



Kathrin Sears, Chair
County of Marin

Tom Butt, Vice Chair
City of Richmond

Bob McCaskill
City of Belvedere

Alan Schwartzman
City of Benicia

Sloan C. Bailey
Town of Corte Madera

Greg Lyman
City of El Cerrito

Barbara Coler
Town of Fairfax

Don Tatzin
City of Lafayette

Kevin Haroff
City of Larkspur

Sashi McEntee
City of Mill Valley

Brad Wagenknecht
County and Cities of Napa

Denise Athas
City of Novato

Rupert Russell
Town of Ross

Ford Greene
Town of San Anselmo

Arturo Cruz
City of San Pablo

Andrew McCullough
City of San Rafael

Ray Withy
City of Sausalito

Emmett O'Donnell
Town of Tiburon

Kevin Wilk
City of Walnut Creek

1125 Tamalpais Avenue
San Rafael, CA 94901

1 (888) 632-3674
mceCleanEnergy.org

Executive Committee Meeting

Friday, April 7, 2017

12:00 P.M.

**The Barbara George Conference Room
1125 Tamalpais Avenue, San Rafael, CA 94901**

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 3.3.17 Meeting Minutes
 - C.2 Monthly Budget Update
 - C.3 New MCE Staff Position
 - C.4 Third Amendment to the Fourth Agreement with Braun, Blaising, McLaughlin & Smith
 - C.5 Fourth Amendment to the Second Agreement with Davis Wright Tremaine, LLP
5. MCE Lead Agency and Grant Proposal for GHFI Marin Program Support Fund (Discussion/Action)
6. MCE Employee Benefits Adjustments (Discussion/Action)
7. Request from Contra Costa County to Extend Inclusion Period for 30 Days (Discussion/Action)
8. Legislative Update (Discussion)



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Agenda Page 2 of 2

9. MCE Name Change Support (Discussion)

10. Committee Member & Staff Matters (Discussion)

11. Adjourn



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DRAFT
MCE
EXECUTIVE COMMITTEE MEETING
Friday, March 3, 2017
12:00 P.M.

The Barbara George Conference Room
1125 Tamalpais Avenue, San Rafael, CA 94901

Roll Call

Present:

Denise Athas, City of Novato
Sloan Bailey, Town of Corte Madera
Tom Butt, Chair, City of Richmond
Ford Greene, Town of San Anselmo
Kevin Haroff, City of Larkspur
Bob McCaskill, City of Belvedere
Kate Sears, County of Marin

Absent: None

Staff:

Katie Gaier, Human Resources Manager
David McNeil, Finance and Project Manager
Sarah Estes-Smith, Director of Internal Operations
Dawn Weisz, CEO

Action Taken:

Agenda Item #4 – Consent Calendar (Discussion/Action)

- C.1 Approval of 2.3.17 Meeting Minutes
- C.2 Monthly Budget Update
- C.3 Revised MCE Staff Position
- C.4 6th Agreement with Jay Marshall
- C.5 9th Agreement with Maher Accountancy
- C.6 5th Agreement with Braun, Blaising, McLaughlin & Smith
- C.7 3rd Agreement with Davis Wright Tremaine, LLP
- C.8 7th Agreement with Niemela Pappas & Associates
- C.9 8th Agreement with Richards, Watson & Gershon
- C.10 5th Agreement with Troutman Sanders, LLP
- C.11 6th Agreement with Community Energy Services Corporation (CESC)
- C.12 1st Agreement with The Energy Alliance Association (TEAA)
- C.13 2nd Agreement with Kreativz, Inc.

ACTION: It was M/S/C (Bailey/Haroff) to **approve Consent Calendar Items C.1, C.2 and C.4 through C.13. Consent Calendar item C.3 was removed.** Motion carried by unanimous 7-0 vote. (Absent: None).

Agenda Item #5 – Proposed Employee Benefit Allocation Adjustment (Discussion/Action)

ACTION: No action was taken.

Agenda Item #6 – Update on California Community Choice Association & CCA Activities in Other Communities (Discussion)

ACTION: No action required.

Agenda Item #7 – Review Draft 3.16.17 Board Agenda (Discussion)

ACTION: No action required.

Agenda Item #8 – Determination of Need for Immediate Action on Item not on Initially Posted Agenda (Discussion/Action)

ACTION: It was M/S/C (Haroff/McCaskill) to **add an Urgency Item not on Initially Posted Agenda.** Motion carried by unanimous 7-0 vote.

Agenda Item #9 – Proposed Item: MCE Proposal to the California Energy Commission for a Local Government Challenge Grant (Discussion/Action)

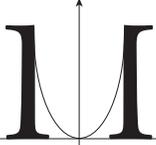
ACTION: It was M/S/C (Sears/Greene) to **approve finalization and submittal of an MCE Grant Proposal to the California Energy Commission.** Motion carried by unanimous 7-0 vote.

The meeting was adjourned to the next scheduled Executive Committee Meeting on April 7, 2017.

Tom Butt, Executive Committee Chair

ATTEST:

Dawn Weisz, Chief Executive Officer



MAHER ACCOUNTANCY 1101 FIFTH AVENUE • SUITE 200 • SAN RAFAEL, CA 94901

Financial Plumblines

ACCOUNTANTS' COMPILATION REPORT

Board of Directors
Marin Clean Energy

Management is responsible for the accompanying special purpose statement of Marin Clean Energy (a California Joint Powers Authority) which comprise the budgetary comparison schedule for the period ended February 28, 2017, and for determining that the budgetary basis of accounting is an acceptable financial reporting framework. We have performed a compilation engagement in accordance with Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the accompanying statement nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any assurance on this special purpose budgetary comparison statement.

The special purpose statement is prepared in accordance with the budgetary basis of accounting, which is a basis of accounting other than accounting principles generally accepted in the United States of America. This report is intended for the information of the Board of Directors of MCE.

Management has elected to omit substantially all of the disclosures required by accounting principles generally accepted in the United States of America. If the omitted disclosures were included in the special purpose budgetary comparison statement, they might influence the user's conclusions about the Authority's results of operations. Accordingly, this special purpose budgetary comparison statement is not designed for those who are not informed about such matters.

The supplementary information contained on page 4 is presented for purposes of additional analysis. The supplementary information has been compiled from information that is the representation of management. We have not audited or reviewed the supplementary information and, accordingly, do not express an opinion or provide any assurance on such supplementary information.

We are not independent with respect to the Authority because we performed certain accounting services that impaired our independence.

MAHER ACCOUNTANCY

San Rafael, CA
March 20, 2017



**MARIN CLEAN ENERGY
OPERATING FUND
BUDGETARY COMPARISON SCHEDULE
April 1, 2016 through February 28, 2017**

	Actual - from April 1 through February 28		YTD Budget (Amended)	YTD Budget Variance (Under Over)	YTD Actual/Budget %	Annual Budget (Amended)	Budget Remaining
	2015/16	2016/17	2016/17	2016/17	2016/17	2016/17	2016/17
ENERGY REVENUE							
Revenue - Electricity (net of allowance)	\$ 138,341,445	\$ 164,605,823	\$ 166,478,000	\$ (1,872,177)	98.88%	\$ 181,351,000	\$ 16,745,177
Other revenue	444,341	128,918		128,918		-	(128,918)
TOTAL ENERGY REVENUE	138,785,786	164,734,741	166,478,000	(1,743,259)	98.95%	181,351,000	16,616,259
ENERGY EXPENSES							
Cost of energy	112,544,143	139,202,231	144,030,000	(4,827,769)	96.65%	159,033,000	19,830,769
Service fees- PG&E	788,310	1,030,695	1,134,800	(104,105)	90.83%	1,255,000	224,305
TOTAL ENERGY EXPENSES	113,332,453	140,232,926	145,164,800	(4,931,874)	96.60%	160,288,000	20,055,074
NET ENERGY EXPENSES	25,453,333	24,501,815	21,313,200	3,188,615		21,063,000	
OPERATING EXPENSES							
Personnel	2,811,581	4,151,511	4,455,242	(303,731)	93.18%	5,251,000	1,099,489
Data manager	2,629,826	3,022,019	3,359,700	(337,681)	89.95%	3,674,000	651,981
Technical and scheduling services	574,801	523,945	697,980	(174,035)	75.07%	762,000	238,055
Legal counsel	394,517	534,889	748,917	(214,028)	71.42%	817,000	282,111
Communications services and related expenses	575,284	923,437	906,750	16,687	101.84%	986,000	62,563
Other services	288,358	316,725	429,917	(113,192)	73.67%	469,000	152,275
General and administration	226,418	366,210	408,167	(41,957)	89.72%	443,000	76,790
Occupancy	203,073	353,987	374,833	(20,846)	94.44%	403,000	49,013
Integrated demand-side pilot programs	3,850	7,090	45,833	(38,743)	15.47%	50,000	42,910
Marin County green business program	-	10,000	10,000	-	0.00%	10,000	-
Low income solar programs	4,000	17,800	32,083	(14,283)	0.00%	35,000	17,200
TOTAL OPERATING EXPENSES	7,711,708	10,227,613	11,469,422	(1,241,809)	89.17%	12,900,000	2,672,387
OPERATING INCOME (LOSS)	17,741,625	14,274,202	9,843,778	4,430,424	145.01%	8,163,000	
NONOPERATING REVENUES							
Grant Income			75,000	(75,000)	0.00%	75,000	75,000
Interest income	9,256	89,470	45,833	43,637	195.21%	50,000	(39,470)
TOTAL NONOPERATING REVENUES	9,256	89,470	120,833	(31,363)		125,000	35,530
NONOPERATING EXPENSES							
Interest expense and financing costs	123,680	32,515	346,917	(314,402)	0.00%	345,500	312,985
Depreciation (supplemental)	69,922	84,432	91,667	(7,235)	92.11%	100,000	15,568
TOTAL NONOPERATING EXPENSES	193,602	116,947	438,583	(321,636)		445,500	328,553
TOTAL NONOPERATING INCOME (EXPENSES)	(184,346)	(27,477)	(317,750)	290,273	8.65%	(320,500)	
CHANGE IN NET POSITION	17,557,279	14,246,725	9,526,028	4,720,697	149.56%	7,842,500	
CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER							
Capital outlay	174,947	133,526	346,917	(213,391)	38.49%	383,000	249,474
Depreciation (supplemental)	(69,922)	(84,432)	(91,667)	7,235	92.11%	(100,000)	(15,568)
Repayment of loan principal	2,024,038	-	-	-		-	-
Transfer to Renewable Energy Reserve	1,000,000	-	-	-		-	-
Transfer to Local Renewable Development Fund	151,383	173,263	173,263	-	100.00%	173,263	-
TOTAL CAPITAL EXPENDITURES, INTERFUND TRANSFERS & OTHER	3,280,446	222,357	428,513	(206,156)	51.89%	456,263	233,906
Net increase (decrease) in available fund balance	\$ 14,276,833	\$ 14,024,368	\$ 9,097,515	\$ 4,926,853		\$ 7,386,237	

**MARIN CLEAN ENERGY
ENERGY EFFICIENCY PROGRAM FUND
BUDGETARY COMPARISON SCHEDULE
April 1, 2016 through February 28, 2017**

	<u>Amended Budget</u>	<u>Actual</u>	<u>Budget Remaining</u>	<u>Actual/ Budget</u>
REVENUE AND OTHER SOURCES:				
Public purpose energy efficiency program	\$ 1,586,357	\$ 1,219,056	\$ 367,301	76.85%
EXPENDITURES AND OTHER USES:				
Public purpose energy efficiency program	<u>1,586,357</u>	<u>1,219,056</u>	<u>367,301</u>	<u>76.85%</u>
Net increase (decrease) in fund balance	<u>\$ -</u>	<u>\$ -</u>		

**LOCAL RENEWABLE ENERGY DEVELOPMENT FUND
BUDGETARY COMPARISON SCHEDULE
April 1, 2016 through February 28, 2017**

	<u>Budget</u>	<u>Actual</u>	<u>Budget Remaining</u>	<u>Actual/ Budget</u>
REVENUE AND OTHER SOURCES:				
Transfer from Operating Fund	\$ 173,263	\$ 173,263	\$ -	100.00%
EXPENDITURES AND OTHER USES:				
Capital Outlay and related	<u>173,263</u>	<u>246,867</u>	<u>(73,604)</u>	<u>142.48%</u>
Net increase (decrease) in fund balance	<u>\$ -</u>	<u>(73,604)</u>		
Fund balance at beginning of period		<u>73,604</u>		
Fund balance at end of period		<u>\$ -</u>		

**RENEWABLE ENERGY RESERVE FUND
BUDGETARY COMPARISON SCHEDULE
April 1, 2016 through February 28, 2017**

	<u>Amended Budget</u>	<u>Actual</u>	<u>Budget Remaining</u>	<u>Actual/ Budget</u>
REVENUE AND OTHER SOURCES:				
Other proceeds	\$ 761,350	\$ -	\$ 761,350	0.00%
Transfer from Operating Fund	-	-	-	N/A
Total revenue and other sources	<u>\$ 761,350</u>	<u>\$ -</u>	<u>\$ 761,350</u>	
EXPENDITURES AND OTHER USES:	<u>939,850</u>	<u>288,133</u>	<u>651,717</u>	30.66%
Net increase (decrease) in fund balance	<u>\$ (178,500)</u>	<u>(288,133)</u>		
Fund balance at beginning of period		<u>1,000,000</u>		
Fund balance at end of period		<u>\$ 711,867</u>		

MARIN CLEAN ENERGY
BUDGETARY SUPPLEMENTAL SCHEDULE
April 1, 2016 through February 28, 2017

	Actual
Other services	
Audit	\$ 36,000
Accounting	132,000
IT Consulting	64,500
Human resources & payroll fees	10,660
Miscellaneous professional fees	73,565
Other services	\$ 316,725
 General and administration	
Data and telephone service	\$ 33,386
Meeting room rentals	575
Office equipment lease	4,835
Dues and subscriptions	155,029
Conferences and professional education	37,312
Travel	33,227
Business meals	8,379
Miscellaneous administration	30,542
Office supplies and postage	62,925
General and administration	\$ 366,210



April 7, 2017

TO: MCE Executive Committee
FROM: Katie Gaier, Human Resources Manager
RE: New MCE Staff Position (Agenda Item # 04 - C.3)
ATTACHMENT: Job Description – Deputy General Counsel

Dear Executive Committee Members:

SUMMARY:

With growth and expansion of CCAs in California and the establishment of the CalCCA trade group, MCE is experiencing the need for a senior staff position to lead MCE's ongoing regulatory and legislative policy development and implementation. To address this need, staff is recommending the addition of a Deputy General Counsel with the responsibility to develop and implement regulatory and legislative policy. This position would manage MCE's Regulatory Counsel and Analyst staff as well as lead MCE's legislative policy efforts, under direction of the General Counsel.

A survey of the salaries of MCE's comparable agencies was conducted and the results indicate that a range of \$146,286 – \$221,809 would be appropriate and in line with the compensation direction from the Board of Directors and the Executive Committee. An internal comparison was also completed, and the results indicate that implementation of the survey will bring the position in line with other attorney positions within the Legal and Regulatory Team.

Fiscal Impact: The addition of a Deputy General Counsel will have no impact on the approved FY 2017/18 budget as there are vacant positions on the Legal and Regulatory Team and it will not increase the number of current full-time equivalent positions on that team.

Recommendation: Approve the proposed Deputy General Counsel job description and salary range.



JOB DESCRIPTION

DEPUTY GENERAL COUNSEL REGULATORY & LEGISLATIVE POLICY

SUMMARY

The Deputy General Counsel – Regulatory and Legislative Policy works under direction from the General Counsel and serves as lead staff member in regulatory and legislative matters for MCE, works closely with local and state representatives, MCE Board members, lobbyists and external legal counsel, and performs related work as assigned.

CLASS CHARACTERISTICS

The Deputy General Counsel – Regulatory and Legislative Policy (Deputy) is the lead staff member for regulatory and legislative matters. The Deputy works closely with local and state representatives and lobbyists in promoting MCE's interest at the state level at the legislature and California regulatory agencies. The Deputy develops written and oral advice for the General Counsel, the Chief Executive Officer, and the Board of Directors on key legal and policy matters related to regulatory agencies and legislative policy developments, and performs managerial and project management tasks. The Deputy represents, and oversees the representation of, MCE before various regulatory agencies in matters affecting community choice aggregators (CCAs) and other electric utilities. The Deputy engages in ratemaking proceedings, investigations, rulemakings, compliance matters, and proposed legislation; drafts applications, briefs, legal memoranda, and discovery requests/responses; supervises the preparation of the testimony and exhibits of expert witnesses; examines and cross-examines witnesses and presents oral argument; and participates in negotiations and settlement discussions. The Deputy develops legislative policy and works with internal staff and external contractors to implement proposed legislative activities.

SUPERVISORY RESPONSIBILITIES

The Deputy supervises MCE's regulatory and legislative program, including but not limited to staff members such as Regulatory Counsel and Regulatory Analyst, and provides oversight of external legal resources and other external professional service providers, such as lobbyists.

ESSENTIAL DUTIES AND RESPONSIBILITIES (ILLUSTRATIVE ONLY)

- Renders legal advice, administers legal services, and directs and works collaboratively with internal staff and external counsel and contractors regarding a variety of regulatory and legislative issues affecting MCE.
- Represents, and oversees representation of, MCE in energy-related administrative proceedings before regulatory agencies.
- Develops and reviews legislative policies and recommends positions on bills.
- Represents, and oversees representation of, MCE before local and state representatives and the state legislature.

- Supervises and manages staff assigned to regulatory and legislative duties.
- Updates MCE's CEO, General Counsel, and Board of Directors on regulatory and legislative developments.
- Serves as General Counsel in the absence of the incumbent.
- As assigned, assists with the implementation of MCE's Strategic Plan.

MINIMUM QUALIFICATIONS

Experience/Education

- Juris Doctor degree from an accredited university; supplemented by five (5) years of progressively responsible experience as an attorney working on complex regulatory, legislative, or energy matters at a law firm, non-profit organization, or as in-house counsel. Current active membership in the State Bar of California is required.

Knowledge of

- California electric utility regulatory issues and regulatory practices and procedures.
- A wide range of regulatory proceedings and proceeding engagement, including various filings, workshops, meetings, and advocacy.
- California legislative and regulatory processes.
- Legislative advocacy and negotiation with decision-makers.
- Regulatory issues such as competitive neutrality, local governance, and cost allocation.
- Principles and practices of supervision in a public agency.
- Excel, Word, Adobe Acrobat, and PowerPoint.

Language and Reasoning Skills

- Develop high-quality writing, research, and communication work products.
- Deliver clear and persuasive oral communication.
- Interact effectively with administrative and legislative bodies and MCE's Chief Executive Officer and Board of Directors.
- Apply robust analytical and problem-solving skills.
- Utilize strong time management, project management, dispute resolution, and interpersonal relations skills.

Ability to

- Focus, direct, and manage the efforts of subordinate staff members and external regulatory and legislative resources.
- Simultaneously manage staff on multiple priorities and issue areas across regulatory agencies and the legislature.
- Manage multiple priorities and quickly adapt to changing priorities in a fast-paced dynamic environment.
- Take responsibility and work independently, as well as coordinate team efforts.
- Be thorough and detail-oriented.
- Work accurately and swiftly under pressure.
- Demonstrate patience, tact, and courtesy.
- Establish and maintain effective working relationships with those encountered during the performance of duties.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. While performing the duties of this job, the employee is frequently required to use hands to finger, handle, or feel and reach with hands and arms. The employee is occasionally required to stand.

The employee must occasionally lift and/or move up to 20 pounds.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. The noise level in the work environment is usually moderate.

ADA COMPLIANCE

MCE will make reasonable accommodation of the known physical or mental limitations of a qualified person with a disability upon request.



April 7, 2017

TO: MCE Executive Committee

FROM: Elizabeth Kelly, General Counsel

RE: Third Amendment to the Fourth Agreement with Braun, Blaising, McLaughlin & Smith (Agenda Item #04 – C.4)

ATTACHMENTS: A. Fourth Agreement with Braun, Blaising, McLaughlin & Smith
B. First Amendment to the Fourth Agreement with Braun, Blaising, McLaughlin & Smith
C. Second Amendment to the Fourth Agreement with Braun, Blaising, McLaughlin & Smith
D. Proposed Third Amendment to the Fourth Agreement with Braun, Blaising, McLaughlin & Smith

Dear Executive Committee Members:

SUMMARY:

Braun, Blaising, McLaughlin & Smith (BBMS) has provided legal and regulatory assistance to MCE since 2013. Recently, BBMS has provided assistance on the Integrated Resource Plan (IRP) proceedings, Energy Resource Recovery Account (ERRA) proceedings, Renewable Portfolio Standard (RPS) proceedings, and other regulatory proceedings as requested. BBMS has also been retained by other CCAs on a number of issues, which allows for cost-sharing and better coordination between CCAs. There is an ongoing need for the services provided by BBMS. Staff recommends approval of the Third Amendment to the Fourth Agreement with Braun, Blaising, McLaughlin & Smith in the amount of an additional \$20,000 for continuation of legal and regulatory services for a total amount not to exceed \$140,000.

Fiscal Impacts: Costs related to the proposed contract amendment are included in the FY 2016/17 Operating Fund Budget.

Recommendation: Approve the Proposed Third Amendment to the Fourth Agreement with Braun, Blaising, McLaughlin & Smith.

**MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT**

**FOURTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND BRAUN, BLAISING, MCLAUGHLIN & SMITH**

THIS FOURTH AGREEMENT ("Agreement") is made and entered into this day **March 17, 2016** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and BRAUN, BLAISING, MCLAUGHLIN & SMITH, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the following services: regulatory and legal services as needed and requested by MCE;

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

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

1. SCOPE OF SERVICES:

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

2. FURNISHED SERVICES:

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

3. FEES AND PAYMENT SCHEDULE; INVOICING:

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

4. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$80,000**.

5. TIME OF AGREEMENT:

This Agreement shall commence on **April 1, 2016**, and shall terminate on **March 31, 2017**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

6. INSURANCE AND SAFETY:

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

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

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

6.1 GENERAL LIABILITY

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

6.2 AUTO LIABILITY

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

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE

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

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. SUBCONTRACTING:

The Contractor shall not subcontract nor assign any portion of the work required by this Agreement without prior written approval of MCE except for any subcontract work identified herein. If Contractor hires a subcontractor under this Agreement, Contractor shall require subcontractor to provide and maintain insurance coverage(s) identical to what is required of Contractor under this Agreement and shall require subcontractor to name Contractor as additional insured under this Agreement. It shall be Contractor's responsibility to collect and maintain current evidence of insurance provided by its subcontractors and shall forward to MCE evidence of same.

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.

11. WORK PRODUCT:

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

12. TERMINATION:

- A. If the Contractor fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, MCE may terminate this Agreement by giving five (5) calendar days written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- 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).

13. AMENDMENT:

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

14. ASSIGNMENT OF PERSONNEL:

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

15. JURISDICTION AND VENUE:

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

16. INDEMNIFICATION:

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

17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

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

18. COMPLIANCE WITH APPLICABLE LAWS:

The Contractor shall comply with any and all 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 Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Agreement.

19. NOTICES

This Agreement shall be managed and administered on MCE's behalf by the Contract Manager named below. All invoices shall be submitted and approved by this Agreement Manager and all notices shall be given to MCE at the following location:

Contract Manager: LaWanda Hill

MCE Address: 1125 Tamalpais Avenue

San Rafael, CA 94901

Email Address: invoices@mcecleanenergy.org

Telephone No.: (415) 464-6048

19. NOTICES

This Agreement shall be managed and administered on MCE's behalf by the Contract Manager named below. All invoices shall be submitted and approved by this Agreement Manager and all notices shall be given to MCE at the following location:

Contract Manager:	LaWanda Hill
MCE Address:	1125 Tamalpais Avenue
	San Rafael, CA 94901
Email Address:	invoices@mcecleanenergy.org
Telephone No.:	(415) 464-6048

Notices shall be given to Contractor at the following address:

Contractor:	Scott Blaising
Address:	915 L Street, Suite 1480
	Sacramento, CA 95814
Email Address:	blaising@braunlegal.com
Telephone No.:	(916) 682-9702 / (916) 712-3961

20. ACKNOWLEDGEMENT OF EXHIBITS

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

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

APPROVED BY

Marin Clean Energy:

By: [Signature]
 CEO
 Date: 3-17-16

By: [Signature]
 Chairperson
 Date: 3-17-16

CONTRACTOR:

By: [Signature]
 Name: SCOTT BLAISING
 Date: 3/21/16

MCE COUNSEL REVIEW AND APPROVAL (Only required if any of the noted reason(s) applies)

REASON(S) REVIEW:

- Standard Short Form Content Has Been Modified
- Optional Review by MCE Counsel at Marin Clean Energy's Request

EXHIBIT A
SCOPE OF SERVICES (required)

Contractor will provide task-specific legal and regulatory services and assistance as requested and directed by the General Counsel, up to the maximum time/fees allowed under this Agreement.

EXHIBIT B
FEES AND PAYMENT SCHEDULE

For services provided under this agreement, MCE shall pay the Contractor in accordance with the following annual rates for the following attorneys:

Senior Partners	\$395
Junior Partners	\$320
Senior Associates	\$295
Junior Associates	\$250
Of Counsel	\$305-\$345
Contract Associate (As Authorized)	\$280
Law Clerk and Associates Not Admitted to Bar	\$155

Contractor shall bill in .10 hour increments on a monthly basis for all services rendered. In no event shall the total cost to MCE for the service provided herein exceed the maximum sum of **\$80,000** for the term of the agreement.

**FIRST AMENDMENT TO FOURTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND BRAUN, BLAISING, MCLAUGHLIN & SMITH**

This FIRST AMENDMENT is made and entered into on December 2, 2016, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and BRAUN, BLAISING, MCLAUGHLIN & SMITH (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and the Contractor entered into an agreement to provide regulatory and legal services as needed and requested by MCE dated March 17, 2016 ("Agreement"); and

WHEREAS, Section 4 and Exhibit B to the Agreement obligated Contractor to be compensated an amount not to exceed \$80,000 for the regulatory and legal services described within the scope therein; and

WHEREAS the parties desire to amend the Agreement to increase the contract amount by \$40,000 for a total not to exceed \$120,000.

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

AGREEMENT

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

MAXIMUM COST TO MCE:

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

2. The second sentence of the second paragraph of Exhibit B is hereby amended to read as follows:

In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of \$120,000 for the term of the agreement.

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

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

CONTRACTOR:

By: [Signature]

Date: 12/7/2016

MARIN CLEAN ENERGY:

By: [Signature]

Date: 12-2-2016

MARIN CLEAN ENERGY:

By: [Signature]

Date: 12-2-2016

**SECOND AMENDMENT TO FOURTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND BRAUN, BLAISING, MCLAUGHLIN & SMITH**

This SECOND AMENDMENT is made and entered into on March 22, 2017, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and BRAUN, BLAISING, MCLAUGHLIN & SMITH (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and the Contractor entered into an agreement on March 17, 2016 to provide regulatory and legal services as needed and requested by MCE staff, as subsequently amended on December 2, 2016("Agreement"); and

WHEREAS, Section 5 the Agreement stated the Agreement shall terminate on March 31, 2017; and

WHEREAS the parties desire to further amend the Agreement to extend the time of the Agreement to allow for MCE Board approval of additional consideration for services through March 31, 2017;

NOW, THEREFORE, the parties agree to modify Section 5 as set forth below.

AGREEMENT

1. Section 5 is hereby amended to read as follows:

TIME OF AGREEMENT:

This Agreement shall commence on **April 1, 2016**, and shall terminate on **May 31, 2017**. 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.

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

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

CONTRACTOR:

By: [Signature]

Date: 3-22-2017

MARIN CLEAN ENERGY:

By: [Signature]

Date: 3-22-17

**THIRD AMENDMENT TO FOURTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND BRAUN, BLAISING, MCLAUGHLIN & SMITH**

This THIRD AMENDMENT is made and entered into on April 7, 2017, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and BRAUN, BLAISING, MCLAUGHLIN & SMITH (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and the Contractor entered into an agreement to provide regulatory and legal services as directed by MCE staff dated March 17, 2016 and subsequently amended on December 2, 2016 and March 22, 2017 ("Agreement"); and

WHEREAS, Section 4 and Exhibit B to the Agreement obligated Contractor to be compensated an amount not to exceed \$120,000 for the regulatory and legal services described within the scope therein; and

WHEREAS, the parties desire to amend the Agreement to increase the consideration by \$20,000 for a total not to exceed \$140,000 for services rendered through March 31, 2017.

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

AGREEMENT

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

MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$140,000**.

2. The second sentence of the second paragraph of Exhibit B is hereby amended to read as follows:

In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of \$140,000 for the term of the Agreement.

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

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

CONTRACTOR:

MARIN CLEAN ENERGY:

By: _____

By: _____

Date: _____

Date: _____

MARIN CLEAN ENERGY:

By: _____

Date: _____



April 7, 2017

TO: MCE Executive Committee

FROM: Elizabeth Kelly, General Counsel

RE: Fourth Amendment to the Second Agreement with Davis Wright Tremaine, LLP (Agenda Item #04 – C.5)

ATTACHMENTS: A. Second Agreement with Davis Wright Tremaine, LLP
B. First Amendment to the Second Agreement with Davis Wright Tremaine, LLP
C. Second Amendment to the Second Agreement with Davis Wright Tremaine, LLP
D. Third Amendment to the Second Agreement with Davis Wright Tremaine, LLP
E. Proposed Fourth Amendment to Second Agreement with Davis Wright Tremaine, LLP

Dear Executive Committee Members:

SUMMARY:

Davis Wright Tremaine, LLP (DWT) has provided legal and regulatory assistance to MCE since 2015. Specifically, DWT has provided assistance on general contracting issues and proceedings at the California Public Utilities Commission (CPUC) and at the California Independent System Operator (CAISO). This includes Energy Efficiency filings, proceedings addressing non-bypassable charges (NBCs) and procurement, and the implementation of the CCA Code of Conduct. DWT has also been retained by other CCAs, which allows for cost-sharing and better coordination between CCAs. There is an ongoing need for the services provided by DWT, and DWT has proven to be an excellent provider of such services. Staff recommends approval of the Fourth Amendment to the Second Agreement with Davis Wright Tremaine, LLP in the amount of an additional \$23,000 for continuation of legal and regulatory services for a total amount not to exceed \$98,000.

Fiscal Impacts: Costs related to the proposed contract amendment are included in the FY 2016/17 Operating Fund Budget.

Recommendation: Approve the Proposed Fourth Amendment to the Second Agreement with Davis Wright Tremaine, LLP.

**MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT**

**SECOND AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND DAVIS WRIGHT TREMAINE LLP**

THIS SECOND AGREEMENT ("Agreement") is made and entered into this day **March 17, 2016** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and DAVIS WRIGHT TREMAINE LLP, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the following services: services pertaining to contractual, regulatory, and legal matters as requested and directed by MCE;

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

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

1. SCOPE OF SERVICES:

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

2. FURNISHED SERVICES:

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

3. FEES AND PAYMENT SCHEDULE; INVOICING:

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

4. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$50,000**.

5. TIME OF AGREEMENT:

This Agreement shall commence on **April 1, 2016**, and shall terminate on **March 31, 2017**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

6. INSURANCE AND SAFETY:

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

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

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

6.1 GENERAL LIABILITY

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

6.2 AUTO LIABILITY

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

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE

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

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. CONFLICTS:

Contractor, by executing this Agreement, certifies that, at the time Contractor executes this Agreement and for the duration of this Agreement, Contractor does not have and will not perform services for any other clients which would create a conflict as between the interests of MCE hereunder and the interests of such other client, except as described in the attached Conflicts Waiver Letter included as **Exhibit C** or subject to written waiver by MCE. Contractor, by executing this Agreement, makes no such certification regarding potential and actual conflicts regarding MCE's constituent members in connection with this Agreement.

9. 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.

10. 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.

11. 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.

12. WORK PRODUCT:

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

13. TERMINATION:

- A. If the Contractor fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, MCE may terminate this Agreement by giving five (5) calendar days written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- 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).

14. AMENDMENT:

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

15. 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.

16. 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.

17. INDEMNIFICATION:

Contractor agrees to indemnify MCE, its employees, officers, and agents, harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of Contractor's negligence, recklessness or willful misconduct in the performance of this Agreement limited to the extent of Contractor's legal liability under the law; provided that Contractor shall not be obligated to indemnify MCE for any liability caused by MCE's negligence, recklessness or willful misconduct.

18. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. MCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. 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.

19. COMPLIANCE WITH APPLICABLE LAWS:

The Contractor shall comply with any and all 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 Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Agreement.

20. NOTICES

This Agreement shall be managed and administered on MCE's behalf by the Contract Manager named below. All invoices shall be submitted and approved by this Agreement Manager and all notices shall be given to MCE at the following location:

Contract Manager: LaWanda Hill

MCE Address: 1125 Tamalpais Avenue

San Rafael, CA 94901

Email Address: invoices@mcecleanenergy.org

Telephone No.: (415) 464-6048

Notices shall be given to Contractor at the following address:

Contractor: Vidhya Prabhakaran

Address: 505 Montgomery Street, Suite 800

San Francisco, CA 94111

Email Address: vidhyaprabhakaran@dwt.com

Telephone No.: (415) 276-6568

21. ACKNOWLEDGEMENT OF EXHIBITS

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

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

APPROVED BY
Marin Clean Energy:

By: [Signature]
CEO
Date: 3-17-16

By: [Signature]
Chairperson
Date: 3-17-16

CONTRACTOR:

By: [Signature]
Name: Vidhya Prabhakaran
Davis Wright Tremaine
Date: 3/23/16

MCE COUNSEL REVIEW AND APPROVAL (Only required if any of the noted reason(s) applies)

REASON(S) REVIEW:

- Standard Short Form Content Has Been Modified
- Optional Review by MCE Counsel at Marin Clean Energy's Request

MCE Counsel: [Signature] Date: 3-28-16

EXHIBIT A
SCOPE OF SERVICES (required)

Contractor will provide services pertaining to contractual, regulatory, and legal matters, as requested and directed by the General Counsel, up to the maximum time/fees allowed under this Agreement.

**EXHIBIT B
FEES AND PAYMENT SCHEDULE**

For services provided under this agreement, MCE shall pay the Contractor at the following rates of Contractor's partners, associates, and paralegals:

Name	Title	2016 Rate
Vidhya Prabhakaran	Partner	\$500
Patrick Ferguson	Partner	\$485
Andrew Patterson	Associate	\$340
Katie Jorrie	Associate	\$300
Emily Sangi	Associate	\$300
Judy Pau	Paralegal	\$260

In no event shall the total cost to MCE for the service provided herein exceed the maximum sum of **\$50,000** for the term of the agreement.

If the Agreement is subsequently amended to increase the total dollar amount under the Agreement, Contractor and MCE have agreed to the following discounts based on percentage off of Contractor's Public Agency rate (e.g. a Partner rate of \$525):

- 8% additional discount off the current "public agency" rate for annual work Contractor performs above \$50k (e.g. a Partner rate of \$485),
- 10% additional discount for annual work Contractor performs above \$100k (e.g. a Partner rate of \$475),
- 12% additional discount for annual work Contractor performs above \$259k (e.g. a Partner rate of \$465), and
- 15% additional discount for annual work Contractor performs above \$500k (e.g. a Partner rate of \$450).

**FIRST AMENDMENT TO SECOND AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND DAVIS WRIGHT TREMAINE LLP**

This FIRST AMENDMENT is made and entered into on January 13, 2017, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and DAVIS WRIGHT TREMAINE LLP (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and the Contractor entered into an agreement to provide services pertaining to contractual, regulatory, and legal matters as requested and directed by MCE staff dated March 17, 2016 ("Agreement"); and

WHEREAS, Section 4 and Exhibit B to the Agreement obligated Contractor to be compensated an amount not to exceed \$50,000 for the services pertaining to contractual, regulatory, and legal matters as requested and directed by MCE staff described within the scope therein; and

WHEREAS the parties desire to amend the Agreement to increase the contract amount by \$25,000 for a total not to exceed \$75,000.

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

AGREEMENT

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

MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$75,000**.

2. The second paragraph of Exhibit B is hereby amended to read as follows:

In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of \$75,000 for the term of the agreement.

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

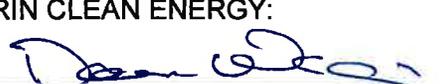
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the day first written above.

CONTRACTOR:

By: 

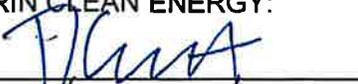
Date: 2-9-17

MARIN CLEAN ENERGY:

By: 

Date: 1-13-17

MARIN CLEAN ENERGY:

By: 

Date: 1/13/17

**SECOND AMENDMENT TO SECOND AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND DAVIS WRIGHT TREMAINE LLP**

This SECOND AMENDMENT is made and entered into on February 16, 2017, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and DAVIS WRIGHT TREMAINE LLP (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and the Contractor entered into an agreement to provide services pertaining to contractual, regulatory, and legal matters as requested and directed by MCE staff dated March 17, 2016 and amended on January 13, 2017 ("Agreement"); and

WHEREAS, Exhibit A to the Agreement, as amended, established Contractor's scope of services,

WHEREAS, Exhibit B to the Agreement, as amended, established the fee and payment schedule of Contractor for the services pertaining to contractual, regulatory, and legal matters as requested and directed by MCE staff described within the scope therein; and

WHEREAS the parties desire to further amend the Agreement by adding new scope to Exhibit A and a new fee schedule in Exhibit B.

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

AGREEMENT

1. The first paragraph in Exhibit A is hereby amended to add the following scope:

Contractor will provide support for an employment matter as agreed between Contractor and MCE's General Counsel in accordance with the fee schedule stated in Exhibit B for that matter.

2. The second paragraph of Exhibit B is hereby amended to read as follows:

Flat fee of \$8,000 for employment matter support as agreed between Contractor and MCE's General Counsel. In no event shall the total cost to MCE for the services provided under the Agreement exceed the maximum sum of \$75,000 for the term of the Agreement.

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

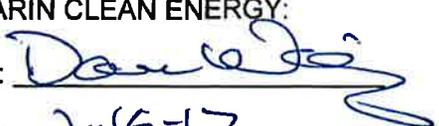
IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment on the day first written above.

CONTRACTOR:

By: 

Date: 2-17-17

MARIN CLEAN ENERGY:

By: 

Date: 2-16-17

**THIRD AMENDMENT TO SECOND AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND DAVIS WRIGHT TREMAINE**

This THIRD AMENDMENT is made and entered into on March 22, 2017, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and DAVIS WRIGHT TREMAINE (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and the Contractor entered into an agreement on March 17, 2016 to provide services pertaining to contractual, regulatory, and legal matters as requested and directed by MCE staff, as subsequently amended on January 13, 2017 and February 16, 2017 ("Agreement"); and

WHEREAS, Section 5 the Agreement stated the Agreement shall terminate on March 31, 2017; and

WHEREAS the parties desire to further amend the Agreement to extend the time of the Agreement to allow for MCE Board approval of additional consideration for services through March 31, 2017;

NOW, THEREFORE, the parties agree to modify Section 5 as set forth below.

AGREEMENT

1. Section 5 is hereby amended to read as follows:

TIME OF AGREEMENT:

This Agreement shall commence on **April 1, 2016**, and shall terminate on **May 31, 2017**. 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.

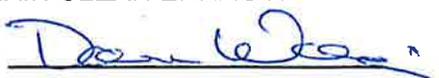
2. Except as otherwise provided herein all terms and conditions of the Agreement shall remain in full force and effect.

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

CONTRACTOR:

By: 
Date: 3/28/17

MARIN CLEAN ENERGY:

By: 
Date: 3-22-17

**FOURTH AMENDMENT TO SECOND AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND DAVIS WRIGHT TREMAINE, LLP**

This FOURTH AMENDMENT is made and entered into on April 7, 2017, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and DAVIS WRIGHT TREMAINE, LLP (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and the Contractor entered into an agreement to provide services pertaining to contractual, regulatory, and legal matters as requested and as directed by MCE staff dated March 17, 2016, and as subsequently amended on January 13, 2017, February 16, 2017, and March 22, 2017 ("Agreement"); and

WHEREAS, Section 4 and Exhibit B to the Agreement obligated Contractor to be compensated an amount not to exceed \$75,000 for the services pertaining to contractual, regulatory, and legal matters as requested and as directed by MCE staff described within the scope therein; and

WHEREAS the parties desire to amend the Agreement to increase the consideration by \$23,000 for a total not to exceed \$98,000 for services rendered through March 31, 2017.

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

AGREEMENT

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

MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$98,000**.

2. The second sentence of the second paragraph of Exhibit B is hereby amended to read as follows:

In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of \$98,000 for the term of the Agreement.

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

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

CONTRACTOR:

MARIN CLEAN ENERGY:

By: _____

By: _____

Date: _____

Date: _____

MARIN CLEAN ENERGY:

By: _____

Date: _____



April 7, 2017

TO: MCE Executive Committee

FROM: Meaghan Doran, Energy Efficiency Program Manager

RE: MCE Lead Agency and Grant Proposal for GHHI Marin Program Support Fund (Agenda Item #05)

ATTACHMENTS: None

Dear Executive Committee Members:

SUMMARY:

Green and Healthy Homes Initiative Overview

The Green and Healthy Homes Initiative (GHHI) is a national non-profit dedicated to breaking the link between unhealthy housing and unhealthy families. GHHI was originally established in 2008 with support from the U.S. Department of Housing and Urban Development (HUD), the Center for Disease Control and Prevention (CDC), 30 philanthropic foundations, and 12 pilot cities to advance the work of lead poisoning prevention and healthy homes in a more comprehensive, sustainable, and cost-effective manner.

GHHI replaces stand-alone housing intervention programs with an integrated, whole-house approach that produces sustainable, green, healthy, and safe homes. As a result, GHHI is improving health, economic, and social outcomes for families across the country.

GHHI Marin Overview

MCE has been working alongside the Marin Community Foundation (MCF), Community Action Marin (CAM), the County of Marin, and many other local stakeholders to bring the GHHI Initiative to Marin. In September 2016, Marin County became a new site in the nationally renowned Green & Healthy Homes Initiative and the Advisory Committee of stakeholders became known as GHHI Marin.

The local project, spearheaded by MCF in collaboration with a comprehensive network of nonprofit organizations and public agencies, has adapted the GHHI model to the unique operating environment and demographics of Marin County. GHHI Marin will be focused on improved health outcomes (primarily the reduction of asthma), safe home conditions in support of independent living and “aging in place”, and resource conservation through reduced energy use, waste reduction, and water conservation.

The home—in addition to the surrounding community—directly impacts the health and well-

being of its inhabitants, and is also a significant source of energy use. While a number of programs exist to help low-income homeowners and landlords address energy and resource consumption, health, and home safety issues, several factors impede optimum utilization of these resources: a lack of comprehensive outreach and education; an uncoordinated, siloed delivery system that is difficult to navigate without assistance; and insufficient subsidies and rebates that cover a fraction of associated costs. GHHI Marin's theory of change proposes:

If low- to moderate-income Marin residents can seamlessly access the information, incentives, and services necessary for integrated energy, health, and home safety improvements, then more residents will utilize related programs and services, which will reduce energy/water consumption, waste generation, and greenhouse gas emissions, as well as enable more Marin residents to experience improved health and safety within their homes.

MCF Grant Opportunity

In January 2017 MCF invited GHHI Marin to apply for a "Program Support Fund" grant award of up to \$400,000. The grant funds can be used for staff, materials, space, and other needs to meet the stated objectives. Examples of proposed uses of funding are:

- Finance a home repair/home improvement loan fund for "gap population" homeowners whose level of income is not low enough to qualify for free services, yet not high enough to afford the required repairs or improvements.
- Provide contingency services for incidental repairs not covered by other funding sources in a home already being serviced in partnership with GHHI Marin.
- Provide cross-trainings for home assessors participating in GHHI Marin.
- Recruit, train, and imbed residential health educators into the GHHI Marin model.

MCE as Lead Agency

There is a need for a member of GHHI Marin to serve as lead agency on the GHHI Marin Program Support Fund. MCE is well positioned to serve this role because the Single Point of Contact (SPOC) model is in alignment with GHHI Marin's model of braiding funds. If your Committee approves MCE as the lead agency for the GHHI Marin Program Support Fund, MCE would accept the following responsibilities:

1. Manage the GHHI Marin contingency service funds;
2. Provide support for the sustainability of GHHI Marin; and
3. Facilitate the on-boarding and housing of a Service Coordinator.

Budget

The GHHI Marin Program Support Fund would include three major categories of funding:

1. Grant Administration / Lead Agency Overhead
Covers the cost for MCE to serve as the fiscal agent (accounting, reporting, processing, and dispersing rebate checks, and contracting of sub-grants). MCE would conduct an analysis to determine the cost of administration.
2. Contingency Services
Covers rebates for qualified measures, workforce development training, gaps in service, and sub-grants for program services and to partners.
3. Service Coordinator
Covers the cost of a Climate Corp Bay Area Fellow, a position sponsored in partnership with Strategic Energy Innovations (SEI). This budget line item may increase after the

total grant administrative burden is determined. GHHI Marin intends to compensate the Fellow at a rate of \$20 per hour.

The GHHI Marin Program Support Fund budget breakdown is as follows:

Budget Line Item	Amount
<i>MCE Grant Administration (up to 20%)</i>	\$60,000-80,000
<i>Contingency Services</i>	\$268,750-288,750
<i>Service Coordinator</i>	\$51,250
Total Budget	\$400,000

The total grant would not exceed \$400,000 and the portion of the grant allocated to MCE's Administration of the grant would not exceed 20% (\$80,000) of the total grant award.

Fiscal Impact: MCE's role as lead agency would be fully covered by grant funds awarded and would have no impact on the contribution to the net position. If the grant funds are awarded a budget amendment may be submitted to the Board for consideration at that time.

Recommendation: Approve MCE as the lead agency for GHHI Marin and authorize staff to prepare and submit grant proposal for the GHHI Marin Program Support Fund.