact with WREGIS as MCE's sole and exclusive reporting source of generation Data for the Facility, and WREGIS is hereby authorized to communicate and transact directly with Calpine regarding any generation Data issues for the Facility relating to Calpine' QRE responsibilities under this Exhibit B. Calpine is hereby authorized to act on behalf of MCE with respect to the services to be performed by Calpine pursuant to this

DRAFT Exhibit B to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

Exhibit B, but only to the extent that Calpine has lawful, contractual access to WREGIS.

- 3.12.2. Calpine is hereby authorized to provide WREGIS with all generation Data for the Facility that WREGIS requires, including, but not limited to, data required for preparation of required reports and billing.
- 3.12.3. Calpine is authorized to undertake all actions which are reasonable and necessary to carry out the obligations set forth in the subsections above.
- 3.12.4. MCE retains all other rights and responsibilities and all other obligations to WREGIS.

4. Limitation of Liability.

- 4.1. *["IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, OR OTHER INDIRECT LOSS OR DAMAGES RESULTING FROM ANY BREACH OF THIS AGREEMENT, WHETHER CAUSED BY THE NEGLIGENCE OR INTENTIONAL ACTIONS OF SUCH PARTY (AND/OR ITS CONTRACTORS, AGENTS, AND EMPLOYEES), REGARDLESS OF WHETHER SUCH CLAIM FOR DAMAGES IS BASED IN CONTRACT, TORT, STRICT LIABILITY, UNDER ANY INDEMNITY OR OTHERWISE. IN NO EVENT SHALL CALPINE BE LIABLE FOR ANY LOSS OR HARM SUFFERED BY MCE OR ANY THIRD PARTY DUE TO ANY ACTION OR INACTION BY CALPINE TAKEN HEREUNDER THAT CAUSES A FACILITY TO LOSE ANY CREDENTIALS, REGISTRATION OR QUALIFICATION UNDER THE RENEWABLE PORTFOLIO STANDARD OR SIMILAR LAW OF ANY STATE OR OTHER JURISDICTION.*
- 4.2. *NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, COUNTERPARTY ASSUMES FULL RESPONSIBILITY AND RISK OF LOSS RESULTING FROM COUNTERPARTY'S (1) FAILURE TO SEND DATA IN A FORMAT SPECIFIED BY CALPINE, (2) FAILURE TO USE PROTOCOLS SPECIFIED BY CALPINE OR (3) SENDING OF ERRONEOUS, UNTRUTHFUL, INACCURATE, AND/OR INCOMPLETE GENERATION DATA TO CALPINE OR THE SENDING OF ERRONEOUS, UNTRUTHFUL, INACCURATE, AND/OR INCOMPLETE DATA BY CALPINE TO WREGIS.*
- 4.3. *FOR THE AVOIDEANCE OF DOUBT, THIS ARTICLE 4 SUPPLEMENTS, AND DOES NOT REPLACE, SECTION 17.6.2 OF THE AGREEMENT.*
- 4.4. *THIS ARTICLE 4 SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS EXHIBIT OR THE AGREEMENT, WHETHER ANY SUCH TERMINATION IS BY CALPINE OR MCE, AND WHETHER OR NOT SUCH TERMINATION IS ON ACCOUNT OF AN EVENT OF DEFAULT."]*

5. Further MCE Obligations.

- 5.1. No Sale. Nothing herein constitutes a sale or purchase of energy or renewable energy certificates to or by Calpine.
- 5.2. PTCs. Calpine shall not bear any risks, financial or otherwise throughout the term, associated with MCE's or the Facility's eligibility to receive production tax credits ("PTCs") or qualify for accelerated depreciation for MCE's or the Facility Owner's accounting, reporting or tax purposes.
- 5.3. Further Assurances. At Calpine' request, the Parties shall execute such documents and instruments as may be reasonably required to effect the essential intent and purposes hereof.
- 5.4. Station Service. Calpine shall not be responsible for arranging and obtaining any station service required by the Facility.
- 5.5. Costs of Ownership and Operation. Without limiting the generality of any other provision hereof, Calpine shall not be responsible for paying or causing to be paid when due (a) any costs of owning and operating the Facility in compliance with existing and future Requirements of Law and the tams and conditions hereof: and (b) any taxes and charges (however characterized) now existing or hereinafter imposed on or with respect to the Facility, its operation, or on or with respect to emissions or other environmental impacts of the Facility, including any such tax or charge (however characterized) to the extent payable by a generator of such energy or renewable energy certificates.
- 5.6. Data Request. In the event that Calpine receives a request for information provided by MCE hereunder, or gathered by Calpine in connection herewith, other than for reporting the Data to WREGIS, Calpine shall promptly notify MCE and shall provide MCE with sufficient opportunity to seek a protective order to prevent or limit

DRAFT Exhibit B to the Amended & Restated Master Professional Services Agreement Between MCE and Calpine

disclosure of the Data prior to providing the Data. MCE shall, promptly upon written request from Calpine, either notify Calpine of its intent to limit or prevent disclosure of the Data, or provide Calpine with Data reasonably required for information requests from any governmental authorities, state or federal agency intervener or any other party achieving intervener status in any rate proceeding or other proceeding before any governmental authority. MCE shall use best efforts to respond to Calpine sufficiently in advance to enable Calpine to review it and meet any submission deadlines.

- 5.7. Additional Information. MCE shall provide to Calpine such other information respecting MCE or the Facility as Calpine may, from time to time, reasonably request which Calpine requires to perform its services under this Exhibit B.
- 5.8. No Dedication. Nothing herein shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party hereto.

6. Events of Default; Remedies.

- 6.1. Event of Default. "Event of Default" means, with respect to a Party (the "Defaulting Party"):
- 6.1.1. the failure to render when due any payment or performance hereunder, if such failure is not remedied within five (5) days after written notice;
 - 6.1.2. any such Party's representation or warranty proves to have been incorrect or misleading in any material respect when made;
 - 6.1.3. the failure to perform any other covenant set forth herein if such failure is not remedied within five (5) days after written notice;
 - 6.1.4. its bankruptcy or dissolution; or
 - 6.1.5. In the case of MCE:
 - 6.1.5.1. MCE fails to report generation Data information to Calpine for the Facility or MCE fails to send the data in a format and use the protocols specified by Calpine as determined by Calpine to be required to meet the requirements of the WREGIS Operating Rules and such failure continues for a period of thirty (30) days;
 - 6.1.5.2. MCE is delinquent in payment to WREGIS of any WREGIS fees for registration or maintenance of Accounts or Subaccounts, which payment impairs the ability of Calpine to report generation Data information to WREGIS regarding the Facility, which delinquency continues for a period of thirty (30) days;
 - 6.1.5.3. MCE fails to comply with a request by Calpine to provide evidence of payment of WREGIS fees pertaining to the Facility and such failure continues for a period of ten (10) days; or
 - 6.1.5.4. MCE knowingly or intentionally falsifies or misrepresents any Data information, or other information required by WREGIS.
- 6.2. Remedies Upon Event of Default. In the Event of Default by a Party and for so long as the Event of Default is continuing, the non-defaulting Party (the "Performing Party") shall have the right to do any or all of the following: (1) upon five (5) Business Days' written notice to the Defaulting Party, terminate this Exhibit B; (2) withhold any payments (except payments in respect of obligations performed prior to Event of Default) or performance due in respect of this Exhibit B; and (3) exercise such other remedies as may be available at law or in equity or as otherwise provided for herein, to the extent such remedies have not been otherwise waived or limited pursuant to the terms hereof.
- 6.3. Setoff. If an Event of Default occurs, the Performing Party may, at its election, set off any or all amounts which the Defaulting Party owes to it or any Affiliate of the Performing Party (whether under this Exhibit B or otherwise and whether or not then due) against any or all amounts which it or any Affiliate of the Performing Party owes to the Defaulting Party (whether under this Exhibit B or otherwise and whether or not then due).
- 6.4. Payment of Damages. Any amounts due on account of an Event of Default shall be paid within five (5) Business Days following the Defaulting Party's receipt of the Performing Party's written termination notice setting forth the

termination payment due.

6.5. Survival. This Article survives the expiration or termination of the Agreement and of Exhibit B.

ATTACHMENT 1

["MCE has omitted Attachment 1 from Executive Committee Review as it is a list of customer generation facilities for Calpine to serve as the QRE and there is no dispute over the Attachment 1.]

APPENDIX A

General Descriptions of Reports

*The table below expands upon the list of reports in Section 3.10 of Exhibit A to the Amended and Restated Master Professional Services Agreement. This table gives a general description of the reports, with a sample of some of the fields, grouping, and summaries. Please note that these are general descriptions for information only and are not intended to be full report specifications. If anything conflicts with the table here and the table in Section 3.10 of Exhibit A, Exhibit A controls.

Report Name	Description	Major Fields and Summaries	Format
Aging	Billing data, aging by account	<ul style="list-style-type: none"> Customer Account Number Status TOT Amount in timeframes 	Excel or CSV
Cash Receipts	Payments made by the account holder to PG&E	<ul style="list-style-type: none"> Transaction Date Transaction ID Customer Account Number Amount 	Excel or CSV
County Invoice Summary	Invoice Summary for a specific County	<ul style="list-style-type: none"> Report Date and Period Invoice Number Customer Account Number Charges Total Billed 	Excel or CSV
Days To Invoice	Days to invoice is the lag between loaded and billed.	<ul style="list-style-type: none"> Customer Account Number Days To Invoice Service begin and end date Data load date Billed date Quantity 	Excel or CSV
Utility User Tax (UUT) where applicable	Summary of UUT amounts by TOT	<ul style="list-style-type: none"> TOT Total Sales Exempt Sales UUT percentage UUT Unpaid 	Excel or CSV
Invoice Summary Report	Includes all original and cancelled charges sent during a specific time period (weekly/monthly)	<ul style="list-style-type: none"> Report Date and Period Invoice Number Customer Account Number Charges Total Billed 	Excel or CSV
Monthly Transaction Summary	Summary if transaction amounts by Type and subtype	<ul style="list-style-type: none"> Type Sub-Type 	Excel or CSV

		<ul style="list-style-type: none"> • Sub-Type Description • Amount 	
Opt Out with Rate Class	Account that have opted out	<ul style="list-style-type: none"> • Customer • Account Number • SA ID • Status • Rate Class • Opt Out Date • Confirmation Number 	Excel or CSV
Retroactive Returns	These are customers who transitioned to MCE, then called to reverse the transition.		Excel or CSV
Sent to Collections	Customers sent to collections with overdue amounts and dates	<ul style="list-style-type: none"> • Customer • SA ID • Address • Billing Address • TOT • Balance • Late Payment Date 	Excel or CSV
Snapshot with Addresses	All customers, current and past, with addresses.	<ul style="list-style-type: none"> • Customer • Account Number • Address • Status • Rate • Meter Number • Load Profile 	Excel or CSV
EV Rate & EV Charging Accounts Report		<ul style="list-style-type: none"> • Similar to "Snapshot with Addresses" + • Email • Deep Green Indicator 	Excel or CSV
Unbilled Usage	Accounts that did not include energy usage in their bill	<ul style="list-style-type: none"> • Customer • Account Number • LCD Account • Status • Meter • Start and End Dates • kWh 	Excel or CSV
All Service Agreements	Monthly Report with 17 fields for all service agreements that is used for the CP Team's PMP	<ul style="list-style-type: none"> • 4014 Data 	Excel or CSV
Full Volume Usage by Rate Class (CAISO MDEF Details)	Load by date and hour, by Rate Class	<ul style="list-style-type: none"> • Trade Date and Time • Load Profile • Base and Loss Adjusted Load • Meter and Sub-Meter Count 	Excel or CSV

OBR Detail	This lists On Bill Repayment, which is a loan or obligation that is repaid via the bill.	<ul style="list-style-type: none"> Customer Account Number LCD Account Number PG&E Account ID Loan Amount Other Amounts and Charges 	Excel or CSV
Weekly Retention Report - Detail	Calculates retention rate	<ul style="list-style-type: none"> Starting and ending number of accounts By Customer type Has Adds, Closes, Start and Finish counts. 	Excel or CSV
Weekly Retention Report - Summary	Summary version of the above	<ul style="list-style-type: none"> Shows starting and ending number of accounts. Should be now/prior 	Excel or CSV
Daily Billing	Listing of bills generated on that day. Includes SA, name, address, billing period	<ul style="list-style-type: none"> Customer Account Number Billing Period Other Billing Data 	Excel or CSV
Overall Participation Rate (Account Counts)	Overall participation rate by: TOT, Light/Deep, Local Sol, Res or Comm	<ul style="list-style-type: none"> TOT Counts By various dimensions 	Excel or CSV
Annual Hourly BL/LAL	Billed Load / Loss Adjusted Load	<ul style="list-style-type: none"> Billed Load Loss-Adjusted Load 	Excel or CSV
Annual Usage by Member Agency	Annual Usage by Member Agency	<ul style="list-style-type: none"> Service Territory ·kWh for Service Territory by month 	Excel or CSV
Annual Usage by Rate Option	Annual Usage by Rate Option	<ul style="list-style-type: none"> Type Class Count Total kWh 	Excel or CSV
NEM Cash Out Requests	Customers with net generation balance who are eligible for the annual NEM cash-out	<ul style="list-style-type: none"> Customer Name Mailing Address Account Number Check Total 	Excel or CSV
Bill Protection Rolling Credits	Bill Protection Rolling Credits	<ul style="list-style-type: none"> Active and Neutral Accounts with CARE and Non-Care savings and credits 	Excel or CSV
Deep Green OPT Down Move Out	Deep Green customers that have opted down from DG to LG, or closed their account	<ul style="list-style-type: none"> Customer Name LDC Account Account Status, including start and stop dates for account and DG. 	Excel or CSV

		<ul style="list-style-type: none"> • Indicator: Whether opt down or move out. • TOT 	
Deep Green Opt Up Monthly	Transaction report including both customer and transaction info for opt ups spanning a specific month	<ul style="list-style-type: none"> • Customer Name • Account Number • SA ID • Phone Number • Interaction Date • Confirmation Number • Selected for a specified one-month Date range 	Excel or CSV
Deep Green Opt Up Weekly	Transaction report including both customer and transaction info for opt ups spanning a specific week	<ul style="list-style-type: none"> • Customer Name • Account Number • SA ID • Phone Number • Interaction Date • Confirmation Number • Selected for a specified one-month Date range 	Excel or CSV
NEM Cash Out Mailing Lists	Mailing list used during the cash-out process	<ul style="list-style-type: none"> • Customer Name • Account Number • Mailing address • Service Address • Escrow Balance • Last Billed Date 	Excel or CSV
Uncollectible	Summary of outstanding balance deemed as uncollectable	<ul style="list-style-type: none"> • Month • County • TOT • Billed • Adjusted Billed • Outstanding • Uncollected Percent 	Excel or CSV
Usage Gap	Failed meter reads?	<ul style="list-style-type: none"> • Customer • Account Number • LCD Account Number • Gap Type • Gap Start and End • Gap Days • Rating Group 	Excel or CSV
Usage Overdue	Shows missing usage periods, includes the missing period, the read cycle and days late (based on read cycle).	<ul style="list-style-type: none"> • Customer • Account Number • DAX Ref • Meter • Missing Period • Days Late 	Excel or CSV

Usage Overlap	Shows overlapping usage on the same meter.	<ul style="list-style-type: none"> • Customer • LCD Account Number • LCD Status • Meter • Start and End Dates • Units 	Excel or CSV
NEM Cash Out Requests	Customers with escrow balance and check amount.	<ul style="list-style-type: none"> • Customer Name • Account Number • Full Mailing Address • Amount 	Excel or CSV
T+8 and T+48 report	This provides total load for the day by hour. It does not have allocations by rate class.	<ul style="list-style-type: none"> • MSID • Date and Time • Base Load • Loss Adjusted Load 	
Billing History	Billing history for a Date Range	<ul style="list-style-type: none"> • TOT • Customer Class • Rate • kWh • Deep Green Total • Invoice Total 	Excel or CSV
Load History	Load history for a Date Range	<ul style="list-style-type: none"> • TOT • Customer Class • Rate • kWh • LCD Account Count • Care Count • FERA Count 	Excel or CSV
Weekly Retention Report - Detail	Grouped by TOT, calculates retention rate	<ul style="list-style-type: none"> • Customer Type • Previous, Count • Current, Count • Closed Accounts, Count • New Accounts, Count Retention rate 	Excel or CSV
Weekly Retention Report - Summary	Summary version of the above grouped by Customer Type	<ul style="list-style-type: none"> • Customer Type • Previous, Count • Current, Count • Closed Accounts, Count • New Accounts, Count • Retention rate 	Excel or CSV
Overall Participation Rate	Overall participation rate	<ul style="list-style-type: none"> • By Town or Territory, including Light Green, Deep Green and Opt Out 	Excel or CSV
Calpine Monthly Report of Services and Updates	To review high-level updates and discuss any new updates	<ul style="list-style-type: none"> • Contains excerpts from the monthly statistics and personnel updates • Audit info 	PDF

		<ul style="list-style-type: none"> • Planned Outage Info • Rate Implementation Info • BPA analytics • SQMD • QRE services • % Accurately Billed • Monthly Meter Count • Invoice Generation Revenue 	
QA call recordings	Call recordings of CSR & customer calls, received monthly	<ul style="list-style-type: none"> • Recordings of calls • QA scoring sheets 	MP3, PDF
Calpine Security Data Breach Policies	Delineates who has access to CRM/customer data access, some security policies	<ul style="list-style-type: none"> • Scope • Procedures • Personnel who have access to data 	Pdf
Call Center Statistics	These are summary statistics on call center performance.	<ul style="list-style-type: none"> • Customer IVR Selections • SLA performance • Customer Survey Results • Customer Preferred Languages • Call Center Metrics • Call dispositions • Notes on All CSR Calls 	PDF
Issues Log	Customer Account Billing Issues Log	<ul style="list-style-type: none"> • Billing Issues 	Excel or CSV

Report Name	Description	Major Fields and Summaries	Format
Aging	Billing data, aging by account	<ul style="list-style-type: none"> • Customer • Account Number • Status • TOT • Amount in timeframes 	Excel or CSV
Cash Receipts	Payments made by the account holder to PG&E	<ul style="list-style-type: none"> • Transaction Date • Transaction ID • Customer • Account Number • Amount 	Excel or CSV
County Invoice Summary	Invoice Summary for a specific County	<ul style="list-style-type: none"> • Report Date and Period • Invoice Number • Customer • Account Number • Charges • Total Billed 	Excel or CSV
Days To Invoice	Days to invoice is the lag between loaded and billed.	<ul style="list-style-type: none"> • Customer • Account Number • Days To Invoice • Service begin and end date • Data load date • Billed date • Quantity 	Excel or CSV
Utility User Tax (UUT) where applicable	Summary of UUT amounts by TOT	<ul style="list-style-type: none"> • TOT • Total Sales • Exempt Sales • UUT percentage • UUT Unpaid 	Excel or CSV
Invoice Summary Report	Includes all original and cancelled charges sent during a specific time period (weekly/monthly)	<ul style="list-style-type: none"> • Report Date and Period • Invoice Number • Customer • Account Number • Charges • Total Billed 	Excel or CSV
Monthly Transaction Summary	Summary if transaction amounts by Type and subtype	<ul style="list-style-type: none"> • Type • Sub-Type • Sub-Type Description • Amount 	Excel or CSV
Opt Out with Rate Class	Account that have opted out	<ul style="list-style-type: none"> • Customer • Account Number • SA ID • Status • Rate Class • Opt Out Date 	Excel or CSV

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OBR Detail	This lists On Bill Repayment, which is a loan or obligation that is repaid via the bill.	<ul style="list-style-type: none"> • Customer • Account Number • LCD Account Number • PG&E Account ID • Loan Amount • Other Amounts and Charges 	Excel or CSV

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Usage Overlap	Shows overlapping usage on the same meter.	<ul style="list-style-type: none"> Customer LCD Account Number LCD Status Meter Start and End Dates Units 	Excel or CSV
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T+8 and T+48 report	This provides total load for the day by hour. It does not have allocations by rate class.	<ul style="list-style-type: none"> • MSID • Date and Time • Base Load • Loss Adjusted Load 	
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Weekly Retention Report - Summary	Summary version of the above grouped by Customer Type	<ul style="list-style-type: none"> • Customer Type • Previous, Count • Current, Count • Closed Accounts, Count • New Accounts, Count • Retention rate 	Excel or CSV
Overall Participation Rate	Overall participation rate	<ul style="list-style-type: none"> • By Town or Territory, including Light Green, Deep Green and Opt Out 	Excel or CSV
Calpine Monthly Report of Services and Updates	To review high-level updates and discuss any new updates	<ul style="list-style-type: none"> • Contains excerpts from the monthly statistics and personnel updates • Audit info • Planned Outage Info • Rate Implementation Info • BPA analytics • SQMD • QRE services • % Accurately Billed • Monthly Meter Count • Invoice Generation Revenue 	PDF

QA call recordings	Call recordings of CSR & customer calls, received monthly	<ul style="list-style-type: none"> • Recordings of calls • QA scoring sheets 	MP3, PDF
Calpine Security Data Breach Policies	Delineates who has access to CRM/customer data access, some security policies	<ul style="list-style-type: none"> • Scope • Procedures • Personnel who have access to data 	Pdf
Call Center Statistics	These are summary statistics on call center performance.	<ul style="list-style-type: none"> • Customer IVR Selections • SLA performance • Customer Survey Results • Customer Preferred Languages • Call Center Metrics • Call dispositions • Notes on All CSR Calls 	PDF
Issues Log	Customer Account Billing Issues Log	Billing Issues	Excel or CSV



December 6, 2019

TO: MCE Executive Committee

FROM: Justin Marquez, Community Equity Specialist

RE: Charles F. McGlashan Advocacy Award Nominations (Agenda Item #07)

Dear Executive Committee Members:

SUMMARY:

The Charles F. McGlashan Advocacy Award was established to recognize individuals and organizations who have demonstrated passion, dedication, and leadership on behalf of MCE. The annual award also honors and commemorates the life and legacy of environmental leadership left behind by former founding MCE Chairman Charles F. McGlashan.

Recipients of the award are recognized with a ceremony held at a regular meeting of the MCE Board of Directors. Recipients will also have their names inscribed on a plaque that shares other awardee names and is displayed outside the Charles McGlashan Room at the MCE office in San Rafael. The recipient will be recognized in MCE's e-newsletter, online blog, and social media.

It is the responsibility of the Executive Committee to review nominations and select which advocate will be recognized with the Charles F. McGlashan Advocacy Award. To date, the Charles F. McGlashan Advocacy Award has been awarded to:

- Barbara George of Women's Energy Matters (2011)
- The Mainstreet Moms (2012)
- Lea Dutton of the San Anselmo Quality of Life Commission (2013)
- Doria Robinson of Urban Tilth (2014)
- Constance Beutel of Benicia's Community Sustainability Commission (2015)
- Sustainable Napa County (2016)
- The El Cerrito Environmental Quality Committee (2017)
- Sustainable Lafayette (2018)
- Resilient Neighborhoods (2018), and
- Verna Causby-Smith with EAH Affordable Housing (2018)

This year's Charles F. McGlashan Advocacy Award nominations include Sustainable Rossmoor and the National Council for Jewish Women, Contra Costa Division for their ongoing Deep Green Campaign in Rossmoor and Contra Costa County; and Gloria Castillo with Canal Alliance for her work in educating and connecting tenants in the Canal District of San Rafael to MCE's Customer Programs including rebates for energy efficiency, rooftop solar, electrification, and home health and safety.

NOMINATIONS: National Council for Jewish Women & Sustainable Rossmoor (Jointly) and Gloria Castillo with Canal Alliance

2019 Nominees

[National Council for Jewish Women & Sustainable Rossmoor \(Jointly\)](#)

Sustainable Rossmoor was founded in 2014 by 10 determined residents striving to inspire more solar adoption within their community. Today, their expanded mission covers climate change awareness, sustainability and electric vehicle adoption and promotion of renewable energy. They have been engaged members of the Community Power Coalition since 2017.

The National Council for Jewish Women (NCJW), Contra Costa Division, was started in 1984 with the mission of striving for social justice by improving the quality of life for women, children, and families and by safeguarding individual rights and freedoms.

This year, NCJW working together with Sustainable Rossmoor have been present at over 13 community meetings, including farmers markets, the Activities Council of Rossmoor, Democrats Club meetings, and the Rossmoor Newcomers club. They created their own Deep Green group tee shirts (seen in photo) and wrote and produced the song "Why MCE" calling out the attributes of 100% renewable energy. The group has inspired over 38 individuals to sign up for MCE Deep Green since mid-September 2019.



[Gloria Castillo with Canal Alliance](#)

Gloria Castillo has gone above and beyond her role as the Housing Project Coordinator with the Canal Alliance, a nonprofit organization that empowers immigrants, connecting them to resources in the Canal District of San Rafael. In her role, Gloria manages the Marin Villa Estates property in the Canal District and has worked to build support for MCE's programs, even coming along with MCE staff on a survey

collection and income verification visit to the property so residents would feel more comfortable. Thanks to Gloria's assistance, Marin Villa Estates received a total of \$55,228 in blended funding from the Multifamily Energy Savings Program, the Low Income Families and Tenants (LIFT) program, the Income-Qualified Multifamily Solar Rebate Program, and Green and Healthy Homes Initiative (GHHI) Marin.

These incentives funded electrical panel upgrades, structural upgrades to apartment decks, CO monitors, Title 24 compliant windows, LED light bulbs, low-flow faucets and showerheads, and a 32.26 kW solar system generating 49,598 kWh annually. These upgrades reduced fire hazards, increased structural safety, lowered utility bills, improved indoor air quality by addressing mold issues, and increased resident comfort. The energy efficiency measures are projected to save 3,386.5 kWh per year. The completion of these upgrades is credited to the work of Gloria and her stewardship of the residents she serves.

FISCAL IMPACT: None

RECOMMENDATION: Select the 2019 recipient(s) of the Charles F. McGlashan Advocacy Award to be presented at the next meeting of the MCE Board of Directors. Staff recommends the consideration of awarding both 2019 nominees.

RESOLUTION NO. 2018-03

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
MARIN CLEAN ENERGY RESCINDING RESOLUTION NO. 2017-02 AND
DELEGATING ENERGY PROCUREMENT AUTHORITY**

WHEREAS, Resolution No. 2017-02 set forth contracting and procurement authority delegated by the Board of Directors; and

WHEREAS, the Board intends that this Resolution No. 2018-03, together with Resolution No. 2018-04, shall supersede and replace Resolution No. 2017-02; and

WHEREAS, the Board of Directors, by this delegation of energy procurement and contracting authority as described herein, shall not be divested of any such authority, but shall retain and may exercise such authority at such times as it may deem necessary and proper, at its sole discretion; and

WHEREAS, the Board of Directors shall retain contracting authority over all contracts required by law to be approved by the Board, including but not limited to any contracts to borrow money or otherwise incur debt.

NOW, THEREFORE, BE IT RESOLVED, by the MCE Board of Directors:

- A. Resolution No. 2017-02 is hereby rescinded.
- B. For purposes of this Resolution, "Energy Procurement" shall mean all contracting, purchase and sale of energy and energy-related products for MCE, including but not limited to products related to electricity, capacity, energy efficiency, distributed energy resources, demand response, and storage.
- C. The Board of Directors hereby delegates the following contracting authority consistent with an approved resource plan and/or budget, as applicable, including contracts that are consistent with the current fiscal year's budget but extend beyond the current fiscal year:

1. Delegation to the Technical Committee

The Technical Committee is hereby authorized to approve and direct the Chief Executive Officer ("CEO") and Technical Committee Chair to execute:

- a. contracts for Energy Procurement as herein defined;
- b. contracts for functions, programs or services related to Energy Procurement; and
- c. contracts related to MCE ownership, leasing or development of energy generation projects and assets.

2. Delegation to the Chief Executive Officer and Technical Committee Chair, Jointly

The CEO and Technical Committee Chair, jointly, are hereby authorized, after consultation with the appropriate Committee of the Board of Directors, to approve and execute contracts for Energy Procurement for terms of less than or equal to five years. The CEO shall timely report to the Board of Directors all such executed contracts.

3. Delegation to the Chief Executive Officer

The CEO is hereby authorized to approve and execute:

- a. contracts for Energy Procurement for terms of less than or equal to 12 months, which the CEO shall timely report to the Board of Directors; and
- b. amendments or addenda to existing Energy Procurement contracts, regardless of the existing contract's price or total amount, which improve the terms of the contract to MCE's benefit without increasing the contract's not-to-exceed maximum dollar amount.

PASSED AND ADOPTED at a regular meeting of the Board of Directors on this 15th day of March, 2018, by the following vote:

	AYES	NOES	ABSTAIN	ABSENT
City of American Canyon				✓
City of Belvedere	✓			
City of Benicia	✓			
City of Calistoga				✓
City of Concord	✓			
Contra Costa County				✓
Town of Corte Madera	✓			
The Town of Danville	✓			
City of El Cerrito	✓			
Town of Fairfax				✓
City of Lafayette	✓			
City of Larkspur				✓
County of Marin	✓			
The City of Martinez				✓
City of Mill Valley	✓			
Town of Moraga	✓			

City of Napa				✓
County of Napa				✓
City of Novato	✓			
City of Oakley	✓			
City of Pinole	✓			
City of Pittsburg				✓
City of Richmond	✓			
Town of Ross	✓			
Town of San Anselmo	✓			
City of San Pablo				✓
City of San Rafael	✓			
City of San Ramon	✓			
City of Sausalito	✓			
City of St. Helena				✓
Town of Tiburon				✓
City of Walnut Creek				✓
Town of Yountville				✓

Jete Sears

CHAIR, MCE

Attest:

Don Waj

SECRETARY, MCE



November 21, 2019

TO: MCE Board of Directors
 FROM: Bill Pascoe, Power Supply Contracts Manager
 RE: Approved Contracts Update (Agenda Item #08 – C.3)

Dear Board Members:

SUMMARY: This report summarizes agreements entered into by the Chief Executive Officer and if applicable, the Chair of the Technical Committee since the last regular Board meeting in June. This summary is provided to your Board for information purposes only.

Review of Procurement Authorities

In March 2018, your Board adopted Resolution 2018-03 which included the following provisions:

The CEO and Technical Committee Chair, jointly, are hereby authorized, after consultation with the appropriate Committee of the Board of Directors, to approve and execute contracts for Energy Procurement for terms of less than or equal to five years. The CEO shall timely report to the Board of Directors all such executed contracts.

The CEO is authorized to approve and execute contracts for Energy Procurement for terms of less than or equal to 12 months, which the CEO shall timely report to the Board of Directors.

The Chief Executive Officer is required to report all such contracts and agreements to the MCE Board of Directors on a regular basis.

November Board 2019	Purpose	Maximum Annual Contract Amount	Term of Contract
June, 2019	Sale of Resource Adequacy	(\$100,000)	Under 1 Year
June, 2019	Purchase of Bundled Renewable Energy	\$120,000	Under 1 Year
June, 2019	Purchase of Resource Adequacy	\$2,700,000	Under 1 Year
June, 2019	Sale of Resource Adequacy	(\$1,800,000)	Under 1 Year
June, 2019	Sale of Resource Adequacy	(\$27,000)	Under 1 Year
June, 2019	Purchase of Carbon Free Energy	\$288,750	Under 1 Year
June, 2019	Purchase of Bundled Renewable Energy	\$120,000	Under 1 Year

July, 2019	Sale of Resource Adequacy	(\$11,000)	Under 1 Year
July, 2019	Purchase of Bundled Renewable Energy	\$850,000	Under 1 Year
July, 2019	Sale of Resource Adequacy	(\$50,000)	Under 1 Year
July, 2019	Sale of Resource Adequacy	(\$55,000)	Under 1 Year
July, 2019	Sale of Resource Adequacy	(\$60,000)	Under 1 Year
July, 2019	Sale of Resource Adequacy	(\$12,000)	Under 1 Year
July, 2019	Sale of Carbon Free Energy	(\$836,550-\$861,300)	Under 1 Year
July, 2019	Purchase of Bundled Renewable Energy	\$1,462,500	Under 1 Year
July, 2019	Purchase of Bundled Renewable Energy	\$600,000	1-5 Years
August, 2019	Purchase of Resource Adequacy	\$1,250,000	1-5 Years
August, 2019	Purchase of Resource Adequacy	\$3,465,000	Under 1 Year
August, 2019	Sale of Resource Adequacy	(\$150,400)	Under 1 Year
August, 2019	Sale of Resource Adequacy	(\$52,000)	Under 1 Year
August, 2019	Sale of Resource Adequacy	(\$455,000)	1-5 Years
August, 2019	Purchase of Resource Adequacy	\$7,000,000	1-5 Years
August, 2019	Purchase of Resource Adequacy	\$25,300,000	1-5 Years
August, 2019	Sale of Resource Adequacy	(\$475,000)	1-5 Years
August, 2019	Purchase of Bundled Renewable Energy	\$6,900,000	1-5 Years
August, 2019	Purchase of Resource Adequacy	\$3,750,000	1-5 Years
August, 2019	Sale of Resource Adequacy	(\$320,000)	Under 1 Year

August, 2019	Sale of Resource Adequacy	(\$1,100,000)	1-5 Years
August, 2019	Purchase of Carbon Free Energy	\$8,500,000	1-5 Years
August, 2019	Purchase of Resource Adequacy	\$3,900,000	1-5 Years
August, 2019	Purchase of Resource Adequacy	\$33,200,000	Over 5 Years
August, 2019	Purchase of Resource Adequacy	\$22,000,000	1-5 Years
September, 2019	Purchase of Resource Adequacy	\$5,300,000	1-5 Years
September, 2019	Sale of Resource Adequacy	(\$3,900,000)	1-5 Years
September, 2019	Sale of Resource Adequacy	(\$55,000)	Under 1 Year
September, 2019	Purchase of Resource Adequacy	\$4,100,000	1-5 Years
September, 2019	Sale of Resource Adequacy	(\$3,850,000)	1-5 Years
September, 2019	Purchase of System Energy	\$29,000,000	1-5 Years
September, 2019	Purchase of System Energy	\$62,300,000	1-5 Years
September, 2019	Purchase of Bundled Renewable Energy	\$637,500-\$850,000	1-5 Years
September, 2019	Purchase of Resource Adequacy	\$2,360,000	1-5 Years
September, 2019	Purchase of Resource Adequacy	\$2,400,000	1-5 Years
September, 2019	Purchase of Resource Adequacy	\$4,750,000	1-5 Years
October, 2019	Sale of Bundled Renewable Energy	(\$0-\$1,718,750)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$436,650)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$90,000)	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$4,050,000)	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$370,000)	1-5 Years

October, 2019	Sale of Resource Adequacy	(\$45,000)	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$487,500)	Under 1 Year
October, 2019	Purchase of Resource Adequacy	487,500	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$82,500)	Under 1 Year
October, 2019	Purchase of Resource Adequacy	85,500	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$24,000)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$92,000)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$20,000)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$80,000)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$16,000)	Under 1 Year
October, 2019	Purchase of Resource Adequacy	\$297,500	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$768,000)	Under 1 Year
October, 2019	Purchase of Resource Adequacy	\$2,850,000	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$7,500)	Under 1 Year
October, 2019	Purchase of Resource Adequacy	\$176,250	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$211,500)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$42,000)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$95,000)	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$460,000)	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$36,000)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$355,000)	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$110,000)	1-5 Years

October, 2019	Purchase of Resource Adequacy	\$715,000	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$925,000)	Under 1 Year
October, 2019	Purchase of Resource Adequacy	\$235,000	1-5 Years
October, 2019	Purchase of Resource Adequacy	\$435,593	1-5 Years
October, 2019	Purchase of Resource Adequacy	\$232,000	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$340,000)	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$184,500)	Under 1 Year
October, 2019	Purchase of Resource Adequacy	\$85,000	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$85,000)	1-5 Years
October, 2019	Purchase of Resource Adequacy	\$154,000	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$220,000)	Under 1 Year
October, 2019	Purchase of Resource Adequacy	\$16,000	Under 1 Year
October, 2019	Purchase of Resource Adequacy	\$397,500	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$93,500)	Under 1 Year
October, 2019	Purchase of Resource Adequacy	\$126,000	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$130,000)	1-5 Years
October, 2019	Sale of Resource Adequacy	(\$590,000)	1-5 Years
October, 2019	Purchase of Resource Adequacy	\$3,200,000	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$450,000)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$144,000)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$288,000)	Under 1 Year
October, 2019	Sale of Resource Adequacy	(\$90,000)	Under 1 Year

<i>October, 2019</i>	<i>Sale of Resource Adequacy</i>	<i>(\$360,000)</i>	<i>Under 1 Year</i>
<i>October, 2019</i>	<i>Sale of Resource Adequacy</i>	<i>(\$360,000)</i>	<i>Under 1 Year</i>
<i>October, 2019</i>	<i>Sale of Resource Adequacy</i>	<i>(\$36,000)</i>	<i>Under 1 Year</i>
<i>October, 2019</i>	<i>Sale of Resource Adequacy</i>	<i>(\$190,000)</i>	<i>1-5 Years</i>
<i>October, 2019</i>	<i>Sale of Resource Adequacy</i>	<i>(\$10,600)</i>	<i>Under 1 Year</i>

Fiscal Impact: Expenses and revenue associated with these Contracts and Agreements that are expected to occur during FY 2019/20 are within the FY 2019/20 Operating Fund Budget. Expenses and revenue associated with future years will be incorporated into budget planning as appropriate.

Recommendation: Information only. No action required.