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

Board of Directors Meeting
Thursday, May 17, 2018
7:00 P.M.

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

One Concord Center, 2300 Clayton Road, Suite 1150, Concord, CA 94920

Agenda Page 1 of 2

1. Board Announcements (Discussion)

2. Public Open Time (Discussion)

3. Report from Chief Executive Officer (Discussion)

4. Consent Calendar (Discussion/Action)
   C.1   Approval of 4.19.18 Meeting Minutes
   C.2   Report on Approved Contracts
   C.3   Proposed First Agreement with Cloud Co-Op, LLC and Proposed POWERPATH Master Services Agreement with Aiqueous
   C.4   Board of Directors Voting Shares Update

5. MCE Napa County Fire Rebuild Program in partnership with the Bay Area Air Quality Management District, Bay Area Regional Energy Network, County of Napa, and PG&E (Discussion)

6. MCE Greenhouse Gas Reporting and Power Supply Statistics (Discussion)

7. Update on AB1110 Proceeding and Integrated Resource Plan Proceeding (Discussion)

8. Proposed FY 2017/18 Operating Fund Budget Amendment (Discussion/Action)

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9. Ratesetting Process Overview (Discussion)

10. Resolution No. 2018-06 Establishing the Annual Salary for the Chief Executive Officer (Discussion/Action)

11. Communications Update (Discussion)

12. Policy Update on Regulatory and Legislative Items (Discussion)

13. Board Member & Staff Matters (Discussion)

14. Adjourn

DRAFT

MCE BOARD MEETING MINUTES
Thursday, April 19, 2018
7:00 P.M.

One Concord Center
2300 Clayton Road, Suite 650
Concord, CA 94520

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

Roll Call:	Director Kate Sears called the regular Board meeting to order at 7:06 p.m. By roll call, an established quorum was met.
Present:	Denise Athas, City of Novato (*San Rafael*) Sloan Bailey, Town of Corte Madera (*Concord*) Edi Birsan, City of Concord (*Concord*) Lisa Blackwell, Town of Danville (*Concord*) Tom Butt, City of Richmond (*San Rafael*)) Rich Carlston, City of Walnut Creek (*Concord*) Barbara Coler, Town of Fairfax (*San Rafael*) Kevin Haroff, City of Larkspur (*San Rafael*) Sue Higgins, City of Oakley (*Concord*) David Kulik, Alternate, Town of Tiburon (*San Rafael*) Pete Longmire, City of Pittsburg (*Concord*) Greg Lyman, City of El Cerrito (*San Rafael*) Andrew McCullough, City of San Rafael (*San Rafael*) Scott Perkins, City of San Ramon (*Concord*) Kate Sears, Chair, County of Marin (*San Rafael*) Don Tatzin, City of Lafayette (*Concord*) Maureen Toms, City of Pinole (*Concord*) Dave Trotter, Town of Moraga (*Concord*) Brad Wagenknecht, County of Napa (*San Rafael*) Ray Withy, City of Sausalito (*San Rafael*)
Absent:	Arturo Cruz, City of San Pablo Federal Glover, County of Contra Costa Ford Greene, Town of San Anselmo Bob McCaskill, City of Belvedere Sashi McEntee, City of Mill Valley P. Rupert Russell, Town of Ross Rob Schroder, City of Martinez Alan Schwartzman, City of Benicia
Staff:	Jesica Brooks, Board Assistant (*San Rafael*) John Dalessi, Operations and Development (*San Rafael*) Kirby Dusel, Resource Planning and Renewable Energy Programs (*Concord*)

<p align="center" style="color:red">DRAFT</p>

    Darlene Jackson, Board Clerk (*San Rafael*)
    Sam Kang, Resource Planning (*San Rafael*)
    Justin Kudo, Deputy Director, Account Services (*San Rafael*)
    Nathaniel Malcolm, Regulatory Counsel (*San Rafael*)
    David McNeil, Manager of Finance (*San Rafael*)
    Enyonam Senyo-Mensah, Operations Assistant (*Concord*)
    Maira Strauss, Customer Programs Assistant (*San Rafael*)
    Dawn Weisz, Chief Executive Officer (*Concord*)

1. Board Announcements (Discussion)

There were none.

2. Public Open Time (Discussion)

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

3. Report from Chief Executive Officer (Discussion)

CEO, Dawn Weisz, reported on the following:
- Board Members were asked to complete the 2018 Board Survey.
- Ms. Weisz announced that staff will transition to the new Concord office effective Monday, April 23rd. Movers were onsite today to assist. A tour of the new office will be planned within the next few months.
- The MCE Solar One ribbon cutting celebration was held on April 18th, with a wonderful turnout and it was a huge success. Board Chair, Kate Sears served as moderator. RichmondBuild graduate Jonathan Britto, in addition to being one of the guest speakers, also had the honor of flipping the switch to officially "turn on" MCE's Solar One Project. Supervisors Federal Glover and John Gioia, both of whom serve on the MCE Board of Directors, shared encouraging words to all of the attendees.
- Ms. Weisz asked Chair Sears to comment on their April 16th trip to CAISO. Other Board members expressed interest in attending a CAISO Field Trip.
- Ms. Weisz provided new community enrollment figures as of April 18th.

4. Consent Calendar (Discussion/Action)

C.1   Approval of 3.15.18 Meeting Minutes
C.2   Approved Contracts Update

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

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ACTION: It was M/S/C (Wagenknecht/Athas) to **approve Consent Calendar.** Motion carried by unanimous roll call vote. (Abstain on C.1: Directors Carlston, Coler, Haroff, Kulik, Longmire and Trotter) (Absent: Directors Cruz, Glover, Greene, McCaskill, McEntee, Russell, Schroder and Schwartzman).

5. **Proposed Amendment to MCE Policy 014: Investment Policy (Discussion/Action)**

   David McNeil, Manager of Finance, introduced this item and addressed questions from Board members.

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

ACTION: It was M/S/C (Bailey/Wagenknecht) to **approve (i) proposed amended MCE Policy 014: Investment Policy**. Motion carried by unanimous roll call vote. (Absent: Directors Cruz, Glover, Greene, McCaskill, McEntee, Russell, Schroder and Schwartzman) and, **(ii) proposed Resolution 2018-05 Authorizing Investment of Monies in the Local Agency Investment Fund**. Motion carried by unanimous roll call vote. (Absent: Directors Cruz, Glover, Greene, McCaskill, McEntee, Russell, Schroder and Schwartzman).

6. **Proposed MCE Policy 015: Energy Risk Management Policy (Discussion/Action)**

   David McNeil, Manager of Finance, introduced this item and addressed questions from Board members.

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

ACTION: It was M/S/C (Trotter/Birsan) to **approve proposed MCE Policy 015: Energy Risk Management Policy**. Motion carried by unanimous roll call vote. (Absent: Directors Cruz, Glover, Greene, McCaskill, McEntee, Russell, Schroder and Schwartzman).

7. **Proposed Electric Vehicle Rates for FY 2018/19 (Discussion/Action)**

   Justin Kudo, Deputy Director, Account Services, introduced this item and addressed questions from Board members.

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

ACTION: It was M/S/C (Withy/Haroff) to **accept the proposed revisions to Schedule EV as set forth in Table 1 as presented**. Motion carried by roll call vote. (Noes: Director Birsan). (Absent: Directors Cruz, Glover, Greene, McCaskill, McEntee, Russell, Schroder and Schwartzman).

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8. **Policy Update on Regulatory and Legislative Items (Discussion)**

   Nathaniel Malcolm, Regulatory Counsel, presented this item and addressed questions from Board members.

ACTION: No action required.

9. **Board Member & Staff Matters (Discussion)**

   There were no announcements.

10. **Adjournment**

    Chair Kate Sears adjourned the meeting at 9:22 p.m. to the next scheduled Board Meeting on May 17, 2018.

_____
Kate Sears, Chair

Attest:

_____
Dawn Weisz, Secretary

May 17, 2018

TO: MCE Board of Directors

FROM: Bill Pascoe, Power Supply Resources Coordinator

RE: Report on Approved Contracts (Agenda Item #04 – C.2)

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 April. 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.

Summary of Agreements

Month	Purpose	Contractor	Maximum Annual Contract Amount	Term of Contract
March 2018	*Purchase Resource Adequacy, 2019-2020*	*CalPeak Power, LLC*	*$380,000*	*2 Years*
April 2018	*Purchase Flexible Resource Adequacy, 2019-2020*	*Tenaska Power Services*	*$1,000,000*	*2 Years*

Month	Purpose	Contractor	Maximum Annual Contract Amount	Term of Contract
March 2018	*Purchase Resource Adequacy, 2019-2020*	*Calpine*	*$800,000*	*2 Years*
March 2018	*Purchase Resource Adequacy, 2019-2020*	*Calpine*	*$4,100,000*	*2 Years*
April 2018	*Purchase Resource Adequacy, 2019-2020*	*Tenaska Power Services*	*$600,000*	*2 Years*
April 2018	*Purchase Resource Adequacy, 2019-2021*	*PG&E*	*$630,000*	*3 Years*
April 2018	*Purchase Resource Adequacy, July - December 2018*	*Calpine*	*$110,000*	*6 Months*
April 2018	*Purchase Resource Adequacy, July - December 2018*	*Calpine*	*$700,000*	*6 Months*
April 2018	*Sale of October 2018 Resource Adequacy*	*Calpine*	*($120,000)*	*1 Month*
April 2018	*Purchase Resource Adequacy, October*	*Calpine*	*$140,000*	*1 Month*
April 2018	*Purchase Resource Adequacy, October - December 2018*	*Silicon Valley Clean Energy Authority*	*$150,000*	*3 Months*
April 2018	*Sale of October - December 2018 Resource Adequacy*	*Silicon Valley Clean Energy Authority*	*($150,000)*	*3 Months*
May 2018	*Sale of September 2018 Resource Adequacy*	*City of Lancaster*	*($25,000)*	*1 Month*

Fiscal Impact: Expenses associated with these Agreements that are expected to occur during FY 2017/18 are included in the FY 2017/18 Operating Fund Budget. Expenses that are expected to occur during FY 2018/19 are included in the FY 2018/19 Operating Fund Budget. Expenses associated with future years will be incorporated into budget planning as appropriate.

Recommendation: Information only. No action required.

May 17, 2018

TO: MCE Board of Directors

FROM: Alice Stover, Manager of Policy and Planning, Customer Programs

RE: Proposed First Agreement with Cloud Co-Op, LLC and Proposed
                             POWERPATH Master Services Agreement with Aiqueous (Agenda
                             Item #04 - C.3)

ATTACHMENTS: A. Proposed First Agreement with Cloud Co-Op, LLC Agreement
                             B. Proposed POWERPATH Master Services Agreement with
                             Aiqueous

Dear Board Members:

SUMMARY:
In May 2017, MCE engaged Price Waterhouse Cooper (PWC) to conduct an analysis of the current uses and future needs for data tracking and management on MCE's Customer Programs team. The resulting vision was an interactive Program Management Platform (PMP) that integrates data from different sources that can be accessed by all of MCE's stakeholders during program implementation. MCE issued a Request for Proposals (RFP) to solicit a qualified vendor to design and implement the Customer Programs Program Management Platform. The six proposals received were ranked on responsiveness to and understanding of MCE's requirements, bidder qualification, alignment between deliverables and MCE's budget, demonstrated performance with other similar companies, reporting capabilities, and bidders' scale of operations. The proposal submitted by the team of Cloud Co-Op, LLC, Aiqueous, and Energy Savings Platform (ESP) was selected as the winning bidder.

Staff requests approval of the proposed First Agreement with Cloud Co-Op, LLC as well as the proposed POWERPATH Master Services Agreement with Aiqueous. Cloud Co-Op, LLC is a National Salesforce partner servicing new and established Salesforce clients. They specialize in implementation, application design, platform development, integrations, governance, adoption, client coaching and end user training. Under the proposed First Agreement, Cloud Co-Op would have two subcontractors: Aiqueous and ESP. Aiqueous is a software and consulting firm whose mission is to modernize both the electric and water utility operations with over 30 years of experience in the energy sector. They have technical expertise in designing energy efficiency programs, managing program implementation teams, and working directly with business and institutions to manage energy use. ESP's previous experience includes building software to assist Minnesota utilities in managing energy efficiency programs and creating reports for state regulators.

Services provided by Cloud Co-Op and their subcontractors would fall into two phases: (1) build-out of the system from June through October 2018; and (2) technical support and maintenance from October 2018 through December 2021. Costs associated with the proposed Cloud Co-Op

agreement are $122,276 for configuration/implementation services and $114,230. for ongoing support and maintenance, making the not to exceed amount $236,506. The proposed project also includes a licensing agreement with Aiqueous (POWERPATH Master Services Agreement) for $36,600 per year from October 2018 (once the build out is complete) through December 2021.

Fiscal Impact: Costs arising from the proposed agreements are included in the FY 2018/19 Operating Fund Budget. Costs arising from the proposed agreements that would occur beyond FY 2018/19 will be included in subsequent MCE budgets. Following approval of MCE's Energy Efficiency Business Plan by the California Public Utilities Commission, expenditures arising from these agreements may be allocated to the Energy Efficiency Program Fund Budget.

Recommendation:
1. Approve the proposed First Agreement with Cloud Co-Op, LLC.
2. Approve the proposed POWERPATH Master Services Agreement with Aiqueous.

MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT

FIRST AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND CLOUD CO-OP, LLC

THIS FIRST AGREEMENT ("Agreement") is made and entered into this day **May 17, 2018** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and CLOUD CO-OP, LLC, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the following services: integration of POWERPATH platform and development of custom configuration for implementing MCE's energy savings programs;

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 and accept or reject it within 15 business days after receipt. If MCE does not accept or reject within that time period, the Deliverable is deemed rejected. Contractor will fix rejected Deliverable within 10 business days after receiving notice of rejection from MCE ("Correction Period"). "Deliverables" means all intellectual property or other work product developed by Contractor for MCE under this Agreement or as part of the services.

2. FURNISHED SERVICES:
MCE agrees to make available all pertinent data and records for review, subject to MCE Policy 001 - Confidentiality. 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. Said fees shall remain in effect for the entire term of the Agreement. MCE will pay the applicable fees after MCE accepts the applicable Deliverable. 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 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 **$236,506**.

5. TIME OF AGREEMENT:
This Agreement shall commence on **May 17, 2018** and shall terminate on **December 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 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. 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 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.

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:
Deliverables are "work made for hire" under applicable copyright law. If Deliverables do not qualify as a work made for hire, Contractor assigns to MCE all right, title, and interest in and to the Deliverables, including all intellectual property and proprietary rights. Contractor waives all moral rights in Deliverables. Contractor will promptly disclose to MCE in writing any inventions, works of authorship, improvements, developments or discoveries conceived, authored, made, or reduced to practice by Contractor, either solely or in collaboration with others, in the performance of services. At MCE's request and expense, Contractor will execute documents and take any other action reasonably necessary to evidence, perfect, or protect MCE's rights in the Deliverables. Contractor will cooperate with MCE in the filing and prosecution of copyright, trademark, or patent applications MCE elects to file on Deliverables or related inventions and designs. Contractor will not challenge, oppose, or interfere with MCE's applications prepared according to MCE's rights under this Agreement relating to the Deliverables, or file applications on its own behalf.

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. 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 are not governed, in whole or in part, by an Excluded License,

     (d) Services will be performed professionally and be of high grade, nature, and quality,

     (e) Services 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.

"Excluded License" means any software license requiring, as a condition of use, modification, or distribution that the software or other software combined or distributed with it be (1) disclosed or distributed in source code form, (2) licensed to make derivative works, or (3) redistributable at no charge.

16.2 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:

     (1) Contractor's breach of Section 16.1 and Section 25,

     (2) Contractor's infringement, misuse, or misappropriation of third-party intellectual property or proprietary rights, or

     (3) 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.

16.3 Contractor shall, at its 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, 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 ("Supplier Certification"). Contractor will promptly provide to Customer upon Customer's request and at least annually (i) a full copy of the Supplier Certification and report on which the Supplier 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 Supplier Certification will cover all Services, except cloud infrastructure services provided by CIP(s) other than Contractor. Contractor will only use SalesForce as its cloud infrastructure provider 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 warranties 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.

16.4 In addition to all other remedies available to MCE,

     (1) 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.

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:	David Franklin of Cloud Co-Op
Address:	11801 Domain Blvd 3rd FL
	Austin, TX 78785
Email Address:	david@cloudcoop.io
Telephone No.:	(512) 289-7177

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.

	☒	*Check applicable Exhibits*	**CONTRACTOR'S INITIALS**
EXHIBIT A.	☒	**Scope of Services**	
EXHIBIT B.	☒	**Fees and Payment**	
EXHIBIT C.	☒	**Program Management Platform Minimum Requirements**	

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.

25. CONFIDENTIALITY AND DATA PROTECTION
Information shared under this Agreement is confidential information subject to the Marin Clean Energy Confidentiality Agreement between the parties dated May 4, 2018 and the Non-Disclosure Agreement between the parties dated May 4, 2018.

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

APPROVED BY
Marin Clean Energy: **CONTRACTOR:**

By:_____
CEO   By:_____
                  Date:_____
                                                                              Name:_____
By:_____
Chairperson   Date:_____
                  Date:_____

MODIFICATIONS TO STANDARD SHORT FORM

☒ **Standard Short Form Content Has Been Modified**

List sections affected: *_Sections 1, 2, 3, 6, 11, 16, added Section 25_*

_____

_____

Approved by MCE Counsel: _____   **Date:** _____

EXHIBIT A
SCOPE OF SERVICES (required)

Contractor will provide integration of POWERPATH platform and development of custom configuration for implementing MCE's energy savings programs services as requested and directed by MCE staff, up to the maximum time/fees allowed under this Agreement in accordance with the milestone schedule below.

Description of Deliverables:
Program Management Software Platform ("Platform") that will integrate data from different sources and will allow access by various MCE end users during the implementation of MCE's energy savings programs. The Platform will support demand-side management programs and track individual program process from the point of customer intake to the project completion. The Platform and Deliverables will meet the minimum requirements set forth herein as Exhibit C. MCE may unilaterally change the descriptions to the Deliverables and minimum requirements upon notice to Contractor. MCE may change the Deliverables or Services by providing notice to Contractor so long as such change does not materially expand the scope of the Services, then such change will be included without any change to the fees. Any change that materially expands the scope of the Services and increase Contractor's cost will be completed at a fee mutually agreed upon by the parties, as negotiated in good faith. The Platform will support the following six main functions of MCE's Customer Programs team:
1. Portfolio and Program Setup
2. Partner Enrollment and Onboarding
3. Project Application and Approval
4. Rebate and Incentive Tracking
5. Payment Processing
6. Performance and Portfolio Satisfaction Tracking

Milestone #	Description	Completion Date	Fee after acceptance
0 Kickoff and Discovery	The kickoff meeting will be scheduled with Contractor's delivery team (Cloud Coop, AIQUEOUS and ESP) and MCE project participants at MCE offices. The primary objectives of the kickoff meeting are to confirm overall project objectives, schedule weekly check-ins, establish the staging of program migration and implementation, clarify data received from MCE prior to the kickoff meeting, submit final data requests, and agree upon an "Acceptance Form" that will help ensure clear documentation of acceptance of each completed Milestone in the scope of work. The deliverable for this milestone is a written summary of the kickoff meeting.	6/08/18	$10,026.54
1 Discovery and Process Review	The intent of the Discovery and Process Review milestone is to convene a series of discussions with MCE staff to fully understand current and desired business processes, data tracking, management reports, regulatory reports, and other elements of MCE's programs to be supported by POWERPATH.	6/12/2018	$10,026.55
2 Architecture & Supporting Apps	The Contractor team will review all data provided by MCE and will map out the proposed implementation into POWERPATH. This will include identifying specific custom data fields and custom objects and will propose a schedule to sequence program migration. Deliverables in this Milestone will be a Report of Findings and Solution Design Document (discussed later), System Requirements Documentation, and a written implementation plan. Contractor will submit the Report, Requirements Documentation, and a high-level, written implementation plan to MCE for review and acceptance.	7/12/2018	$10,026.55

	Contractor and MCE will schedule a call to review the Report and implementation plan and confirm understanding and acceptance of what solutions are proposed.		
3 Dashboards, Reports, Workflow	Following the implementation plan developed in Milestone 2, Contractor will build out custom data fields, custom objects, workflows, and required calculations in POWERPATH. This Milestone will be completed in two-week "sprints," with user testing performed by the MCE Administrator to confirm system performance as required and to provide the MCE Administrator with as much first-hand Administrative experience as possible. Contractor will bring MCE Administrators into this process as time and the learning curve allows. Contractor will secure the MCE Administrator's "acceptance" of the implemented data fields and objects in each sequence, following a checklist from the implementation plan. As Contractor implements this Milestone, the MCE Administrators will update the list of data fields required to be captured in each program (as appropriate).	8/13/2018	$10,026.55
4 Data Migration	Contractor will work with MCE Administrators to migrate MCE program data from existing program databases and data sets into Salesforce. Depending upon MCE's preference as defined in the implementation plan, Milestones 3 and 4 may be performed iteratively (to bring in specific MCE programs in stages), or a full data integration will be performed after all custom data fields and objects have been built and tested for all programs. The MCE Administrator will coordinate user testing by MCE program managers and staff and document bugs or needed changes. Contractor will work with the MCE Administrator to implement fixes to bugs and needed changes. Contractor will secure the MCE Administrator's "acceptance" of the data migration and system functionality on a per-program basis.	9/4/2018	$10,026.55
5 User Acceptance Testing	Following Milestone 4, Contractor will work with the MCE Administrator to build and test reports required for program implementation, internal reporting, and regulatory compliance as specified in the implementation plan. The MCE Administrator will coordinate user testing by MCE staff. Contractor will secure the MCE Administrator's "acceptance" of the reports on a per-program basis.	10/5/2018	$24,047.42
6 Training	Following MCE acceptance of system functionality and reporting, Contractor will work with the MCE Administrators to develop and implement training for MCE staff. Training will consist of one "all hands" session to go over core Salesforce functionality, and program-specific training for relevant staff. Additional training will be provided to the MCE Administrator(s) for reporting across the entire portfolio, and for regulatory compliance.	10/26/2018	$24,047.42
7 Release and Ongoing	Contractor will release the Deliverables to MCE.	10/26/2018	$24,047.42

Technical Support and System Maintenance	Contractor will provide ongoing technical support to the MCE Administrator on an as needed basis, in response to specific requests from MCE. Continued system maintenance and support is critical to performance. Examples include the following: • Quarterly mandatory SalesForce system upgrades • Third party native App patches and updates • Custom one-off report and/or dashboard creation • Trouble shooting assistance • Training support in the event of staff turnover	10/26/2018 – 12/31/2018 Annually: 2019 2020 2021	Pro-rata share of $6,230.77 for support and maintenance for Q4 of 2018. Annually $36,000 for support and maintenance

Contractor will maintain and support the Deliverables to ensure solid and reliable connectivity and access by MCE and their users and that the Deliverables 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**"). Contractor will provide the support services from 7 am to 5 pm Pacific Time, Monday through Friday.

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

Ongoing Technical Support and Maintenance:
Contractor will provide ongoing technical support to the MCE on an ad-hoc basis, in response to specific requests from the MCE Administrator. Support services will include:
- Mandatory Salesforce system upgrades (Winter, Spring, and Summer)
- Third party native App patches and updates
- Troubleshooting assistance

- Training support in the event of staff turnover
- Bugs and error fixes are part of the included Maintenance and Support package for ECOiQ. ECOiQ is a software package that encompasses POWERPATH. Contractor will provide bugs and error fixes to the Deliverables, including those that affect the larger software of ECOiQ and may or may not affect POWERPATH directly.

All upgrades, patches, and other system maintenance are provided as part of the subscription service with no additional cost to MCE. In addition, Salesforce releases 3 complimentary upgrades each year, in Winter, Spring, and Summer versions. All Salesforce users are always on the latest version of our platform because everyone gets instant upgrades (typically in an opt-in basis). Each time Salesforce releases a new version of the application and the platform, the entire community can take advantage of the latest innovations from Contractor's product development team. Each release will be delivered automatically in a transparent manner and will not break MCE's configurations.

Contractor will also provide the following services:

One-Time
- Setup Data Quality reports (varies)
- Align Metadata Backups Software with Salesforce Org (1 hr)
- Installation of apps needed to do Org Maintenance (Field Trip, EasyDescribe, MassUpdate, etc.) (free)
- Integration into our Case Mgmt module to allow for submission and tracking of requests (free)
- Salesforce Console Review (free)
- Initial Healthcheck (1-2 hrs)

Monthly
- Backup the metadata (fields, validation rules, etc.) (1 hr)
- Read through any priority updates/fixes that Salesforce has announced since the last month and decide when to install them (0-60 mins)
- Read through any updates to apps installed into your Salesforce org (0-60 mins)
- Process & Reporting Review (varies)

Quarterly
- Review data quality reports to identify any new sources of data pollution (30-60 mins)
- Reports Audit (what reports haven't been run in the last 6 months? Hide them from view)(30-60 mins)
- Provide an overview of upcoming Salesforce releases. What' s Immediate Impact vs. Admin Avalanche? Contractor reviews a generic client list that it pulls together and highlight things from that which could impact MCE (1-2 hours)
- Optional
    o Salesforce System Roadmap Discussions – What things does Contractor recommend next for MCE? {quarterly} (1-2 hours)
    o Process Training and Documentation {ad hoc} (varies)
    o Healthcheck* – Review System Security, Adoption, Data/File Storage and Data Quality {every 6 months) (2-4 hours)

Miscellaneous Requests (Reactive)
- Setup & Customization
    o User Creation/Maintenance
    o Profile Creation/Maintenance
    o Role Creation/Maintenance
    o Custom and Formula Fields
    o Validation Rules
    o Page Layouts and List Views
    o Assignment/AutoResponse/Escalations
    o Workflows & Approvals
    o Process Builder/Visual Workflow
    o Sales Path/Kanban
    o Event Monitoring - Custom Permission Sets
    o Event Monitoring - Enable Transaction Security
    o Event Monitoring - Custom Transaction Security Preferences
    o Field Audit Trail - Custom Permission Sets

- Field Audit Trail - Enable Field Audit History
- Field Audit Trail - Set Data Retention Policy
- Data Management
  - Data Import
  - Data Update
  - Data Delete
  - Duplicate Management
  - Data Quality
- Analytics
  - Dashboards
  - Report Creation & Execution
  - Report Folders & Sharing
  - Dashboard Folders & Sharing
  - Custom Report Types
- Strategic Planning
  - Application and Business Processes
  - Change Management Process
  - AppExchange Integrations (may require separate scope)
  - Engagement/Negotiation with Salesforce Account Executive (Reduce License Costs, Add additional services, etc.)
  - Scaling Options
  - Management and Executive CRM Coaching
  - Salesforce Experience Adoption Team
- Development
  - Apex Triggers and Classes
  - GitHub Repository Management
  - Apex Triggers and Classes
  - VisualForce Page Design
  - Lightning Components
  - System and Regression Test
  - API Integration
  - Web Service Calls
- Code Audits & Maintenance
  - Coverage
  - Structure
  - Security

Contractor uses strict coding guidelines for development and ensures proper conventions are used to track changes and ensure the longevity of code being used and used by other developers.

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:

Milestone 0	$10,027
Milestone 1	$10,027
Milestone 2	$10,027
Milestone 3	$10,027
Milestone 4	$10,027
Milestone 5	$24,047
Milestone 6	$24,047
Milestone 7	$24,047
Support and Maintenance Services for remainder of 2018	$6,230
2019 Annual Support and Maintenance Services	$36,000
2020 Annual Support and Maintenance Services	$36,000
2021 Annual Support and Maintenance Services	$36,000
TOTAL	**[$236,506]**

Contractor shall bill MCE upon completion of the applicable milestone after MCE has accepted the deliverables within that milestone. MCE will not reimburse Contractor for any travel expenses related to this Agreement. In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of **$236,506** for the term of the Agreement.

EXHIBIT C
Program Management Platform Minimum Requirements

ID	Sub-Requirement	Operating Model Phase
R-1	Create and maintain Program records with key attributes such as Program Name, Budget, Expected Energy Savings and other key attributes.	Portfolio and program setup
R-2	Ability to associate programs to related records (i.e. products, applications, portfolio).	Portfolio and program setup
R-2 A	Establish DEEM Measure List	Portfolio and program setup
R-2 B	Ability to store program documents related to program policies	Portfolio and program setup
R-3	Ability to store partner account data and to associate records to requests, applications, customers, and other tables as part of the relational database.	Partner Enrollment and Onboarding
R-4	Customizable web based enrollment forms and workflow for prospective partners to apply to work with MCE. Forms will feed the partner account tables for routing and approval by MCE.	Partner Enrollment and Onboarding
R-5	Ability to provision one or multiple partner users with secure access to a portal for submitting applications, monitoring the status of applications through the fulfillment cycle.	Partner Enrollment and Onboarding
R-6	Submit inquiries and view history of communications and requests to and from MCE through secure portal.	Partner Enrollment and Onboarding
R-7	Ability to upload/sign contracts digitally.	Partner Enrollment and Onboarding
R-8	Track changes to performance-based contracts	Partner Enrollment and Onboarding
R-10	Ability to store basic customer account data and to associate customer data records to requests and applications.	Project app Processing
R-11	Ability to receive and send Webform documents TBD (tied to customer) through application cycle in order to approve	Project app Processing
R-11A	Ability to store multiple PDF documents (tied to customer, project or measure) through application cycle in order to approve projects.	
R-11B	Pre screening of application inputs based on validation lists	Project app Processing
R-11C	Automatic flagging of projects based on program specific criteria for closer inspection.	Project app Processing
R-12	Capture customer site and project details from site visits, participation forms and other engagement with customer	Project app Processing
R- 12 A	Capture and integrate third party customer data sources TBD in the future	Project app Processing
R-12 B	Ability to assign data inputs to team members	Project app Processing
R-12 C	Ability to lock project details at key points in program delivery (i.e. rebate approval)	Project app Processing
R-13	Capture and track customer asset aging data for potential future engagement based on asset lifecycle	Project app Processing
R-14	Ability to provide approval on customer application forms through digital signatures	Project app Processing
R-15	Scheduling tool to track partner and customer engagement with ability to document interactions.	Project app Processing
R-16	Notification system based on project lifecycle that can send pre-populated messages to customers and implementers.	Project app Processing
R-17	Ability to filter applications by processing phase and identify aging applications based on pre-set criteria	Project app Processing
R-18	Ability to compare submitted measures against MCE approved DEEMED measure listings	Project app Processing
R-20	Ability to import account data from multiple 3rd party sources into customer accounts within system, merge data from multiple sources to individual customer data records, and maintain an audit trail of all changes.	Project app Processing
R-21	Ability to provide existing customer data to third party implementers for customer acquisition	Customer Acquisition

R-22	Ability to import AMI data linked to customer accounts in order to benchmark	Project app Processing
R-23	Ability for third party implementer to record comments and provide bi-weekly project Red Amber Green (RAG) status	Rebate and Incentive Tracking
R-24	Ability to track performance metrics against benchmarks pre-determined by program type	Rebate and Incentive Tracking
R-25	Ability to send communications to partner and/or customer notifying project status	Rebate and Incentive Tracking
R-26	Ability to upload verification documents and provide digital signatures for sign-off	Rebate and Incentive Tracking
R-27	Ability to enter data on mobile devices to provide verification of site details	Rebate and Incentive Tracking
R-28	Ability to upload and export Rebate Memo information and financial data to payment processor	Payment Processing
R-29	Ability to pull reports (e.g. CPUC) from CRM and route for MCE approval	Payment Processing
R-30	Compare historical log of metrics reported to the CPUC (including emission reductions) by program to show progression over time	Payment Processing
R-31	Ability for system to track payment timeline and send notifications to partners and customers along processing stages	Payment Processing
R-33	Ability to create and route customer satisfaction questionnaire to third parties	Performance & Portfolio Satisfaction Tracking
R-34	Ability to aggregate questionnaire results by project and graphically compare party responses, with record of third party comments	Performance & Portfolio Satisfaction Tracking
R-35	Ability to set follow-up notification reminders to inform customers on new opportunities	Performance & Portfolio Satisfaction Tracking
R-36	Ability to consolidate multiple data feeds for a consolidated report across MCE initiatives	Performance & Portfolio Satisfaction Tracking
R-37	Ability to report on groupings of records based on attributes or report filter	Performance & Portfolio Satisfaction Tracking
P-3	Ability to track measure failure and track customer service status	Performance & Portfolio Satisfaction Tracking

AI #04_C.3_Att. A: Prop. First Agreement with Cloud Co-Op, LLC Agreement

Non-Functional Requirements

Overview

This section lists non-functional requirements of the system. It is broken down into the following areas:

·   **Security:** Security requirements include authentication, authorization, and access control requirements for the system.

·   **Availability and Reliability:** Availability and reliability requirements cover up-time, recoverability, predictability, and accuracy requirements for the system and its data

·   **Performance:** Performance requirements cover response time, throughput, and capacity requirements

·   **Usability:** Usability requirements cover the usability of the system which includes human factors, aesthetics, consistency in the user interface, online and context-sensitive help, wizards and agents, user documentation and training material.

Applicable Standards: Standards requirements include hardware and software standards and regulations.

Req #	Requirement
NFR-SEC#1	A username and password is the required user authentication mechanism
NFR-SEC#2	Username has the following requirements - Minimum of 4 characters - Maximum of 20 characters. - Can contain lowercase and uppercase English letters, number, underscore, dot, hyphen and '@' - Must not be empty - Username cannot be equal to 'null'.
NFR-SEC#3	Password has the following requirements: - Password: Minimum of 6 characters - Maximum of 45 characters - Cannot contain ~ % < > and any space character. - Must not be empty. - Password cannot be equal to 'null'.
NFR-SEC#4	Usernames for accounts are locked out after 5 successive incorrect passwords. After 15 minutes, the username and account re-enabled (lockout removed)
NFR-SEC#5	If a user has forgotten their username, it can be sent via email to the user provided the following email address conditions are met: - Email address must not be empty - Minimum length 5 characters - Maximum length 128 characters - Can contain lowercase and uppercase English letters, number, underscore, dot, hyphen and '@' - Email should contain '@' and should contain dot after '@' character - Dot and '@' character cannot be last character

NFR-SEC#6	If a user has forgotten their password, a temporary password can be sent via email if the following conditions are met:
	- User has a valid email address
	- Provides a valid username:
	- User answers to correctly to a challenge question for verification. The challenge answer has the following properties
	  o Answer must not be empty/null
	  o Minimum length is 1 character
	  o Maximum length is 40 characters
	  o Can contain lowercase and uppercase English letters, number, underscore, dot, hyphen, space, comma and '@', '+', '(', ')' , '!', '#', '$', '&', '*'

	User is forced to change temp password immediately after using temp pw Generated temporary password can contain lowercase and uppercase English letters, number, underscore, dot, ampersand, '!' , '@' , '#' , '$' , '*' Generated temporary password length is 8
NFR-SEC#7	Application uses SSL3 for sign on and security.
NFR-SEC#8	System shall not use Social Security Numbers or portions of Social Security Numbers for access to a system or for authentication purposes.

Availability and Reliability

Reliability requirements cover recoverability, predictability, availability, and accuracy requirements for the system and its data. These may be required only for specific Use Cases or for the system as a whole.

Req #	Requirement
NFR-REL#1	The required hours of operation for the web channel are 7 day/week x 24 hours/day.
NFR-REL#2	The required average system up-time is 99.9%.
NFR-REL#3	The required accuracy of data displayed on the web-channel is 100%.
NFR-REL#4	The required completeness of data displayed on the web-channel is 100%.
NFR-REL#5	Application data is backed up every 30 days.

Performance

Performance requirements cover response time, throughput, capacity, and efficiency requirements. These may be required only for specific Use Cases or for the system as a whole.

Req #	Requirement
NFR-PER#1	Maximum web channel response time is 6 seconds.
NFR-PER#2	CPU% utilization has the following thresholds: - Normal Load – 20% CPU Utilization - Maximum Load – 50% (dependent on number of nodes in the cluster) - Break Point load (i.e. expected capacity above anticipated maximum) – 80% CPU utilization

Usability

Usability requirements cover the usability of the system which includes human factors, aesthetics, consistency in the user interface, online and context-sensitive help, wizards and agents, user documentation and training material. These may be required only for specific Use Cases or for the system as a whole.

Req #	Requirement
NFR-USE#1	The site uses standard MCE branding materials, such as logos, color, typography, font styles, imagery and messaging.
NFR-USE#2	The site supports the following web browsers: - Firefox - Internet Explorer - Chrome - Safari
NFR-USE#3	In multi-page form-based processes, the system shall provide the user with an indication of where they are in the process and how much more they are expected to do.
NFR-USE#4	In multi-page form-based processes, the system shall provide the user with the ability to return to a previous page.
NFR-USE#5	In multi-page form-based processes, should the user return to a previous page, system shall display previously entered data unless it would not be appropriate to do so.
NFR-USE#6	In multi-page form-based processes, the system shall provide the user with the ability to cancel the process at any time. Upon canceling, the system shall prompt the user that data entered during the process will be lost.
NFR-USE#7	In multi-page form-based processes, the system shall prompt the user upon canceling a process that the user will lose data.

Applicable Standards

The requirements described in this section pertain to application standards and regulations.

Req #	Requirement
NFR-STD#1	Hardware standards: TBD
NFR-STD#2	Operating system standards: TBD
NFR-STD#3	Web platform standards: TBD
NFR-STD#4	Database standards: Oracle, SQL
NFR-STD#5	Coding language standards: JSP, servlet, Java
NFR-STD#6	Messaging protocol and format standards: SMTP

Thank you for your interest in working with AIQUEOUS.

This document including all schedules comprises the Master Service Agreement ("Agreement") and sets forth the agreement between AIQUEOUS and Marin Clean Energy ("Customer") relating to the licensing and setup of the AIQUEOUS POWERPATH® online platform. If it meets with your approval, please sign at the bottom and return to AIQUEOUS. If you have any questions, comments, or suggestions relating to any aspect of this, please let us know.

This Agreement is entered into and is effective as of: May 17, 2018 ("Effective Date") by and among:

1) AIQUEOUS, LLC, a limited liability company organized under the laws of Texas ("AIQUEOUS")

   and

2) Marin Clean Energy, a joint powers authority organized under the laws of California ("Customer").

AIQUEOUS and Customer may be referred to in this Agreement individually as a "Party" or collectively as "the Parties"

1. Services and Fees

1.1   AIQUEOUS shall provide the goods and/or Services contained in the Statement(s) of Work ("Schedule A.1", "Schedule A.2", and so on) in accord with the duties enumerated therein. AIQUEOUS shall be under no obligation to deliver or provide any goods or Services unless specifically expressed in Schedule A and no obligations or duties other than those contained in the Agreement shall be implied. AIQUEOUS shall provide the Services (including relevant training, support, maintenance, and other incidental services identified in a Statement of Work) in accordance with this Agreement, the Service Level Agreement in Exhibit [A] and the

applicable Documentation. "Services" means the services, websites (including hosting), solutions, platforms, and products that AIQUEOUS makes available under or in relation to this Agreement, including the software, equipment, technology, Administrative Credentials to POWERPATH, and services necessary for AIQUEOUS to provide the foregoing. "Documentation" means all user manuals, handbooks, training materials, requirements, and other written or electronic materials AIQUEOUS makes available for, or that result from the use of, Services. "Administrative Credentials" will include any necessary username and/or password combination to allow Customer access for configuration or customization of the POWERPATH application and will be delivered to Customer upon the Effective Date of this Agreement. Customer may use such Administrative Credentials perpetually and irrevocable so long as Customer has a POWERPATH subscription. AIQUEOUS shall provide the Services under SalesForce Classic or SalesForce platform equivalent where encryption at rest and encryption in transit are provided to Customer.

1.2   AIQUEOUS may delegate some or all of its duties under the Agreement to one or more of its Affiliates, with the Customer's prior written approval. Such delegation shall not release AIQUEOUS of its duties and obligations under this Agreement. AIQUEOUS will not otherwise subcontract or delegate its duties under this Agreement.

1.3   Customer may request additional goods and / or services through additional Statements of Work that follow the same format and structure as Schedule A, with separate signature lines for approval on each additional Statement of Work. Subsequent Statements of Work will be named "Schedule A.[#]," with the number sign referring to the progressive number of agreed-upon Statements of Work between Customer and AIQUEOUS.

1.4   AIQUEOUS grants Customer a non-exclusive, worldwide, unlimited, fully-paid, right to access and use the Services and Documentation for its and their business purposes during the term stated in the applicable Statement of Work. This right extends to (1) Customer's end users (if any) to the limited extent necessary to the performance of the Services, and (2) employees, contractors, consultants, outsourced workers, and interns engaged by Customer to perform services.

2. <u>Customer's Responsibilities</u>

2.1   Customer shall be solely responsible for ensuring that its collection, possession, maintenance and delivery of relevant information to AIQUEOUS, and that Customer's use of goods and services contemplated by this Agreement is, at all times, in compliance with any applicable privacy policy, law, rule or regulation, including but not limited to any privacy policy, law, rule or regulation applicable to personally identifiable information or other Confidential information.

2.2   Customer has sole and exclusive responsibility for misuse including but not limited to unlawful use of the goods and services contemplated by this Agreement and provided by AIQUEOUS to the Customer or data generated from or resulting from the use of such goods and services without limitation. Customer shall establish proper internal procedures and safeguards to prevent the misuse of those goods and services or any data or materials generated from the use of such goods and services.

2.3   Customer shall timely provide to or ensure that AIQUEOUS is provided with any and all information reasonably requested and in a format reasonably specified by AIQUEOUS in order to perform AIQUEOUS' duties under this Agreement. AIQUEOUS shall be entitled, without further inquiry, to rely on the authenticity and accuracy of any and all information and communications of whatever nature from Customer in good faith. AIQUEOUS shall not be responsible or liable to any person for any damage whatsoever caused directly or indirectly by virtue of such communications or information provided by Customer which are not authentic or are inaccurate.

2.4   Customer will also adhere to the terms and conditions in the SFDC Service Agreement (see Attachment A). For the avoidance of doubt, no contractors of Customer are included in this Agreement and contractors of Customers will be exclusively bound to the terms and conditions of the POWERPATH End User License Agreement.

3. Conditions of Use

3.1   The goods and services contemplated in this Agreement may require use of identifying digital information in the form of User IDs and Passwords. Customer, and any and all users gaining access to the goods and services of this Agreement provided to Customer, shall not permit or allow other persons to have access to or unique identifying information including but not limited to User IDs, usernames, and password.

3.2   AIQUEOUS shall not be liable for any unauthorized access to any goods delivered to or services provided to Customer or associated data including but not limited to Aggregated Data and Confidential Information by a person using a User ID and/or password provided to Customer or used by it or one of its representatives, affiliates, employees, or other agent with authority or apparent authority. Customer shall keep all such information confidential and shall immediately notify AIQUEOUS if Customer believes or should have reason to believe that any unauthorized access has occurred or may occur.

3.3   AIQUEOUS may block access to any of the goods and services described by this Agreement with prior notice if AIQUEOUS reasonably believes that unauthorized use is being made of goods or services provided to Customer.

4. Term of Agreement and Termination

4.1   The initial term of this Agreement shall begin on the Effective Date of the Agreement and continue until December 31, 2021. In the event that Customer wishes to expand the Parties' duties in relation to the Agreement including but not limited to by extending the term of the agreement, Customer and AIQUEOUS shall agree in writing to the additional duties and consideration in advance of such expansions becoming effective.

4.2   The Parties each have the right to terminate the contract by giving the other Party at least 60 days' notice in writing, to expire at the end of the initial period or at any time after that. Any such written notice shall be served by certified or registered mail, return receipt requested and shall not be considered effective notice unless so delivered.

4.3   Customer may also terminate this Agreement or any Statement of Work at any time, for any reason or no reason, effective 30 days after notice to AIQUEOUS. In no case will Customer pay for Services to be delivered after the effective date of termination, and AIQUEOUS will provide a pro-rata refund to Customer of any prepaid fees.

4.4   Promptly after this Agreement or a Statement of Work terminates or expires (i) AIQUEOUS will securely destroy all Customer content and data in its possession with respect to each terminated or expired Statement of Work and certify the secure destruction in writing to Customer, 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. The terms of this Agreement, including the applicable Statement of Work, that are likely to require performance, or have application to events that may occur, after the termination or expiration of this Agreement or any Statement of Work, will survive termination or expiration, including all indemnity obligations and procedures.

5.   Data Protection and Confidentiality

5.1   Customer agrees that and acknowledges awareness that AIQUEOUS may collect and make use of certain "Personal Information" including personally identifying information during the course of the Agreement, and AIQUEOUS shall only use such Personal Information in accordance with Section 5.6 below. 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. AIQUEOUS shall comply with all applicable laws, rules, and regulations related to the use, collection, storage, and transmission of Personal Information.

5.2   During the course of satisfying the agreement, data will become available to both parties including certain confidential personal information. To protect Customer data, AIQUEOUS shall perform background checks on all existing and new hires and will inform Customer if there are any concerns that could impact Customer data security, as well as steps taken to resolve those concerns.

5.3   On a bi-annual basis as commercially reasonable, AIQUEOUS and Customer may meet to review AIQUEOUS' data security processes and policies to ensure their adequacy in protecting Customer data.

5.4   Intentionally Omitted.

5.5   AIQUEOUS shall, at its 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, the Services and Personal Information, and (2) protect Customer content and data against accidental, unauthorized or unlawful access, disclosure, alteration, loss, or destruction. At AIQUEOUS's cost, AIQUEOUS 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 ("Supplier Certification"). AIQUEOUS will promptly provide to Customer upon Customer's request and at least annually (i) a full copy of the Supplier Certification and report on which the Supplier 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 Supplier Certification will cover all Services, except cloud infrastructure services provided by CIP(s) other than AIQUEOUS. AIQUEOUS will only use SalesForce as its cloud infrastructure provider 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. AIQUEOUS warranties that its software is tested against OWASP Top 10 Most Critical Web Application Security Risks at least semi-annually and will provide confirmation of such testing upon request and at least annually.

5.6   Information shared under this Agreement is confidential information subject to the Marin Clean Energy Confidentiality Agreement between the parties dated May 4, 2018 and the Non-Disclosure Agreement between the parties dated May 4, 2018.

5.7   Without limiting AIQUEOUS's obligations under this Agreement, on becoming aware of any Security Incident, AIQUEOUS will

(1)   immediately notify Customer of the Security Incident (in any case no later than it notifies any similarly situated customers of AIQUEOUS and in all cases before AIQUEOUS makes any general public disclosure (e.g., a press release)),

(2)   promptly investigate or perform required assistance in the investigation of the Security Incident and provide Customer with detailed information about the Security Incident, and

(3)   promptly take all commercially reasonable steps to mitigate the effects of the Security Incident, or assist Customer in doing so.

"Security Incident" means any: (i) accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Customer content or data transmitted, stored, or otherwise processed by AIQUEOUS or its subcontractors, or (ii) security vulnerability related to AIQUEOUS's handling of Customer content or data.

5.8   AIQUEOUS shall ensure all libraries and components of POWERPATH are patched and updated as necessary.

6. Intentionally Omitted

7. **AIQUEOUS' Propriety Information and Other Property**

7.1   AIQUEOUS' retains all right, title, and interest it may have in and to its intellectual property rights. No other person, including but not limited to Customer, shall acquire any right to sell, right to create derivative works, right to disclose, right to lease, nor any other ownership or controlling interest in such AIQUEOUS intellectual property, in whole or in part.

7.2   Customer is expressly prohibited from and shall not copy, reproduce, distribute, share, or modify the Services without AIQUEOUS' prior written consent.

7.3   Without limiting the foregoing in any way, Customer may not copy, reproduce or retransmit any AIQUEOUS logo unless expressly permitted by AIQUEOUS in writing in advance of such copying, reproduction or retransmission. This Agreement does not limit any rights or remedies that AIQUEOUS may pursue for unlawful transmission, distribution, or other actions against its legal interests. All rights to materials provided to Customer under this Agreement not expressly granted to Customer by this Agreement are reserved to AIQUEOUS.

7.4   Intentionally Omitted.

7.5   Intentionally Omitted.

8. **Method of Communication**

8.1   AIQUEOUS and its suppliers, vendors, or affiliates may choose to communicate with you from time to time about the goods or services that comprise the subject matter of this Agreement, data and/or information of any type arising out of, created, generated, or gathered following the Effective Date of the Agreement, or any other subject matter arising out of or related to this Agreement.

8.2   Customer consents to receive communications from AIQUEOUS electronically via email. Customer shall keep its email address and other digital contact information up-to-date and immediately provide AIQUEOUS with any changes to such information.

8.3   AIQUEOUS may communicate via email. Customer agrees that all agreements, notices, disclosures and other communications that AIQUEOUS provides via email satisfy any legal requirement that such communication be in writing, except for any amendment or modification to this Agreement. All legal notices shall be sent to Customer at contracts@mceCleanEnergy.org.

8.4   Customer agrees and fully understands that its consent to do business electronically as required by this Agreement extends to all duties arising out of and under this Agreement as between both parties.

8.5   Customer agrees and fully understands that Customer is solely responsible for providing any required equipment in order to receive any such electronic communications, including but not limited to Internet access costs.

9.   Representations and Warranties; Limitations of Liability & Indemnification

9.1   AIQUEOUS continuously represents and warrants that: (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) any training or other incidental services and professional services provided under this Agreement will be performed professionally and be of high grade, nature, and quality, (d) the Services will not (1) infringe or violate any third party patent, copyright, trademark, trade secret, or other proprietary right, or (2) contain viruses or other malicious code that will degrade or infect any products, services, software, or Customer's network or systems, and (3) while performing under this Agreement, AIQUEOUS will comply with all applicable laws, rules, and regulations, including data protection and anti-corruption laws.

9.2   AIQUEOUS will defend, indemnify, and hold Customer, its affiliates, and their respective successors, directors, officers, employees, and agents (each an "Indemnified Party") harmless from and against any and all Claims to the extent arising out of or relating to AIQUEOUS's or its subcontractors' breach of this Agreement, negligence or willful misconduct, or infringement, misuse or misappropriation of any third party intellectual property or proprietary rights. "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.

9.3   Neither party will be liable to the other for any consequential, special, exemplary, or punitive damages (including damages for loss of data, revenue, or profits), foreseeable or not, arising out of this Agreement, whether based on breach of contract or warranty, tort, strict liability, or otherwise, and even if the at-fault party has been advised those damages were possible. Additionally, subject to Section 9.4 of this Agreement, the maximum, aggregate liability of each party to the other and any third parties arising out of or related to this Agreement is the greater of

(a) $1,000,000 (or the equivalent in local currency), or

(b)   the actual fees paid or payable by Customer during the Term.

9.4   The exclusions and limitations in Section 9.3 do not apply to liability arising from: (a) AIQUEOUS's performance or breach of Section 9.2, (b) a breach of confidentiality, privacy, data protection, or publicity obligations under this Agreement, or (c) willful misconduct or fraud.

9.5   This limitation of liability constitutes a fundamental basis of the bargain supporting the Agreement and is, in combination with the fees and prices described by Schedule A, essential consideration necessary to the enforceability of this Agreement.

9.6   No Recourse against Constituent Members of MCE. Customer 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. Customer shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. AIQUEOUS 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.

10. Invoicing

AIQUEOUS shall send invoice(s) as the scope of configuration services are completed and when the licenses are activated. At Customer's discretion, annual licenses may be purchased upfront. In the event of the termination of contract, AIQUEOUS shall issue a

refund for the prorated, unused amount. All invoices shall be sent to Customer at invoices@mceCleanEnergy.org.

11. <u>Public Listing</u>

11.1   Customer agrees that AIQUEOUS may publicly list Marin Clean Energy as an AIQUEOUS customer in connection with its marketed-relating activities. AIQUEOUS shall not use Customer's logo or related intellectual property when publicly listing as a customer.

11.2   Customer may properly identify AIQUEOUS and generally describe the goods and services constituting the subject matter of the Agreement and other related terms of the Agreement as necessary to secure consideration necessary to generate this Agreement or satisfy its obligations under the Agreement. The parties acknowledge that matters related to this Agreement and provisions thereof may be discussed as an agenda item in Customer's Board or Committee meetings subject to the state and local open public meetings requirements; and further that upon execution of this Agreement will become a public document subject to disclosure under the California Public Records Act and publication on Customer's website of Board and Committee meeting materials.

12. <u>Miscellaneous</u>

12.1   <u>Assignment –</u> Neither party may assign its rights or obligations under this Agreement (except as noted in Section 1.2) without the prior written consent of the other party; any attempt to do so will be null and void by the terms of this Agreement. Notwithstanding the foregoing, either Party may assign (or assume and assign) its rights and obligations under this Agreement, in whole or in part, to any of its affiliates. This Agreement will be binding upon such parties and their respective legal successors and permitted assigns.

12.2   <u>Choice of Law, Choice of Forum -</u> This Agreement shall be interpreted in accord with and governed by the laws of the State of California (with the exception of choice of law provisions which would result in the application of the law of another jurisdiction) and the parties hereto agree that venue shall be in Marin County, California.

12.3   <u>Entire Agreement (Integration Clause) -</u> This Agreement (including any schedule hereto) contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes and nullifies all previous communications, representations, understandings and agreements of any sort whatsoever between the Parties. NEITHER PARTY (NOR ANY OF THEIR EMPLOYEES, REPRESENTATIVES, OR AGENTS) WILL BE BOUND BY, AND EACH SPECIFICALLY OBJECTS TO, ANY PROVISION THAT IS DIFFERENT FROM OR IN ADDITION TO THIS AGREEMENT

(WHETHER PROFFERED VERBALLY OR IN ANY QUOTATION, INVOICE, SHIPPING DOCUMENT, ONLINE TERMS AND CONDITIONS, ACCEPTANCE, CONFIRMATION, CORRESPONDENCE, OR OTHERWISE), UNLESS SUCH PROVISION IS SPECIFICALLY AGREED TO IN A WRITING SIGNED BY BOTH PARTIES.

12.4   Non-Exclusivity – The duties of AIQUEOUS hereunder shall not preclude AIQUEOUS from providing services of an identical, comparable, or different nature to any other person, individual, or entity.

12.5   No Partnership – This Agreement does not intend to nor shall it be deemed to constitute a partnership, joint venture, merger, nor any other mutual endeavour between the Parties.

12.6   Intentionally Omitted.

12.7   Severance – If any provision, in part or in whole, of this Agreement is or become invalid, illegal, or unenforceable, the provision shall be deemed to be modified to the minimum extent necessary to make it valid, legal, and enforceable. If such a modification is not possible, the provision(s) shall be deemed deleted and such deletion shall not affect the validity, legality, and enforceability of the rest of this Agreement.

12.8   No Third Party Beneficiaries – This Agreement is entered into for the sole and exclusive benefit of the Parties and shall not be interpreted in such a manner as to give rise to or create any justiciable interests, rights, benefits, profits, or any other gains for other persons, entities, or agencies.

12.9   Force Majeure - AIQUEOUS shall not be responsible for any losses or damages, including losses or damages resulting from AIQUEOUS' failure to fulfill its obligations under this Agreement if such losses, damages, or failure to perform is caused, directly or indirectly, by war, terrorist or analogous activity, the act of any Government Authority, riot, loss of power, loss of Internet connectivity, storm, accident, fire, lockout, strike, computer error or failure, delay or breakdown in communications or electronic transmission systems, or analogous events outside of AIQUEOUS's control. AIQUEOUS shall use commercially reasonable efforts to perform and/or minimize such damages and losses in the case of any such event.

12.10 Insurance –

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to Customer. The general liability policy shall be endorsed naming Customer and its employees, officers and agents as additional insureds. The certificate(s) of insurance and required endorsement shall be furnished to Customer prior to commencement of work. Each certificate shall provide for thirty (30) days advance written notice to Customer 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 4 below which may be provided on a claims-made basis consistent with the criteria noted therein.

Nothing herein shall be construed as a limitation on AIQUEOUS 's obligations under paragraph 9.2 of this Agreement to indemnify, defend and hold Customer harmless. Customer agrees to timely notify AIQUEOUS 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, Customer may suspend payment to AIQUEOUS for any services provided during any time that insurance was not in effect and until such time as AIQUEOUS provides adequate evidence that AIQUEOUS has obtained the required coverage.

1 GENERAL LIABILITY

AIQUEOUS 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. Customer 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).

2 AUTO LIABILITY

Where the services to be provided under this Agreement involve or require the use of any type of vehicle by AIQUEOUS in order to perform said services, AIQUEOUS 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).

3 WORKERS' COMPENSATION

AIQUEOUS 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 AIQUEOUS 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 Customer prior to commencement of Services.

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. AIQUEOUS 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, Customer 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 Customer may conclusively rely thereon. The policy must cover infringement of third party proprietary rights (e.g., copyright, patent, trademark).

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.

Please sign and return to proceed as set forth.

MARIN CLEAN ENERGY	AIQUEOUS
Dawn Weisz	Daniel Merchant
Name	Name
Chief Executive Officer	Vice President of Operations
Title	Title
Signature	Signature
Date	Date

SCHEDULE A.1

Statement of Work and Payment of Fees

Description of Services

POWERPATH is a cloud-based software that combines electric data capture, automated workflows, customizable performance reporting, and real-time budget tracking to streamline a broad range of energy efficiency programs, portfolios, and services. This program management solution enables electronic submittal of program-related documentation, automated communications to customers and vendors, and adaptable dashboards for tracking program metrics, budgets, activities, and statuses. POWERPATH has the capability to support multiple program types and to integrate multiple data sources and applications such as geographic information system or utility data visualization.

AIQUEOUS will provide Customer with Administrative Credentials as defined in Section 1.1 of this Agreement by the Effective Date of this Agreement.

The annual license to POWERPATH also includes access to Energy Savings Platform as well as third-party applications that support document management, online applications, customer feedback surveys, electronic signatures, and data upload such as Jitterbit ETL, SurveyMonkey, FastForms, and Spanning Middleware, or their respective equivalents agreed upon by the parties.

Fees

AIQUEOUS shall provide the goods and services contained in the Description of Services, above at the rates and fees agreed from time to time in writing between the Parties.

The fee schedule includes the following:

Schedule	# Licenses	Annual Cost
POWERPATH End Use Licenses	Up to 10	$22,200
POWERPATH Portal Licenses	Up to 100	$2,400
Document Management	Up to 10	$600
Online Application Forms	Up to 3	$2,500
Customer Feedback Surveys	Up to 3	$1,800
Additional Data Storage	1	$200
Electronic Signature	Up to 3	$900
ESPCalcs & ESPCost-Ben	1	$6,000
TOTAL		$36,600

Additional Licenses may be purchased by Customer under the following schedule:

Schedule	# Licenses	Monthly Cost per user
POWERPATH End Use Licenses	11-20	$155
POWERPATH End Use Licenses	21+	$125
Trade Allies	Up to 100	$200 (per month for 100 user block)

AIQUEOUS shall invoice Customer at the beginning of the year for the annual subscription costs. AIQUEOUS will provide a prorated subscription fee for 2018 once Customer has received final deliverable in which POWERPATH software can be used by Customer. Should Customer cancel a POWERPATH subscription mid-year, AIQUEOUS shall refund Customer on a prorated basis for the remainder of the term.

Please sign and return to proceed as set forth.

MARIN CLEAN ENERGY   AIQUEOUS

Dawn Weisz   Daniel Merchant
_____   _____
Name   Name

Chief Executive Officer   Vice President of Operations
_____   _____
Title   Title

_____   _____
Signature   Signature

_____   _____
Date   Date

Exhibit [A] – Service Level Agreement

Contractor will provide the support services from 7 am to 5 pm Pacific Time, Monday through Friday.

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:

AIQUEOUS will respond to an Error, depending on the Severity Level, within the average 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

Ongoing Technical Support and Maintenance:

All Salesforce platform releases (Winter, Spring, and Summer), and other system maintenance are provided as part of the subscription service with no additional cost to MCE. All Salesforce users are always on the latest version of our platform because everyone gets instant upgrades (typically in an opt-in basis). Each time Salesforce releases a new version of the application and the platform, MCE users can take advantage of the latest innovations from the Contractor's product development team. Each release will be delivered automatically in a transparent manner. Testing will occur in a Sandbox environment before being moved into Production as to ensure uptime availability.

Provision of Purchased Services:

We will make POWERPATH® available to MCE pursuant to this Agreement. We will make the online Services available 24 hours a day, 7 days a week, except for: (i) planned downtime between the hours of 12am and 4am any day (of which AIQUEOUS shall give advance electronic notice), and (ii) any unavailability caused by circumstances beyond Our reasonable control and cannot be remedied with Our best efforts, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Our employees), Internet service provider failure or delay, Non-SFDC Application, or denial of service attack.

Attachment A:

SFDC Service Agreement

SFDC Service Agreement

"**AppExchange**" means the online directory of on-demand applications that work with the Salesforce.com ("SFDC") Service, located at http://www.appexchange.com or at any successor websites.

"**Customer Data**" means all electronic data or information submitted by You as and to the extent it resides in the Platform or SFDC Service.

"**Platform**" means the online, Web-based platform service provided by SFDC to Reseller in connection with Reseller's provision of the Reseller Application to You.

"**Reseller**" means AIQUEOUS, LLC.

"**Reseller Application**" means ECOiQ ®.

"**SFDC Service**" means the online, Web-based service generally made available to the public via http://www.salesforce.com and/or other designated websites, including associated offline components but excluding Third-Party Applications. For purposes of this SFDC Service Agreement, the SFDC Service does not include the Platform.

"**SFDC**" means, collectively, salesforce.com, inc. and its affiliates.

"**Third-Party Applications**" means online, Web-based applications and offline software products that are provided by third parties and are identified as third-party applications, including but not limited to those listed on the AppExchange and the Reseller Application.

"**Users**" means Your employees, representatives, consultants, contractors, agents and third parties with whom You conduct business who are authorized to use the Platform subject to the terms of this SFDC Service Agreement as a result of a subscription to the Reseller Application having been purchased for such User, and have been supplied user identifications and passwords by You (or by SFDC or Reseller at Your request).

"**You**" and "**Your**" means the customer entity which has contracted to purchase subscriptions to use the Reseller Application subject to the conditions of this SFDC Service Agreement, together with any other terms required by Reseller.

1.   **Use of Platform**.

    (a)   Each User subscription to the Reseller Application shall entitle one User to use the Platform via the Reseller Application, subject to the terms of this SFDC Service Agreement, together with any other terms required by Reseller. User subscriptions cannot be shared or used by more than one User (but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment with You or otherwise changed job status or function and no longer require use of the Platform). For clarity, Your subscription to use the Platform hereunder does not include a subscription to use the SFDC Service generally or to use it in connection with applications other than the Reseller Application. If You wish to use the SFDC Service or any of its functionalities or services other than those included in the Reseller Application, or to create or use additional custom objects beyond those which appear in the Reseller Application in the form that it has been provided to You by Your Reseller, visit www.salesforce.com to contract directly with SFDC for such services. In the event Your access to the Reseller Application provides You with access to the SFDC Service generally or access to any Platform or SFDC Service functionality within it that is in excess of the functionality described in the Reseller Application's user guide, and You have not separately subscribed under a written contract with SFDC for such access, then You agree to not access or use such functionality, and You agree that Your use of such functionality, or Your creation or use of

salesforce.com, inc.

additional custom objects in the Reseller Application beyond that which appears in the Reseller Application in the form that it has been provided to You by your Reseller, would be a material breach of this Agreement.

(b)   If Your subscription to use the Platform hereunder includes Salesforce Mobile, You understand that prior to purchasing Salesforce Mobile, You should refer to the Mobile Device list located at http://www.salesforce.com/mobile/devices/ for information on mobile devices that are supported by SFDC. You agree that SFDC will not provide any refunds, credits or other compensation or remedies in connection with Your purchase of Salesforce Mobile for any mobile devices that are not supported by SFDC. Third party mobile device, operating system and network connectivity providers may, at any time, cease distribution of, interrupt, deinstall and/or prevent use of Salesforce Mobile clients on supported mobile devices without entitling You to any refund, credit or other compensation or remedies.

(c)   Notwithstanding any access You may have to the Platform or the SFDC Service via the Reseller Application, Reseller is the sole provider of the Reseller Application and You are entering into a contractual relationship solely with Reseller. In the event that Reseller ceases operations or otherwise ceases or fails to provide the Reseller Application, SFDC has no obligation to provide the Reseller Application or to refund You any fees paid by You to Reseller.

(d)   You (i) are responsible for all activities occurring under Your User accounts; (ii) are responsible for the content of all Customer Data; (iii) shall use commercially reasonable efforts to prevent unauthorized access to, or use of, the Platform and the SFDC Service, and shall notify Reseller or SFDC promptly of any such unauthorized use You become aware of; and (iv) shall comply with all applicable local, state, federal and foreign laws and regulations in using the Platform.

(e)   You shall use the Platform and the SFDC Service solely for Your internal business purposes and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Platform or the SFDC Service available to any third party, other than to Users or as otherwise contemplated by this SFDC Service Agreement; (ii) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (iii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates third party privacy rights; (iv) send or store viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs; (v) interfere with or disrupt the integrity or performance of the Platform or the SFDC Service or the data contained therein; or (vi) attempt to gain unauthorized access to the Platform or the SFDC Service or its related systems or networks.

(f)   You shall not (i) modify, copy or create derivative works based on the Platform or the SFDC Service; (ii) frame or mirror any content forming part of the Platform or the SFDC Service, other than on Your own intranets or otherwise for Your own internal business purposes; (iii) reverse engineer the Platform or the SFDC Service; or (iv) access the Platform or the SFDC Service in order to (a) build a competitive product or service, or (b) copy any ideas, features, functions or graphics of the Platform or the SFDC Service.

2.   **Third-Party Providers**. Reseller and other third-party providers, some of which may be listed on pages within SFDC's website and including providers of Third-Party Applications, offer products and services related to the Platform, the SFDC Service, and/or the Reseller Application, including implementation, customization and other consulting services related to customers' use of the Platform and/or the SFDC Service, and applications (both offline and online) that interoperate with the Platform and/or the SFDC Service such as by exchanging data with the Platform and/or the SFDC Service or

by offering additional functionality within the user interface of the Platform and/or the SFDC Service through use of the Platform and/or SFDC Service's application programming interface. SFDC does not warrant any such third-party providers or any of their products or services, including but not limited to the Reseller Application or any other product or service of Reseller, whether or not such products or services are designated by SFDC as "certified," "validated" or otherwise. Any exchange of data or other interaction between You and a third-party provider, including but not limited to the Reseller Application, and any purchase by You of any product or service offered by such third-party provider, including but not limited to the Reseller Application, is solely between You and such third-party provider. In addition, from time to time, certain additional functionality (not defined as part of the Platform or SFDC Service) may be offered by SFDC or Reseller to You, for an additional fee, on a pass-through or OEM basis pursuant to terms specified by the licensor and agreed to by You in connection with a separate purchase by You of such additional functionality. Your use of any such additional functionality shall be governed by such terms, which shall prevail in the event of any inconsistency with the terms of this SFDC Service Agreement.

3. **Integration with Third-Party Applications.** If You install or enable Third-Party Applications for use with the Platform or SFDC Service, You acknowledge that SFDC may allow providers of those Third-Party Applications to access Customer Data as required for the interoperation of such Third Party Applications with the Platform or SFDC Service. SFDC shall not be responsible for any disclosure, modification or deletion of Customer Data resulting from any such access by Third-Party Application providers. In addition, the Platform and SFDC Service may contain features designed to interoperate with Third-Party Applications (e.g., Google, Facebook or Twitter applications). To use such features, You may be required to obtain access to such Third-Party Applications from their providers. If the provider of any such Third-Party Application ceases to make the Third-Party Application available for interoperation with the corresponding Platform or SFDC Service features on reasonable terms, SFDC may cease providing such Platform or SFDC Service features without entitling You to any refund, credit, or other compensation.

4. **Access by Reseller.** To the extent Reseller serves as the administrator of the Reseller Application for You, You acknowledge that your use of the Reseller Application may be monitored by Reseller and Reseller may access Customer Data submitted to the SFDC Service or Reseller Application. By agreeing to this SFDC Service Agreement, you are consenting to such monitoring and access by Reseller.

5. **Return of Customer Data.** You have thirty (30) days from the date of termination your Reseller Application subscription term in which to request a copy of Customer Data, which will be made available to You in a .csv format. Any modifications to such Customer Data made by the Reseller Application outside of the Platform (if any) will not be captured in Customer Data as returned and the return of any such modified data shall be the responsibility of Reseller.

6. **Proprietary Rights.** Subject to the limited rights expressly granted hereunder, SFDC reserves all rights, title and interest in and to the Platform and the SFDC Service, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth in this SFDC Service Agreement. The Platform and the SFDC Service is deemed SFDC confidential information, and You will not use it or disclose it to any third party except as permitted in this SFDC Service Agreement.

7. **Compelled Disclosure**. If either You or SFDC is compelled by law to disclose confidential information of the other party, it shall provide the other party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure.

8.   **Suggestions**. You agree that SFDC shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into any SFDC products or services any suggestions, enhancement requests, recommendations or other feedback provided by You or Your Users relating to the operation of the Platform and/or the SFDC Service.

9.   **Suspension and Termination.** Your use of the Platform and the SFDC Service may be immediately terminated and/or suspended upon notice due to (a) a breach of the terms of this SFDC Service Agreement by You or any User, (b) the termination or expiration of Reseller's agreement with SFDC pursuant to which Reseller is providing the Platform as part of the Reseller Application to You, and/or (c) a breach by Reseller of its obligations to SFDC with respect to the subscriptions it is providing to You in connection with this SFDC Service Agreement. If You use the Reseller Application in combination with a SFDC Service Org other than the Org provisioned solely for use with the Reseller Application (a "Shared org") You acknowledge and understand that (i) access to such Org, including the Reseller Application used in connection with such Org, may be suspended due to Your non-payment to SFDC or other breach of Your Agreement with SFDC, and (ii) in the event Your relationship with SFDC is terminated as a result of non-payment or other material breach of Your agreement with SFDC, Your Platform subscriptions would also be terminated. In no case will any such termination or suspension give rise to any liability of SFDC to You for a refund or other compensation.

10. **Subscriptions Non-Cancelable**. Subscriptions for the Platform are non-cancelable during a subscription term, unless otherwise specified in Your agreement with Reseller.

11. **No Warranty.** SFDC MAKES NO WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO WITH RESPECT TO THE PLATFORM, THE SFDC SERVICE, AND/OR THE RESELLER APPLICATION, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE.   TO THE MAXIMUM EXTENT PERMITTED BY LAW, SFDC DISCLAIMS ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE PLATFORM, THE SFDC SERVICE, AND/OR THE RESELLER APPLICATION, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

12. **No Liability.** IN NO EVENT SHALL SFDC HAVE ANY LIABILITY TO YOU OR ANY USER FOR ANY DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR DAMAGES BASED ON LOST PROFITS, HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. **Further Contact**. SFDC may contact You regarding new Platform and SFDC Service features and offerings.

14. **Third Party Beneficiary.** SFDC shall be a third party beneficiary to the agreement between You and Reseller solely as it relates to this SFDC Service Agreement.

15. **Applicability.** The terms of this SFDC Service Agreement govern the Platform provided to You by Reseller in connection with Reseller's provision of the Reseller Application to You. For clarity, the terms of this SFDC Service Agreement do not supersede any agreement between SFDC and You with respect to SFDC Services purchased by You directly from SFDC.

May 17, 2018

TO: MCE Board of Directors

FROM: Kirby Dusel, Pacific Energy Advisors

RE: Board of Directors Voting Shares Update (Agenda Item #04 – C.4)

ATTACHMENTS: A. MCE Joint Powers Agreement
              B. Exhibit D to the MCE Joint Powers Agreement: Voting Shares

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Dear Board Members:

Consistent with the MCE Joint Powers Agreement ("JPA"), attached hereto as Attachment A, your Board is attributed voting shares based on current MCE membership as well as the respective retail electric loads of each member community.[1] Such voting shares are determined via a two-step process, which considers the following factors: 1) the current number of MCE members (Section 4.9.2.1 of the JPA); and 2) the annual retail electric load within each member community relative to the total retail electric load served by MCE (Section 4.9.2.2 of the JPA). Each factor is expressed as a ratio with a weight of 50% ascribed to each factor.

The first factor (total number of MCE members) results in an equal voting share for each MCE member: this fractional voting share is currently 1.52% for each MCE member, derived through the following calculation: 1/33 * 50% = 1.52%. The second factor is derived by determining the ratio of each member's annual retail electric load divided by MCE's total retail electric load; the resultant ratio is also multiplied by 50%. For example, if retail load within the unincorporated County of Napa is 311 GWh and MCE's total retail load is 5,478 GWh, the County of Napa's load-related voting share is 2.83%: 311/5,478 * 50% = 2.83%. As a result, the County of Napa's total MCE voting share would be 4.35%, reflecting a summation of the percentages derived through the previously described factors. Again, the load-weighted voting share will vary by community.

MCE's voting shares are to be updated annually before March 1st of each year, as per Section 4.9.2.2 of the JPA, to reflect changes in annual retail electric load as well as changes and/or additions to MCE's member communities. However, due to data availability (for calendar year 2017), MCE's voting shares update was somewhat delayed.

At this time, MCE has the necessary data to update its voting shares calculation and has prepared a revised Exhibit D to the MCE Joint Powers Agreement, which reflects the results of these

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[1] Load served within the new member communities is derived based on historical customer usage data provided by PG&E, adjusted for realized opt-out rates associated with each member community.

updated calculations. Exhibit D reflects key elements of MCE's voting shares calculations, consistent with Sections 4.9.2.1 and 4.9.2.2 of the JPA, and also reflects the total, load-weighted voting share attributable to each member.

Pursuant to Section 4.9.2.3 of the JPA, Exhibit D can be updated and approved by the Board without amending the JPA. Therefore, the staff recommends approval of the attached Exhibit D which reflects the revised and updated voting shares of the current MCE communities. Upon approval, Exhibit D will replace the existing Exhibit D in the JPA as the most current version.

Fiscal Impact: No fiscal impacts.

Recommendation: Approve Exhibit D to the MCE Joint Powers Agreement.

Marin Energy Authority
- Joint Powers Agreement -

Effective December 19, 2008
As amended by Amendment No. 1 dated December 3, 2009
As further amended by Amendment No. 2 dated March 4, 2010
As further amended by Amendment No. 3 dated May 6, 2010
As further amended by Amendment No. 4 dated December 1, 2011
As further amended by Amendment No. 5 dated July 5, 2012
As further amended by Amendment No. 6 dated September 5, 2013
As further amended by Amendment No. 7 dated December 5, 2013
As further amended by Amendment No. 8 dated September 4, 2014
As further amended by Amendment No. 9 dated December 4, 2014
As further amended by Amendment No. 10 dated April 21, 2016
As further amended by Amendment No. 11 dated May 19, 2016
As further amended by Amendment No. 12 dated July 20, 2017

Among The Following Parties:
City of American Canyon
City of Belvedere
City of Benicia
City of Calistoga
City of Concord
Town of Corte Madera
Town of Danville
City of El Cerrito
Town of Fairfax
City of Lafayette
City of Larkspur
City of Martinez
Town of Moraga
City of Mill Valley
City 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
County of Contra Costa
County of Marin
County of Napa

**MARIN ENERGY AUTHORITY
JOINT POWERS AGREEMENT**

This **Joint Powers Agreement** ("Agreement"), effective as of December 19, 2008, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the parties set forth in Exhibit B ("Parties"). The term "Parties" shall also include an incorporated municipality or county added to this Agreement in accordance with Section 3.1.

RECITALS

1. The Parties are either incorporated municipalities or counties sharing various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.

2. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32 which will require local government to develop programs to reduce greenhouse emissions.

3. The purposes for the Initial Participants (as such term is defined in Section 2.2 below) entering into this Agreement include addressing climate change by reducing energy related greenhouse gas emissions and securing energy supply and price stability, energy efficiencies and local economic benefits. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar and wind energy production.

4. The Parties desire to establish a separate public agency, known as the Marin Energy Authority ("Authority"), under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) ("Act") in order to collectively study, promote, develop, conduct, operate, and manage energy programs.

5. The Initial Participants have each adopted an ordinance electing to implement through the Authority Community Choice Aggregation, an electric service enterprise agency available to cities and counties pursuant to California Public Utilities Code Section 366.2 ("CCA Program"). The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program. Regardless of whether or not Program Agreement 1 is approved and the CCA Program becomes operational, the parties intend for the Authority to continue to study, promote, develop, conduct, operate and manage other energy programs.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

ARTICLE 1
CONTRACT DOCUMENTS

1.1   **Definitions**. Capitalized terms used in the Agreement shall have the meanings specified in Exhibit A, unless the context requires otherwise.

1.2   **Documents Included**. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

Exhibit A:	Definitions
Exhibit B:	List of the Parties
Exhibit C:	Annual Energy Use
Exhibit D:	Voting Shares

1.3   **Revision of Exhibits**. The Parties agree that Exhibits B, C and D to this Agreement describe certain administrative matters that may be revised upon the approval of the Board, without such revision constituting an amendment to this Agreement, as described in Section 8.4. The Authority shall provide written notice to the Parties of the revision of any such exhibit.

ARTICLE 2
FORMATION OF MARIN ENERGY AUTHORITY

2.1   **Effective Date and Term**. This Agreement shall become effective and Marin Energy Authority shall exist as a separate public agency on the date this Agreement is executed by at least two Initial Participants after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(10). The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 7.4, subject to the rights of the Parties to withdraw from the Authority.

2.2   **Initial Participants**. During the first 180 days after the Effective Date, all other Initial Participants may become a Party by executing this Agreement and delivering an executed copy of this Agreement and a copy of the adopted ordinance required by Public Utilities Code Section 366.2(c)(10) to the Authority. Additional conditions, described in Section 3.1, may apply (i) to either an incorporated municipality or county desiring to become a Party and is not an Initial Participant and (ii) to Initial Participants that have not executed and delivered this Agreement within the time period described above.

2.3 **Formation**. There is formed as of the Effective Date a public agency named the Marin Energy Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. The debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A Party who has not agreed to assume an Authority debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of the Authority. Notwithstanding Section 8.4 of this Agreement, this Section 2.3 may not be amended unless such amendment is approved by the governing board of each Party.

2.4 **Purpose**. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used as a contractual mechanism by which the Parties are authorized to participate as a group in the CCA Program, as further described in Section 5.1. The Parties intend that subsequent agreements shall define the terms and conditions associated with the actual implementation of the CCA Program and any other energy programs approved by the Authority.

2.5 **Powers**. The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following:

2.5.1 make and enter into contracts;

2.5.2 employ agents and employees, including but not limited to an Executive Director;

2.5.3 acquire, contract, manage, maintain, and operate any buildings, works or improvements;

2.5.4 acquire by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property;

2.5.5 lease any property;

2.5.6 sue and be sued in its own name;

2.5.7 incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Section 53850 et seq. and authority under the Act;

2.5.8 issue revenue bonds and other forms of indebtedness;

2.5.9 apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state or local public agency;

2.5.10 submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;

2.5.11 adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority ("Operating Rules and Regulations"); and

2.5.12 make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services.

2.6   **Limitation on Powers**. As required by Government Code Section 6509, the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by the County of Marin.

2.7   **Compliance with Local Zoning and Building Laws**. Notwithstanding any other provisions of this Agreement or state law, any facilities, buildings or structures located, constructed or caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed.

ARTICLE 3
AUTHORITY PARTICIPATION

3.1   **Addition of Parties**. Subject to Section 2.2, relating to certain rights of Initial Participants, other incorporated municipalities and counties may become Parties upon (a) the adoption of a resolution by the governing body of such incorporated municipality or such county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority, (b) the adoption, by an affirmative vote of the Board satisfying the requirements described in Section 4.9.1, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the adoption of an ordinance required by Public Utilities Code Section 366.2(c)(10) and execution of this Agreement and other necessary program agreements by the incorporated municipality or county, (d) payment of the membership payment, if any, and (e) satisfaction of any conditions established by the Board. Notwithstanding the foregoing, in the event the Authority decides to not implement a CCA Program, the requirement that an additional party adopt the ordinance required by Public Utilities Code Section 366.2(c)(10) shall not apply. Under such circumstance, the Board resolution authorizing membership of an additional incorporated municipality or county shall be adopted in accordance with the voting requirements of Section 4.10.

3.2 **Continuing Participation**. The Parties acknowledge that membership in the Authority may change by the addition and/or withdrawal or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Section 3.1. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

ARTICLE 4
GOVERNANCE AND INTERNAL ORGANIZATION

4.1 **Board of Directors**. The governing body of the Authority shall be a Board of Directors ("Board") consisting of one director for each Party appointed in accordance with Section 4.2.

4.2 **Appointment and Removal of Directors**. The Directors shall be appointed and may be removed as follows:

    4.2.1 The governing body of each Party shall appoint and designate in writing one regular Director who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body of each Party also shall appoint and designate in writing one alternate Director who may vote on matters when the regular Director is absent from a Board meeting. The person appointed and designated as the Director or the alternate Director shall be a member of the governing body of the Party. As an alternative to appointing its own Director and alternate Director, the governing body of any Party may elect to designate another Party within the same county (the "designated Party") to represent it on the Board with the Director and alternate Director from the designated Party (the "consolidated Parties"). Notwithstanding any provision in this Agreement to the contrary, in the case of such an election by one or more Parties in the same county, the designated Party shall have the combined votes and voting shares of the consolidated Parties and shall vote on behalf of the consolidated Parties. The governing body of a Party may revoke its designation of another Party to vote on its behalf at any time. Neither an election by a Party to designate another Party to vote on its behalf or a revocation of this election shall be effective unless provided in a written notice to the Authority.

    4.2.2 The Operating Rules and Regulations, to be developed and approved by the Board in accordance with Section 2.5.11, shall specify the reasons for and process associated with the removal of an individual Director for cause. Notwithstanding the foregoing, no Party shall be deprived of its right to seat a Director on the Board and any such Party for which its

Director and/or alternate Director has been removed may appoint a replacement.

4.3 **Terms of Office**. Each Director shall serve at the pleasure of the governing body of the Party that the Director represents, and may be removed as Director by such governing body at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director in accordance with the provisions of Section 4.2 within 90 days of the date that such position becomes vacant.

4.4 **Quorum**. A majority of the Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law.

4.5 **Powers and Function of the Board**. The Board shall conduct or authorize to be conducted all business and activities of the Authority, consistent with this Agreement, the Authority Documents, the Operating Rules and Regulations, and applicable law.

4.6 **Executive Committee**. The Board may establish an executive committee consisting of a smaller number of Directors. The Board may delegate to the executive committee such authority as the Board might otherwise exercise, subject to limitations placed on the Board's authority to delegate certain essential functions, as described in the Operating Rules and Regulations. The Board may not delegate to the Executive Committee or any other committee its authority under Section 2.5.11 to adopt and amend the Operating Rules and Regulations.

4.7 **Commissions, Boards and Committees**. The Board may establish any advisory commissions, boards and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, other energy programs and the provisions of this Agreement.

4.8 **Director Compensation**. Compensation for work performed by Directors on behalf of the Authority shall be borne by the Party that appointed the Director. The Board, however, may adopt by resolution a policy relating to the reimbursement of expenses incurred by Directors.

4.9 **Board Voting Related to the CCA Program**.
    4.9.1. To be effective, on all matters specifically related to the CCA Program, a vote of the Board shall consist of the following: (1) a majority of all Directors shall vote in the affirmative or such higher voting percentage expressly set forth in Sections 7.2 and 8.4 (the "percentage vote") and (2) the corresponding voting shares (as described in Section 4.9.2 and Exhibit D) of all such Directors voting in the affirmative shall exceed 50%, or such other higher voting shares percentage expressly set forth in Sections 7.2 and 8.4 (the "percentage voting shares"), provided that, in instances in which such other higher voting share percentage would result in any one

Director having a voting share that equals or exceeds that which is necessary to disapprove the matter being voted on by the Board, at least one other Director shall be required to vote in the negative in order to disapprove such matter.

4.9.2. Unless otherwise stated herein, voting shares of the Directors shall be determined by combining the following: (1) an equal voting share for each Director determined in accordance with the formula detailed in Section 4.9.2.1, below; and (2) an additional voting share determined in accordance with the formula detailed in Section 4.9.2.2, below.

4.9.2.1 Pro Rata Voting Share. Each Director shall have an equal voting share as determined by the following formula: (1/total number of Directors) multiplied by 50, and

4.9.2.2 Annual Energy Use Voting Share. Each Director shall have an additional voting share as determined by the following formula: (Annual Energy Use/Total Annual Energy) multiplied by 50, where (a) "Annual Energy Use" means, (i) with respect to the first 5 years following the Effective Date, the annual electricity usage, expressed in kilowatt hours ("kWhs"), within the Party's respective jurisdiction and (ii) with respect to the period after the fifth anniversary of the Effective Date, the annual electricity usage, expressed in kWhs, of accounts within a Party's respective jurisdiction, and any additional jurisdictions which they represent, that are served by the Authority and (b) "Total Annual Energy" means the sum of all Parties' Annual Energy Use. The initial values for Annual Energy use are designated in Exhibit C, and shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year

4.9.2.3 The voting shares are set forth in Exhibit D. Exhibit D may be updated to reflect revised annual energy use amounts and any changes in the parties to the Agreement without amending the Agreement provided that the Board is provided a copy of the updated Exhibit D.

4.10 **Board Voting on General Administrative Matters and Programs Not Involving CCA.** Except as otherwise provided by this Agreement or the Operating Rules and Regulations, each member shall have one vote on general administrative matters, including but not limited to the adoption and amendment of the Operating Rules and Regulations, and energy programs not involving CCA. Action on these items shall be determined by a majority vote of the quorum present and voting on the item or such higher voting percentage expressly set forth in Sections 7.2 and 8.4.

4.11 **Board Voting on CCA Programs Not Involving CCA That Require Financial Contributions.** The approval of any program or other activity not involving CCA that requires financial contributions by individual Parties shall be approved only by a majority vote of the full membership of the Board subject to the right of any Party who votes against the program or activity to opt-out of such program or activity pursuant to this section. The Board shall provide at least 45 days prior written notice to each Party before it considers the program or activity for adoption at a Board meeting. Such notice shall be provided to the governing body and the chief administrative officer, city manager or town manager of each Party. The Board also shall provide written notice of such program or activity adoption to the above-described officials of each Party within 5 days after the Board adopts the program or activity. Any Party voting against the approval of a program or other activity of the Authority requiring financial contributions by individual Parties may elect to opt-out of participation in such program or activity by providing written notice of this election to the Board within 30 days after the program or activity is approved by the Board. Upon timely exercising its opt-out election, a Party shall not have any financial obligation or any liability whatsoever for the conduct or operation of such program or activity.

4.12 **Meetings and Special Meetings of the Board**. The Board shall hold at least four regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings may be adjourned to another meeting time. Special meetings of the Board may be called in accordance with the provisions of California Government Code Section 54956. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Section 54950 et seq.).

4.13 **Selection of Board Officers.**

    4.13.1 **Chair and Vice Chair**. The Directors shall select, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if: (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board or (b) the Party that he or she represents withdraws form the Authority pursuant to the provisions of this Agreement.

    4.13.2 **Secretary**. The Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of

all meetings of the Board and all other official records of the Authority.

4.13.3 Treasurer and Auditor. The Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom needs to be a member of the Board. If the Board so designates, and in accordance with the provisions of applicable law, a qualified person may hold both the office of Treasurer and the office of Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depositary of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Board may require the Treasurer and/or Auditor to file with the Authority an official bond in an amount to be fixed by the Board, and if so requested the Authority shall pay the cost of premiums associated with the bond. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time. The duties and obligations of the Treasurer are further specified in Article 6.

4.14 Administrative Services Provider. The Board may appoint one or more administrative services providers to serve as the Authority's agent for planning, implementing, operating and administering the CCA Program, and any other program approved by the Board, in accordance with the provisions of a written agreement between the Authority and the appointed administrative services provider or providers that will be known as an Administrative Services Agreement. The Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement and the circumstances under which the Administrative Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to hire its own employees to administer the CCA Program or any other program.

ARTICLE 5
IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

5.1 Preliminary Implementation of the CCA Program.

5.1.1 **Enabling Ordinance**. Except as otherwise provided by Section 3.1, prior to the execution of this Agreement, each Party shall adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(10) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.

5.1.2 **Implementation Plan**. The Authority shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Board in the manner provided by Section 4.9.

5.1.3 **Effect of Vote On Required Implementation Action**. In the event that two or more Parties vote to approve Program Agreement 1 or any earlier action required for the implementation of the CCA Program ("Required Implementation Action"), but such vote is insufficient to approve the Required Implementation Action under Section 4.9, the following will occur:

> **5.1.3.1** The Parties voting against the Required Implementation Action shall no longer be a Party to this Agreement and this Agreement shall be terminated, without further notice, with respect to each of the Parties voting against the Required Implementation Action at the time this vote is final. The Board may take a provisional vote on a Required Implementation Action in order to initially determine the position of the Parties on the Required Implementation Action. A vote, specifically stated in the record of the Board meeting to be a provisional vote, shall not be considered a final vote with the consequences stated above. A Party who is terminated from this Agreement pursuant to this section shall be considered the same as a Party that voluntarily withdrew from the Agreement under Section 7.1.1.1.

> **5.1.3.2** After the termination of any Parties pursuant to Section 5.1.3.1, the remaining Parties to this Agreement shall be only the Parties who voted in favor of the Required Implementation Action.

5.1.4 **Termination of CCA Program**.   Nothing contained in this Article or this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any

time in accordance with any applicable requirements of state law.

5.2 **Authority Documents**. The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution, including but not necessarily limited to the Operating Rules and Regulations, the annual budget, and specified plans and policies defined as the Authority Documents by this Agreement. The Parties agree to abide by and comply with the terms and conditions of all such Authority Documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Article 7.

ARTICLE 6
FINANCIAL PROVISIONS

6.1 **Fiscal Year**. The Authority's fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by Board resolution.

6.2 **Depository**.

6.2.1 All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.

6.2.2 All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6505 of the Act.

6.2.3 All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board.

6.3 **Budget and Recovery Costs**.

6.3.1 **Budget**. The initial budget shall be approved by the Board. The Board may revise the budget from time to time through an Authority Document as may be reasonably necessary to address contingencies and unexpected

expenses. All subsequent budgets of the Authority shall be prepared and approved by the Board in accordance with the Operating Rules and Regulations.

6.3.2 **County Funding of Initial Costs**. The County of Marin shall fund the Initial Costs of the Authority in implementing the CCA Program in an amount not to exceed $500,000 unless a larger amount of funding is approved by the Board of Supervisors of the County**.** This funding shall be paid by the County at the times and in the amounts required by the Authority. In the event that the CCA Program becomes operational, these Initial Costs paid by the County of Marin shall be included in the customer charges for electric services as provided by Section 6.3.4 to the extent permitted by law, and the County of Marin shall be reimbursed from the payment of such charges by customers of the Authority. The Authority may establish a reasonable time period over which such costs are recovered. In the event that the CCA Program does not become operational, the County of Marin shall not be entitled to any reimbursement of the Initial Costs it has paid from the Authority or any Party.

6.3.3 **CCA Program Costs**. The Parties desire that, to the extent reasonably practicable, all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric services under the CCA Program, including the establishment and maintenance of various reserve and performance funds, shall be recovered through charges to CCA customers receiving such electric services.

6.3.4 **General Costs**. Costs that are not directly or indirectly attributable to the provision of electric services under the CCA Program, as determined by the Board, shall be defined as general costs. General costs shall be shared among the Parties on such basis as the Board shall determine pursuant to an Authority Document.

6.3.5 **Other Energy Program Costs**. Costs that are directly or indirectly attributable to energy programs approved by the Authority other than the CCA Program shall be shared among the Parties on such basis as the Board shall determine pursuant to an Authority Document.

ARTICLE 7
WITHDRAWAL AND TERMINATION

7.1 **Withdrawal**.

7.1.1 General.

    7.1.1.1 Prior to the Authority's execution of Program Agreement 1, any Party may withdraw its membership in the Authority by giving no less than 30 days advance written notice of its election to do so, which notice shall be given to the Authority and each Party. To permit consideration by the governing body of each Party, the Authority shall provide a copy of the proposed Program Agreement 1 to each Party at least 90 days prior to the consideration of such agreement by the Board.

    7.1.1.2 Subsequent to the Authority's execution of Program Agreement 1, a Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year, by giving no less than 6 months advance written notice of its election to do so, which notice shall be given to the Authority and each Party, and upon such other conditions as may be prescribed in Program Agreement 1.

7.1.2 Amendment. Notwithstanding Section 7.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement in the manner provided by Section 8.4.

7.1.3 Continuing Liability; Further Assurances. A Party that withdraws its membership in the Authority may be subject to certain continuing liabilities, as described in Section 7.3. The withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority. The Operating Rules and Regulations shall prescribe the rights if any of a withdrawn Party to continue to participate in those Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party.

7.2 <u>**Involuntary Termination of a Party**</u>. This Agreement may be terminated with respect to a Party for material non-compliance with provisions of this Agreement or the Authority Documents upon an affirmative vote of the Board in which the minimum percentage vote and percentage voting shares, as described in Section 4.9.1, shall be no less than 67%, excluding the vote and voting shares of the Party subject to possible termination. Prior to any vote to terminate this Agreement with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or the Authority Documents that the Party has allegedly violated. The Party subject to possible termination

shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its membership in the Authority terminated may be subject to certain continuing liabilities, as described in Section 7.3. In the event that the Authority decides to not implement the CCA Program, the minimum percentage vote of 67% shall be conducted in accordance with Section 4.10 rather than Section 4.9.1.

7.3 **Continuing Liability; Refund**. Upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or liabilities arising from the Party's membership in the Authority through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any claims, demands, damages, or liabilities arising after the date of the Party's withdrawal or involuntary termination. In addition, such Party also shall be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority, to cover the Party's liability for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any liabilities or obligations shall be returned to the Party.

7.4 **Mutual Termination**. This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its membership in the Authority, and thus terminate this Agreement with respect to such withdrawing Party, as described in Section 7.1.

7.5 **Disposition of Property upon Termination of Authority**. Upon termination of this Agreement as to all Parties, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 8
MISCELLANEOUS PROVISIONS

8.1 **Dispute Resolution**. The Parties and the Authority shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Should

such efforts to settle a dispute, after reasonable efforts, fail, the dispute shall be settled by binding arbitration in accordance with policies and procedures established by the Board.

8.2   **Liability of Directors, Officers, and Employees**. The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment or duties in the manner provided by Government Code Section 995 et seq. Nothing in this section shall be construed to limit the defenses available under the law, to the Parties, the Authority, or its Directors, officers, or employees.

8.3   **Indemnification of Parties.** The Authority shall acquire such insurance coverage as is necessary to protect the interests of the Authority, the Parties and the public. The Authority shall defend, indemnify and hold harmless the Parties and each of their respective Board or Council members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.

8.4   **Amendment of this Agreement**. This Agreement may be amended by an affirmative vote of the Board in which the minimum percentage vote and percentage voting shares, as described in Section 4.9.1, shall be no less than 67%. The Authority shall provide written notice to all Parties of amendments to this Agreement, including the effective date of such amendments. A Party shall be deemed to have withdrawn its membership in the Authority effective immediately upon the vote of the Board approving an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board. As described in Section 7.3, a Party that withdraws its membership in the Authority in accordance with the above-described procedure may be subject to continuing liabilities incurred prior to the Party's withdrawal. In the event that the Authority decides to not implement the CCA Program, the minimum percentage vote of 67% shall be conducted in accordance with Section 4.10 rather than Section 4.9.1.

8.5   **Assignment**. Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 8.5 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the

successors and assigns of the Parties. This Section 8.5 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

8.6   **Severability**. If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

8.7   **Further Assurances**. Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.

8.8   **Execution by Counterparts**. This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

8.9   **Parties to be Served Notice**. Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 48 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties.

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _Leon Garcia_

Name: _Leon Garcia_

Title: _Mayor_

Date: _4.7.16_

Party: City of American Canyon

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: Thomas Cromwell

Title: Mayor

Date: December 8, 2008

Party: City of Belvedere

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Elizabeth Patterson

Title: Mayor

Date: 12·29·14

Party: City of Benicia

APPROVED AS TO FORM

CITY ATTORNEY

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Dylan Feik

Title: City Manager

Date: April 7, 2016

Party: City of Calistoga

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Mike Parness

Title: City Manager

Date: 4-11-16

Party: City of Napa

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: _Alexandra Cock_____

Title: _Mayor_____

Date: _December 6, 2011_____

Party: _Town of Corte Madera_____

ATTEST

_____
Christine Green, Town Clerk

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: _CHARLES F. McGLASHAN_

Title: _PRESIDENT, BD OF SUPERVISORS_

Date: _November 18 2008_

Party: _COUNTY OF MARIN_
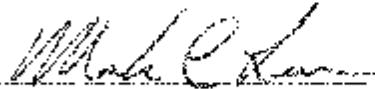
ARTICLE 9

Marin Clean Energy JPA Agreement

SIGNATURE

Amendment No. 8

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Mark Luce,

Title: Chairman, Napa County Board of Supervisors

Date: 7/22/14

Party: Napa County

Approved as to form:

_____ Date 9/24/14

Minh Tran,

County Counsel

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)
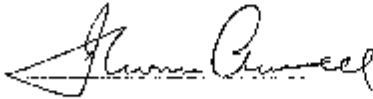
By: _____

Name: Scott Hanin

Title: City Manager

Date: 1/8/14

Party: City of El Cerrito

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _David Weinsoff_

Name: David Weinsoff

Title: Mayor

Date: _2. 12. 09_

Party: Town of Fairfax

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Mark Mitchell

Title: Mayor

Date: 3-14-16

Party: City of Lafayette

Attest:

Joanne Robbins, City Clerk

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _Larry Chu_

Name: Larry Chu

Title: Mayor, Larkspur

Date: November 16, 2011

Party: CITY OF LARKSPUR

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _SHMarshall_

Name: Shawn E. Marshall

Title: Mayor

Date: December 2, 2008

Party: City of Mill Valley

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _Madeline R Kellner_

Name: Madeline R. Kellner

Title: Mayor

Date: October 7, 2011

Party: City of Novato

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority

By: _Gayle McLaughlin_

Name: _Gayle c. McLaughlin_

Title: _Mayor_

Date: _7/5/12_

Party: _City of Richmond_

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: _____Carla Small_____

Title: _____Mayor_____

Date: _____11/16/11_____

Party: _____Town of Ross_____

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: _____Peter Breen_____

Title: _____Mayor_____

Date: _____January 9, 2009_____

Party: _____Town of San Anselmo_____

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)
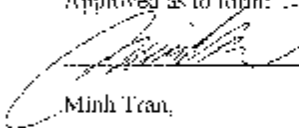
By:

Name: Paul V. Morris

Title: Mayor, City of San Pablo

Date: SEPT. 16, 2014

Party: City of San Pablo

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _Cyr N. Miller_

Name: _Cyr N. Miller_

Title: _Vice Mayor_

Date: _December 1, 2008_

Party: _City of San Rafael_
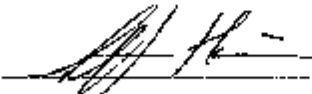
ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _Amy Belser_

Name: _Amy Belser_

Title: _Mayor_

Date: _November 18, 2008_

Party: _City of Sausalito_

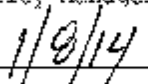Attest:

Debbie

Deputy City Clerk

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _Alan Galbraith_

Name: _Alan Galbraith_

Title: _Mayor_

Date: _4/14/16_

Party: City of St. Helena

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____

Name: ALICE FREDERICKS

Title: MAYOR

Date: 2/10/09

Party: TOWN OF TIBURON

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _Luella Haskew_

Name: _LOELLA HASKEW_

Title: _MAYOR_

Date: _4/13/16_

Party: City of Walnut Creek

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)
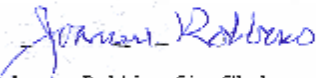
By: _____

Name: Steven R. Rogers

Title: Town Manager

Date: 4/12/16

Party: Town of Yountville

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: _____Brad Kilger_____

Title: _____City Manager_____

Date: _____7/26/17_____

Party: _____City of Martinez_____

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: _Joe Sbranti_____

Title: _City Manager_____

Date: _7/24/ 2017_____

Party: City of Pittsburg

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: _JOE GORTON_

Title: _CITY MANAGER_

Date: _7/31/17_

Party: City of San Ramon

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Valerie J. Barone

Title: City Manager

Date: July 24, 2017

Party: City of Concord

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Federal D. Glover

Title: Chair, Board of Supervisors

Date: August 1, 2017

Party: Contra Costa County

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By:

Name: Joseph A. Calabrigo

Title: Town Manager

Date: July 17, 2017

Party: Town of Danville

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By:

Name: Robert Priebe

Title: Town Manager

Date: July 24, 2017

Party: Town of Moraga

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: _Bryan H. Montgomery_

Title: _City Manager_

Date: _8/1/17_

Party: City of Oakley

ARTICLE 9
SIGNATURE
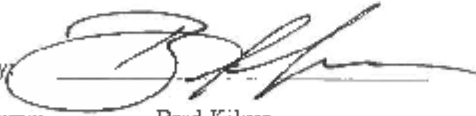
IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _Michelle Fitzer_

Name: _____Michelle Fitzer_____

Title: _____City Manager_____

Date: _7/5/17_

Party: _____City of Pinole_____

Approved as to form:

By: _Eric Casher_

Name: _____Eric Casher_____

Title: _____City Attorney_____

Date: _7/5/17_

Exhibit A

To the
Joint Powers Agreement
Marin Energy Authority

-Definitions-

"AB 117" means Assembly Bill 117 (Stat. 2002, ch. 838, codified at Public Utilities Code Section 366.2), which created CCA.

"Act" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*)

"Administrative Services Agreement" means an agreement or agreements entered into after the Effective Date by the Authority with an entity that will perform tasks necessary for planning, implementing, operating and administering the CCA Program or any other energy programs adopted by the Authority.

"Agreement" means this Joint Powers Agreement.

"Annual Energy Use" has the meaning given in Section 4.9.2.2.

"Authority" means the Marin Energy Authority.

"Authority Document(s)" means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions and activities of the Authority, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.

"Board" means the Board of Directors of the Authority.

"CCA" or "Community Choice Aggregation" means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.

"CCA Program" means the Authority's program relating to CCA that is principally described in Sections 2.4 and 5.1.

"Director" means a member of the Board of Directors representing a Party.

"Effective Date" means the date on which this Agreement shall become effective and the Marin Energy Authority shall exist as a separate public agency, as further described in Section 2.1.

"Implementation Plan" means the plan generally described in Section 5.1.2 of this Agreement that is required under Public Utilities Code Section 366.2 to be filed with the California Public Utilities Commission for the purpose of describing a proposed CCA Program.

"Initial Costs" means all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as the hiring of an Executive Director and any administrative staff, any required accounting, administrative, technical and legal services in support of the Authority's initial activities or in support of the negotiation, preparation and approval of one or more Administrative Services Provider Agreements and Program Agreement 1. Administrative and operational costs incurred after the approval of Program Agreement 1 shall not be considered Initial Costs.

"Initial Participants" means, for the purpose of this Agreement, the signatories to this JPA as of May 5, 2010 including City of Belvedere, Town of Fairfax, City of Mill Valley, Town of San Anselmo, City of San Rafael, City of Sausalito, Town of Tiburon and County of Marin.

"Operating Rules and Regulations" means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

"Parties" means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 2.2 or 3.2 such that it is considered a member of the Authority.

"Party" means, singularly, a signatory to this Agreement that has satisfied the conditions in Sections 2.2 or 3.2 such that it is considered a member of the Authority.

"Program Agreement 1" means the agreement that the Authority will enter into with an energy service provider that will provide the electricity to be distributed to customers participating in the CCA Program.

"Total Annual Energy" has the meaning given in Section 4.9.2.2.

Exhibit B

To the
Joint Powers Agreement
Marin Energy Authority

-List of the Parties-
City of American Canyon
City of Belvedere
City of Benicia
City of Calistoga
City of Concord
Town of Corte Madera
Town of Danville
City of El Cerrito
Town of Fairfax
City of Lafayette
City of Larkspur
City of Martinez
Town of Moraga
City of Mill Valley
City 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
Town of Tiburon
City of Walnut Creek
Town of Yountville
County of Contra Costa
County of Marin
County of Napa

<u>EXHIBIT C</u>

Marin Energy Authority

- Annual Energy Use -

This Exhibit C is effective as of July 20, 2017.

Party	kWh*
City of American Canyon	75,238,389
City of Belvedere	7,161,787
City of Benicia	112,631,790
City of Calistoga	26,619,985
City of Concord	584,690,000
Town of Corte Madera	46,023,153
County of Contra Costa	1,027,456,000
Town of Danville	197,901,000
City of El Cerrito	56,615,873
Town of Fairfax	17,786,905
City of Lafayette	113,958,395
City of Larkspur	36,481,157
City of Martinez	162,001,000
City of Mill Valley	44,019,391
County of Marin	223,280,476
Town of Moraga	53,568,000
City of Napa	358,540,484
County of Napa	306,696,355

City of Novato	**182,518,152**
City of Oakley	**127,957,000**
City of Pinole	**69,497,000**
City of Pittsburg	**521,305,000**
City of Richmond	**369,368,162**
Town of Ross	**9,793,239**
Town of San Anselmo	**31,630,085**
City of San Ramon	**363,991,000**
City of Saint Helena	**51,846,619**
City of San Pablo	**69,813,169**
City of San Rafael	**226,213,075**
City of Sausalito	**31,778,338**
Town of Tiburon	**28,575,164**
City of Walnut Creek	**415,140,953**
Town of Yountville	**31,854,820**

MCE Total Energy Use   **5,981,951,917**

*Data Provided by PG&E

Marin Energy Authority

- Voting Shares -

This Exhibit D is effective as of May 17, 2018.

Party	kWh (2017)	Section 4.9.2.1	Section 4.9.2.2	Voting Share
City of American Canyon	68,955,413	1.52%	0.63%	*2.14%*
City of Belvedere	7,650,037	1.52%	0.07%	*1.58%*
City of Benicia	113,473,495	1.52%	1.04%	*2.55%*
City of Calistoga	26,787,693	1.52%	0.24%	*1.76%*
City of Concord*	535,484,388	1.52%	4.89%	*6.40%*
Town of Corte Madera	44,135,831	1.52%	0.40%	*1.92%*
County of Contra Costa*	846,712,037	1.52%	7.73%	*9.24%*
Town of Danville*	179,825,522	1.52%	1.64%	*3.16%*
City of El Cerrito	57,917,571	1.52%	0.53%	*2.04%*
Town of Fairfax	18,182,921	1.52%	0.17%	*1.68%*
City of Lafayette	98,004,380	1.52%	0.89%	*2.41%*
City of Larkspur	42,991,627	1.52%	0.39%	*1.91%*
City of Martinez*	148,593,742	1.52%	1.36%	*2.87%*
City of Mill Valley	44,395,650	1.52%	0.41%	*1.92%*
County of Marin	227,286,301	1.52%	2.07%	*3.59%*
Town of Moraga*	46,999,113	1.52%	0.43%	*1.94%*
City of Napa	329,813,779	1.52%	3.01%	*4.53%*
County of Napa	310,572,948	1.52%	2.83%	*4.35%*
City of Novato	186,270,302	1.52%	1.70%	*3.22%*
City of Oakley*	111,425,259	1.52%	1.02%	*2.53%*
City of Pinole*	65,770,486	1.52%	0.60%	*2.12%*
City of Pittsburg*	413,969,922	1.52%	3.78%	*5.29%*
City of Richmond	390,351,942	1.52%	3.56%	*5.08%*
Town of Ross	9,772,866	1.52%	0.09%	*1.60%*
Town of San Anselmo	32,862,447	1.52%	0.30%	*1.82%*
City of San Ramon*	325,049,470	1.52%	2.97%	*4.48%*
City of Saint Helena	48,963,808	1.52%	0.45%	*1.96%*
City of San Pablo	66,311,864	1.52%	0.61%	*2.12%*
City of San Rafael	227,948,054	1.52%	2.08%	*3.60%*
City of Sausalito	31,538,040	1.52%	0.29%	*1.80%*
Town of Tiburon	29,290,586	1.52%	0.27%	*1.78%*
City of Walnut Creek	357,691,687	1.52%	3.26%	*4.78%*
Town of Yountville	33,328,188	1.52%	0.30%	*1.82%*
MCE Total Energy Use	5,478,327,370	50.00%	50.00%	*100.00%*

*2017 usage data as provided by PG&E.

All other usage data as reflected in MCE customer billing records for 2017.

May 17, 2018

TO: MCE Board of Directors

FROM: Meaghan Doran, Manager of Customer Programs Operations

RE: MCE Napa County Fire Rebuild Program in partnership with the
                     Bay Area Air Quality Management District, Bay Area Regional
                     Energy Network, County of Napa, and PG&E (Agenda Item #05)

Dear Board Members:

SUMMARY:
MCE has been selected by The Bay Area Air Quality Management District (BAAQMD) to receive up to $1,000,000 in grant funding to establish and administer a rebate program to support the fire rebuild in the County of Napa. The funds are restricted for use as incentives towards the installation of electrification measures and/or photovoltaic solar arrays with storage capacity (solar PV) at single family homes in the County of Napa that were destroyed by the October 2017 fires.

The program will be administered through MCE's Single Point of Contact (SPOC) model. MCE is partnering with the County of Napa, Bay Area Regional Energy Network (BayREN), and PG&E to implement the program. The program will soft launch June 1, 2018 to begin building a pipeline of potential projects with all projects being completed and signed off on by December 31, 2020.

MCE expects to contract with the Association for Energy Affordability (AEA) to implement the program and ensure compliance with the BAAQMD grant. BayREN, through the County of Napa, will be contributing funds towards the implementation contract and supporting outreach efforts. The County of Napa will also provide outreach efforts to drive program participation. As MCE doesn't currently administer a single family new construction energy efficiency rebate program, the electrification measures and solar PV incentives will be layered with energy efficiency rebates through PG&E's new construction program.

Outcomes and Benefits
MCE anticipates the following outcomes and benefits:
1. Achieve greenhouse gas emissions reduction through electrification
2. Build a long-term relationship with BAAQMD to potentially partner in future electrification and indoor air quality improvement programs

3. Test nuanced program strategies in a low-risk scenario that could be fully implemented after business plan approval
4. Assist our community in rebuilding after a natural disaster (there is an estimated $200,000-$300,000 short-fall in insurance funding for residents that lost their homes)
5. Pilot partnering with Sonoma Clean Power for potential regional program implementation in the future
6. Opportunity to coordinate with PG&E in preparation for the coordination agreement required through the Business Plan Decision
7. Conduct education and outreach to contractors around heat pumps
8. Data collection on installed measures that could be enrolled in future demand response programs or electrification rate structures (include opt in for pilot programs)
9. Work with planning departments to educate and train them on heat pump technologies
10. Public Relations and storytelling opportunity around MCE's SPOC model

There are approximately five hundred residences eligible for the proposed rebates. Heat pump rebates are expected to average $1,250 per heat pump or approximately 50% of cost and approximately 15% of eligible customers are expected to participate in the program. The projected uptake of solar plus storage rebates cannot be determined at this time. Based on current program parameters, rebates are expected to total $100,000 over the life of the program. Staff are working with stakeholders to increase rebates and eligibility to maximize benefits from MCE customers. Grant funding and related rebates may increase as the program develops.

FISCAL IMPACT: Projected revenues and expenditures arising from the proposed grant are included in the FY 2018/19 Operating Fund Budget. Revenues and expenditures arising from the proposed grant that occur beyond FY 2018/19 would be included in subsequent MCE budgets.

RECOMMENDATION: Discussion only. No action required.

May 17, 2018

TO: MCE Board of Directors

FROM: David McNeil, Manager of Finance

RE: Proposed FY 2017/18 Operating Fund Budget Amendment (Agenda
                Item #08)

ATTACHMENT: Proposed FY 2017/18 Operating Fund Budget Amendment

Dear Board Members:

SUMMARY:

In March 2017, your Board approved MCE's Fiscal Year (FY) 2017/18 Operating Fund Budget. The Budget authorizes Staff to spend funds within the limits set forth in each budget line item and collect revenue. In May 2017, your Board approved an amendment to the FY 2017/18 Operating Fund Budget to support revenues and expenses associated with a grant from the California Energy Commission. In September 2017, your Board approved an amendment to the FY 2017/18 Operating Fund Budget to accommodate expenses associated with the inclusion of new communities in MCE's service area in April 2018. In November 2017, your Board approved an amendment to the FY 2017/18 Operating Fund Budget to accommodate an increase in annual membership dues for California Community Choice Association (CalCCA).

An amendment to the FY 2017/18 Operating Fund Budget is proposed at this time to accommodate the sale of energy on a wholesale basis, higher energy costs and reductions in several expenditure budget line items.

Operating Fund Budget Amendment Detail

The attached Proposed FY 2017/18 Operating Fund Budget Amendment sets forth changes to the following budget line items:

Energy Revenue – Retail (-$8,798,000, 4.2% decrease): Formerly described as "electricity revenues" Energy Revenue – Retail is based on estimates of customer electricity usage and retail electricity rates. The decrease in revenue results from lower than expected customer electricity usage.

Energy Revenue – Wholesale (+2,500,000):   Energy Revenue – Wholesale represents bilateral sales of electricity and related products.

Cost of Energy (+$1,800,000, 1.0% increase):   Cost of energy includes expenses associated with purchase of energy, charges by the California Independent Systems Operator (CAISO) for

scheduled load, and services performed by the CAISO. Credits for energy generation scheduled into the CAISO market are netted from the Cost of energy. The proposed increase in the Cost of energy budget line item is intended to accommodate purchases of energy that were resold via wholesale transactions and higher load charges due to weather related events.

Personnel (-$784,000, 12% decrease): The proposed decrease in personnel costs reflects the impact of staff turnover and a reduction in contingencies.

Communications and related services (-$550,000, 28% decrease): Communications and related services include costs associated with: print, online, and other advertising; printing and mailing customer notices; and events and sponsorships. The proposed decrease in Communications and related services expenses reflects the deferral of marketing related projects that were not time-sensitive.

Capital outlay (-$500,000, 67% decrease): Capital outlay consists of leasehold improvement and equipment expenditures. The proposed decrease in Capital outlay results from delays in (i) the opening of MCE's office in Concord and (ii) the installation of electric vehicle charging stations and photovoltaic panels in MCE's parking lot in San Rafael, and the resulting shift of capital expenditures from FY 2017/18 into FY 2018/19.

FISCAL IMPACT: The net impact of the proposed FY 2017/18 Operating Fund Budget Amendment is a $6,764,000 decrease in the budgeted contribution to the net position. Budgeted expenditures include contingencies and Staff expects that the actual contribution to the net position will exceed the budgeted contribution to the net position.

RECOMMENDATION: Approve the proposed FY 2017/18 Operating Fund Budget Amendment.

MARIN CLEAN ENERGY
OPERATING FUND
From April 1, 2017 through March 31, 2018

	FY 2017/18 Budget (Amended)	Proposed Amendment	FY 2017/18 Budget (Amended)	Variation (%)
ENERGY REVENUE				
Retail (net of allowance)	$ 209,162,000	(8,798,000)	200,364,000	-4.2%
Wholesale	-	2,500,000	2,500,000	
Other	10,000		10,000	
GROSS ENERGY REVENUE	**209,172,000**	**(6,298,000)**	**202,874,000**	**-3.0%**
ENERGY EXPENSES				
Cost of energy	183,194,000	1,800,000	184,994,000	1.0%
NET ENERGY REVENUE	**25,978,000**	**(8,098,000)**	**17,880,000**	**-31%**
OPERATING EXPENSES				
Personnel	6,584,000	(784,000)	5,800,000	-12%
Data manager	3,794,000	-	3,794,000	0%
Technical and scheduling services	806,000	-	806,000	0%
Service fees - PG&E	1,487,000	-	1,487,000	0%
Legal and regulatory services	804,000	-	804,000	0%
Communications and related services	1,971,000	(550,000)	1,421,000	-28%
Other services	1,481,000	-	1,481,000	0%
General and administration	853,000	-	853,000	0%
Occupancy	689,000	-	689,000	0%
Local pilot programs	215,000	-	215,000	0%
Marin County green business program	10,000	(10,000)		-100%
Low income solar programs	40,000	-	40,000	0%
TOTAL OPERATING EXPENSES	**18,734,000**	**(1,344,000)**	**17,390,000**	**-7%**
OPERATING INCOME	**7,244,000**	**(6,754,000)**	**490,000**	**-93%**
NONOPERATING REVENUES				
Grant and other income	713,000	-	713,000	0%
Interest income	130,000	-	130,000	0%
TOTAL NONOPERATING REVENUES	**843,000**	**-**	**843,000**	**0%**
NONOPERATING EXPENSES				
Banking Fees and Financing Costs	168,000	-	168,000	0%
Depreciation (supplemental)	121,000	-	121,000	0%
TOTAL NONOPERATING EXPENSES	**289,000**	**-**	**289,000**	**0%**
CHANGE IN NET POSITION	**7,798,000**	**(6,754,000)**	**1,044,000**	**-87%**
Budgeted net position beginning of period	44,659,717		44,659,717	
Change in net position	7,974,000		1,044,000	
Budgeted net position end of period	52,633,717		45,703,717	
CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER				
Capital Outlay	744,000	(500,000)	244,000	-67%
Depreciation (supplemental)	(121,000)	-	(121,000)	0%
Transfer to Renewable Energy Reserve	-	-	-	
Transfer to Local Renewable Energy Development Fund	186,000	-	186,000	0%
TOTAL CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER	**809,000**	**(500,000)**	**309,000**	**-62%**
Budgeted net increase (decrease) in Operating Fund bala	7,165,000	(6,254,000)	735,000	-87%

MCE Typical Rate Setting Calendar

January	February	March	April

- Preliminary budget developed
- PG&E rate changes reviewed
- Preliminary MCE rate proposal prepared

- FY budget adopted
- If rate changes recommended, proposed rates released
- Public review/ comment period begins
- Customer notices

- Final FY rates approved

- Start of Fiscal Year
- Rates become effective, and remain in effect until changed
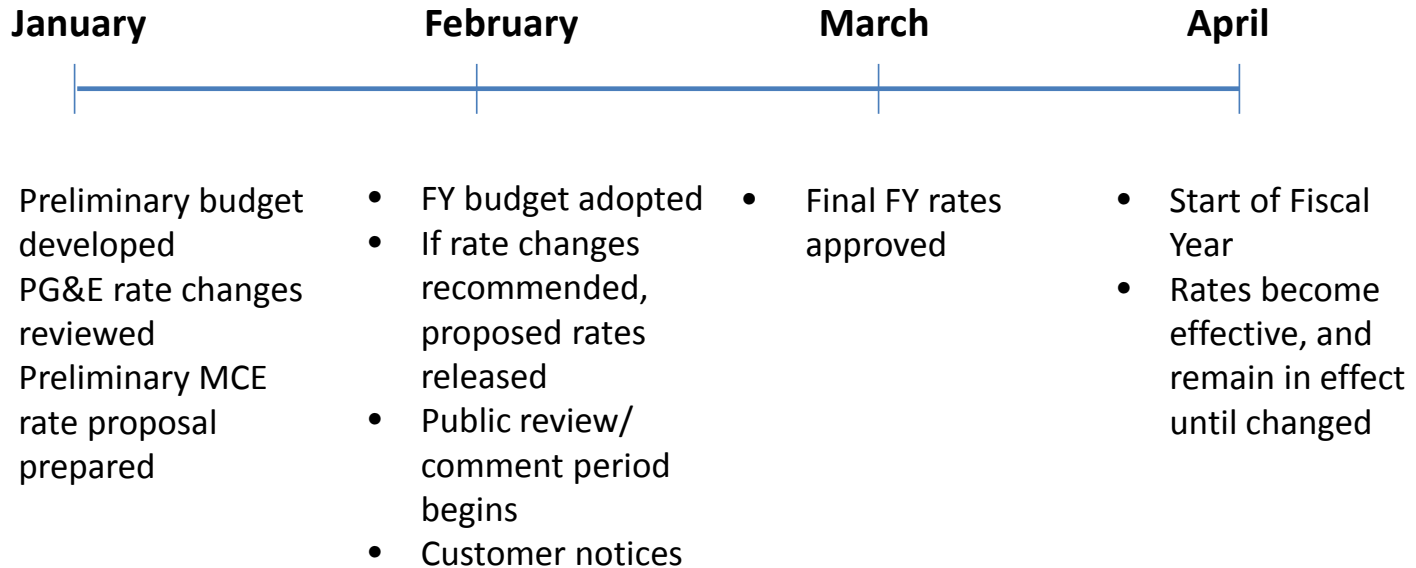
- This year's rate cycle was delayed due to delay in PG&E rate changes that normally occur on January 1st.
- MCE rates were discussed with Rates Ad Hoc Committee (3/20/18) and Technical Committee (4/5/18); No rate change recommended, except for EV rates.
- EV rate changes were discussed with Executive Committee (4/6/18) and approved by Board (4/19/18).

MCE Rate Design Objectives

Revenue sufficiency: rates must recover all program expenses, debt service requirements, and prudent reserves; i.e., the "revenue requirement".

Rate competitiveness: rates must allow MCE to successfully compete in the marketplace to retain and attract customers.

Rate stability: rates changes should be minimized to reduce customer bill impacts.

Customer understanding: rates should be simple, transparent and easily understood by customers.

Equity among customers: rate differences among customers should be justified by differences in usage characteristics or cost of service.

Efficiency: rates should encourage conservation and efficient use of electricity (e.g., off-peak vehicle charging).

MCE Rate Design Process

Sales and Revenue Forecast

- Billing quantities for each rate schedule
- Monthly service accounts
- KWh by relevant time period
- Max KW by relevant time period

Revenue Requirement

- Proposed fiscal year budget
- Projected energy costs
- Customer related costs (e.g., billing)
- Other program costs
- Reserve contribution

Revenue Allocation

- Divides revenue requirement among customer classes
- Based on cost of service study, competitive assessment and other policies

Rate Design

- Energy, demand and customer charges per rate schedules
- Collect class revenue allocations

4

MCE Rate Groups

- For rate setting purposes, customers are grouped into nine separate classes or "rate groups".

- Rates are differentiated based on cost of service, competitiveness, and other policy considerations.

Rate Group	Example End Use
E-1	Residential
A-1/A-6	Small Commercial: Small office, small retail
A-10	Medium Commercial: Bank, restaurant, mixed use retail
E-19	Large Commercial: Department store, large office building, grocery store
E-20	Industrial: Hospital, college, water treatment facility
Ag	Agricultural
SL-1	Street and area lighting
TC-1	Traffic lights

Projected Revenues by Sector (Present Rates)

- Other 1%
- Industrial 10%
- Large Commercial 16%
- Medium Commercial 14%
- Small Commercial 14%
- Residential 45%

6
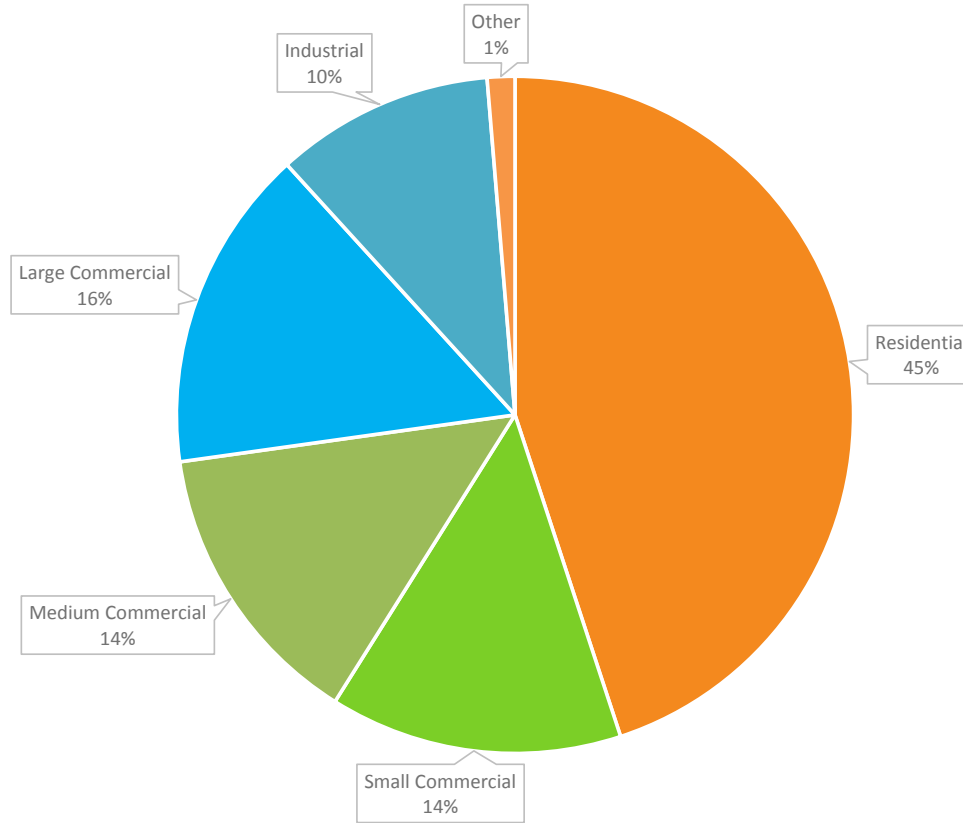
Projected Customers, Sales, and Revenue

Rate Group	Customer Type	Accounts	MWh	Revenue at Present Rates
E-1	Residential	419,682	2,554,970	$171,759,828
A-1	Small Commercial	36,561	571,400	$43,214,882
A-6	Small Commercial	2,047	120,811	$10,179,391
A-10	Medium Commercial	3,531	678,260	$52,963,447
E-19	Large Commercial	1,541	799,173	$59,046,584
E-20	Industrial	42	592,047	$39,915,037
Ag	Agricultural	2,102	34,955	$2,423,571
SL-1	Street Lighting	2,224	31,367	$2,352,496
TC-1	Traffic Control	1,304	4,077	$260,949
Total		469,034	5,387,061	$382,116,184

Current rates will yield a projected contribution to net position of $54 million this fiscal year.

7

MCE Costs Vs. PG&E

	Marin Clean Energy Total Cost Comparison						
Rate Group	Revenue at Proposed MCE Generation Rates	PG&E PCIA and Franchise Fee Surcharges	PG&E Delivery Charges	Total MCE Generation + PG&E Charges	Revenue at Current PG&E Bundled Rates	Total Cost Difference	% Cost Difference
Res-1	$ 171,759,828	$ 86,894,545	$ 241,727,827	$ 500,382,199	$ 514,647,698	$ (14,265,498)	-3%
Com-1	$ 43,214,882	$ 14,445,003	$ 74,569,137	$ 132,229,022	$ 135,913,311	$ (3,684,289)	-3%
Com-6	$ 10,179,391	$ 3,054,107	$ 13,033,481	$ 26,266,978	$ 27,457,967	$ (1,190,989)	-4%
Com-10	$ 52,963,447	$ 17,417,713	$ 68,058,910	$ 138,440,071	$ 144,231,958	$ (5,791,887)	-4%
Com-19	$ 59,046,584	$ 17,302,105	$ 65,098,108	$ 141,446,798	$ 147,031,934	$ (5,585,136)	-4%
Com-20	$ 39,915,037	$ 11,509,395	$ 33,460,937	$ 84,885,369	$ 88,220,934	$ (3,335,565)	-4%
Ag	$ 2,423,571	$ 879,463	$ 3,529,438	$ 6,832,472	$ 7,009,490	$ (177,018)	-3%
SL-1	$ 2,352,496	$ 203,883	$ 4,484,485	$ 7,040,864	$ 7,230,004	$ (189,141)	-3%
TC-1	$ 260,949	$ 103,075	$ 537,024	$ 901,048	$ 924,533	$ (23,485)	-3%
Total	$ 382,116,184	$ 151,809,290	$ 504,499,347	$ 1,038,424,821	$ 1,072,667,829	$ (34,243,009)	-3%

At current rates, MCE customer costs are 3% to 4% lower on average than with PG&E.

Summary

- Current rates provide lower costs to all customer groups relative to PG&E service and allow for significant progress towards MCE's reserve policy targets.

- Rate advantage relative to PG&E reduces opt outs during key expansion period.

- No general rate changes were recommended by Ad Hoc Ratesetting Committee or Technical Committee; existing rates remain in effect.

- MCE Board approved targeted adjustments to electric vehicle rates to ensure MCE charging options remain cost competitive.

Rate Setting Guidelines

Pursuant to the Public Utilities Code and MCE's Joint Powers Agreement, the Board of Directors of Marin Clean Energy ("MCE") has independent authority to set retail electricity rates and charges. These Guidelines summarize the rate setting policies and procedures that govern the setting of rates as outlined in the Marin Clean Energy Revised Community Choice Aggregation Implementation Plan certified by the California Public Utilities Commission or as otherwise established by the Board of Directors.

Renewable Energy Programs: The default rate tariff for MCE customers corresponds to the Light Green 50% renewable energy program which represents a minimum of 50% renewable energy. MCE offers customers the option of a Deep Green 100% renewable energy program representing 100% renewable energy and a Local Sol tariff representing 100% renewable energy generated locally. The Deep Green Tariff is based on a 1 cent per kWh cost premium to the Light Green Product. The Local Sol Tariff will be based on cost of acquiring local renewable energy used to serve customers of Local Sol.

MCE's rates vary depending on which of the three energy programs customers are enrolled in and by rate schedule applicable to each of the rate groups described below. Depending upon the rate schedule in question, billing quantities can include monthly kWh, kWh during specified time-of-use periods (e.g., peak, partial peak, off-peak), maximum monthly kW demand and maximum kW demand during specified time-of-use periods. For instance, customers in the E-19 and E-20 rate groups enrolled in the Light Green energy program are charged different rates for summer and winter "peak", "partial peak" and "off-peak" periods as well as energy demand charges. Seasonal, time-of-use and demand charge definitions are generally designed to mirror those used in corresponding PG&E rate designs.

Rate Setting Objectives: MCE has established the following objectives that are considered in designing MCE rates.

Revenue sufficiency: rates must recover all expenses, debt service and other expenditure requirements, and build prudent reserves; i.e., the "revenue requirement". MCE targets an annual increase in Net Position equal to 4% of revenues.

Rate competitiveness: rates must allow MCE to offer customers competitive rates which will retain and attract customers.

Rate stability: rates changes should be minimized to reduce customer bill impacts, generally limited to once per calendar year.

Customer understanding: rates should be simple, transparent and easily understood by customers.

Equity among customers: rate differences among customer groups should be justified by differences in usage characteristics and/or cost of service.

Efficiency: rates should encourage conservation and efficient use of electricity (e.g., off-peak vehicle charging).

The objective of revenue sufficiency may not be violated. The Board may use discretion in how the other rate setting objectives are applied. To the extent that these objectives may be in tension with one another, the rate proposal attempts to strike an appropriate balance. For example, a cost-of-service analysis might suggest that the rate for a particular customer class should be increased, but the increase might be limited in the interest of rate stability and/or rate competitiveness.

Rate Setting Methodology: In order to establish rates, MCE forecasts electric energy sales for the coming fiscal year. The forecast includes the number of customers that are expected to be enrolled in each rate schedule and customer program and their energy use profile. The forecasted billing quantities are used to derive a forecast of revenues at current (and proposed) MCE rates.

The projected revenue at current rates is compared to fiscal year budget items that must be funded through such rates (the "revenue requirement") to determine whether rate adjustments are warranted for purposes of addressing a projected surplus or deficit. The revenue requirement is also applied to customer rate groups. Customer rate groups are based on end-use and other service characteristics in an attempt to represent customers with relatively similar cost-of-service profiles. Rate group revenue requirements are determined based on a cost of service analysis, assessment of rate competitiveness and other objectives noted above. A sample of rate groups are as follows:

Rate Group	Example End Use
E-1, E-6, ETOU, EV	Residential
A-1, A-6	Small office, small retail
A-10	Department store, office complex
E-19	Large retail complex, large office building, winery, hotel
E-20	Institutional, hospital, college, water treatment facility
AG-1, AG-4, AG-5	Agricultural
LS-1, LS-2, LS-3	Street and area lighting
TC-1	Traffic lights

To improve customer understanding, MCE's Board of Directors approved changes to rate group names effective July 2016 in order to make them consistent with the rate group names used by PG&E.

Rate Setting Process: MCE's annual rate setting process is typically coordinated with the establishment of its Operating Fund Budget. Any potential rate changes are first discussed with an Ad Hoc Ratesetting Committee of the Board before being presented for consideration. Rates and the Operating Fund Budget for the upcoming fiscal year are typically presented to the Board of Directors at its February meeting. This is followed by a 30-day public review period of any proposed rate changes during which time MCE welcomes public input. Proposed rates and the annual Operating Fund Budget are typically approved by the Board during the month of March and are applied as of April 1.

Initial rates proposed to the Board may differ from final rates adopted due to changes to the final budget, consideration of public comments and/or other factors that may be considered by the Board. If necessary MCE's rates can be adjusted at any time of the year at the Board's discretion. Adopted rates remain in effect until they are changed by the Board.

MARIN CLEAN ENERGY
RATES AS OF MAY 1, 2018

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
RESIDENTIAL CUSTOMERS			
E-1, EL-1, EM, EML, ES, ESL, ESR, ESRL, ET, ETL	**E-1**		
	ENERGY CHARGE ($/KWH)	All Energy	0.06800
E-6, EL-6	**E-6**		
	ENERGY CHARGE ($/KWH)		
		Summer Peak	0.18600
		Summer Part Peak	0.08200
		Summer Off-Peak	0.04300
		Winter Partial Peak	0.06500
		Winter Off-Peak	0.05200
EV-A, EV-B	**EV**		
	ENERGY CHARGE ($/KWH)		
		Summer Peak	0.21200
		Summer Part Peak	0.07000
		Summer Off-Peak	0.02200
		Winter Peak	0.05700
		Winter Partial Peak	0.02300
		Winter Off-Peak	0.02300
E-TOU-A, EL-TOU-A	**E-TOU-A**		
	ENERGY CHARGE ($/KWH)		
		Summer Peak	0.15300
		Summer Off-Peak	0.07800
		Winter Peak	0.06600
		Winter Off-Peak	0.05200
E-TOU-B, EL-TOU-B	**E-TOU-B**		
	ENERGY CHARGE ($/KWH)		
		Summer Peak	0.17800
		Summer Off-Peak	0.07200
		Winter Peak	0.06900
		Winter Off-Peak	0.04900
E-TOU-C3	**E-TOU-C3** ENERGY CHARGE ($/KWH)		
		Summer Peak	0.12700
		Summer Off-Peak	0.06300
		Winter Peak	0.07000
		Winter Off-Peak	0.05300

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
COMMERCIAL, INDUSTRIAL AND GENERAL SERVICE CUSTOMERS			
A-1-A	**A-1-A**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	0.09200
		WINTER	0.05700
	A-1-A-P		
	ENERGY CHARGE ($/KWH)		
		SUMMER	0.08800
		WINTER	0.05500
A-1-B	**A-1-B**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.10800
		PART-PEAK	0.08600
		OFF-PEAK	0.05700
		WINTER	
		PART-PEAK	0.08400
		OFF-PEAK	0.06300
	A-1-B-P		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.10400
		PART-PEAK	0.08300
		OFF-PEAK	0.05500
		WINTER	
		PART-PEAK	0.08100
		OFF-PEAK	0.06000
A-6	**A-6**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.34000
		PART-PEAK	0.10200
		OFF-PEAK	0.04500
		WINTER	
		PART-PEAK	0.07100
		OFF-PEAK	0.05200
	A-6-P		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.32600
		PART-PEAK	0.09800
		OFF-PEAK	0.04300
		WINTER	
		PART-PEAK	0.06800
		OFF-PEAK	0.05000

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
A-10-A	**A-10-A**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	0.08100
		WINTER	0.05800
	DEMAND CHARGE ($/KW)		
		SUMMER MAX	4.85000
	A-10-A-P		
	ENERGY CHARGE ($/KWH)		
		SUMMER	0.07776
		WINTER	0.05568
	DEMAND CHARGE ($/KW)		
		SUMMER MAX	4.65600
A-10-B	**A-10-B**		
	ENERGY CHARGE ($/KWH)		
		<u>SUMMER</u>	
		PEAK	0.13500
		PART-PEAK	0.08200
		OFF-PEAK	0.05400
		<u>WINTER</u>	
		PART-PEAK	0.06500
		OFF-PEAK	0.04900
	DEMAND CHARGE ($/KW)		
		SUMMER MAX	4.85000
	A-10-B-P		
	ENERGY CHARGE ($/KWH)		
		<u>SUMMER</u>	
		PEAK	0.12960
		PART-PEAK	0.07872
		OFF-PEAK	0.05184
		<u>WINTER</u>	
		PART-PEAK	0.06240
		OFF-PEAK	0.04704
	DEMAND CHARGE ($/KW)		
		SUMMER MAX	4.65600

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
E-19-S, V	**E-19-S**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.10500
		PART-PEAK	0.06500
		OFF-PEAK	0.04000
		WINTER	
		PART-PEAK	0.05900
		OFF-PEAK	0.04500
	DEMAND CHARGE ($/KW)		
		SUMMER	
		PEAK	12.60000
		PART-PEAK	3.10000
E-19-P, V	**E-19-P**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.09700
		PART-PEAK	0.05800
		OFF-PEAK	0.03500
		WINTER	
		PART-PEAK	0.05300
		OFF-PEAK	0.04000
	DEMAND CHARGE ($/KW)		
		SUMMER	
		PEAK	11.25000
		PART-PEAK	2.75000
E-19-T, V	**E-19-T**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.06000
		PART-PEAK	0.04800
		OFF-PEAK	0.03400
		WINTER	
		PART-PEAK	0.05000
		OFF-PEAK	0.03800
	DEMAND CHARGE ($/KW)		
		SUMMER	
		PEAK	12.40000
		PART-PEAK	3.10000

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
E-19-R-S, V-R-S	**E-19-R-S**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.24000
		PART-PEAK	0.09500
		OFF-PEAK	0.03900
		WINTER	
		PART-PEAK	0.06000
		OFF-PEAK	0.04500
E-19-R-P, V-R-P	**E-19-R-P**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.23000
		PART-PEAK	0.08800
		OFF-PEAK	0.03400
		WINTER	
		PART-PEAK	0.05300
		OFF-PEAK	0.04000
E-19-R-T, V-R-T	**E-19-R-T**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.23000
		PART-PEAK	0.08500
		OFF-PEAK	0.03200
		WINTER	
		PART-PEAK	0.05000
		OFF-PEAK	0.03800

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
E-20-S	**E-20-S**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.09500
		PART-PEAK	0.06000
		OFF-PEAK	0.03600
		WINTER	
		PART-PEAK	0.05500
		OFF-PEAK	0.04100
	DEMAND CHARGE ($/KW)		
		SUMMER	
		PEAK	12.20000
		PART-PEAK	3.00000
E-20-P	**E-20-P**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.10200
		PART-PEAK	0.06100
		OFF-PEAK	0.03700
		WINTER	
		PART-PEAK	0.05600
		OFF-PEAK	0.04200
	DEMAND CHARGE ($/KW)		
		SUMMER	
		PEAK	13.40000
		PART-PEAK	3.15000
E-20-T	**E-20-T**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.06200
		PART-PEAK	0.04900
		OFF-PEAK	0.03400
		WINTER	
		PART-PEAK	0.05100
		OFF-PEAK	0.03900
	DEMAND CHARGE ($/KW)		
		SUMMER	
		PEAK	15.85000
		PART-PEAK	3.75000

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
E-20-R-S	**E-20-R-S**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.22000
		PART-PEAK	0.09000
		OFF-PEAK	0.03700
		WINTER	
		PART-PEAK	0.05500
		OFF-PEAK	0.04200
E-20-R-P	**E-20-R-P**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.24000
		PART-PEAK	0.08900
		OFF-PEAK	0.03700
		WINTER	
		PART-PEAK	0.05500
		OFF-PEAK	0.04200
E-20-R-T	**E-20-R-T**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.23000
		PART-PEAK	0.08400
		OFF-PEAK	0.03500
		WINTER	
		PART-PEAK	0.05100
		OFF-PEAK	0.04000

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
AGRICULTURAL CUSTOMERS			
AG-1-A	**AG-1-A**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	0.07700
		WINTER	0.05800
	CONNECTED LOAD ($/HP)		
		SUMMER MAX	1.35000
		WINTER MAX	-
AG-1-B	**AG-1-B**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	0.08000
		WINTER	0.05700
	DEMAND CHARGE ($/KW)		
		SUMMER MAX	2.00000
		WINTER MAX	-
AG-RA	**AG-RA**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.24200
		OFF-PEAK	0.04500
		WINTER	
		PART-PEAK	0.05200
		OFF-PEAK	0.04200
	CONNECTED LOAD ($/HP)		
		SUMMER	1.3000
		WINTER	-
AG-RB	**AG-RB**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.21500
		OFF-PEAK	0.04500
		WINTER	
		PART-PEAK	0.04100
		OFF-PEAK	0.03500
	DEMAND CHARGE ($/KW)		
		SUMMER	
		MAX	1.9000
		PEAK	2.1500
		WINTER	-

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
AG-VA	**AG-VA**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.21000
		OFF-PEAK	0.04300
		WINTER	
		PART-PEAK	0.05100
		OFF-PEAK	0.04000
	CONNECTED LOAD ($/HP)		
		SUMMER	1.3500
		WINTER	-
AG-VB	**AG-VB**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.18500
		OFF-PEAK	0.04400
		WINTER	
		PART-PEAK	0.03900
		OFF-PEAK	0.03500
	DEMAND CHARGE ($/KW)		
		SUMMER	
		MAX	1.7500
		PEAK	2.2500
		WINTER	-

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
AG-4-A, AG-4-D	**AG-4-A**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.13700
		OFF-PEAK	0.04600
		WINTER	
		PART-PEAK	0.05100
		OFF-PEAK	0.04000
	CONNECTED LOAD ($/HP)		
		SUMMER	1.35000
		WINTER	-
AG-4-B, AG-4-E	**AG-4-B**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.09900
		OFF-PEAK	0.04900
		WINTER	
		PART-PEAK	0.04600
		OFF-PEAK	0.03900
	DEMAND CHARGE ($/KW)		
		SUMMER	
		MAX	2.35000
		PEAK	2.50000
		WINTER	-
AG-4-C, AG-4-F	**AG-4-C**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.11600
		PART-PEAK	0.05600
		OFF-PEAK	0.03800
		WINTER	
		PART-PEAK	0.04100
		OFF-PEAK	0.03700
	DEMAND CHARGE ($/KW)		
		SUMMER	
		PEAK	5.90000
		PART-PEAK	1.00000
		WINTER	-

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
AG-5-A, AG-5-D	**AG-5-A**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.12600
		OFF-PEAK	0.05100
		WINTER	
		PART-PEAK	0.05500
		OFF-PEAK	0.04400
	CONNECTED LOAD ($/HP)		
		SUMMER	3.70000
		WINTER	-
AG-5-B, AG-5-E	**AG-5-B**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.11000
		OFF-PEAK	0.03200
		WINTER	
		PART-PEAK	0.04500
		OFF-PEAK	0.02800
	DEMAND CHARGE ($/KW)		
		SUMMER	
		MAX	4.45000
		PEAK	5.55000
		WINTER	-
AG-5-C, AG-5-F	**AG-5-C**		
	ENERGY CHARGE ($/KWH)		
		SUMMER	
		PEAK	0.09000
		PART-PEAK	0.04500
		OFF-PEAK	0.03200
		WINTER	
		PART-PEAK	0.03700
		OFF-PEAK	0.03000
	DEMAND CHARGE ($/KW)		
		SUMMER	
		PEAK	10.30000
		PART-PEAK	1.90000
		WINTER	-

PG&E EQUIVALENT SCHEDULE	MCE RATE SCHEDULE	UNIT/PERIOD	PRESENT RATE
STREET AND OUTDOOR LIGHTING			
LS-1, LS-2, LS-3, OL-1	**SL**		
	ENERGY CHARGE ($/KWH)		0.07500
TC-1	**TC-1**		
	ENERGY CHARGE ($/KWH)		0.06400

DEEP GREEN OPTION

Customers electing the Deep Green service option will pay the applicable rate for the Light Green service option plus the Deep Green Energy Charge.

	ENERGY CHARGE ($/KWH)		0.01000

LOCAL SOL OPTION

For customers taking service under the Local Sol service option, the MCE generation charges of the participating customer's otherwise applicable tariff will be replaced with the following Local Sol Rate:

	ENERGY CHARGE ($/KWH)		0.14200

Voltage Discount

For rate schedules not segregated by service voltage, each component of the standard rate shall be discounted for primary or higher service voltage.	4%

May 17, 2018

TO: MCE Board of Directors

FROM: Greg Stepanicich, Special Counsel

RE: Proposed Resolution 2018-06 Establishing the Annual Salary for the Chief
                            Executive Officer (Agenda Item #10)

ATTACHMENT: Proposed Resolution 2018-06 Establishing the Annual Salary for the Chief
                            Executive Officer

Dear Board Members:

SUMMARY:

Dawn Weisz has served as the CEO of MCE since its inception in 2009. The current annual salary for
Ms. Weisz is $283,872. A market salary survey for the CEO position had not been conducted since
Ms. Weisz was originally hired as MCE's first CEO, when she was appointed with an annual salary of
$198,000. The Board, as indicated in a Staff Report dated February 3, 2011, approved an increase of
25% following enrollment of Phase II of service to customers. Ms. Weisz received that increase in
August 2012. Since that time she has received only annual cost of living increases to her salary, as
approved for all MCE employees by the Board in 2014 and beginning in 2015. The total of CPI-based
increases from January 1, 2015 through January 1, 2018 has been 11.7%.

On May 4, 2018, the Executive Committee met in closed session to conduct a performance review of
Ms. Weisz. Following this closed session, the Executive Committee met in a second, separate closed
session to review a market salary survey for comparable executive positions, evaluate Ms. Weisz's
annual salary, and provide directions to its designated representative Board Chair Kate Sears to
negotiate an appropriate salary increase for the CEO. Chair Sears has completed these negotiations
with Ms. Weisz and will be reporting the results of these negotiations with the Board of Directors in
closed session before the regular Board meeting on May 17, 2018.

In the event that the Board agrees with the recommendation of its designated representative on the
CEO salary negotiations, the Board will consider the adoption of the attached Resolution that will
establish an increased annual salary for the CEO. The actual salary amount will be inserted into the
resolution at the time of the Board's consideration of this matter.

Recommendation
Consider the adoption of the attached Resolution 2018-06 Establishing the Annual Salary for the
Chief Executive Officer.

RESOLUTION NO. 2018-06

A RESOLUTION OF THE BOARD OF DIRECTORS OF
MARIN CLEAN ENERGY ESTABLISHING THE ANNUAL SALARY
FOR THE CHIEF EXECUTIVE OFFICER

WHEREAS, Marin Clean Energy (MCE) is a joint powers authority established on December 19, 2008, and organized under the Joint Exercise of Powers Act (Government Code Section 6500 et seq.); and

WHEREAS, MCE members include the following communities: the City of American Canyon, the City of Belvedere, the City of Benicia, the City of Calistoga, the City of Concord, the Town of Corte Madera,, the Town of Danville, the City of El Cerrito, the Town of Fairfax, the City of Lafayette, the City of Larkspur, the City of Martinez, the City of Mill Valley, the Town of Moraga, the City of Napa, the City of Novato, the City of Oakley, the City of Pinole, the City of Pittsburg, the City of Richmond, the Town of Ross, the Town of San Anselmo, the City of San Pablo, the City of San Rafael, the City of San Ramon, the City of Sausalito, the City of St. Helena, the Town of Tiburon, the City of Walnut Creek, and the Town of Yountville; and the County of Contra Costa, the County of Marin, and the County of Napa; and

WHEREAS, Dawn Weisz was hired as the first Chief Executive Officer (CEO) of MCE in 2009.

WHEREAS, a market survey has not been conducted for the position of CEO since Ms. Weisz was first hired and the only salary increases granted to Ms. Weisz have been increases related to the successful enrollment of Phase II customers and those related to the cost of living increases approved by the Board for all MCE staff.

WHEREAS, a market survey recently was completed of the annual salaries of CCA CEO's and other chief administrative officers of comparable agencies.

WHEREAS, a performance review for Ms. Weisz also was recently completed by the Executive Committee.

WHEREAS, the performance review and salary survey indicated that a market-based salary increase for Ms. Weisz was appropriate.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of MCE that the annual salary for the Chief Executive Officer shall be established in the amount of $_____, effective _____ 2018.

PASSED AND ADOPTED at a regular meeting of the MCE Board of Directors on this 17th day of May, 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				
Town of Corte Madera				
County of Contra Costa				
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				

_____
CHAIR, MCE

Attest:

_____
SECRETARY, MCE

May 17, 2018

TO: MCE Board of Directors

FROM: Shalini Swaroop, Director of Policy

RE: Policy Update on Regulatory and Legislative Items (Agenda Item #12)

Dear Board Members:

Below is a summary of the key activities at the legislature and the California Public Utilities Commission (CPUC) impacting Community Choice Aggregation (CCA) and MCE.

I. Legislature

In addition to the regionalization, wildfire liability, and resource adequacy issues raised in the April Board meeting packet, CalCCA and MCE have engaged on the following bills.

1) AB 893 (Garcia) – Geothermal Resources

This bill requires more geothermal resources to be procured by each retail seller, including CCAs. Because geothermal resources are more expensive than other renewable resources, this bill could adversely impact rates. Additionally, the investor-owned utilities (IOUs) have excess procurement, so adding more expensive resources to their portfolio will increase the Power Charge Indifference Adjustment (PCIA) over time and also exacerbate current market issues.

CalCCA has taken an oppose position on this bill.

2) AB 2208 (Aguiar-Curry) – Geothermal Resources

Similar to AB 893, this bill requires more procurement of geothermal, biomass, and other more expensive types of renewable resources.

For the same reasons considered above, CalCCA has taken an oppose position.

3) AB 2726 (Levine) – Consumption-Based Accounting

AB 2726 enacts a "consumption based" accounting process for greenhouse gas emissions. Through ongoing collaborative efforts with the author's office, MCE and Sonoma Clean Power were able to negotiate amendments to assuage earlier concerns.

MCE, Sonoma Clean Power, and CalCCA are neutral on this bill.

4) SB 1014 (Skinner) – Electric Vehicles

SB 1014 requires transportation network companies (such as Lyft and Uber) to have goals for deploying zero-emissions vehicles within their fleet. The goal is 20% of passenger miles traveled are provided by zero-emissions vehicles by 2024, and 50% by 2027.

In furtherance of MCE's mission and legislative policy guidelines to reduce greenhouse gas emissions, MCE has supported this bill. CalCCA has also supported this bill.

5) SB 1088 (Dodd) – Safety Planning

This bill requires the IOUs to adopt a comprehensive safety, reliability, and resilience plan that is submitted to the CPUC with costs recovered by all ratepayers. The bill is primarily in response to the devastating fires that occurred in Northern California in October 2017. Although the goals of the bill are laudable, some ratepayer advocates are concerned that couching these costs in terms of "safety" writes the IOUs a blank check from ratepayers.

MCE has several concerns related to potential increases in non-bypassable charges and potential limitation of a CCA's ability to enact its own robust Distributed Energy Resources programs. This includes energy storage, energy efficiency, and demand response programs.

MCE is currently in conversations with the author's office and has an oppose unless amended position. CalCCA has also taken an oppose unless amended position.

6) SB 1347 (Stern) – Energy Storage

This bill requires that load-serving entities (including CCAs) procure their proportionate share of 2,000 megawatts of energy storage systems. Earlier drafts of the bill included language indicating that only utility companies should procure storage under this mandate. The IOUs could then pass costs onto unbundled customers through a non-bypassable charge. CalCCA vigorously opposed this earlier language.

The author has been working with CalCCA on amendments and will continue to do so as he refines the bill.

II. California Public Utilities Commission (CPUC)

1) CPUC Issues Draft "Green Book" White Paper Exploring Customer Choice in California's Electricity Sector

On May 3, the CPUC released the draft Green Book, a white paper focused on customer choice in the California electricity market. In the white paper, the CPUC describes a tension between the centralized decision making of the past (*i.e.* a few utilities with heavy oversight by the CPUC) and the more distributed decision making today (*i.e.* CCA Boards being responsible for procurement and individual customer decisions to install solar or select Direct Access). In its current form, the paper claims an agnostic view but frames the chief issue as one where CCAs (and others) create a risk of market failure with the potential to lead to another energy crisis.

The paper is divided into five parts. Part I is an introduction containing a problem statement and

an overview of issues the CPUC intends to explore. Part II discusses some of the current policies and approaches in California. Part III identifies some existing statutory goals and a list of questions related to electricity service and customer choice. Part IV evaluates New York, Illinois, Texas and Great Britain's regulatory frameworks and identifies findings for further consideration. Part V provides some insight to how the CPUC is planning to approach customer choice and frame issues for California decision-makers.

The paper is intended to initiate a discussion about how to ensure the state's goals are achieved as customers move away from utility service. The goals relate to safe, affordable, reliable, and clean electricity service. The paper suggests that the Legislature, the CPUC, the California Energy Commission (CEC), and the California Independent System Operator (CAISO) will all need to engage on this issue.

Some of the questions the white paper seeks to answer are:
- How do we protect safe delivery of electricity to meet customer demand in an increasingly fragmented market?
- How will we ensure that increasing fragmentation of suppliers and buyers will add up to meet our ambitious clean energy goals?
- How will we make sure that different players are meeting their responsibilities to provide all the energy resources we need to make the grid work?
- How will we protect customers from the unfair behavior like "slamming" and "cramming" that we saw during deregulation of telecommunications?
- What preparations should we make for customers who might become stranded without service if their electric provider fails, as many did in the previous California deregulation?
- What is the best way for a fair, affordable and durable transition?

The paper is in draft form with comments to be filed on June 4 and a large workshop (en banc) to be held in Sacramento in mid-June before it becomes final. In partnership with CalCCA, MCE is working on a response to the CPUC as well as talking points. There is a CPUC webpage with resources related to this effort (http://www.cpuc.ca.gov/customerchoice/).

2) CalCCA Files Comments on the Proposed Greenhouse Gas Emissions Accounting Methodology in the Integrated Resources Planning Proceeding

On April 3, the CPUC issued a ruling to solicit comments on the proposed Greenhouse Gas (GHG) emissions accounting methodology in the Integrated Resources Planning (IRP) proceeding. The intention of establishing a GHG accounting methodology is to ensure that all load-serving entities (LSEs) use a uniform methodology to calculate the emissions of their portfolios, and determine whether the LSEs' portfolios meet the assigned GHG emissions benchmarks established by the California Air Resources Board (ARB).

The proposed methodology, first put forth by PG&E in 2017, would measure emissions based on how well each LSE's contracted resources match their load on an hourly basis. This methodology would discount the GHG-free attributes of Bucket 1 resources if those resources do not match the LSE's load. It would also attribute system power emissions to Bucket 2 and Bucket 3 resources. If approved, this methodology would significantly undermine CCAs' investment in renewable energy resources.

CalCCA filed comments to advocate for a contract-based GHG emissions methodology, which

would utilize Renewable Energy Certificates (RECs) to track energy generation and delivery, consistent with existing industry best practices. If the CPUC intends to adopt the proposed methodology, it must be adjusted to recognize the full GHG-free values of all Renewable Portfolio Standard (RPS) resources. CalCCA also pointed out the many inconsistencies between the proposed GHG emissions calculation methodology and the methodology used by the ARB to set emissions benchmarks for LSEs. Such inconsistencies may lead to inconsistent compliance signals, and cause procurement and market uncertainties.

3) CalCCA Submits Rebuttal Testimony in the Power Charge Indifference Adjustment (PCIA) Proceeding

On April 23, CalCCA submitted written rebuttal testimony in the PCIA proceeding. The testimony emphasized CalCCA's legal and policy concerns with the Joint Investor Owned Utilities' (Joint IOU) Green Allocation Mechanism (GAM) and Portfolio Monetization Mechanism (PMM) proposals. Both the GAM and PMM would involuntarily allocate costs to CCA customers without providing control over the underlying energy. The involuntary allocation would force un-needed Resource Adequacy (RA) and unbundled Renewable Energy Credits (REC) onto MCE. This would inhibit MCE's ability to manage its portfolio and procure resources based on its customers' needs.

Evidentiary hearings will be held the week of May 7 at the CPUC. A Proposed Decision is expected in late July 2018.

4) MCE and CalCCA Submit Comments on the Proposed Decision Approving Energy Efficiency Business Plans

On April 24, MCE submitted "Comments on the CPUC's Proposed Decision Approving its Energy Efficiency Business Plan." The proposed decision would deny the portions of MCE's proposal that are the most cost effective (*i.e.* industrial programs, programs for large commercial and agricultural customers, and savings credit from statewide and local programs). Therefore, MCE's comments focused on addressing cost effectiveness requirements. Similarly, MCE expressed the need to update the energy savings targets to be consistent with what is approved and denied in the decision.

MCE also requested reciprocal obligations between MCE and PG&E related to overlapping programs. Additionally, MCE requested that customers in disadvantaged communities, as defined by the California Environmental Protection Agency (CalEPA), be supported by the CPUC's policies on hard to reach customers. Finally, MCE requested that the CPUC consider modifications to provide flexibility in spending over the life of the business plan.

Subsequently, on April 30, MCE and CalCCA each submitted "Reply Comments on the Proposed Decision." CalCCA supported the arguments within MCE's April 24 comments. MCE's reply comments requested that the CPUC undertake an exploration of cost effectiveness rules and workforce standards through a broad stakeholder process.