



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, March 15, 2018

7:00 P.M.

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

Remote Location:

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

Agenda Page 1 of 3

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 2.15.18 Meeting Minutes
 - C.2 Approved Contracts Update
 - C.3 Tenth Agreement with Maher Accountancy
 - C.4 First Amendment to the Fifth Agreement with Community Media Center of Marin
 - C.5 Second Agreement with Loud & Clear Audio Visual
 - C.6 Sixth Addendum for Data Manager Services to Master Professional Services Agreement between Calpine Energy Solutions (formerly Noble Americas Energy Solutions LLC) and Marin Clean Energy (formerly Marin Energy Authority)



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



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Agenda Page 2 of 3

5. New Residential Time-of-Use Rate (Discussion/Action)
6. Updating Procurement Authorities (Discussion/Action)
 - a. Adopting Resolution No. 2018-03 Rescinding Resolution No. 2017-02 and Delegating Energy Procurement Authority
 - b. Adopting Resolution No. 2018-04 Designating the Chief Executive Officer as Purchasing Agent Pursuant to Government Code 25500 and Delegating Purchasing Agent Authority
7. Proposed Amendment to MCE Policy 013: Reserve Policy (Discussion/Action)
8. New Board Member Additions to Committees (Discussion/Action)



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9. Streamlining Public Works Contracting (Discussion/Action)
 - a. Second Reading and Adoption of Ordinance No. 2018-01
Establishing Informal Bidding Procedures under the
Uniform Public Cost Accounting Act
10. Policy Update on Regulatory and Legislative Items (Discussion)
11. Board Member & Staff Matters (Discussion)
12. Adjourn



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DRAFT

MCE BOARD MEETING MINUTES
Thursday, February 15, 2018
7:00 P.M.

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

Remote location:
One Concord Center
2300 Clayton Road, Suite 650
Concord, CA 94520

Roll Call: Director Kate Sears called the regular Board meeting to order at 7:02 p.m. By roll call vote, an established quorum was met.

Present: Denise Athas, City of Novato (*San Rafael*)
Sloan Bailey, Town of Corte Madera (*Concord*)
Juan Banales, City of Pittsburg Alternate (*Concord*)
Lisa Blackwell, Town of Danville (*Concord*)
Tom Butt, Vice Chair, City of Richmond (*San Rafael*)
Barbara Coler, Town of Fairfax (*San Rafael*)
Kevin Haroff, City of Larkspur (*San Rafael*)
Sue Higgins, City of Oakley (*Concord*)
Greg Lyman, City of El Cerrito (*San Rafael*)
Bob McCaskill, City of Belvedere (*San Rafael*)
Andrew McCullough, City of San Rafael (*San Rafael*)
Sashi McEntee, City of Mill Valley (*San Rafael*)
Alan Schwartzman, City of Benicia (*Concord*)
Scott Perkins, City of San Ramon (*Concord*)
P. Rupert Russell, Town of Ross (*San Rafael*)
Kate Sears, Chair, County of Marin (*Concord*)
Don Tatzin, City of Lafayette (*Concord*)
Maureen Toms, City of Pinole (*San Rafael*)
Dave Trotter, Town of Moraga (*Concord*)
Brad Wagenknecht, County of Napa (*San Rafael*)
Jon Welner, Town of Tiburon (*San Rafael*)
Kevin Wilk, City of Walnut Creek (*Concord*)
Ray Withy, City of Sausalito (*San Rafael*)

Absent: Edi Birsan, City of Concord
Arturo Cruz, City of San Pablo
Federal Glover, County of Contra Costa
Ford Greene, Town of San Anselmo
Rob Schroder, City of Martinez

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Staff: Jessica Brooks, Board Assistant (*San Rafael*)
John Dalessi, Operations and Development (*San Rafael*)
Kirby Dusel, Resource Planning and Renewable Energy Programs (*San Rafael*)
Brian Goldstein, Resource Planning and Implementation (*San Rafael*)
Darlene Jackson, Board Clerk (*San Rafael*)
Sam Kang, Resource Planning (*San Rafael*)
Elizabeth Kelly, General Counsel (*San Rafael*)
David McNeil, Finance Manager (*San Rafael*)
Enyo Senyo-Mensah, Operations Assistant (*Concord*)
C.C. Song, Senior Policy Analyst (*San Rafael*)
Maira Strauss, Customer Programs Assistant (*San Rafael*)
Justine Parmelee, Operations Manager (*Concord*)
Alice Stover, Manager of Customer Programs, Policy and Planning (*San Rafael*)
Jamie Tuckey, Director of Public Affairs (*San Rafael*)
Dawn Weisz, Chief Executive Officer (*San Rafael*)
Sandra Zelaya, Public Affairs Assistant (*Concord*)

The following Board members completed the Oath of Office administered by CEO, Dawn Weisz:

- **Rich Carlston, City of Walnut Creek**
- **Sue Higgins, City of Oakley**
- **Maureen Toms, City of Pinole**
- **Jon Welner, Town of Belvedere**

New Board members were welcomed.

1. Board Announcements (Discussion)

There were none.

2. Public Open Time (Discussion)

Chair Sears opened the public comment period and there were comments from members of the public, Pam Reaves and Kelsey Morales.

3. Report from Chief Executive Officer (Discussion)

CEO, Dawn Weisz, reported on the following:

- Reminder to Chair and Board that we are connected via webinar from a remote location in Concord. This Concord location is in the same building as MCE's second office, but is in a shared meeting space for the office building. The final meeting location will be within MCE's office on a different floor starting in May.
- Board members at both locations were reminded to state their name before speaking.
- Sam Kang, new staff consultant with the Pacific Energy Advisors Team was introduced and welcomed.

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- Ms. Weisz noted that MCE hosted a Supplier Diversity Symposium on Friday, January 26th at the Richmond City Hall. It was a success with a big turn-out locally and participation from around the state including Senator Ricardo Lara from Southern California and Senator Skinner from our own district.
- A thank you was extended to Supervisor Glover for kicking off the Symposium and Councilmember Meryl Craft from the City of Pittsburg for moderating a moving panel of FutureBuild and RichmondBuild graduates. Programs from the event are at the dais to look at or to take with you.
- Ms. Weisz shared that MCE Solar One is delivering power and a ribbon-cutting is being planned for April near Earth Day.
- Planning Department permit approval is complete for the electric vehicle/solar carport parking lot in San Rafael. Construction should be complete in July.
- The new MCE Pittsburg call center is up and running. It is housing 11 full-time staff, some of whom came from the FutureBuild training program. More information will be coming regarding a tour in March.
- Updates on the new Concord office:
 - a. Leased space is under construction. In the meantime, we now have free use of a temporary space in the same building. Approximately 5 staff members are using the temporary space, primarily for community outreach activities. Construction includes improvements to the lighting, flooring, and some wall removal.
 - b. The lease agreement with One Concord Center for MCE's new office was fully executed in December.
 - c. Nearly 100% of the renovation work will be done at the landlord's expense
 - d. Construction drawings were prepared and permits obtained from the City of Concord and the fire department in record time.
 - e. Property management selected a contractor and has prepared a preliminary construction schedule.
 - f. Demolition should begin next week (2/20) and the goal is for construction to be completed by the end of March.
 - g. Staff (Sarah, Justine) will be participating in weekly construction meetings to ensure that everything is moving forward as planned.
 - h. With final permitting, furniture installation, and information technology set-up, we hope to have the space ready for staff to move in by May 1.
- 2017 Ad Hoc Contracts Committee held their last meeting in January. Members of that Committee were thanked for their service.

4. Consent Calendar (Discussion/Action)

- C.1 Approval of 11.16.17 Meeting Minutes
- C.2 Approved Contracts Update

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

ACTION: It was M/S/C (Bailey/McEntee) to **approve Consent Calendar**. Motion carried by unanimous roll call vote. (Abstain on C.1: Directors Banales, Blackwell, Carlston, Coler, Higgins, Lyman, McCaskill, McEntee, Welner and Toms). (Absent: Directors Birsan, Cruz, Glover, Greene, and Schroder).

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5. Resolution 2018-01 Honoring Board Member Emmett O'Donnell (Discussion/Action)

CEO, Dawn Weisz, 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/McEntee) to **approve Resolution 2018-01 Honoring Board Member Emmett O'Donnell**. Motion carried by unanimous roll call vote. (Absent: Directors Birsan, Cruz, Glover, Greene, and Schroder).

6. Proposed Fiscal Year 2018/19 Budget (Discussion/Action)

David McNeil, Finance Manager, 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/Haroff) to **approve the proposed FY 2018/19 Operating Fund, Energy Efficiency Program Fund, Local Renewable Energy Development Fund, and Renewable Energy Reserve Fund Budgets**. Motion carried by unanimous roll call vote. (Absent: Directors Birsan, Cruz, Glover, Greene, and Schroder).

7. New Board Member Additions to Committees (Discussion/Action)

CEO, Dawn Weisz, introduced this item and shared with the Board that the 2017 Ad Hoc Contracts Committee held its final meeting on January 1, 2018. As is customary, new ad hoc committees are formed each year and the invitation is opened at Board meetings for Board members to serve on the 2018 Ad Hoc Contracts Committee as well as other Standing Committees.

The following persons volunteered for the 2018 Ad Hoc Contracts Committee for Open Season:

Sloan Bailey
Rich Carlston
Kevin Haroff
Greg Lyman
Scott Perkins
Don Tatzin
Maureen Toms

Ms. Weisz also noted that Board member Ford Greene has rotated off the Technical Committee, therefore, leaving an available seat. Ms. Weisz addressed questions from Board members.

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

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ACTION: It was M/S/C (Tatzin/Lyman) to **approve the 2018 Ad Hoc Contracts Committee consisting of the following members: Sloan Bailey, Rich Carlston, Kevin Haroff, Greg Lyman, Scott Perkins, Don Tatzin, and Maureen Toms.** Motion carried by unanimous roll call vote. (Absent: Directors Birsan, Cruz, Glover, Greene, and Schroder).

8. Streamlining Public Works Contracting (Discussion/Action)

1) Proposed Resolution No. 2018-02 Electing to Become Subject to the Uniform Public Cost Accounting Act

2) First Reading of Ordinance No. 2018-01 Establishing Informal Bidding Procedures under the Uniform Public Cost Accounting Act

Elizabeth Kelly, General Counsel, 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/Higgins) to **adopt proposed Resolution 2018-02 Electing to Become Subject to the Uniform Public Cost Accounting Act.** Motion carried by unanimous roll call vote.
ACTION: It was M/S/C (Trotter/Haroff) to **waive full reading, read by title only, and introduce for first reading Ordinance No. 2018-01 of the Board of Directors of Marin Clean Energy Establishing Informal Bidding Procedures under the Uniform Public Cost Accounting Act.** Motion carried by unanimous roll call vote. (Absent: Directors Birsan, Cruz, Glover, Greene, and Schroder).

9. Customer Programs Quarterly Update (Discussion)

Alice Stover, Manager of Customer Programs, Policy and Planning, introduced this item and addressed items from Board members.

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

ACTION: No action required.

10. New Enrollment Communications Update (Discussion)

Jamie Tuckey, Director of Public Affairs, introduced this item and addressed questions from Board members.

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

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ACTION: No action required.

11. Policy Update (Discussion)

C.C. Song, Senior Policy Analyst, introduced this item and addressed questions from Board members.

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

ACTION: No action required.

12. Board Member & Staff Matters (Discussion)

There were no announcements.

13. Adjournment

Director Kate Sears adjourned the meeting at 9:01 p.m. to the next scheduled Board Meeting on March 15, 2018.

Kate Sears, Chair

Attest:

Dawn Weisz, Secretary



March 15, 2018

TO: MCE Board of Directors

FROM: Troy Nordquist, Contracts Manager & Legal Assistant

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 February. This summary is provided to your Board for information purposes only.

Review of Procurement Authorities

In February 2017, your Board adopted Resolution 2017-02 which included the following provisions:

The CEO and Technical Committee Chair, jointly, shall have all necessary and proper authority, after consultation with a Committee of the Board, 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 all such executed contracts.

The CEO shall have all necessary and proper authority 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.

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

Summary of Agreements

Month	Purpose	Contractor	Maximum Annual Contract Amount	Term of Contract
February 2018	Purchase Resource Adequacy, April 2018	PG&E	\$250,000	1 Month
January 2018	Purchase Bundled Renewable Energy, 2018	Portland General Electric	\$900,000	1 Year

Month	Purpose	Contractor	Maximum Annual Contract Amount	Term of Contract
<i>February 2018</i>	<i>Purchase Bundled Renewable Energy, 2018</i>	<i>Silicon Valley Power</i>	<i>\$1,600,000</i>	<i>1 Year</i>
<i>February 2018</i>	<i>Purchase Blocked and Shaped System Power, 2018</i>	<i>Exelon</i>	<i>\$21,900,000</i>	<i>9 Months</i>
<i>February 2018</i>	<i>Purchase Blocked and Shaped System Power, 2019</i>	<i>Direct Energy</i>	<i>\$24,900,000</i>	<i>1 Year</i>
<i>February 2018</i>	<i>Purchase Blocked and Shaped System Power, 2018 - 2020</i>	<i>Shell Energy North America</i>	<i>\$27,300,000</i>	<i>33 Months</i>
<i>February 2018</i>	<i>Purchase Resource Adequacy, July & August 2018</i>	<i>PG&E</i>	<i>\$3,700,000</i>	<i>2 Months</i>

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.



March 15, 2018

TO: MCE Board of Directors

FROM: David McNeil, Manager of Finance

RE: Tenth Agreement with Maher Accountancy (Agenda Item 04 – C.3)

ATTACHMENT: Proposed Tenth Agreement with Maher Accountancy

Dear Board Members:

SUMMARY:

On March 4, 2010 Maher Accountancy began providing MCE with general accounting services. Maher Accountancy continues to provide general accounting services, budget tracking, invoice processing, as well as employee payroll and employee benefit and accruals accounting services for MCE. The attached proposed Tenth Agreement would allow for Maher Accountancy to continue providing these essential services between April 1, 2018 and March 31, 2019. The contract amount would not exceed \$190,500.

The contract amount represents an increase of \$25,536 or 17.2% from the prior contract year due to a volumetric increase in accounting services related to increased staffing, transactions resulting from the expansion of MCE's service area in April 2018, and grant administration activity.

Fiscal Impacts: Costs related to the referenced agreement are included in the FY 2018/19 Operating Fund Budget that was approved by the Board of Directors at its February 15, 2018 meeting.

Recommendation: Approve the proposed Tenth Agreement with Maher Accountancy.

**MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT**

**TENTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND MAHER ACCOUNTANCY**

THIS TENTH AGREEMENT ("Agreement") is made and entered into this day **March 15, 2018** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and MAHER ACCOUNTANCY, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the following services: accounting, transactional, and budgeting support, financial controls and reporting, and payroll coordination and processing as requested by MCE staff;

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

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

1. SCOPE OF SERVICES:

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

2. FURNISHED SERVICES:

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

3. FEES AND PAYMENT SCHEDULE; INVOICING:

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

4. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$190,500**.

5. TIME OF AGREEMENT:

This Agreement shall commence on **April 1, 2018**, and shall terminate on **March 31, 2019**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

6. INSURANCE AND SAFETY:

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

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

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

6.1 GENERAL LIABILITY

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

6.2 AUTO LIABILITY

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

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED ☒)

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

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. SUBCONTRACTING:

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

9. ASSIGNMENT:

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

10. RETENTION OF RECORDS AND AUDIT PROVISION:

Contractor and any subcontractors authorized by the terms of this Agreement shall keep and maintain on a current basis full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to this Agreement. Such records shall include, but not be limited to, documents supporting all income and all expenditures. MCE shall have the right, during

regular business hours, to review and audit all records relating to this Agreement during the Contract period and for at least five (5) years from the date of the completion or termination of this Agreement. Any review or audit may be conducted on Contractor's premises or, at MCE's option, Contractor shall provide all records within a maximum of fifteen (15) days upon receipt of written notice from MCE. Contractor shall refund any monies erroneously charged. Contractor shall have an opportunity to review and respond to or refute any report or summary of audit findings, and shall promptly refund any overpayments made by MCE based on undisputed audit findings.

11. WORK PRODUCT:

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

12. TERMINATION:

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

13. AMENDMENT:

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

14. ASSIGNMENT OF PERSONNEL:

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

15. JURISDICTION AND VENUE:

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

16. INDEMNIFICATION:

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

17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

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

18. COMPLIANCE WITH APPLICABLE LAWS:

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

19. INVOICES; NOTICES

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

Email Address:	invoices@mcecleanenergy.org
----------------	-----------------------------

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

Contract Manager:	Troy Nordquist
MCE Address:	1125 Tamalpais Avenue
	San Rafael, CA 94901
Email Address:	contracts@mcecleanenergy.org
Telephone No.:	(415) 464-6027

Notices shall be given to Contractor at the following address:

Contractor:	John Maher
Address:	1101 Fifth Avenue, Suite 200
	San Rafael, CA 94901
Email Address:	jmaher@maher CPA.com
Telephone No.:	(415) 459-1249 ext. 1

20. ACKNOWLEDGEMENT OF EXHIBITS

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

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

21. SEVERABILITY

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

22. COMPLETE AGREEMENT

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

23. COUNTERPARTS

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

24. PERFORMANCE AND PAYMENT BOND (REQUIRED IF CHECKED ☐)

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

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

APPROVED BY

Marin Clean Energy:

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: _____

Approved by MCE Counsel: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES (required)

Contractor will provide the following services as requested and directed by MCE staff, up to the maximum time/fees allowed under this Agreement:

Accounting and Transactional Support

1. Maintain the general ledger by:
 - a. Posting:
 - i. Accounts receivable and accounts payable;
 - ii. Accrued revenue and expenses;
 - iii. Cash receipts and cash disbursements;
 - iv. Payroll.
 - b. Preparing or maintaining the following monthly analysis regarding general ledger account balances:
 - i. Reconcile cash activity and balances with statements from Authority's financial institution (i.e. bank statements);
 - ii. Reconcile customer data manager reports of customer activity and accounts receivable;
 - iii. Estimate customer revenue earned but not billed as of the end of the reporting period;
 - iv. Estimate electricity costs incurred but not yet billed as of the end of the reporting period;
 - v. Schedule of depreciation of capital assets;
 - vi. Aged schedule of accounts payable;
 - vii. Aged schedule of accounts receivable;
 - viii. Schedules of details regarding all remaining balance sheet accounts.
2. Manage accounts payable by:
 - a. Contractor utilizes a cloud-based accounts payable document management system (bill.com) to provide for documentation for management review, proper segregation of duties, and access to source data.
 - b. Contractor ensures that required authorization is documented and that account coding is correct.
 - i. MCE staff authorize approval of invoices and the release of payment by an independent payment service in order to provide an additional safeguard.
3. Maintain segregated account structure to enable regulatory accounting for Energy Efficiency program, maintenance of incentive payments, and budget reporting.
4. Manage compliance with fiscal provisions of vendor contracts: Before submitting vendor invoices for management approval, Contractor verifies that a vendor invoice agrees with contract provisions regarding time periods, rates, and financial limits.
5. Process payroll and maintain compensated absence accounting records.

Budgeting

6. Assist in development of entity budgets in collaboration with management and technical consultants.
7. Assist with budget compliance. Contractor monitors budget available and will make timely suggestions for any necessary budget amendments.
8. Provide assistance with the development and maintenance of departmental budget management processes as needed.

Financial Reporting

9. Prepare timely and accurate monthly financial reporting including:
 - a. Operating, Energy Efficiency, Local Renewable Energy Development and Renewable Energy Reserve Fund Budgetary Comparison Schedules (4);
 - b. MCE Monthly Compiled Financial Statements;
 - c. MCE Monthly Financial Statements in Excel;
 - d. Monthly YTD expenditure detail for each Department as needed;
 - e. Provide accounting data to populate a MCE desktop version of Quickbooks.
10. File annual information returns such as form 1099/1096's.
11. File various compliance reports for state and local agencies, such as user taxes, energy surcharges, and state controller reports.

Annual Audit

12. Prepare annual financial statements and coordinate with independent auditor.

Financial Controls

13. Assist with creating and maintaining a system of financial controls including recommendations for segregation of duties and other control measures as needed.

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:

- Fees for general accounting services and payroll processing will be performed for \$174,000. Payment will be made in monthly installments of \$14,500, on or about the 15th of each month.
- Assistance with the annual audit will be performed for \$16,496 and will be payable at the conclusion of the audit.

In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of **\$190,500** for the term of the Agreement.



March 15, 2018

TO: MCE Board of Directors

FROM: Justine Parmelee, Internal Operations Manager

RE: First Amendment to the Fifth Agreement with Community Media Center of Marin (Agenda Item #04 – C.4)

ATTACHMENTS: A. Proposed First Amendment to the Fifth Agreement with Community Media Center of Marin
B. Fifth Agreement with Community Media Center of Marin

Dear Board Members:

SUMMARY:

MCE records its Board meetings for public viewing in real time via the MCE website, by delayed cablecast on local government television, and in the archives of MCE's YouTube account. There is equipment currently in place in MCE's Charles McGlashan Board Room in San Rafael that enables the current videographer, Community Media Center of Marin (CMCM), to provide these services.

In preparation for the opening of MCE's Concord office, and in line with MCE's contracting procedures, staff conducted an informal bidding process for videography equipment installation services for the Concord Board Room. Criteria for selecting a vendor included cost-competitiveness, timely bidding, and the ability to integrate with the existing equipment at MCE's San Rafael office. Three entities submitted proposals and based on the aforementioned criteria CMCM was selected.

Due to the abbreviated timeline for tenant improvements at the Concord office, including a March 13th deadline to complete all wiring and cabling installation, staff entered into the Fifth Agreement with Community Media Center of Marin for a scope of services limited to wiring installation, with a total contract amount not to exceed \$2,600. At this time, MCE staff requests approval of the proposed First Amendment to the Fifth Agreement to allow for CMCM to complete the installation of videography equipment in MCE's Concord office, for a revised total contract amount not to exceed \$40,936.

Fiscal Impacts: Costs related to the referenced agreement are included in the FY 17/18 and FY 18/19 Operating Fund Budgets.

Recommendation: Approve the proposed First Amendment to the Fifth Agreement with Community Media Center of Marin.

**FIRST AMENDMENT TO FIFTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND COMMUNITY MEDIA CENTER OF MARIN**

This FIRST AMENDMENT is made and entered into on March 15, 2018, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and COMMUNITY MEDIA CENTER OF MARIN (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and the Contractor entered into an agreement to provide wiring installation services for video equipment at MCE's Concord office as directed by MCE staff dated March 5, 2018 ("Agreement"); and

WHEREAS, Section 4 and Exhibit B to the Agreement provided for Contractor to be compensated in an amount not to exceed \$2,600 for the wiring installation services described within the scope therein; and

WHEREAS the parties desire to amend the Agreement to increase the contract amount by \$38,336 for video and presentation equipment installation for a total consideration not to exceed \$40,936; and

WHEREAS, Exhibit A to the Agreement specified the tasks Contractor will complete for the wiring installation services as described in the scope therein; and

WHEREAS the parties desire to amend the Agreement to add additional scope of work of the Agreement;

NOW, THEREFORE, the parties agree to modify Section 4 and Exhibits A and 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 **\$40,936**.

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

Contractor will provide the following A/V wiring and video and presentation equipment installation services for the MCE office located at 2300 Clayton Road, Suite 1150 in Concord, CA as requested and directed by MCE staff:

A/V Wiring

- Equipment and cabling specified is for distributing the program video output of the video system. This includes program video output to MCE's web-based Webinar software for sharing meeting content live between the Concord and San Rafael offices.
- HDMI, XLR, Cat5e, Cat6, and HD/SDI Coax Cable
- Wiring will include the ability to distribute computer presentations to as many as eight wall mounted displays.

Video and Presentation Equipment System

- (4) Vaddio RoboSHOT 30 HD-SDI PTZ Cameras
- (1) Vaddio ProductionView Controller
- (1) Black Magic ATEMHD Switcher
- (1) Marshall Electronics M-Lynx 702 W Dual & Display
- (1) Black Magic Hyperdeck Studio 2 Recorder
- (1) LG 22" LED Monitor Multiview
- (2) SanDisk 480GB Solid State Drives
- (1) ROLLs RM676-Channel Mic/Source Mixer
- (2) DataVideo Scaler/Cross Converter
- (1) 4x4 KanexPro HDMI Matrix Switcher
- (2) KanexPro 1x4 Dist Amplifier and Cat6 Extender
- (1) Magewell USB Capture HDMI
- (4) PowerDsine 24v PoE adapter
- (1) CyberPower CP1500PFCLCD Sinewave UPS System
- (1) Teradek VidiU H.264 streaming
- Custom Furniture - Media Cabinet/Desk/Racks – finished according to MCE's designer material specifications

Assumptions and Understandings

- Contractor will complete installation of all A/V wiring work by March 13, 2018 and video and presentation equipment system by May 1, 2018.
- All wiring shall be concealed inside walls and equipment racks.
- Contractor is not including wall mounted LCD displays or the computers in the video and presentation equipment installation.
- Audio wiring components will only include those necessary to connect an audio system to the video system.
- Cameras will be robotic wall mounted units.
- Contractor will include equipment to enable live streaming and recording of presentations and/or meetings.
- The video format selected for us is HD 1920x1080i.
- This system will be entirely compatible with the MCE office located in San Rafael.
- The system can additionally be split to provide separate computer presentations to two sets of displays (in the event the conference room is eventually fitted to service two simultaneous meetings).
- The system will allow for meetings to be separately livestreamed to the internet via a channel created by Contractor.
- Contractor will coordinate with MCE to schedule work during normal business hours.
- Contractor will clean-up jobsite and dispose of any debris.
- All labor is included and Contractor will meet prevailing wage requirements as identified in Exhibit C.
- Contractor will provide training of personnel operating this equipment.
- Contractor will coordinate with MCE's interior designer for design of cabinet materials.
- Contractor will coordinate with an audio-visual provider of MCE's choosing.

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

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

A/V Wiring Materials	\$600
Installation Costs, inclusive of all labor and reimbursable travel	\$2,000
Video and Presentation Equipment	\$32,836
Installation Costs, inclusive of all labor, training, testing and reimbursable travel	\$5,500

Contractor shall bill MCE upon completion of installation. In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of **\$40,936** for the term of the Agreement.

4. 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: _____

MARIN CLEAN ENERGY:

By: _____

Date: _____

MARIN CLEAN ENERGY:

By: _____

Date: _____

**MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT**

**FIFTH AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND COMMUNITY MEDIA CENTER OF MARIN**

THIS FIFTH AGREEMENT ("Agreement") is made and entered into this day **March 5, 2018** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and COMMUNITY MEDIA CENTER OF MARIN, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the following services: wiring for video equipment for the MCE office located at 2300 Clayton Road, Suite 1150 in Concord;

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

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

1. SCOPE OF SERVICES:

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

2. FURNISHED SERVICES:

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

3. FEES AND PAYMENT SCHEDULE; INVOICING:

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

4. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$2,600**.

5. TIME OF AGREEMENT:

This Agreement shall commence on **March 5, 2018**, and shall terminate on **May 31, 2018**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

6. INSURANCE AND SAFETY:

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

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

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

6.1 GENERAL LIABILITY

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

6.2 AUTO LIABILITY

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

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED ☐)

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

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. SUBCONTRACTING:

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

9. ASSIGNMENT:

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

10. RETENTION OF RECORDS AND AUDIT PROVISION:

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

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

11. WORK PRODUCT:

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

12. TERMINATION:

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

13. AMENDMENT:

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

14. ASSIGNMENT OF PERSONNEL:

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

15. JURISDICTION AND VENUE:

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

16. INDEMNIFICATION:

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

17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

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

18. COMPLIANCE WITH APPLICABLE LAWS:

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

19. INVOICES; NOTICES

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

Email Address: invoices@mcecleanenergy.org

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

Contract Manager: Troy Nordquist

MCE Address: 1125 Tamalpais Avenue

San Rafael, CA 94901

Email Address: contracts@mcecleanenergy.org

Telephone No.: (415) 464-6027

Notices shall be given to Contractor at the following address:

Contractor: Michael Eisenmenger

Address: 819 A Street, Suite 21

San Rafael, CA 94901

Email Address: michael@cmcm.tv

Telephone No.: 415-721-0636 x16

20. ACKNOWLEDGEMENT OF EXHIBITS

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

	<input checked="" type="checkbox"/>	<u>Check applicable Exhibits</u>	<u>CONTRACTOR'S INITIALS</u>
<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/>	<u>Scope of Services</u>	
<u>ATTACHMENT A-1</u>	<input checked="" type="checkbox"/>	<u>MCE Concord A/V Wiring Diagram</u>	
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	<u>Fees and Payment</u>	
<u>EXHIBIT C.</u>	<input checked="" type="checkbox"/>	<u>Labor Code and Prevailing Wage Requirements</u>	

21. SEVERABILITY

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

22. COMPLETE AGREEMENT

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

23. COUNTERPARTS

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

24. PERFORMANCE AND PAYMENT BOND (REQUIRED IF CHECKED ☐)

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

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

APPROVED BY

Marin Clean Energy:

By: _____
CEO

Date: 3-5-18

CONTRACTOR:

By: _____

Name: Michael Eisenmenger

Date: 3/15/18

MODIFICATIONS TO STANDARD SHORT FORM

☐ Standard Short Form Content Has Been Modified

List sections affected: _____

Approved by MCE Counsel: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES (required)

Contractor will provide the following A/V wiring installation services for video equipment for the MCE office located at 2300 Clayton Road, Suite 1150 in Concord, CA as requested and directed by MCE staff:

A/V Wiring

- Equipment and cabling specified is for distributing the program video output of the video system. This includes program video output to MCE's web-based Webinar software for sharing meeting content live between the Concord and San Rafael offices.
- HDMI, XLR, Cat5e, Cat6, and HD/SDI Coax Cable
- Wiring will include the ability to distribute computer presentations to as many as eight wall mounted displays.

Assumptions and Understandings

- Contractor will complete installation of all A/V wiring work by March 13, 2018.
- Audio wiring components will only include those necessary to connect an audio system to the video system.
- All wiring shall be concealed inside walls and equipment racks.
- Contractor will coordinate with MCE to schedule work during normal business hours.
- Contractor will clean-up jobsite and dispose of any debris.
- All labor is included and Contractor will meet prevailing wage requirements as identified in Exhibit C.

ATTACHMENT A-1

MCE CONCORD A/V WIRING

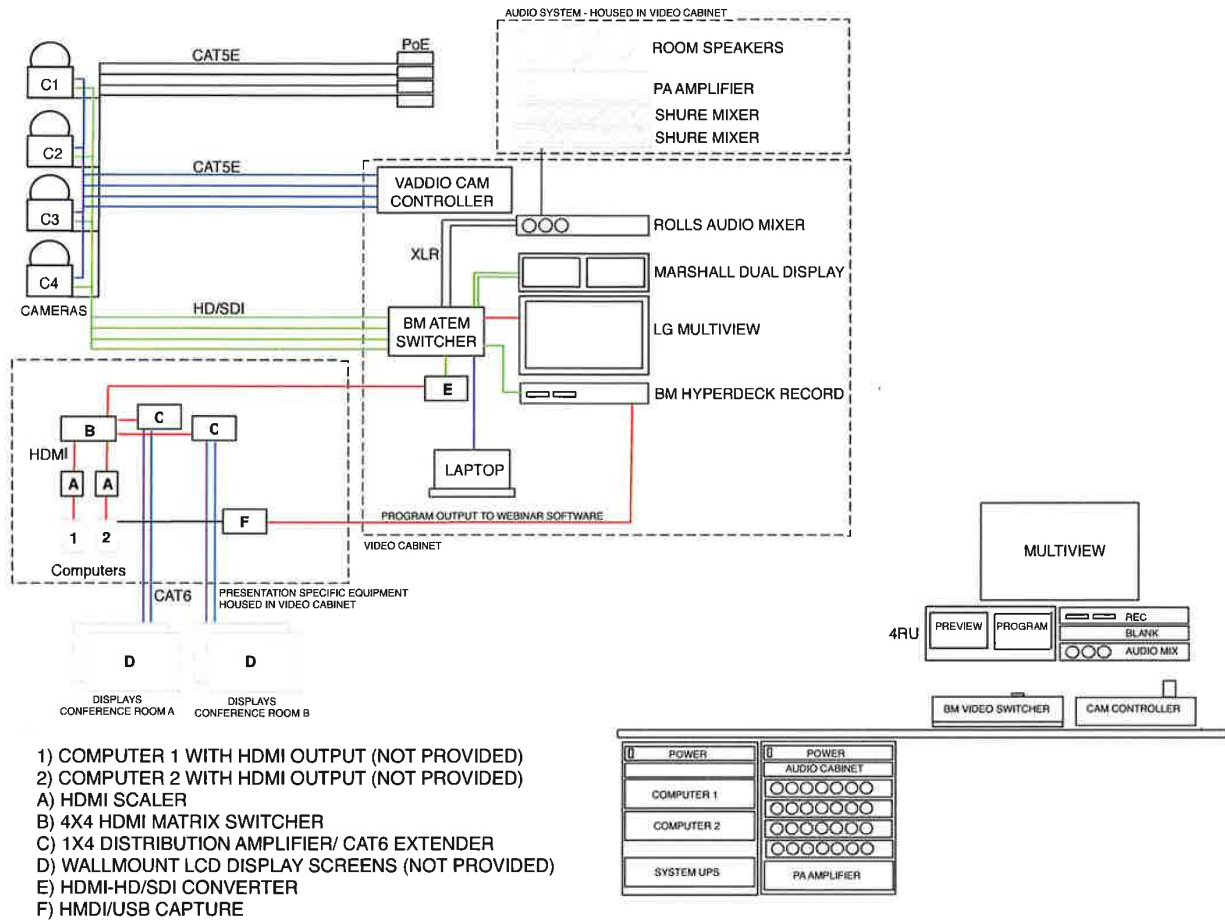


Diagram of wiring types and cable paths. All wiring to be concealed inside walls and equipment racks. Desktop equipment for video control unit will hidden under a hinged counter, only visible when in use. Finish materials pending upon release of design guidelines.

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:

A/V Wiring Materials	\$600
Installation Costs, inclusive of all labor and reimbursable travel	\$2,000

Contractor shall bill MCE upon completion of installation. In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of **\$2,600** for the term of the Agreement.

EXHIBIT C
LABOR CODE AND PREVAILING WAGE REQUIREMENTS

1. Contractor acknowledges that the project as defined in this Contract between Contractor and the MCE, to which this Terms for Compliance with California Labor Law Requirements is attached and incorporated by reference, is a "public work" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Contractor acknowledges that this Contract is subject to (a) Chapter 1, including without limitation Labor Code Section 1771 and (b) the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Contractor shall perform all work on the project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.
2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 of this document.
3. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Contract are on file at MCE's San Rafael Office and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Contract.
4. The project is subject to compliance monitoring and enforcement by the DIR. Contractor shall post job site notices, as prescribed by regulation.
5. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Contractor shall, as a penalty to the MCE, forfeit two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Contract by Contractor or by any subcontractor.
6. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform the MCE of the location of the records.
7. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Contract, Contractor shall provide MCE with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) days after concluding work pursuant to this Contract, Contractor and each of its subcontractors shall submit to the MCE a verified statement of the journeyman and apprentice hours performed under this Contract.
8. Contractor acknowledges that eight hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to the MCE, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Contract by Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by employees of Contractor in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.
9. Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:
"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."
10. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation,

conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

11. To the maximum extent permitted by law, Contractor shall indemnify, hold harmless and defend (at Contractor's expense with counsel reasonably acceptable to MCE) MCE, its officials, officers, employees, agents and independent contractors serving in the role of MCE officials, and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with this Contract, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses. All duties of Contractor under this Section shall survive termination of this Contract.



March 15, 2018

TO: MCE Board of Directors

FROM: Justine Parmelee, Internal Operations Manager

RE: Second Agreement with Loud & Clear Audio Visual (Agenda Item #04 – C.5)

ATTACHMENT: Proposed Second Agreement with Loud & Clear Audio Visual

Dear Board Members:

SUMMARY:

Audio-visual equipment currently in place in MCE's Charles McGlashan Board Room and three conference rooms in San Rafael include microphones, speakers, and television screens. This equipment allows for efficient and productive meetings, and also works in conjunction with videography equipment to facilitate the recording of MCE's Board meetings.

In preparation for the opening of MCE's Concord office, and in line with MCE's contracting procedures, staff conducted an informal bidding process for audio-visual equipment installation in the Concord Board Room and three conference rooms. Criteria for selection included cost-competitiveness, timely bidding, and the ability to integrate with the existing equipment at MCE's San Rafael office. Five entities submitted proposals and based on the aforementioned criteria, Loud & Clear Audio Visual was selected.

MCE previously contracted with Loud & Clear Audio Visual to upgrade the sound system in the Charles McGlashan Board Room in the San Rafael office. Under the proposed Second Agreement, Loud & Clear Audio Visual would provide equipment and installation services at the Concord office. All services would be provided for an amount not to exceed \$50,303.57. The microphones, speakers, television screens, and all associated equipment would improve MCE's ability to hold collaborative meetings across multiple locations. The equipment in Concord would fully integrate with any videography equipment used for filming, recording, and livestreaming MCE Board meetings.

Fiscal Impacts: Costs related to the referenced agreement are included in the FY 17/18 and FY 18/19 Operating Fund Budgets.

Recommendation: Approve the proposed Second Agreement with Loud & Clear Audio Visual.

**MARIN CLEAN ENERGY
STANDARD SHORT FORM CONTRACT**

**SECOND AGREEMENT
BY AND BETWEEN
MARIN CLEAN ENERGY AND LOUD & CLEAR AUDIO VISUAL**

THIS SECOND AGREEMENT ("Agreement") is made and entered into this day **March 15, 2018** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and LOUD & CLEAR AUDIO VISUAL, hereinafter referred to as "Contractor."

RECITALS:

WHEREAS, MCE desires to retain a person or firm to provide the following services: Audio Visual system and TV installation;

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

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

1. SCOPE OF SERVICES:

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

2. FURNISHED SERVICES:

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

3. FEES AND PAYMENT SCHEDULE; INVOICING:

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

4. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$50,303.57**.

5. TIME OF AGREEMENT:

This Agreement shall commence on **March 15, 2018** and shall terminate on **May 31, 2018**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

6. INSURANCE AND SAFETY:

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

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

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

6.1 GENERAL LIABILITY

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

6.2 AUTO LIABILITY

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

6.3 WORKERS' COMPENSATION

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

6.4 PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED ☐)

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

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

7. NONDISCRIMINATORY EMPLOYMENT:

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

8. SUBCONTRACTING:

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

9. ASSIGNMENT:

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

10. RETENTION OF RECORDS AND AUDIT PROVISION:

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

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

11. WORK PRODUCT:

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

12. TERMINATION:

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

13. AMENDMENT:

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

14. ASSIGNMENT OF PERSONNEL:

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

15. JURISDICTION AND VENUE:

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

16. INDEMNIFICATION:

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

17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:

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

18. COMPLIANCE WITH APPLICABLE LAWS:

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

19. INVOICES; NOTICES

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

Email Address:	invoices@mcecleanenergy.org
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All other notices shall be given to MCE at the following location:

Contract Manager:	Troy Nordquist
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MCE Address:	1125 Tamalpais Avenue
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San Rafael, CA 94901

Email Address:	contracts@mcecleanenergy.org
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Telephone No.:	(415) 464-6027
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Notices shall be given to Contractor at the following address:

Contractor:	Neville Hormuz
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Address:	7886 Old Redwood Hwy
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Cotati, CA 94931

Email Address:	neville@incav.com
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Telephone No.:	(707) 665-5650
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20. ACKNOWLEDGEMENT OF EXHIBITS

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

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

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

APPROVED BY

Marin Clean Energy:

By: _____
CEO

Date: _____

By: _____
Chairperson

Date: _____

CONTRACTOR:

By: _____

Name: _____

Date: _____

MODIFICATIONS TO STANDARD SHORT FORM

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

List sections affected: _____

Approved by MCE Counsel: _____

Date: _____

EXHIBIT A
SCOPE OF SERVICES (required)

Contractor will install the following audio-visual system and television system for the MCE office located at 2300 Clayton Road, Suite 1150 in Concord, CA as requested and directed by MCE staff:

Contractor will furnish, install, and test the following audio-visual equipment:

- Home Base:
 - (1) Kramer Distribution Amp 1 VM-4H2
(From main PC in A/V closet output to HDMI input #2 on all 3 displays)
 - (1) 5' HDMI Cable
 - (2) 30' HDMI Cables
- 80" display Video:
 - (1) Local HDMI input Wall Plate white (local wall plate input to HDMI Distribution Amp 2)
 - 1- Kramer Distribution Amp 2 VM-4H2
(input from 80" display wall plate to input 1 on 80" display and input 3 on other two displays)
 - (1) 5' HDMI
 - (2) 40' HDMI Cables
- Audio from 80" Display:
 - (1) RCA Cable TV out to Direct Box
 - (1) ART DI Box TV out run to Mix location
 - (1) 50' Low Z cable (DI to Mix location)
- CONTROL for 80" display:
 - (1) Pixie Plus wall plate in white – Power on/off and source select
 - (1) RS232 control cable
- 80" Display 1:
 - (1) Local HDMI input Wall Plate white (local wall plate input to HDMI to TV input 1)
 - (1) 6' HDMI Cable
 - (1) RCA Cable TV out to Direct Box
 - (1) ART DI Box TV out run to Mix location
 - (1) 50' Low Z cable (DI to Mix location)
 - (1) Pixie Plus wall plate in white – Power on/off and source select
 - (1) RS232 control cable
- 80" Display 2:
 - (1) Local HDMI input Wall Plate white (local wall plate input to HDMI to TV input 1)
 - (1) 6' HDMI Cable
 - (1) RCA Cable TV out to Direct Box
 - (1) ART DI Box TV out run to Mix location
 - (1) 50' Low Z cable (DI to Mix location)
 - (1) Pixie Plus wall plate in white – Power on/off and source select
 - (1) RS232 control cable
- Microphones:
 - (1) Shure BLX24R/Beta 58A wireless mic with SM58 transmitter
 - (1) Rapco Rapco 3' lo-z cable (wireless receiver to mixer)
 - (2) Shielded CAT 6 Wall plates (to provide two input locations for conferencing mics)
 - (1) shielded 75' CAT 6 cable
 - (1) 50' shielded CAT 6 cable
 - Shure DIS-CCU Discussion brain
 - PS-CCU-US Power supply
 - (25) DC5980P Portable conferencing unit
 - (25) GM5924 Gooseneck microphones
 - (1) EC6001-20 20' shielded network cable
 - (25) EC6001-2 2 meter connector cables
- Speakers:
 - (6) Tannoy CVS 6 Ceiling Speakers
 - (1) Lab Gruppen Lucia 240 stereo power amp
 - (1) rackmount kit

- (1) 95' 14/2 speaker cable
- Conference Bridge/Mixer
 - (1) BiAmp Tesira Forte VT
 - (1) Bi-Amp Tesira Forte HD-1 Dialer
 - (1) Bi-Amp Tesira Tech-1s
 - (1) TPLink 8 port POE Switch
 - (1) 50' Network shielded cable from mixer to wall plate controller
- Rack
 - Furman Power Conditioner
 - (2) space rack drawers
 - Middle Atlantic RK14 14 space table top equipment rack
 - Cable dressing
 - Conduit/wire mould
 - Miscellaneous interconnects

Contractor will furnish, install, and test the following television system equipment:

- Large Conference Room
 - (3) Sharp 80" Commercial Display with three-year warranty and RS232 for seamless control with the A/V control wall plates.
 - (3) Premier Fixed wall mount for 80" display
- Small Conference Rooms
 - (3) Sharp PNLE601 60" Commercial Display with three-year warranty and RS232 for seamless control with the A/V control wall plates
 - (3) Premier fixed wall mounts for 60" display
 - (3) HDMI Input wall plate
 - (3) 5' HDMI Cable from wall plate to TV
 - (3) 5' HDMI Cable from owner furnished PC to TV
 - (3) Pixie Plus wall plate in white – Power on/off, source select and volume
 - (3) RS232 control cable

Assumptions and Understandings

- All materials are guaranteed to be as specified.
- All work to be completed in accordance with standard building practices.
- Contractor will complete all installation by May 1, 2018.
- Contractor will coordinate with MCE to schedule work during normal business hours.
- Contractor will coordinate with a video installation provider of MCE's choosing.
- Contractor will clean-up jobsite and dispose of any debris.
- All labor is included and Contractor will meet prevailing wage requirements as identified in Exhibit C.

EXHIBIT B
FEES AND PAYMENT SCHEDULE

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

Audio-Visual System

Equipment	\$20,986.50
Tax	\$1,915.02
Freight	\$175.00
Labor	\$5,500.00

Television System

Equipment	\$16,932.00
Tax	\$1,545.05
Freight	\$250.00
Labor	\$3,000.00

Contractor shall bill MCE in two installments: 50% of total cost upon signing of the contract and 50% due upon completion of installation of the two systems (audio-visual and television). In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of **\$50,303.57** for the term of the Agreement.

EXHIBIT C
LABOR CODE AND PREVAILING WAGE REQUIREMENTS

1. Contractor acknowledges that the project as defined in this Contract between Contractor and the MCE, to which this Terms for Compliance with California Labor Law Requirements is attached and incorporated by reference, is a "public work" as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code ("Chapter 1"). Further, Contractor acknowledges that this Contract is subject to (a) Chapter 1, including without limitation Labor Code Section 1771 and (b) the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Contractor shall perform all work on the project as a public work. Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.
2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 of this document.
3. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Contract are on file at MCE's San Rafael Office and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Contract.
4. The project is subject to compliance monitoring and enforcement by the DIR. Contractor shall post job site notices, as prescribed by regulation.
5. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Contractor shall, as a penalty to the MCE, forfeit two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Contract by Contractor or by any subcontractor.
6. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform the MCE of the location of the records.
7. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Contract, Contractor shall provide MCE with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) days after concluding work pursuant to this Contract, Contractor and each of its subcontractors shall submit to the MCE a verified statement of the journeyman and apprentice hours performed under this Contract.
8. Contractor acknowledges that eight hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. Contractor shall, as a penalty to the MCE, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Contract by Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by employees of Contractor in excess of eight hours per day, and 40 hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.
9. Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:
 "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."
10. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

11. To the maximum extent permitted by law, Contractor shall indemnify, hold harmless and defend (at Contractor's expense with counsel reasonably acceptable to MCE) MCE, its officials, officers, employees, agents and independent contractors serving in the role of MCE officials, and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with this Contract, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses. All duties of Contractor under this Section shall survive termination of this Contract.



March 15, 2018

TO: MCE Board of Directors

FROM: David McNeil, Manager of Finance

RE: Sixth Addendum for Data Manager Services to Master Service Agreement between Calpine Energy Solutions (formerly Sempra Americas Energy Solutions) and MCE (Agenda Item #04 – C.6)

ATTACHMENTS: A. Proposed Sixth Addendum for Data Manager Services Between Calpine Energy Solutions (formerly Noble Americas Energy Solutions LLC) and MCE

B. Master Professional Services Agreement for Data Manager Services between Sempra Energy Solutions and Marin Energy Authority dated February 5, 2010

Dear Board Members:

SUMMARY:

On February 5, 2010 your Board approved a Master Professional Services Agreement (Master Agreement or “Agreement”) between Sempra Energy Solutions (now Calpine Energy Services, LLC or “Calpine”) and MCE to provide data manager services and customer support. Under this Agreement data manager and customer support responsibilities include:

- maintaining a current database of active and departed customers
- processing customer service requests (e.g., opting out, switching to Deep Green, Light Green, Local Sol or any other MCE service)
- administering community-wide customer enrollments
- managing the electronic exchange of usage, billing, and payments data with PG&E and MCE
- coordinating the issuance of monthly bills through PG&E’s billing department
- tracking customer payments and accounts receivable
- issuing late payment and new account enrollment notices
- operating a call center to respond to customer inquiries

On February 5, 2010 your Board approved an Addendum which further detailed data manager services and established fees equal to \$.45 per megawatt hour of customer electricity usage and \$1.75 per customer meter per month.

On March 1, 2012 your Board approved the First Addendum to account for service growth due to the completion of enrollments in Marin County. The First Addendum increased the number of customer accounts being served, eliminated a monthly volumetric charge for accounts between 71,001 and 115,000, resulting in a lower average cost of service and was set to terminate on April 30, 2015.

On February 2, 2013 your Board approved the Second Addendum to account for service growth due to the City of Richmond enrollments. The Second Addendum reduced the fee from \$1.75 to \$1.50 per meter per month, included a monthly flat fee of \$30,000 to cover fixed costs and extended the term of the agreement to December 31, 2017.

On November 6, 2014 your Board approved the Third Addendum to implement reduced fees resulting from economies of scale achieved by Calpine after entering into contracts with Sonoma Clean Power and Lancaster Choice Energy. The Third Addendum eliminated the \$30,000 monthly flat fee and set the following revised fee structure.

- First 100,000 meters: \$1.50 per meter per month
- Meters 100,001 - 200,000: \$1.25 per meter per month
- Meters 200,001 - 300,000: \$1.20 per meter per month
- Meters 300,001 and up: \$1.10 per meter per month

The Third Addendum extended the term of the agreement to April 30, 2019.

On September 27, 2016 MCE's Chief Executive Officer executed the Fourth Addendum with Calpine to reduce fees to \$1.15 per meter per month for all customers and to include remedies for substantial failure by Calpine to meet key performance standards in the form of liquidated damages of \$10,000 per month.

The Fourth Addendum also clarifies the work already undertaken by Calpine, including an expanded Definitions section, increased call center performance standards, quality assurance, increased data security provisions, and expanded data manager services and reporting requirements. The operational period of the Fourth Addendum is from September 27, 2016 through April 30, 2019.

The proposed Sixth Addendum restates the Fourth Addendum and incorporates the following changes:

- The term of service is extended by one year to April 30, 2020
- For the period April 2018 through April 2019 the monthly per meter fee decreases from the current rate of \$1.15 per meter per month to \$1.10 per meter per month up to 360,000 meters and to \$1.08 per meter per month above 360,000 meters
- For the period May 2019 through April 2020, the monthly per meter fee decreases to \$1.05 for all meters served
- Calpine will respond to ad hoc requests from MCE using commercially reasonable efforts within 10 business days; the turnaround time for ad hoc requests is currently undefined

Fiscal Impact: The fee reduction included in the Sixth Addendum will decrease the expected annual expense associated with the Calpine Agreement by \$410,000 in FY 2018/19 and by

\$540,000 in FY 2019/20 as compared with expected expenses computed using current monthly per meter fees.

Recommendation: Approve the proposed Sixth Addendum for Data Manager Services to Master Professional Services Agreement between Calpine Energy Solutions, LLC (formerly Noble Americas Energy Solutions LLC) and MCE.

Sixth Addendum for Data Manager Services
To
MASTER PROFESSIONAL SERVICES AGREEMENT
Between Calpine Energy Solutions (formerly Noble Americas Energy Solutions LLC)
And MARIN CLEAN ENERGY (formerly Marin Energy Authority)
Dated March 15, 2010 (or as subsequently amended)
Effective Date: April 1, 2018

Addendum Date: March 15, 2018

This Sixth Addendum for Data Manager Services (“Addendum”) supplements the above-referenced Master Professional Services Agreement (“Agreement”) between MARIN CLEAN ENERGY (“MCE”) and CALPINE ENERGY SOLUTIONS, LLC (FORMERLY NOBLE AMERICAS ENERGY SOLUTIONS, LLC) (“Calpine”), collectively, the Parties. As of the Effective Date, this Addendum supersedes the Addendum for Data Manager Services dated September 28, 2016 and any previously executed addenda by the Parties.

1. OPERATIONAL PERIOD: This Addendum (“Addendum”) is hereby incorporated by reference to and made part of the above-referenced Agreement for the duration of the Operational Period of this Addendum, which shall be from April 1, 2018 through April 30, 2020.

Further, the Operational Period for this Addendum shall automatically be extended until April 30, 2022, (the “First Extended Term”), unless either Party notifies the other Party by January 31, 2020, in a manner consistent with the notice provisions of the Agreement, that the notifying Party wishes, in its sole discretion, to cancel the First Extended Term.

2. DEFINITIONS

“Billing Window” refers to the period between receipt of metered usage data from PG&E and submission of related bill data to PG&E for CCA Services, typically 3 Business Days.

“Billing Error” refers to the incorrect billing of an account due to an error by Calpine.

“CARE” refers to the California Alternate Rates for Energy program administered by PG&E which provides discounts on energy bills for income qualified households designated by PG&E.

“Customer Data Acquisition” refers to acquisition of customer electricity usage data under PG&E’s Share My Data program.

“Community Choice Aggregation/Aggregator” (CCA) refers to local government entities or joint powers agencies whose governing boards have elected to acquire and provide electric power and energy services to utility end-use customers located within their service area(s), as set forth in California Public Utilities Code Section 366.2 and other California Public Utilities Commission (CPUC) directives.

“CCA Service” means the sale of retail electric power by a Community Choice Aggregator, to utility end-use customers located within its service area(s), as set forth in California Public Utilities Code Section 366.2 and other California Public Utilities Commission (CPUC) directives.

“CCA Service Request” (CCASR) means a request in a form approved by PG&E to change a CCA customer’s or utility customer’s choice of services, which could include returning a CCA customer to bundled utility service or direct access service.

“Customer Information System” (CIS) refers to the systems used by Calpine to store MCE customer-specific information, including account enrollment status, rate tariff, payment history, collection status, correspondence and other information that is necessary for Calpine to effectively administer Data Manager Services.

“Customer Relationship Manager” (CRM) refers to a software platform populated by a database, and designed to manage and analyze customer interactions and data through the customer lifecycle with the goal of improving business relationships with customers, assisting in customer retention and driving customer participation.

“Direct Access Customer” refers to a PG&E customer purchasing retail power from an Electric Service Provider.

“Electronic Data Interchange” (EDI) refers to the transfer of data between PG&E and Calpine related to customers of MCE CCA Service. The EDI file types used for Data Manager Services are as follows:

- 810 – CCA invoice information that appears on customer’s PG&E bill
- 814 – CCA enrollments, changes, opt outs and disconnects
- 820 – Remittance advice identifying the detail needed to perform cash application to accounts receivable by customer
- 824 – Application Advice for Invoices, used to reject invoice transactions
- 867 – Electric meter usage data by customer account

“First-Contact or First Call Resolution” refers to addressing the customer's need the first time they contact or call for assistance, thereby eliminating the need for the customer to follow up with a second call.

“Interactive Voice Response” (IVR) refers to the call center voice-recorded system that enables customers, through keypad input, to select options related to their account or access a live call center agent.

“Local Distribution Company” or “Utility Distribution Company” (LDC or UDC) refers to the relevant electric utility (such as Pacific Gas and Electric Company).

“Mass Enrollment” refers to the phase-in of a group of new customers (who have not opted out) onto CCA Service over one billing cycle beginning with each customers’ regularly scheduled meter read date, as further defined in PG&E’s Electric Schedule E-CCA.

“MCE-Designated Third Party” refers to any third party that acts in the place or stead of MCE under the terms of the Agreement. For the avoidance of doubt, any such MCE-Designated Third Party shall be abide by and be bound by the terms of the Agreement, in the same way as MCE.

“MCE Data” refers to all data and information provided, collected, or produced on MCE’s behalf in connection with the services provided under this Addendum and the Agreement; including, but not

limited to, confidential personally identifiable information and/or utility customer data protected under state privacy laws, billing data, usage data, Settlement Quality Meter Data, enrollment information, contact history, and any other confidential and/or proprietary information which relates to current, prospective, or former MCE customers.

“Medical Baseline” refers to the Medical Baseline Allowance program administered by PG&E which provides a higher baseline quantity on energy bills for eligible customers designated by PG&E.

“Meter Data Management Agent” (MDMA) Services include: reading customers’ meters, validating the meter reads, editing the meter reads if necessary and transferring the meter reading data to a server pursuant to MCE and PG&E standards.

“Net Energy Metering” refers to one of the various Net Energy Metering programs administered by PG&E as described in its Electric Schedules, for which MCE may provide bill credits for qualifying self-generation to participating CCA Service customers.

“NAICS (North American Industry Classification System)” refers to the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data.

“Non-Enrollment Period” refers to any other period that is not a Statutory Enrollment Period.

“Operational Period” refers to the terms of the Addendum and may also be referred to as the Effective Period.

“Qualified Reporting Entity” (QRE) refers to an entity authorized by WREGIS to submit meter data associated with renewable energy on behalf of the generator owner using the WREGIS application.

“Service Agreement” refers to the agreement between customers and PG&E documenting the customer’s billing arrangement, including rate plan, used to calculate PG&E charges.

“Settlement Quality Meter Data” (SQMD) refers to meter data gathered, edited, validated, and stored in a settlement-ready format, for settlement and auditing purposes.

“Statutory Enrollment Period” refers to the three-month period prior to a Mass Enrollment, the month in which the Mass Enrollment occurs, and the two months following Mass enrollment. The Statutory Enrollment Period takes place over a six-month period.

“Western Region Energy Generation Information System” (WREGIS) refers to the independent, renewable energy tracking system for the region covered by the Western Electricity Coordinating Council (WECC).

3. DESCRIPTION OF STANDARD DATA MANAGER SERVICES. During the Operational Period, Calpine shall provide the Standard Data Manager Services listed below.

(a) Electronic Data Exchange Services:

- i. Process CCA Service Requests (CCASRs) from/to PG&E, which specify the changes to a customer’s choice of services, such as enrollment in Marin Clean Energy’s

- CCA Service or customer initiated returns to bundled utility service or customer initiated returns to direct access service (814 Electronic Data Interchange Files).
- ii. If no payment for CCA Service is received from the customer within 60 days of late payment notice being sent by Calpine, issue a CCASR to return customer to PG&E.
 - iii. Obtain all customer usage data from PG&E's MDMA server, and validate usage data to ensure required billing determinants are provided to generate customer bills for CCA Service.
 - iv. Ensure timely billing (according to PG&E requirements) of each customer (867 Electronic Data Interchange Files).
 - v. Maintain and communicate the amount to be billed by PG&E for services provided by MCE (810 Electronic Data Interchange Files).
 - vi. Receive, maintain, and make accessible to MCE or a MCE-Designated Third Party, all data related to payment transactions toward MCE charges from PG&E after payment is received by PG&E from customers (820 Electronic Data Interchange Files).
 - vii. Process CCASRs with PG&E when customer status changes.
 - viii. Participate in the Customer Data Acquisition Program (CDA) beta testing for SmartMeter data sharing as MCE's Data Manager.

(b) Qualified Reporting Entity (QRE) Services:

- i. Consistent with terms and conditions included in the QRE Services Agreement(s) between MCE and Calpine, serve as QRE for up to fifteen (15) locally situated, small-scale renewable generators supplying electric energy to MCE through its Feed-in Tariff (FIT).
- ii. Calpine shall receive applicable electric meter data from PG&E for MCE FIT projects, consistent with PG&E's applicable meter servicing agreement, and shall retain this data and provide such data to MCE monthly or, using commercially reasonable efforts, more frequently for purposes of performance tracking and invoice creation by MCE.
- iii. Submit a monthly generation extract file to WREGIS on MCE's behalf, which will conform to the characteristics and data requirements set forth in the WREGIS Interface Control Document for Qualified Reporting Entities.

(c) Customer Information System/Customer Relationship Management System:

- i. Store, maintain and make accessible to MCE or a MCE-Designated Third Party, an accurate database of all accounts eligible for CCA Service who are located in the MCE service area and identify each account's enrollment status (opt out, re-enrollment, Light Green, Deep Green, Local Sol or any other MCE CCA Service offering), rate tariff election(s), payment history, collection status, on-site generating capacity, if applicable, any correspondence with customer as well as other information that may become necessary to effectively administer CCA Service as mutually agreed to by parties from time to time.
- ii. Receive, load, and make accessible to MCE or a MCE-Designated Third Party the following historical information by account provided by PG&E or MCE: energy usage data, service address, customer service activity, standardized PG&E snapshots, rate information and NAICS codes.

- iii. Allow MCE to have functional access to the online database to add customer interactions and other account notes.
- iv. Provide MCE with quarterly training and as-needed training for MCE employees, to functionally access CRM. Provide MCE with user guides describing CRM functionality and navigation within sixty (60) days of start of Operational Period.
- v. Allow MCE to view customer email or written letter correspondence within online database.
- vi. Document in the CRM all email and telephone calls between Calpine and MCE CCA Service customers, using commercially reasonable efforts to submit in CRM within 1 business day.
- vii. Maintain and provide energy usage data on all CCA Service customers for a time period equal to the lesser of either (a) the start of service to present or (b) 5 years.
- viii. Upon request for data relating to usage more than 5 years in the past according to written parameters provided by MCE, Calpine will use commercially reasonable efforts to provide within 10 business days.
- ix. Maintain viewing access, available to appropriate MCE staff, to view PG&E bills for MCE customers, including supporting the intuitive parsing and labeling of PG&E provided files. Billing records for usage within the past 18 months should be attached to their respective service agreement and accessible via the CRM.
- x. Upon request for billing records relating to usage more than 18 months prior to the date such request is received by Calpine, Calpine will use commercially reasonable efforts to provide within 10 business days.
- xi. Maintain and communicate as needed record of customers who have been offered service with MCE but have elected to opt out, either before or after starting service with MCE.
- xii. Maintain and communicate as needed records of Net Energy Metering credits and generation data for customers to be posted on bill and settled annually.
- xiii. When requested by MCE, identify appropriate Balanced Payment Plan (BPP) type estimated charges and implement for customers.
- xiv. When requested by MCE, perform quarterly BPP reviews to assess appropriate customer charge level.

(d) Customer Call Center:

- i. Receive calls from MCE CCA Service customers referred to Calpine by PG&E and receive calls directly from MCE CCA Service customers.
- ii. Provide professional Interactive Voice Response (IVR) recordings for MCE customer call center.
- iii. Implement IVR self-service, according to parameters provided by MCE, and track how many customers start and complete self-service options without live-agent assistance. Provide updates to the IVR process map and scripts each calendar year according to parameters provided by MCE.
- iv. Staff a call center during non-enrollment period between the hours of 8 AM and 5 PM PPT Monday through Friday, excluding MCE and PG&E holidays. These hours may be adjusted as mutually agreed.
- v. Provide sufficient call center staffing to meet the requirements set forth herein, including designating MCE specific agents to the extent needed to meet the performance standards in Section 3(e).

- vi. Provide a sufficient number of Data Manager Experts to manage escalated calls during regular business hours between 8:00 a.m. and 5:00 p.m. Pacific Time, Monday through Friday, excluding MCE and PG&E holidays.
- vii. The call center will be staffed with personnel located within the continental United States.
- viii. Provide callers with the estimated hold time, if they are placed on hold. Provide an automated 'call back' option for callers who will be put on hold for an estimated five minutes or longer.
- ix. Record all inbound calls and make recordings available to MCE staff upon request. Maintain an archive of such recorded calls for a minimum period of 24 months.
- x. Track call center contact quality with criteria, including:
 - i. Use of appropriate greetings and other call center scripts
 - ii. Courtesy and professionalism
 - iii. Capturing key customer data
 - iv. Providing customers with correct and relevant information
 - v. First-contact or first-call resolution
 - vi. Accuracy in data entry and call coding
 - vii. Appropriate grammar and spelling in text communication (email and chat)
- xi. Evaluate customer satisfaction through voluntary customer surveys asking general questions about call quality, call resolution and the customer's overall satisfaction level with the service received.
- xii. Provide the call center number on the LDC invoice allowing MCE CCA Service customers to contact the call center.
- xiii. Respond to telephone inquiries from MCE CCA Service customers using a script developed by MCE. Ensure call center staff are trained on and have fluency in the MCE scripts by monitoring and reporting on call center recordings as described in Section 5(b). Escalate calls as needed for customers requiring additional handling by Data Manager Experts.
- xiv. Respond to CCA Service customer inquiries along the following guidelines for customer complaints:
 - a. Customer complaints on matters under the control of MCE:
 - i. Calpine will relay the complaint to MCE staff within 1 business day.
 - ii. MCE staff will decide on a course of action to resolve the complaint and communicate it to the customer within 3 working days.
 - iii. Calpine will communicate the complaint resolution to the customer within 5 business days.
 - b. Customer complaints on matters under the control of PG&E: Calpine will refer the customer to PG&E.
- xv. Provide bi-annual cross training and coordination with PG&E call center in coordination with MCE.
- xvi. Provide Spanish speaking call center staff available to customers during regular business hours.
- xvii. Provide translation services for inbound calls for the following languages: Spanish, Vietnamese, Mandarin, Cantonese, Tagalog, Russian, Korean and

Laotian. Use commercially reasonable efforts to provide translation services for additional languages requested by MCE.

- xviii. Create and maintain online forms for the MCE websites so that customers may change their account status to enroll or opt out of various MCE programs under MCE's CCA Service. Calpine will use commercially reasonable efforts to develop functionality in the online forms to enable customers to opt down from various MCE programs.
- xix. Transition of Call Center Duties.
 - a. MCE reserves the right to transition all call center duties from Calpine to MCE, with at least 90 days' notice to Calpine. Upon completion of transition, the service fee will be reduced as stipulated in the section Fees for Data Manager Standard Service.
 - b. Transition of call center duties may occur in phases, according to all needs and demands, overflow call center options, and third-party translation services.
 - c. MCE shall be responsible for any additional infrastructural or programming costs incurred by Calpine to facilitate this transition. Calpine will invoice these costs to MCE without any added charges.
 - d. In the event MCE partially transitions a portion of the call center duties from Calpine by hiring internal customer service representatives, Calpine will credit MCE for any avoided cost realized by such transition in lieu of the reduction stipulated in the section Fees for Data Manager Standard Service. Parties will develop a cost reduction methodology upon finalizing the call allocation mechanism between MCE and Calpine.

(e) Call Center Performance Standards and Contact Quality Tracking Criteria

- i. During Non-Enrollment Periods, the following performance standards shall apply:
 - a. A minimum of 80% of all calls will be answered within 45 seconds.
 - b. A minimum of 98% of calls will be answered within 3 minutes.
 - c. 100% of voicemail messages answered within 1 business day.
 - d. Achieve a no greater than 10% abandon rate for all calls.
- ii. During Statutory Enrollment Periods, the following performance standards shall apply:
 - a. A minimum of 75% of all calls will be answered within 60 seconds.
 - b. A minimum of 90% of calls will be answered within 3 minutes.
- iii. In accordance with Section 5(b) of this Addendum, Calpine shall provide monthly reports documenting whether the above performance standards have been met.

(f) Quality Assurance:

- i. Project list. Parties will maintain a project list of current MCE requests and other initiatives related to Data Manager Services, which will include request date, project owners, project status and next steps, expected completion date and actual completion date. Parties will coordinate to make progress on items on the list and resolve issues.
- ii. Monthly operational call. Calpine will host a monthly call to discuss operational issues requested by MCE, including call center performance, opportunities to improve call center service and progress on projects. Parties will communicate items at least 1 business day in advance.

- iii. Quarterly management meeting. At MCE's request, Calpine will attend quarterly management meetings at MCE's offices. Parties will communicate discussion items at least 5 business days in advance of the meeting.
- iv. Review of work products. Calpine shall take reasonable care to ensure that its work products associated with carrying out the services in this Addendum are free of error including typographical, formatting and other inconsistencies.

(g) Customer Enrollments (Statutory Enrollment Period):

- i. Staff a call center, during any MCE Statutory Enrollment Period, 24 hours-a-day, 7 days-a-week to process opt out requests according to the provisions in Section 3(d).
- ii. For new CCA Service customers, update CIS and CRM to track enrollment status and store account information provided by PG&E.
- iii. Provide weekly update of opt outs during Statutory Enrollment Periods.

(h) Mailing Lists:

- i. Generate and provide mailing lists to an MCE-designated printer, within 10 business days of MCE's request according to written parameters provided by MCE, for each of the following:
 - a. Mass enrollment notifications during statutory enrollment periods;
 - b. Late payment notifications to CCA Service customers that are over 90 days and \$250 overdue, generated on a monthly basis;
 - c. New CCA Service account/new move-in customer enrollments (during non-enrollment and statutory enrollment periods) within 7 days of enrollment receipt of CCASR;
 - d. Deep Green residential welcome packets within 7 days of opt up request;
 - e. Opt out confirmation letters within 7 days of opt out request;
 - f. Customers eligible for MCE's Net Energy Metering annual settlement process, where multiple balances occur under the same MCE customer are aggregated and such aggregated amount is equal to or greater than \$100.
- ii. All mailing lists will adhere to the following parameters, unless otherwise specified by MCE:
 - a. Remove duplicate occurrences of identical Service Agreement account holder name and full mailing address.
 - b. Remove Direct Access customers.
 - c. Send the above lists to MCE staff via SFTP for approval. Within 2 business days of MCE approval, send a copy to MCE's designated printer via SFTP.

(i) Billing Administration:

- i. Receive data on CCA Service from PG&E, and provide PG&E with appropriate charges for applicable rate class, including Light Green, Deep Green, and Local Sol and other charges related to CCA Service.
- ii. Send On Bill Repayment (OBR) Charges to PG&E for non-MCE customers, when supported by PG&E, based on information provided to Calpine by MCE.

- iii. Send OBR and Solar Loan Charges as a separate line item to PG&E for placement on monthly bill during term of repayment.
- iv. Timely submit billing information for each CCA Service customer to PG&E to meet PG&E Billing Window.
- v. Use commercially reasonable efforts to remedy CCA Service billing errors for any customer in a timely manner, within two billing cycles from discovery of the error. Calpine shall adhere to MCE's customer rebilling and billing error correction policies in a manner mutually agreed to by the Parties.
- vi. Update MCE's CCA Service rates according to written parameters provided by MCE.
- vii. Conduct testing to ensure CCA Service rates are being applied correctly to all customers, and make testing results available to MCE upon request.
- viii. Assist with annual settlement process for Net Energy Metering customers by identifying eligible customers and providing accrued charges and credits.

(j) Reporting:

- i. Calpine will deliver the reports to MCE as follows:

Report	Frequency	Delivery Method
Aging	Weekly & Monthly	SFTP
Cash Receipts	Weekly & Monthly	SFTP
County Invoice Summary Reports	Monthly	SFTP
Days To Invoice	Weekly & Monthly	SFTP
Utility User Tax (UUT) where applicable	Monthly	SFTP or Email
Invoice Summary Report	Weekly & Monthly	SFTP
Invoice Summary Report – Mid Month	Monthly	SFTP
Monthly Transaction Summary	Monthly	SFTP or Email
Opt Out with Rate Class	Weekly & Monthly	SFTP
Retroactive Returns	Monthly	SFTP or Email
Sent to Collections	Monthly	SFTP or Email
Snapshot	Weekly	SFTP
Snapshot with Addresses	Weekly	SFTP
Unbilled Usage	Monthly	SFTP
Full Volume Usage by Rate Class	Monthly	SFTP

(k) Settlement Quality Meter Data:

- i. Calpine shall provide MCE or MCE's designated Load Serving Entity ("LSE") with Settlement Quality Meter Data ("SQMD") based on usage data for MCE CCA Service customers as provided by PG&E and required by the CAISO.
- ii. Upon MCE's request, Calpine shall submit the SQMD directly to the CAISO on behalf of MCE or MCE's designated LSE.
- iii. The parties shall work together and agree on an acceptable format for the SQMD, attached to this Addendum as Exhibit A.
- iv. MCE agrees that Calpine shall have no responsibility for any charges or penalties assessed by the CAISO associated with the SQMD under an indemnity provision

or otherwise unless such charge/penalty is the result of error(s) by Calpine in processing the data, for which MCE's exclusive remedy will be in accordance with Section 9.

- i. In the event of a deviation of six percent (6%) or greater between the total T+8 estimated SQMD and T+48 actual SQMD reported for a calendar month to the CAISO, upon MCE's request Calpine will investigate the cause of the deviation and provide MCE with its findings within 10 business days or as required using commercially reasonable efforts to determine cause. If the deviation was caused by a Calpine error, MCE's exclusive remedy will be in accordance with Section 9.
- ii. Parties acknowledge that T+8 estimated SQMD data is comprised of data from prior periods due to unavailability of actual meter data for which the date the T+8 estimated SQMD is submitted, therefore does not reflect the T+48 actual SQMD.
- iii. Calpine shall prepare the SQMD using the same level of care that Calpine would use if preparing the SQMD for its own account as an LSE, however, Calpine hereby disclaims in advance that any representation is made or intended that the SQMD is necessarily complete, or free from error.

4. FEES FOR STANDARD DATA MANAGER SERVICE

- (a) For the period April 1, 2018 to April 30, 2019, the fee will be:
 - i. \$1.10 per meter per month up to 360,000 meters;
 - ii. \$1.00 per meter per month above 360,000 meters.
- (b) For the period May 1, 2019 to April 30, 2020, the fee will be \$1.05 per meter per month for all meters served.
- (c) Cancellation Fee: The Parties agree that the condition set forth in Section 7(a) of the Agreement has been satisfied and therefore the Cancellation Fee described in Section 7(a) of the Agreement shall no longer be applicable.
- (d) Without Full Call Center: In the event that MCE elects to remove full call center services (Section 3(d)) for any meter, the per meter per month fee shall be reduced by \$0.15 for that meter.

5. DESCRIPTION OF EXPANDED DATA MANAGER SERVICES

During the Operational Period, Calpine shall provide Expanded Data Manager Services as described below.

- (a) Letter templates. Calpine will save letter templates in CRM specified below as provided by MCE, and use commercially reasonable efforts to update additional templates upon request. At MCE's request, Parties will review letter templates during the monthly operational call.
 - i. Opt out confirmation emails
 - ii. Opt out confirmation letters
 - iii. Late payment letters
 - iv. Canned reports provided via CRM dashboard
- (b) Reports generation. Generate additional reports specified in the table below. For reports requiring customized programming, use commercially reasonable efforts to

provide requirements and estimated completion time to MCE within 5 business days, based on written parameters provided by MCE.

Report	Frequency	Delivery Method
Call center statistics required to evaluate performance against standards established in Sections 3(e).	Monthly	SFTP or Email
Overall participation rate by Town or Territory, including Light Green, Deep Green and Opt Out	Weekly & Monthly	SFTP or Email
Overall customer retention rate	Monthly	SFTP or Email
Call center statistics including call volume, call types, language selections, average call duration, hold times and customer survey results available from the IVR.	Monthly	SFTP or Email
Call center quality assurance reports (QAs) on call center representatives, using commercially reasonable efforts to perform at least 2 QAs per customer service representative per month and at least 4 QAs per month for low-performing customer service representatives.	Monthly	SFTP or Email
Analysis of call center activity including any significant changes, outliers or trends.	Monthly	SFTP or email
Update and make available an organizational chart of Calpine's CCA business on a quarterly basis to MCE. Notify MCE of changes to call center and MCE-facing Calpine staff within 2 business days.	Quarterly	SFPT or email
Customer count and consumption by customer rate class and TOT	Monthly	SFTP or email

- (c) Customer participation in programs. Identify and track customer participation in the following programs and make this information available via the CRM and reports: On-bill Repayment, Balanced Payment Plan, CARE, and Medical Baseline.
- (d) CRM reports and dashboard. Provide access to customer data via the CRM portal for routine reports and dashboards according to written parameters provided by MCE.

Provide tracking dashboard of customer activity, including new community enrollments, opt outs and Deep Green enrollments over time.

- (e) Storage of customer communication in CRM. Store in CRM letter correspondence, late payment notifications, Net Energy Metering cash-out notifications, enrollment notices, California Energy Commission power content labels, PG&E joint cost and power comparison mailers, Green-e mailers and other notifications related to CCA Services provided by MCE staff.
- (f) Supplemental CSR scripting. According to parameters provided by MCE, communicate the following to MCE CCA Service customers contacting the call center via inbound calls or inbound emails:
 - i. Invite CCA Service customers to sign up for MCE's community newsletter;
 - ii. Request and/or confirm mailing address, email address and phone number;
 - iii. Collect permission (via voice recording and email request) from customers to send electronic correspondence instead of printed mail.
- (g) IVR enhancements. Enable IVR system to inform CSRs of IVR selections made by customers prior to handling the call, including translation service language selections, when such IVR capability is made available to Calpine.
- (h) Update online forms. Calpine will use commercially reasonable efforts to implement updates to configurable text fields according to written parameters provided by MCE within 10 business days. In the event that platform, template or formatting constraints prevent Calpine from accurately and completely implementing MCE's mock-ups, designs, instructions or other requests, Calpine will inform MCE staff and, when possible, offer feasible alternatives. Calpine will coordinate with MCE and other CCAs to release new versions of the online forms, using commercially reasonable efforts to incorporate requested design updates beyond the scope of configurable text fields.
- (i) Ad hoc reports, mailing lists, and other ad hoc requests. Generate ad hoc reports, including, requests for data, Mass Enrollment ramp-on schedule of accounts by load profile by day, and mailing lists requested by MCE, using commercially reasonable efforts to provide within 10 business days of MCE's request. Parties will coordinate to ensure the business requirements for development of such reports and mailing lists are reasonably finalized to minimize revisions. Calpine will participate on calls as needed with MCE to discuss the Mass Enrollment ramp-on schedule.
- (j) Review of Summary Invoice Report. Calpine will use commercially reasonable efforts to perform a review of Invoice Summary Report data according to written parameters provided by MCE, including large or unusual credits and comparison of current versus historical customer usage, within 5 business days.
- (k) Town or Territory (TOT) validation. Calpine will use commercially reasonable efforts to validate TOT of addresses received from PG&E according to written parameters provided by MCE to ensure that the addresses are within MCE jurisdictions, within 10 business days.

- (l) Calpine will provide information related to significant planned system updates to applications that generate billing and SQMD data. Such information will include a general description of work and estimated timing, but in no way limit or obligate Calpine to implement such system updates. This information will be provided as a supplement to the Project List described in 3(f)(i) and be discussed during the monthly operational calls described in 3(f)(ii).

6. FEES FOR EXPANDED DATA MANAGER STANDARD SERVICE

- (a) \$0.00 (zero) per meter per month.

7. DATA SECURITY

- (a) Calpine and/or its employees, contractors, officers, agents or successors, shall comply with all applicable data security laws and regulations.
- (b) Maintain all customer data in compliance with MCE's customer privacy policy attached hereto as Exhibit B, the Non-Disclosure Agreement, attached hereto as Exhibit C, and the requirements of relevant CPUC Decisions including D.12-08-045, including a daily backup process.
- (c) Maintain NES Security Breach Policy attached hereto as Exhibit D and provide any updates to the Policy within 7 days, excluding changes to the Covered Information Users Lists.
- (d) Return of Customer Data. Upon MCE request which shall be made with reasonable notice, Calpine shall provide to MCE, or MCE's designee, all existing MCE Data used by Calpine for administration of MCE's customer information system. Calpine shall maintain, return, or (if so directed by MCE) subsequently destroy or delete all customer-related data in accordance with the provisions of the Non-Disclosure Agreement between the Parties and any other applicable confidentiality requirements, subject to the Parties' reasonable mutual agreement that the data identified for return, destruction or deletion are not necessary for Calpine's performance of continuing obligations under the Agreement and this Addendum.
- (e) Return of Data Generally.
 - i. At MCE's reasonable direction during the term of this Addendum and the Agreement, Calpine shall provide to MCE or its designee a copy of all or specified items of MCE Data. Parties will confer to determine the method and form of delivering such data.
 - ii. Upon termination or expiration of this Addendum and/or the Agreement for any reason, Calpine shall provide to MCE or its designee all MCE data, whether in written, electronic or other form or media, and at MCE's written request, shall securely dispose of all copies of MCE data. Calpine shall thereafter certify in

writing to MCE that all such data has been returned to MCE and/or disposed of securely.

- iii. MCE reserves the right to request return and/or destruction of specified items of data during the term of this Addendum and the Agreement, subject to the Parties' reasonable mutual agreement that the data in question are no longer necessary for Calpine's performance of its obligations under this Addendum and Agreement.

- (f) In the event of any detected breach of data security or unauthorized access concerning any data, particularly data that includes personal information, in accordance with applicable MCE and NES privacy and data security policies, Calpine shall immediately notify MCE of any breach or unauthorized access, and shall assist and cooperate in investigating security breaches and obtaining the return of any misappropriated data and other appropriate remedies.

8. THIRD-PARTY AUDIT REQUIREMENT

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

9. REMEDIES FOR FAILURE TO MEET CERTAIN PERFORMANCE STANDARDS

The Parties acknowledge that Calpine's failure to achieve substantial compliance with the performance standards and reporting thereon as specified in Section 3(c)(i), 3(d), 3(e), 3(h), 3(i), 3(j) and 3(k) of this Addendum may cause MCE to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by MCE of actual damages, including increased opt-out rates, reputational harm and customer dissatisfaction, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages, Calpine agrees that liquidated damages may be assessed and recovered by MCE against Calpine, in the event of a failure to substantially meet these performance standards. For any month in which MCE believes Calpine has failed to substantially meet these performance standards, MCE will provide notification to Calpine within 30 calendar days describing the performance standard(s) that have not been met, and Parties shall then confer to establish a plan to remedy such failure. In the event Calpine is unable to achieve such remedy within 30 calendar days of notification, Calpine shall be liable to MCE for payment of liquidated damages in an amount of Ten Thousand Dollars (\$10,000) for each month that Calpine fails to substantially meet these performance standards. The foregoing liquidated damages payment shall be limited to \$10,000 regardless of how many performance standards are not met in any given month. The liquidated damages payment shall not apply to any performance standard that is of a subjective nature. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Calpine shall pay them to MCE without limiting MCE's right to terminate this agreement for default as provided elsewhere herein.

10. PRIMARY POINTS OF CONTACT

Calpine shall provide a primary point of contact for each of the following areas: (1) day-to-day billing issues and customer contact including call center interactions; (2) call center operations, including reporting, staffing, training and scripting; (3) other services provided in this Addendum; (4) services not included in this Addendum and general client relationship issues. For email communication related to (1), (2) and (3) above, MCE shall copy distribution lists provided by Calpine.

MCE shall provide a primary point of contact for each of the following areas: (1) day-to-day billing issues and customer contact including call center interactions; (2) call center operations, including reporting, staffing, training and scripting; (3) other services provided in this Addendum; (4) services not included in this Addendum and general client relationship issues. For email communication related to (1), (2) and (3) above, Calpine shall copy distribution lists provided by MCE.

Each Party's points of contact shall coordinate to ensure that all concurrently active requests and issues are managed in accordance with MCE priorities and availability of Calpine resources.

11. PRICING ASSUMPTIONS

The Fees defined herein include only the services and items expressly set forth in this Addendum. Unless otherwise agreed to by the Parties in an Addendum any additional deliverable provided by Calpine to MCE shall be billed at a labor rate of \$150.00 per hour plus any out-of-pocket costs incurred by Calpine without mark-up. Any such additional deliverable shall be first agreed to by the parties in writing.

12. NOTICES

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

Contract Manager: MCE; Attn.: Contracts Manager

MCE Address: 1125 Tamalpais Ave.

San Rafael, CA 94901

Telephone No.: (415) 464-6014

Notices shall be given to Contractor at the following address:

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

MCE Address: 401 West A Street, Suite 500

San Diego, CA 92101

Telephone No.: (619) 684-8039

CALPINE ENERGY SOLUTIONS LLC

By: _____

Title: _____

MARIN CLEAN ENERGY

By: _____

Title: CEO

EXHIBIT A
SQMD FILE FORMAT

MSID	CHANNEL	DATE	TIME	VALUE	UOM	INTERVAL	STATUS	DSTFLAG
DLAPPGAECEMA	1	7/5/2016	1:00	166142.91		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	2:00	158283.85		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	3:00	154308.47		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	4:00	154986.61		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	5:00	165740.17		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	6:00	179283.38		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	7:00	198290.61		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	8:00	219064.05		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	9:00	235368.46		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	10:00	252892.78		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	11:00	261556.77		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	12:00	269797.33		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	13:00	280590.65		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	14:00	285723.76		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	15:00	289473.61		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	16:00	287389.49		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	17:00	284107.65		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	18:00	273247.76		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	19:00	264205.29		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	20:00	256793.6		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	21:00	246886.26		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	22:00	221105.66		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	23:00	196823.32		1	60 A	N
DLAPPGAECEMA	1	7/5/2016	24:00:00	177423.61		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	1:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	2:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	3:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	4:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	5:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	6:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	7:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	8:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	9:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	10:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	11:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	12:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	13:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	14:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	15:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	16:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	17:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	18:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	19:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	20:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	21:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	22:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	23:00	0		1	60 A	N
DLAPPGAECEMA	4	7/5/2016	24:00:00	0		1	60 A	N



EXHIBIT B

POLICY NO. 001 – CUSTOMER CONFIDENTIALITY

MCE will maintain the confidentiality of individual customers' names, service addresses, billing addresses, telephone numbers, account numbers, and electricity consumption, except where reasonably necessary to conduct MCE's business or to provide services to customers, including but not limited to where such disclosure is necessary to (a) comply with the law or regulations; (b) enable MCE to provide service to its customers; (c) collect unpaid bills; (d) obtain and provide credit reporting information; or (e) resolve customer disputes or inquiries. MCE will not disclose customer information for telemarketing, e-mail, or direct mail solicitation. Aggregate data may be released at MCE's discretion. MCE will handle customer energy usage information in a manner that is fully compliant with the California Public Utility Commission's required privacy protections for customers of Community Choice Aggregators defined in Decision 12-08-045.

EXHIBIT C

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement ("Agreement") is entered into by and between Marin Clean Energy ("MCE") and Noble Americas Energy Solutions LLC ("Contractor") as of March 15, 2010 ("Effective Date"). As used herein MCE and Contractor may each be referred to individually as a "Party" and collectively as "Parties." The provisions of this Agreement and MCE Policy 001 (Customer Confidentiality) govern the disclosure of MCE's confidential customer information to Contractor ("Disclosure Provisions"). The Parties hereby mutually agree that:

1. Subject to the terms and conditions of this Agreement, current proprietary and confidential information of MCE regarding customers of MCE ("MCE Customers") may be disclosed to Contractor from time to time in connection herewith as provided by the Disclosure Provisions and solely for the purposes set forth on Schedule A. Such disclosure is subject to the following legal continuing representations and warranties by Contractor:
 - (a) Contractor represents and warrants that it has all necessary authority to enter into this Agreement, and that it is a binding enforceable Agreement according to its terms;
 - (b) Contractor represents and warrants that the authorized representative(s) executing this Agreement is authorized to execute this Agreement on behalf of the Contractor; and
 - (c) Contractor confirms its understanding that the information of MCE Customers is of a highly sensitive confidential and proprietary nature, and that such information will be used as contemplated under the Disclosure Provisions solely for the purposes set forth on Schedule A and that any other use of the information is prohibited.
 - (d) Contractor represents and warrants that it will implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure, and prohibits the use of the data for purposes not set forth on Schedule A.
2. The confidential and proprietary information disclosed to Contractor in connection herewith may include, without limitation, the following information about MCE Customers: (a) names; (b) addresses; (c) telephone numbers; (d) service agreement numbers; (e) meter and other identification numbers; (f) MCE-designated account numbers; (g) meter numbers; (h) electricity and gas usage (including monthly usage, monthly maximum demand, electrical or gas consumption as defined in Public Utilities Code Section 8380, HP load, and other data detailing electricity or gas needs and patterns of usage); (i) billing information (including rate schedule, baseline zone, CARE participation, end use

code (heat source) service voltage, medical baseline, meter cycle, bill cycle, balanced payment plan and other plans); (j) payment / deposit status; (k) number of units; and (l) other similar information specific to MCE Customers individually or in the aggregate (collectively, "Confidential Information"). Confidential Information shall also include specifically any copies, drafts, revisions, analyses, summaries, extracts, memoranda, reports and other materials prepared by Contractor or its representatives that are derived from or based on Confidential Information disclosed by MCE, regardless of the form of media in which it is prepared, recorded or retained.

3. Except for electric and gas usage information provided to Contractor pursuant to this Agreement, Confidential Information does not include information that Contractor proves (a) was properly in the possession of Contractor at the time of disclosure; (b) is or becomes publicly known through no fault of Contractor, its employees or representatives; or (c) was independently developed by Contractor, its employees or representatives without access to any Confidential Information.
4. From the Effective Date, no portion of the Confidential Information may be disclosed, disseminated or appropriated by Contractor, or used for any purpose other than the purposes set forth on Schedule A.
5. Contractor shall, at all times and in perpetuity, keep the Confidential Information in the strictest confidence and shall take all reasonable measures to prevent unauthorized or improper disclosure or use of Confidential Information. Contractor shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure and prohibits the use of the data for purposes not set forth on Schedule A. Specifically, Contractor shall restrict access to Confidential Information, and to materials prepared in connection therewith, to those employees or representatives of Contractor who have a "need to know" such Confidential Information in the course of their duties with respect to the Contractor program and who agree to be bound by the nondisclosure and confidentiality obligations of this Agreement. Prior to disclosing any Confidential Information to its employees or representatives, Contractor shall require such employees or representatives to whom Confidential Information is to be disclosed to review this Agreement and to agree to be bound by the terms of this Agreement.
6. Contractor shall be liable for the actions of, or any disclosure or use by, its employees or representatives contrary to this Agreement; however, such liability shall not limit or prevent any actions by MCE directly against such employees or representatives for improper disclosure and/or use. In no event shall Contractor or its employees or representatives take any actions related to Confidential Information that are inconsistent with holding Confidential Information in strict confidence. Contractor shall immediately notify MCE in writing if it becomes aware of the possibility of any misuse or misappropriation of the Confidential Information by Contractor or any of its employees or representatives. However,

nothing in this Agreement shall obligate the MCE to monitor or enforce the Contractor's compliance with the terms of this Agreement.

7. Contractor shall comply with the consumer protections concerning subsequent disclosure and use set forth in Attachment B to CPUC Decision No. 12-08-045.
8. Contractor acknowledges that disclosure or misappropriation of any Confidential Information could cause irreparable harm to MCE and/or MCE Customers, the amount of which may be difficult to assess. Accordingly, Contractor hereby confirms that the MCE shall be entitled to apply to a court of competent jurisdiction or the California Public Utilities Commission for an injunction, specific performance or such other relief (without posting bond) as may be appropriate in the event of improper disclosure or misuse of its Confidential Information by Contractor or its employees or representatives. Such right shall, however, be construed to be in addition to any other remedies available to the MCE, in law or equity.
9. In addition to all other remedies, Contractor shall indemnify and hold harmless MCE, its officers, employees, or agents from and against all claims, actions, suits, liabilities, damages, losses, expenses and costs (including reasonable attorneys' fees, costs and disbursements) attributable to actions or non-actions of Contractor and/or its employees and/or its representatives in connection with the use or disclosure of Confidential Information.
10. When Contractor fully performs the purposes set forth on Schedule A, or if at any time Contractor ceases performance or MCE requires Contractor cease performance of the purposes set forth on Schedule A, Contractor shall promptly return or destroy (with written notice to MCE itemizing the materials destroyed) all Confidential Information then in its possession at the request of MCE. Notwithstanding the foregoing, the nondisclosure obligations of this Agreement shall survive any termination of this Agreement.
11. This Agreement shall be binding on and inure to the benefit of the successors and permitted assigns of the Parties hereto. This Agreement shall not be assigned, however, without the prior written consent of the non-assigning Party, which consent may be withheld due to the confidential nature of the information, data and materials covered.
12. This Agreement sets forth the entire understanding of the Parties with respect to the subject matter hereof, and supersedes all prior discussions, negotiations, understandings, communications, correspondence and representations, whether oral or written. This Agreement shall not be amended, modified or waived except by an instrument in writing, signed by both Parties, and, specifically, shall not be modified or waived by course of performance, course of dealing or usage of trade. Any waiver of a right under this Agreement shall be in writing, but no such writing shall be deemed a subsequent waiver of that right, or any other right or remedy.

13. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without reference to its principles on conflicts of laws.

IN WITNESS WHEREOF, the authorized representatives of the Parties have executed this Agreement as of the Effective Date.

MARIN CLEAN ENERGY



BY: Dawn Weisz

TITLE: Executive Officer

CONTRACTOR



BY: DRAKE WELCH

TITLE: VICE PRESIDENT-CUSTOMER CARE

**SCHEDULE A
CONTRACTOR PURPOSES**

Contractor shall provide data management services.

EXHIBIT D

Noble Americas Energy Solutions

Covered Information Security Breach Policy and Procedure as Agent for Community Choice Aggregators

Updated September 29, 2016

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Introduction

Scope

This document outlines the Procedure for detecting and reporting security breaches that impact Community Choice Aggregation (“CCA”) clients, such as Marin Clean Energy (“MCE”) with regards to their customers’ Covered Information.

The Procedure applies to the below listed activities, which constitute a Security Breach(es) of Covered Information:

- 1) Unauthorized access
- 2) Unauthorized destruction
- 3) Unauthorized use
- 4) Unauthorized modification
- 5) Disclosure to third parties for Secondary Purposes (see below)

The aforementioned activities pertain to residential and small commercial usage data at the service account level (“Covered Information”).

Aggregated usage data that cannot be used to identify an individual account falls outside the scope and is not Covered Information.

Related Documents

Attachment 1	Covered Information Users List (Revenue Manager)
Attachment 2	Covered Information Users List (Microsoft Dynamics CRM)
Attachment 3	MEA Privacy Policy

Terms and Definitions

Covered Entity	A “covered entity” is (1) and Community Choice Aggregator or Electrical Service Provider (when providing service to residential or small commercial customers), or any third party that provides services to a Community Choice Aggregator or Electrical Service Provider (when providing service to residential or small commercial customers) under contract, (2) any third party who accesses, collects, stores, uses or discloses covered information pursuant to an order of the Commission, unless specifically exempted, who obtains this information from an electrical corporation, a Community Choice Aggregator or an Electrical Service Provider (when providing service to residential or small commercial customers) or (3) any third party, when authorized by the customer, that accesses, collects, stores, uses, or discloses covered information from an
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electrical corporation, a Community Choice Aggregator or an Electrical Service Provider (when providing service to residential or small commercial customers).

Covered Information	“Covered information” is any usage information obtained through the use of the capabilities of Advanced Metering Infrastructure when associated with any information that can reasonable be used to identify an individual, family, household, residence, or non-residential customer, except that covered information does not include information from which identifying information has been removed such that an individual, family, household, or residence, or non-residential customer cannot reasonable be identified or re-identified. Covered information, however, does not include information provided to the Commission pursuant to its oversight responsibilities.
Primary Purposes	The “primary purposes” for the collection, storage, use or disclosure or covered information are to: <ul style="list-style-type: none"> (1) Provide or bill electrical power or gas, (2) Provide for system, grid, or operational needs, (3) Provide services as required by state or federal law or as specifically authorized by an order of the Commission, or as part of a Commission authorized program conducted by a governmental entity under the supervision of the Commission.
Secondary Purpose	“Secondary purpose” means any purpose that is not a primary purpose.
Non-Covered Entity	“Non-Covered Entity means any entity not defined as a Covered Entity
Revenue Manager	Nexant RevenueManager® is a fully integrated, customer care, billing, and contract management software platform for retail energy markets. Billing agents can support multiple commodities through the entire customer lifecycle—from prospecting, to customer acquisition, customer service, and billing—in residential, commercial, and industrial markets.
CRM	Microsoft Dynamics CRM is a customer relationship management solution that helps companies improve marketing, sales, and service engagement with their customers to drive organizational efficiency, while helping to improve customer experience.

Responsible Parties

Noble CCA Team	CCA Operations, CCA Services
AnswerNet CSR	Customer Service Representatives, Supervisors
Application Support	System Administrators
Noble IT Operations	Noble Americas Energy Solutions IT Support Organization
CCA	Community Choice Aggregator Staff and Third Parties contracted by CCA

Procedure

(1) Detecting and Reporting of Security Breaches

- a. All Responsible Parties are required to protect Covered Information from unauthorized access, unauthorized destruction, unauthorized use, unauthorized modification, or disclosure to non-Covered Entities for Secondary Purposes.
- b. Any requests by non-Covered Entities, for access to CCA's customer usage data must be reviewed and approved by a manager level Noble Americas Energy Solutions employee or higher to ensure no inadvertent release of Covered Information.
- c. All authorized releases of Covered Information to non-Covered Entities shall be logged and reported to affected CCA on an annual basis for CCA's reporting purposes.
- d. Any discovery of a security breach of Covered Information must be reported to the affected CCA within one (1) week of detection.
- e. Any Security Breach affecting 1,000 or more accounts associated with the same CCA must also be reported to the California Public Utilities Commission's Executive Director.

(2) Security Breach Handling Procedure

- a. The discovering party, after receiving complaint/notification email from an external source, or having detected/discovered any Security Breaches of Covered Information contained in Revenue Manager, must contact the Noble Americas Energy Solutions CCA Operations Manager immediately. If the CCA Operations Manager is unavailable, the discovering party must notify the Vice President of Customer Care.
- b. The CCA Operations Manager will quantify and validate the type and extent of the Security Breach(es) and report to the affected CCA in writing. The report will contain enough information, if available, for the affected CCA to quantify the extent and the impact of the Security Breach and will identify a contact at Noble Americas Energy Solutions that will be responsible as primary contact for the CCA in regards to the Security Breach(es).
 - i. A Security Breach(es) that affects 1,000 or more accounts are to be reported in writing to the California Public Utilities Commission's Executive Director in addition to the affected CCA.
- c. Within sixty (60) days of the end of a calendar year, the CCA Operations Manager will review all annual discoveries of a Security Breach(es) of Covered Information and prepare a summary report to the CCA.

(3) Review of the Covered Information Security Breach Policy and Procedure as Agent for Community Choice Aggregators

- a. At least annually, the CCA Operations Manager will review the Covered Information Security Breach Policy and Procedure as Agent for Community Choice Aggregators

documentation to update the material for any changes, revisions or modifications based on experience(s). This includes reviewing and updating Attachment 1 and confirming that the policy documentation has the most current version of Attachment 2.

- b. Any proposed changes to the Covered Information Security Breach Policy and Procedure as Agent for Community Choice Aggregators documentation shall be reviewed and approved by the Vice President, Customer Care.

Attachment 1

Covered Information Users List (Revenue Manager)

<u>Noble Application Support</u>	<u>Noble CCA Team</u>	<u>Noble Settlements</u>	<u>Auditor</u>
Afam Egbochuku	Amber Olinghouse	Frederick Siegrist	Cathy Preisendorfer
Joby Paradiso-Francis	Andrew Fry	Richa Saxena	
Josh Rice	Anh Pham		
Juliana Lambert	Calvin Nguyen		
Krishna Kussalanant	Evan Vuong		
Megan Reiger	Flora Wai		
Pol Sandro-Yepes	Garon Deffley		
Sam Schmidt	Hugh Gerdes		
	Jennifer Harris		
	Krystal Villanueva		
	Matthew Davis		
	Matthew Laverdure		
	Michael Estes		
	Paul Soco		
	Paula White		
	Peter Sneathen		
	Robert Clay		
	Roberta Melgarejo		
	Slater Lee		
	Zack Guttroff		

Attachment 2

Covered Information Users List (CRM)

<u>MCE</u>	<u>Noble</u>	<u>AnswerNet</u>
Alex DiGiorgio	Amber Olinghouse	Brenda D'Arrigo
Alexandra McGee	Andrew Fry	Chris Williams
Alice Stover	Calvin Nguyen	Isabel Alcala
Allen Chiu	Evan Vuong	Julie Perez
Beckie Menten	Hugh Gerdes	Karen White
Ben Choi	Jennifer Harris	Kimberly Williams
Chris Kubik	Krishna Kussalanant	Leila Peoples
Daniel Genter	Krystal Villanueva	Mariah Dutra
David McNeil	Michael Estes	Ray Crow
Jamie Tuckey	Paul Soco	Samica Anderson
Jenna Famular	Paul Wyles	Syna Chham
JR Killigrew	Paula White	
Justin Kudo	Pol Sandro-Yepes	
Justine Parmelee	Robert Clay	
Katie Elliot	Roberta Melgarejo	
Leah Thompson	Sam Schmidt	
Meaghan Doran	Tony Choi	
Miles Maurino		
Noel Voskuil		
Rafael Silberblatt		
Rebecca Boyles		

Attachment 3

Email, Opt Out Notice, and bill message tagline:

MCE is committed to protecting customers and their privacy.

Learn more at www.mceCleanEnergy.org/privacy.

Privacy Policy:

MCE is committed to protecting your privacy

POLICY NO. 001 – CUSTOMER CONFIDENTIALITY

MCE will maintain the confidentiality of individual customers' names, service addresses, billing addresses, telephone numbers, account numbers, and electricity consumption, except where reasonably necessary to conduct MCE's business or to provide services to customers, including but not limited to where such disclosure is necessary to (a) comply with the law or regulations; (b) enable MCE to provide service to its customers; (c) collect unpaid bills; (d) obtain and provide credit reporting information; or (e) resolve customer disputes or inquiries. MCE will not disclose customer information for telemarketing, e-mail, or direct mail solicitation. Aggregate data may be released at MCE's discretion. MCE will handle customer energy usage information in a manner that is fully compliant with the California Public Utility Commission's required privacy protections for customers of Community Choice Aggregators defined in Decision 12-08-045.

Notice of Accessing, Collecting, Storing, Using and Disclosing Energy Usage Information

MCE's Privacy Policy and Notice of Accessing, Collecting, Storing, Using and Disclosing Energy Usage Information applies to MCE, its employees, agents, contractors and affiliates, and is effective November 12, 2012. We treat all customer information as confidential, consistent with legal and regulatory requirements, and employ a combination of technology and standard practices to ensure your information is safeguarded from unauthorized access or exposure. To standardize some of the rules regarding customer privacy, the California Public Utilities Commission (CPUC) issued "Rules Regarding Privacy and Security Protections for Energy Usage Data". These rules prohibit MCE and other load-serving entities from releasing information that can reasonably be used to identify an individual customer, or a customer's family, household or residence, to a third party without the customer's written consent, except as is necessary for MCE to:

- Provide or bill for electrical power services;
- Provide services required by state or federal law or as specifically authorized by an order of the CPUC;
- Plan, implement or evaluate energy management, demand response or energy efficiency programs under contract with MCE or under contract with the CPUC;
- Provide personal information pursuant to a lawful warrant or court or law enforcement order, after prior notice to you unless such notice is prohibited by law; or

- Provide personal information to emergency responders in situations involving an imminent threat to life or property. Below is a series of Frequently Asked Questions describing how MCE uses and protects the information we collect about our customers.

What categories of information does MCE collect?

We collect customer information, such as your electric usage, name, address, and account number, based on your use of electric services and your decision to participate in programs we offer such as those related to energy efficiency.

How is the information collected?

PG&E provides customer information to MCE. When you use electricity service, usage data is collected via PG&E's metering systems (including the SmartMeter system).

How is the information used?

We use customer information to administer your account and inform you about your energy usage, as well as to manage, provide, and improve our services and business operations including data management and customer service.

We use this information to generate the MCE charges on your customer billing statement; and communicate with you about specific programs or opportunities offered by MCE that may help you to lower your energy usage or realize other benefits.

We may also aggregate data about your electric usage in various formats so that the data becomes anonymous and cannot be identified personally with you. For instance, aggregated data could be a summary of total energy usage for all homes and businesses in a certain geographic area or climate. Aggregated data is not subject to privacy restrictions and is used by us to manage, provide, and improve our services and business operations.

Does MCE disclose my information to third parties?

- MCE may share customer data with contractors and vendors for purposes of providing you services and operating our programs. In these cases, we require that the contractors or vendors agree to only use customer data for program operational purposes and to protect it under the same confidentiality and privacy standards that we apply to our own employees and operations. MCE does not release personal customer information for any other reason without your prior written consent, except as described below. MCE does not sell or provide personal customer information to third parties for their commercial benefit. MCE may release personal information without your prior written consent as follows: To law enforcement officers, pursuant to legal process (such as a warrant or subpoena approved by a judge);

- To contractors providing utility-related services on behalf of MCE—but only to the extent necessary to render the service and subject to confidentiality and security obligations;
- To the CPUC (or other governmental agencies with jurisdiction over PG&E) when they require such information;
- To others as required by court order or by applicable laws, rules, or regulations governing PG&E;
- To credit reporting agencies and collection agencies if your account is assigned for collection; and
- To emergency responders in situations of imminent threat to life or property.

How long does MCE keep customer information?

MCE maintains customer-specific energy usage and billing information for only as long as is reasonably necessary, typically not more than five years unless otherwise necessitated by law or regulation. As a general policy, we collect and retain personal information in minimal quantities and for limited periods of time such that are reasonably necessary to provide electric services to you. **How will I know about changes to this Privacy Policy and how can I obtain prior versions?**

We will notify you annually with an on-bill message to guide you to the most updated version of this Privacy Policy, made available on our website. Between these notification periods, we will also notify you of any changes to this Privacy Policy through communications on our website, www.mceCleanEnergy.org, including how to obtain prior versions of this Privacy Policy upon request.

Who do I contact if I have privacy questions, concerns, or complaints regarding the collection, storage, use or distribution of my information?

If you have questions, concerns, or would like to view your disclosed information, please contact Justin Kudo, Manager of Account Services at:

jkudo@mceCleanEnergy.com
(415) 464-6010

Justin Kudo
1125 Tamalpais Avenue
San Rafael, CA 94901

MASTER PROFESSIONAL SERVICES AGREEMENT

This Master Professional Services Agreement ("Agreement") is entered into effective the fifth day of February 2010, by and between Semptra Energy Solutions LLC ("SES") and Marin Energy Authority ("MEA"). Each may be referred to individually as a "Party," and collectively as the "Parties."

WITNESSETH

WHEREAS, MEA is scheduled to begin providing Community Choice Aggregation Services Program (CCA Program) on or around May 7, 2010; and

WHEREAS, MEA has requested that SES perform the data management services described in the Addendum for Data Manager Services attached hereto and incorporated herein by this reference (the "Addendum"); and

WHEREAS, MEA will be purchasing electricity for the CCA Program from Shell Energy North America ("Supplier").

NOW, THEREFORE, for and in consideration of the mutual benefits, obligations, covenants, and consideration, the receipt and sufficiency of which are hereby acknowledged, SES and MEA hereby agree as follows:

1. SERVICES. Subject to the terms and conditions of this Agreement and during the term of this Agreement, SES shall provide to MEA, the services described in the Addendum (the "Services"). From time to time the parties may add new addenda, which upon execution by both parties, shall be subject to the terms and conditions of this Agreement.

2. CONDITIONS TO SES PERFORMANCE.

(a) Information and Assistance. MEA shall provide SES with information and reasonable assistance so that SES can effectively provide the Services. To the extent that MEA delays in providing SES with the requested information or assistance, SES shall be excused from timely providing the affected Services.

(b) Notification. MEA shall notify all other relevant parties of the existence of this Agreement and SES role as contemplated in this Agreement, as necessary. MEA will execute the necessary agreements or other documents with other relevant parties to permit SES to provide the Services contemplated in this Agreement.

(c) CCA Completion. The following are conditions precedent to SES' performance under this Agreement:

(1) An executed CCA Service Agreement in the form approved by the LDC shall be submitted to the California Public Commission ("CPUC");

(2) MEA shall satisfy LDC's credit-worthiness requirements set forth in the LDC tariffs; and

(3) MEA shall be registered with the CPUC as a CCA and shall have filed a CCA implementation Plan with the CPUC.

3. FEES AND BILLING.

(a) Fees. MEA shall pay all fees due in accordance with the Addendum.

(b) Billing and Payment Terms. Unless otherwise indicated in the applicable Addendum, SES shall invoice MEA monthly for all fees related to Services performed during the previous month. Payment of fees shall be due within thirty (30) days after the date of invoice. All payments must be made in U.S. dollars. Late payments hereunder shall accrue interest at the lower of the rate of one percent (1%) per month, or the highest rate allowed by law.

(c) Taxes. Payments due to SES under this Agreement shall be net of all sales, value-added, use or other taxes and obligations.

4. REPRESENTATIONS AND WARRANTIES. On the Effective Date and the date of entering into each Addendum, each Party represents and warrants to the other Party that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement and each Addendum; (iii) the execution, delivery and performance of this Agreement and each Addendum are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it; (iv) this Agreement, each Addendum, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; and (v) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt.

5. INDEMNIFICATION. Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of the negligence, gross negligence or willful misconduct of the Party subject to the limitations of liability set forth in Section 9 of this Agreement. "Claims" means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.

6. TERM. Unless earlier terminated pursuant to the terms of Section 7, the term of this Agreement shall be the Effective Period described in the Addendum.

7. TERMINATION.

(a) Early Termination Due to Cancellation of CCA program. If MEA determines on or before May 7, 2010, in its sole and absolute discretion, not to proceed with the CCA program, MEA may terminate this Agreement by giving written notice to SES as provided in Section 21 of this Agreement. In that event: (a) SES shall be entitled to keep any fees already paid; (b) MEA shall pay the Cancellation Fee set forth in Section 4 the Addendum; and (c) MEA shall pay any amounts owed, under Section 4 of the Addendum, but MEA shall have no obligation to pay any additional fees or costs.

(b) Termination for Default. Either Party may terminate this Agreement or the applicable Addendum if any one of the following events (each a "Default") occurs with respect to the other

Party: (i) with respect to MEA, MEA fails to pay amounts due hereunder and such failure continues for seven (7) business days after written notice from SES; (ii) default in the observance or performance by a Party of any of such Party's material covenants or agreements in this Agreement (other than a default in a payment obligation) and such default continues unremedied for twenty (20) Business Days after written notice is given to such Party failing to perform its covenants or agreements under this Agreement; or; (iii) either Party makes an assignment for the benefit of creditors (other than with regard to a collateral assignment to an entity providing financing to such Party) or files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or has such a petition filed against it or otherwise becomes bankrupt or insolvent (however evidenced) or is unable to pay its debts as they fall due.

(c) Effect of Termination. Upon the effective date of expiration or termination of this Agreement: (i) SES may immediately cease providing Services hereunder; and (b) any and all payment obligations of MEA under this Agreement will become due immediately.

8. DAMAGES ON TERMINATION FOR DEFAULT OF AGREEMENT. The parties agree that upon termination of this Agreement, their respective damages for any Default of this Agreement shall be as follows:

(a) For MEA Default. If this Agreement is terminated due to MEA Default, MEA shall pay to SES an amount equal to: (i) the Electricity Usage Fee and the Meter Fee each multiplied by their respective Contract Quantities for the remaining term of this Agreement, which are set forth in the addendum, less (ii) SES' costs of providing the Services over the remaining term of the Agreement, plus (iii) any amounts owed to SES but not paid for.

(b) For SES Default. If this Agreement is terminated due to SES Default, SES shall pay MEA an amount equal to:

(i) MEA's cost of funds incurred during any delay due to an SES billing error, which is agreed to be simple interest accruing at the prime interest rate as established by the Wall Street Journal on any amounts not accurately and timely billed during the "Default Period." The Default period shall commence on the latest date that the amount in question could have been paid to MEA without being delinquent, had the amount been accurately and timely billed. The Default Period shall end when all billing errors are corrected for the amount in question, and an accurate bill is delivered to the customer by the LDC; provided that such corrections are performed within a commercially reasonable amount of time. All such corrections shall be limited to the previous six months of billings.

(ii) MEA's incremental cost of obtaining replacement Services under similar terms and conditions, which shall be calculated as the positive difference, if any, by subtracting the Fees that would be due to SES for the remaining term of the Addendum from cost of replacement Services from a new service provider, provided that such amount shall not exceed the total amount due from Buyer to Seller under the Addendum.

9. EXCLUSIVE REMEDY. To avoid doubt, MEA's sole and exclusive remedy if MEA is not satisfied with SES's performance of Services or SES's failure to perform Services shall terminate this Agreement according to Section 8. Any damages associated with an SES Default shall be limited to recovery of damages as provided in Section 8. THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED HEREIN SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OR DEFAULT ARISING FROM ANY PROVISION FOR WHICH AN EXPRESS REMEDY IS PROVIDED

HEREIN, SUCH REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, LIABILITY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, SUCH DIRECT, ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS MAY BE INCLUDED IN AN EXPRESS REMEDY PROVIDED FOR HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING LOST PROFITS OR BUSINESS INTERRUPTION DAMAGES, WHETHER BASED ON STATUTE, CONTRACT, TORT, UNDER ANY INDEMNITY, INCLUDING ANY CLAIMS FOR MONETARY PENALTIES ASSESSED BY THE CAISO ASSOCIATED WITH SQMD REPORTING OR OTHERWISE, WITHOUT REGARD TO CAUSE OR THE NEGLIGENCE OF ANY PARTY, WHETHER SOLE, JOINT, ACTIVE OR PASSIVE, AND EACH PARTY HEREBY RELEASES THE OTHER PARTY FROM ANY SUCH LIABILITY, EVEN IF DURING THE TERM HEREOF IT ADVISES THE OTHER OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

10. FORCE MAJEURE. If a Party is rendered unable, by an event of Force Majeure, to carry out wholly or in part its obligations under this Agreement and if such Party gives notice and full particulars of such event of Force Majeure to the other Party promptly after the occurrence of the event relied on, then the obligations of the Party affected by such event of Force Majeure, other than the obligation to make payments then due or becoming due hereunder, shall be suspended from the inception and throughout the period of continuance of any such inability so caused, but for no longer period, and the affected Party shall use commercially reasonable efforts to remedy the event of Force Majeure with all reasonable dispatch. The term "Force Majeure" shall mean an event that is beyond the control of the Party affected including but not limited to flood, earthquake, tornado, storm, fire, lightning, epidemic, war, riots, civil disturbance or disobedience, labor dispute, material shortage, sabotage, terrorist activity, restraint by court order or public authority, and action or non-action by or inability to obtain the necessary authorization or approvals from any governmental agency or authority, which by exercise of due diligence such Party has been unable to overcome. Force Majeure shall not include economic hardship or unscheduled outage of equipment or imminent breakage of equipment or other imminent property damage for any reason.

11. RELATIONSHIP OF PARTIES. SES and MEA are independent contractors and this Agreement will not establish any relationship or partnership, joint venture, employment, franchise, or agency between SES and MEA. Neither SES nor MEA will have the power to bind the other or incur obligations on the other's behalf with the other's prior written consent, except as otherwise expressly provided for herein.

12. ASSIGNMENT OF RIGHTS. Neither Party shall assign any of its rights or delegate any of its responsibilities hereunder without first obtaining the consent of the other Party except it may be assigned or transferred without such consent: (i) by either Party to a successor acquiring all or substantially all of the shares and/or the assets of the transferring Party, whether by merger or acquisition, (ii) by either Party to any wholly-owned Affiliate. Any such request shall be made in writing and the consent, if any, shall be made in writing. Any transfer in violation of this provision shall be void.

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

14. CONFIDENTIALITY. This Agreement and all information shared between the Parties regarding this Agreement and the Services to be provided hereunder (e.g., reports, etc.) is strictly confidential and shall not be disclosed by a Party (except to such Party's Affiliates, employees, lenders, counsel and other advisors, permitted assignees, or prospective purchasers who have agreed to treat such information as confidential) without the prior written consent of the other Party, except (i) as required by Law and (ii) MEA may share all such data with Supplier. In addition, SES shall comply with the requirements of the customer information confidentiality policy adopted by MEA. The Parties agree that damages would be an inadequate remedy for breach of this provision and that either Party shall be entitled to equitable relief in connection herewith, provided that any damages shall be limited to actual damages as provided herein.

15. COMPLIANCE WITH LAW. Each party shall be responsible for compliance with all laws or regulations applicable to the Services being provided under this Agreement. If either Party's activities hereunder become subject to law or regulation of any kind, which renders the activity illegal, unenforceable, or which imposes additional costs on such Party for which the Parties cannot mutually agree upon an acceptable price modification, then such Party shall at such time have the right to terminate this Agreement upon written notice to the other Party with respect to the illegal, unenforceable, or uneconomic provisions only, the remaining provisions will remain in full force and effect. Any such termination shall not constitute a Default as defined in Section 7, above.

16. CHOICE OF LAW. This Agreement, and the rights and duties of the Parties arising hereunder, shall be governed by and construed in accordance with the laws of the State of California, without giving effect to any choice of law rules that may require the application of the laws of another jurisdiction.

17. INTEGRATION. This Agreement contains the complete understanding between the Parties, supersedes all previous discussions, communications, writings and agreements related to the subject matter of this Agreement, and, except to the extent otherwise provided for herein, may not be amended, modified or supplemented except in a writing signed by both Parties.

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

19. ATTORNEY'S FEES. In the event that an action, suit or other proceeding is brought to enforce or interpret this Agreement or any part hereof or the rights or obligations of any Party to this Agreement, the prevailing Party will be entitled to recover from the other Party reasonable attorneys' fees and direct out-of-pocket costs and disbursements associated with the dispute that are incurred by the prevailing Party.

20. GOVERNMENTAL ENTITY. MEA shall not claim immunity on the grounds of sovereignty or similar grounds from enforcement of this Agreement. Except as provided in Section 7(a) above, MEA's failure to obtain any necessary budgetary approvals, appropriations, or funding for its obligations under this Agreement shall not excuse MEA's performance hereunder.

21. NOTICES. All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of service, if served personally on the person to whom notice is to be given, (ii) on the date of service if sent by telecopier, provided the original is concurrently sent by first class mail, and provided that notices received by telecopier after 5:00 p.m. shall be deemed given on the next business day, (iii) on the next business day after deposit with a recognized overnight delivery service, or (iv) on the third (3rd) day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

If to SES:

SEMPRA ENERGY SOLUTIONS LLC

401 West A Street, Suite 500
San Diego, CA 92101
Drake Welch
619-684-8360

With a copy to: SEMPRA ENERGY SOLUTIONS LLC
401 West A Street, Suite 500
San Diego, CA 92101
Legal Department
619-684-8350

If to MEA: MARIN ENERGY AUTHORITY
3501 Civic Center Drive, Room 308
San Rafael, CA 94903
Dawn Weisz
415-499-7880

With a Copy to: SUPPLIER
<ADDRESS>
<CITY, STATE AND ZIPCODE>
<CONTACT>
<FASCIMILE>

22. TIME. Time is of the essence of this Agreement and each and all of its provisions. The parties agree that the time for performance of any action permitted or required under this Agreement shall computed as if such action were "an act provided by law" within the meaning of California Civil Code §10, which provides: "The time in which any act provided by law to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded."

23. LIMITATIONS. Nothing contained in this Agreement shall in any way limit SES from marketing any of its products and services. SES agrees not to use any of the CCA data for its own marketing purposes.

24. THIRD PARTY BENEFICIARIES. The Parties agree that there are no third party beneficiaries to this Agreement either expressed or implied.

25. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MEA. MEA is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated December 19, 2008 and is a public entity separate from its constituent members. MEA shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. SES shall have no rights and shall not make any claims, take any actions or assert any remedies against any of MEA's constituent members in connection with this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed the Agreement as of the effective date provided herein.


Sempra Energy Solutions LLC

Marin Energy Authority

By: 
Name: _____
Title: _____

James M. Wood
President



By: 
Name: Damon Weiss
Title: Interim Director

For SES's Use Only

Trade Date
SES's ID

Addendum for Data Manager Services
Reference:
MASTER PROFESSIONAL SERVICES AGREEMENT
Between Sempra Energy Solutions LLC ("SES")
And ("")
As of ("Effective Date")
Addendum Date:

This Addendum ("Addendum") is made part of the Master Professional Services Agreement ("Master Agreement") referred to above.

1. **EFFECTIVE PERIOD** This Addendum and the Master Agreement shall be in full force and effect as of the date that the Addendum and Master Agreement are executed by both Parties through the end of the Operational Period. The Operational Period shall be from May 1, 2010 through April 30 2015.

2. **TECHNICAL TESTING**

(a) **SES Requirements.** SES shall complete the technical testing of all necessary electronic interfaces with the LDC, which provide for the communication by Internet and Electronic Data Interchange ("EDI") between SES and LDCs to confirm system compatibility related to CCA Service Requests ("CCASRs"), billing collections, meter reading and electricity usage data. SES shall demonstrate successful completion of all standard LDC technical testing and shall have the capability and signed agreements necessary to communicate or exchange the information using EDI, Internet or an electronic format acceptable to the LDC.

(b) **LDC Requirements.** The LDC will provide the Meter Data Management Agent services and will make the data accessible to SES on an MDMA server pursuant to the LDC standards.

3. **DESCRIPTION OF DATA MANAGER SERVICES** During the Operational Period SES shall provide the Data Manager Services listed below.

(a) **Electronic Data Exchange Services:**

- Receive CCASRs from the LDC which specify the changes to a CCA customer's choice of services such as customer initiated returns to bundled utility service or customer initiated returns to direct access service (814 Electronic Data Interchange Files).
- Obtain customer usage data from the LDC's MDMA server (867 Electronic Data Interchange Files).
- Communicate the amount to be billed by the LDC for services provided by the CCA (810 Electronic Data Interchange Files).
- Receive payment transactions toward CCA charges from the LDC after payment is received by the LDC from customers (820 Electronic Data Interchange Files).

(b) **Customer Information System:**

- Maintain a customer data base of all CCA Customers and identify each customer's enrollment status, payment and collection status.

(c) **Customer Call Center:**

- Staff a call center between the hours of 8 AM and 5 PM PPT Monday through Friday, excluding LDC holidays.
- Receive calls from CCA customers referred to SES by the LDC and receive calls from CCA customers choosing to contact SES directly without referral from the LDC.
- Provide a contact telephone number on the LDC invoice that would allow CCA customers to contact SES directly.

- Respond to telephone inquiries from CCA customers using a script developed by the CCA. For questions not addressed by the script, refer inquiries either back to the LDC or to the CCA.
- Respond to customer inquiries within an average of 24 hours. Inquiries would be received either through telephone calls, Internet Chat or email.

(d) Billing Administration:

- Maintain a table of rate schedules provided by the CCA
- Apply LDC account usage against applicable rate
- Review application of CCA rates to LDC accounts to ensure that the proper rates are applied to the accounts.
- Timely provide billing information to the LDC to meet the LDC billing window.
- Use commercially reasonable efforts to remedy billing errors in a timely manner, no more than two billing cycles.

(e) Reporting

- Daily and monthly report of billing information (usage, dollars, etc)
- Daily and monthly report of payment transactions received
- Weekly report of delinquent accounts
- Weekly report of exceptions (usage delayed, usage received but unbilled, usage gaps, etc)
- Weekly report of accounts added and dropped
- Monthly report of error rate
- Monthly report of billing timeliness
- Monthly report to MEA that indicate the number of Customer Call Center inquiries received, the average time required to respond to the inquiry, the percentage of issues resolved per inquiry

(f) Settlement Quality Meter Data

- SES shall provide MEA or MEA's designated Load Serving Entity ("LSE") with Settlement Quality Meter Data ("SQMD") as required from LSE's by the CAISO.
- Upon MEA's request, SES shall submit the SQMD directly to the CAISO on behalf of MEA or MEA's designated LSE.
- The parties shall work together and agree on an acceptable format for the SQMD.
- MEA agrees that SES shall have no responsibility for any charges or penalties assessed by the CAISO associated with the SQMD under an indemnity or otherwise.
- SES shall prepare the SQMD using the same level of care that SES would use if preparing the SQMD for its own account as an LSE, however, SES hereby disclaims in advance that any representation is made or intended that the SQMD is necessarily complete, or free from error.

4. FEES

4.1 Cancellation Fee. The Cancellation Fee described in 7(a) of the Agreement shall be \$125,000.00.

4.2 Electricity Usage Fee. Each month during the Operational Period MEA shall pay SES \$0.45/MWh for every MWh of metered usage of CCA customers.

4.3 Meter Fee. Each month during the Operational Period MEA shall pay SES \$1.75 for each CCA Customer meter enrolled in the CCA service.

5. PRICING ASSUMPTIONS

The Fees defined in Section 4 are based on the assumed Contract Quantities identified below. The parties acknowledge that a "material change" in such quantities may cause SES to incur additional costs to perform its obligations under this Agreement. A "material change" shall be at least a 20% deviation from the assumed Contract Quantities of either Number of Meters or Electricity usage in the aggregate across both PG&E and SCE service territories. In the event of material change in Contract Quantities, SES may adjust the fees in Section 4 as necessary to cover its additional costs.

Contract Quantities		
Term	Number of Meters – PG&E Territory	Electricity Usage (MWh/ month) – PG&E territory
	71,000	800,000

6. DEFINITIONS

"CCA Customer" means a customer enrolled in the MEA CCA Service.

"CCA Service" means Community Choice Aggregation Service which permits cities, counties or a joint powers agency whose governing boards have elected to acquire their electric power needs, hereinafter referred to as Community Choice Aggregators (CCA), to provide electric services to utility end-use customers located within their service area(s) as set forth in California Public Utilities Code Section 366.2 and other Commission directives.

"CCA Service Request ("CCASR")" means requests in a form approved by MEA's Local Utility to change a CCA's customer or utility customer's choice of services which could include returning a CCA's customer to bundled utility service or direct access service.

"LDC" means the relevant electric utility such as Pacific Gas & Electric or Southern California Edison as appropriate.

"Meter Data Management Agent (MDMA) Services" means reading the LDC's customers' meters, validating the meter reads, editing the meter reads if necessary and transferring the meter reading data to a server pursuant to MEA's LDC standards.

SEMPRA ENERGY SOLUTIONS LLC

By: 

Title: _____

James M. Wood
President



MARIN ENERGY AUTHORITY

By: 

Title: Intesim Director



March 15, 2018

TO: MCE Board of Directors

FROM: Justin Kudo, Deputy Director of Account Services

RE: New Residential Time-Of-Use Rate (Agenda Item #05)

Dear Board of Directors:

Summary

Effective once filed this March, PG&E has established the new rate “**E-TOU-C3 RESIDENTIAL TIME-OF-USE (PEAK PRICING 4 – 9 p.m. EVERY DAY)**” to serve customers on the upcoming PG&E default Residential Time-of-Use (TOU) pilot. This TOU rate, unlike the basic, flat residential rate, has higher usage charges during the “peak” period from 4:00 p.m. to 9:00 p.m. along with a discounted rate during all other times. These pricing signals are intended to encourage residential customers to reduce their usage during periods of peak statewide electricity usage. Customers selected for PG&E’s TOU pilot will be billed on the new rate starting in April 2018 unless they elect not to participate and remain with their current rate.

For MCE customers to participate in this pilot, MCE needs to establish a comparable TOU rate, with similar pricing signals for peak and off-peak periods as those provided by PG&E.

This rate was approved by the MCE Executive Committee at its March 2, 2018 meeting. The information provided below includes more current participation statistics made available by PG&E since that meeting, as well as revised rate figures provided by PG&E.

Background

To support statewide TOU efforts and better understand the impact of these rate changes on CCAs and their customers, MCE and Sonoma Clean Power have extended the pilot to 5% of their residential accounts. Approximately 10,000 MCE residential accounts were selected and notified by PG&E of the upcoming change to their rate schedule. Residential customers already on a time-of-use rate, in the current Contra Costa enrollment, or with a Medical Baseline Allowance were excluded from the pilot.

Initial outreach mailers began arriving in customer homes at the beginning of January, and continue monthly until enrollment in April. These mailers include both PG&E and MCE logos, along with some minor language adjustments requested by MCE; MCE staff suggested that the option for PG&E customers to “opt-out” of the pilot would be confusing for customers on CCA service. Mailers also include a sample comparison for customers of how they will perform on the pilot rate versus their current rate or other TOU rates, based on PG&E rates, with an acknowledgement that their own rates

may differ. Customers are also notified that they are generally eligible for Bill Protection for the first year, which refunds customers the difference should their costs with the new rate exceed what they would have paid on the basic rate.

As of February 28, 2018, 9.24% of MCE customers selected for the pilot declined to participate. Approximately 40% of these customers declined because they instead selected a different TOU rate. MCE's participation figures are similar to SCP's (9.15% decline rate), but are significantly lower than PG&E's total decline rate of 11.96%. Staff is working with PG&E to determine if this difference is due to the timing of mailers or other causes.

Proposed Rates

As of March 1, 2018, MCE's E-1 (basic residential) rate is \$0.00579/kWh less than PG&E's, resulting in a typical cost savings of about 2.5%. Staff recommends setting a rate for each E-TOU-C3 time-of-use period which is as close as reasonably possible to this cost savings. Proposed rates are as follows (using the most current PCIA and Franchise Fee vintage, for all usage below baseline):

E-1 BASIC RESIDENTIAL	GENERATION	NON-GEN	PCIA & FF	TOTAL RATE	VS. PGE RATE
MCE	\$0.06800	\$0.10389	\$0.03401	\$0.20590	\$0.00579
PG&E	\$0.10780	\$0.10389	n/a	\$0.21169	

E-TOU-C3 PILOT RATE	GENERATION	NON-GEN	PCIA & FF	TOTAL RATE	VS. PGE RATE
MCE					
- SUM. PEAK	\$0.12700	\$0.12343	\$0.03401	\$0.28444	\$0.00544
- SUM. OFF PK	\$0.06300	\$0.12343	\$0.03401	\$0.22044	\$0.00600
- WIN. PEAK	\$0.07000	\$0.09280	\$0.03401	\$0.19681	\$0.00598
- WIN. OFF PK	\$0.05300	\$0.09280	\$0.03401	\$0.17981	\$0.00565
PG&E					
- SUM. PEAK	\$0.16645	\$0.12343	n/a	\$0.28988	
- SUM. OFF PK	\$0.10301	\$0.12343	n/a	\$0.22644	
- WIN. PEAK	\$0.10999	\$0.09280	n/a	\$0.20279	
- WIN. OFF PK	\$0.09266	\$0.09280	n/a	\$0.18546	

Staff also requests that this rate be made retroactive to March 1. While staff is not aware of any customers yet on the E-TOU-C3 rate, customers may be eligible to actively switch to the rate as soon as the rate is published, before the pilot commences April 1, 2018. Making this rate retroactively effective March 1 limits potential challenges with billing these accounts correctly for their usage.

Rate Name

PG&E is currently describing the pilot rate by its full name of "E-TOU-C3 RESIDENTIAL TIME-OF-USE (PEAK PRICING 4 – 9 p.m. EVERY DAY)", but has indicated that this may be a placeholder for a more permanent rate description. To avoid customer confusion staff recommends initially establishing the rate as E-TOU-C3, but adjusting the name should it be changed in future PG&E filings.

Recommendation

Adopt the Residential Time-Of-Use generation rates set forth above, retroactive to March 1, 2018.



March 15, 2018

TO: MCE Board of Directors

FROM: Elizabeth Kelly, General Counsel

RE: Updating Procurement Authorities (Agenda Item #06)
a) Adopting Resolution No. 2018-03 Rescinding Resolution No. 2017-02 and Delegating Energy Procurement Authority
b) Adopting Resolution No. 2018-04 Designating the Chief Executive Officer as Purchasing Agent Pursuant to Government Code 25500 and Delegating Purchasing Agent Authority

ATTACHMENTS:

- A. Proposed Resolution No. 2018-03 Rescinding Resolution No. 2017-02 and Delegating Energy Procurement Authority
- B. Proposed Resolution No. 2018-04 Designating the Chief Executive Officer as Purchasing Agent Pursuant to Government Code 25500 and Delegating Purchasing Agent Authority
- C. Resolution No. 2017-02 Delegating Contracting Authorities
- D. Presentation Regarding Updating Procurement Authorities

Dear Board of Directors:

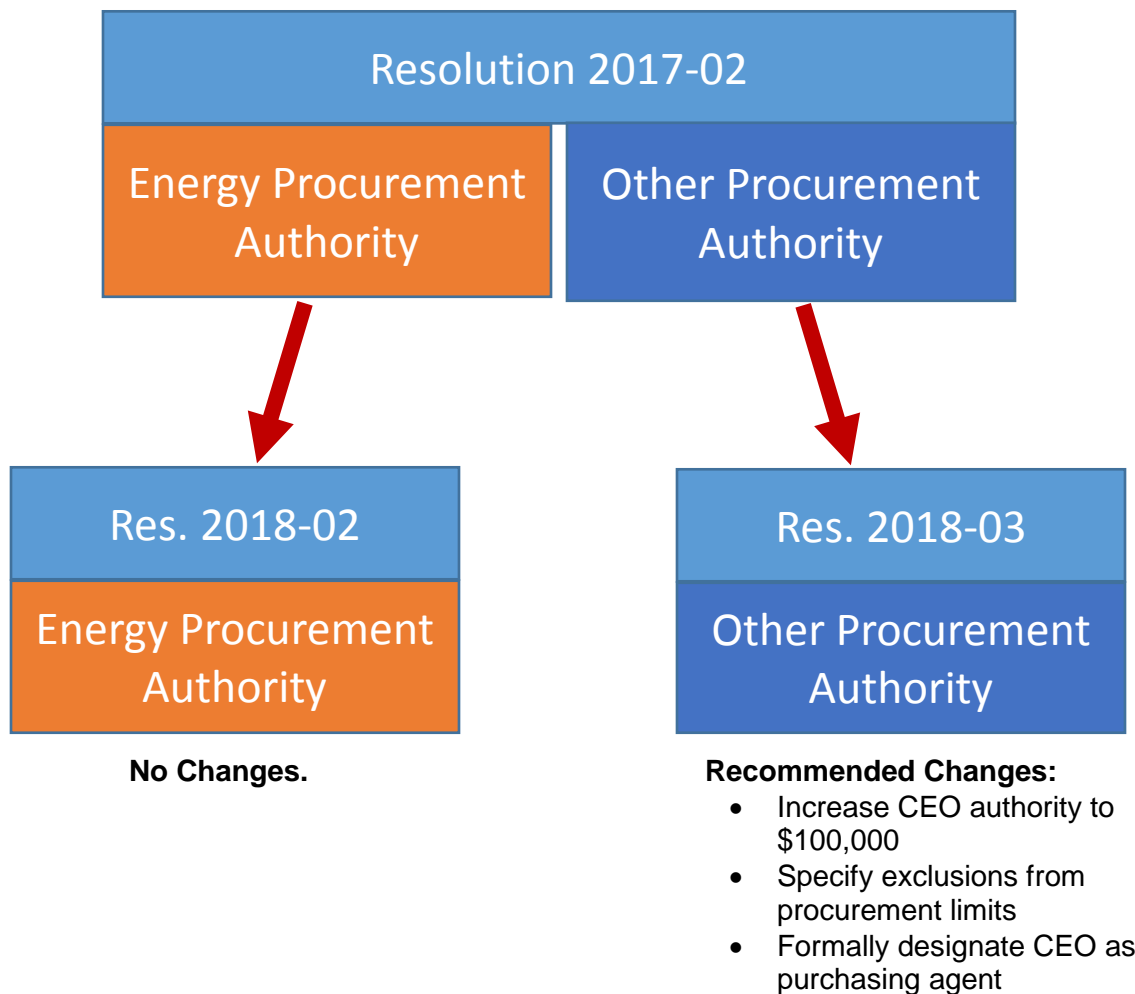
SUMMARY:

Staff and the Executive Committee recommend that the Board of Directors update the delegation of authorities provided to its CEO in order to address MCE's business needs as a growing organization.

In order to support MCE's growth and the routine contracting needs of the organization, MCE staff recommends the following modifications to the contracting authorities delegated to MCE's CEO:

- Increase the CEO's purchasing and contracting authority from \$25,000 to \$100,000;
- Specify exclusions from procurement limits; and
- Formally designate the CEO as MCE's Purchasing Agent

MCE staff recommend replacing Resolution No. 2017-02 with two proposed resolutions: one for energy procurement and one for other contracting authorities. This approach will: (1) allow for administrative ease in updating specific contracting rules in the future, and (2) update the contracting delegations to better reflect MCE's operational business needs.



These proposed Resolutions are described in more detail below.

1. Resolution No. 2018-03 Rescinding Resolution No. 2017-02 and Delegating Energy Procurement Authority

There are no changes proposed to the delegation of energy procurement authority. This proposed Resolution simply rescinds Resolution No. 2017-02¹ and replaces it with the same delegation of energy procurement authorities to the Technical Committee and the Chief Executive Officer.

2. Resolution No. 2018-04 Designating the CEO as Purchasing Agent and Delegating Purchasing Agent Authority

This proposed Resolution updates MCE's non-energy contracting authorities. This proposed Resolution provides for a similar delegation of purchasing authority to the CEO as in Resolution No. 2017-02, but makes three material changes. The proposed Resolution would:

¹ The remainder of the contents of Resolution No. 2017-02 are included as set forth below in Proposed Resolution 2018-04.

- a. Increase the CEO's purchasing and contracting authority to \$100,000;
- b. Specify exclusions from procurement limits; and
- c. Formally designate CEO as MCE's purchasing agent.

Each of these changes is described below.

a. Increase the CEO's purchasing and contracting authority from \$25,000 to \$100,000

This proposed Resolution would increase the authority of the CEO to enter into contracts with a not-to-exceed amount of less than or equal to \$100,000, from the current CEO authority of \$25,000. This change is proposed to align with MCE's substantially increased budget, purchasing and contracting needs.

When MCE launched, it was the first CCA of its kind and had a budget of \$330,000 (FY 2009). The contracting authority assigned to the CEO was \$20,000 (Resolution 2010-05A), representing 6% of the annual MCE budget. The assigned contracting authority was subsequently increased to \$25,000 under Resolution 2013-04. MCE has since launched service and expanded, other CCAs have launched, and MCE's annual budget has grown to \$385 million (FY 2018/19). This represents a 1,000-fold budget increase without any substantial increase in assigned contracting authority, and has led to some Board and Committee meetings being held simply for approval of contracts that are necessary for MCE's routine operations.

Setting the maximum CEO contracting authority at \$100,000 represents 0.02% of MCE's current annual budget. The recommended change is consistent with other CCAs' CEO authorities, including Monterey Bay Community Power (\$100,000), Silicon Valley Clean Energy (\$100,000) and Lancaster Choice Energy (\$125,000).

b. Specify Exclusions from Procurement Limits

The proposed Resolution exempts certain transactions from the Purchasing Agent's purchasing and procurement authority limits, provided that such expenditures are consistent with the Board-approved Budget. The purpose of this provision is to address scenarios where bidding and procurement rules are inapplicable, infeasible or unnecessary. The list of transactions is loosely based on the exemptions in the County of Marin Procurement Manual, but has been tailored by MCE staff to fit MCE's unique business purposes.

c. Formally designate the CEO as MCE's Purchasing Agent

Your Board can designate a purchasing agent to enter into contracts for the purchase of materials, supplies, equipment, and other personal property; for the rent of office furnishings and equipment; or for services and public works projects.² MCE's CEO has been fulfilling this role, however, as MCE grows, the Board of Directors may choose to employ additional purchasing agents, such as a Chief Operating Officer. This proposed Resolution will simplify future revisions to designations of purchasing agents.

² The duties of a purchasing agent are defined in Government Code Section 25500 *et seq.*

Fiscal Impact: None.

Recommendations:

1. Adopt proposed Resolution No. 2018-03 Rescinding Resolution No. 2017-02 and Delegating Energy Procurement Authority
2. Adopt proposed Resolution No. 2018-04 Designating the Chief Executive Officer as Purchasing Agent and Delegating Purchasing Agent Authority

DRAFT

RESOLUTION NO. 2018-03

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

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

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

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

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

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

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

1. Delegation to the Technical Committee

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

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

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

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

3. Delegation to the Chief Executive Officer

The CEO is hereby authorized to approve and execute:

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

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

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

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

CHAIR, MCE

Attest:

SECRETARY, MCE

DRAFT

RESOLUTION NO. 2018-04

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
MARIN CLEAN ENERGY DESIGNATING THE CHIEF EXECUTIVE OFFICER AS THE
PURCHASING AGENT PURSUANT TO GOVERNMENT CODE 25500 AND
DELEGATING PURCHASING AGENT AUTHORITY**

WHEREAS, Section 2.6 of the MCE Joint Powers Agreement provides that the power of MCE is subject to the same restrictions upon the manner of exercising power possessed by the County of Marin;

WHEREAS, Government Code Section 25500 et seq. defines the role of a purchasing agent, and authorizes the governing body of a county to employ a purchasing agent to enter into certain transactions; and

WHEREAS, the Board of Directors desires to appoint a purchasing agent for MCE; and

WHEREAS, the Board of Directors, by designating a purchasing agent and delegating certain contracting authority to the designated purchasing agent as described herein, shall not be divested of any such authority, but shall retain and may exercise such authority at such times as it may deem necessary and proper, at its sole discretion; and

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

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

- A. The Board of Directors hereby designates the Chief Executive Officer as purchasing agent for MCE.
- B. This delegation of contracting authority to the purchasing agent shall be subject to any exemptions that may be adopted by the Board of Directors.
- C. The Board of Directors hereby delegates the following contracting authority, consistent with an approved Integrated Resource Plan and/or budget, as applicable, including transactions that are consistent with the current fiscal year's budget but extend beyond the current fiscal year:

1. Delegation to the Executive Committee:

The Executive Committee is hereby authorized to approve and direct the purchasing agent to enter into all transactions, including contracts, amendments and addenda; provided that any transaction greater than \$100,000 shall also be executed by the Executive Committee Chair.

2. Delegation to the Purchasing Agent:

The purchasing agent is hereby authorized to approve and enter into:

- a. transactions for goods, equipment or services with a not-to-exceed maximum dollar amount of \$100,000 per vendor for a given scope of work, per fiscal year;
- b. amendments or addenda to existing contracts, regardless of the existing contract's price or total amount, which improves the terms of the contract to MCE's benefit without increasing the contract's not-to-exceed maximum dollar amount; and
- c. in the event of an emergency situation, transactions with a not-to-exceed maximum dollar amount of:
 - i. \$150,000 in the aggregate; or
 - ii. \$500,000 in the aggregate with the prior written consent of the Chair or Vice Chair of the Executive Committee.

An "emergency situation" for purposes hereof is a sudden, unexpected occurrence that poses an imminent danger to life or property or other material financial loss or to essential public services that calls for immediate action with inadequate time for prior Board of Directors or Executive Committee approval. The purchasing agent shall deliver a report to the Board of Directors at the next regular meeting explaining the necessity for the action, a listing of expenditures made under these emergency powers and any recommended future actions.

3. Exemptions to Limits on Purchasing Agent's Purchasing Authority:

The Board of Directors hereby provides that the following transactions are exempt from the above purchasing and procurement authority limits, provided that such expenditures are consistent with the budget adopted by the Board:

- a. Utilities, where there is no reasonable basis for competitive procurement, including but not limited to telephonic communications, electric power, internet/cable, water, solid waste and debris collection (unless in relation to a construction project), and sewage;
- b. Tariffed costs and fees, including but not limited to PG&E service fees and CAISO fees and costs, including MCE's Estimated Aggregate Liability (EAL);
- c. Notices required by law;
- d. Fees and taxes required by law;

- e. Payments made pursuant to a duly approved contract;
- f. Routine office supplies;
- g. Insurance policies consistent with MCE's approved benefits policy;
- h. Print services; and
- i. Postage costs.

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

	AYES	NOES	ABSTAIN	ABSENT
City of American Canyon				
City of Belvedere				
City of Benicia				
City of Calistoga				
City of Concord				
Contra Costa County				
Town of Corte Madera				
The Town of Danville				
City of El Cerrito				
Town of Fairfax				
City of Lafayette				
City of Larkspur				
County of Marin				
The City of Martinez				
City of Mill Valley				
Town of Moraga				
City of Napa				
County of Napa				
City of Novato				
City of Oakley				
City of Pinole				
City of Pittsburg				
City of Richmond				
Town of Ross				
Town of San Anselmo				

City of San Pablo				
City of San Rafael				
City of San Ramon				
City of Sausalito				
City of St. Helena				
Town of Tiburon				
City of Walnut Creek				
Town of Yountville				

CHAIR, MCE

Attest:

SECRETARY, MCE

AI PF JEC

RESOLUTION 2017-02

FEB 16 2017

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
MARIN CLEAN ENERGY DELEGATING
CONTRACTING AUTHORITIES**

MARIN CLEAN ENERGY

WHEREAS, Marin Clean Energy (MCE) is a Joint Powers Authority (JPA) 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 County of Marin, the County of Napa, the City of American Canyon, the City of Belvedere, the City of Benicia, the City of Calistoga, the Town of Corte Madera, the City of El Cerrito, the Town of Fairfax, the City of Lafayette, the City of Larkspur, the City of Mill Valley, the City of Napa, the City of Novato, 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 Sausalito, the City of St. Helena, the Town of Tiburon, the City of Walnut Creek, and the Town of Yountville; and

WHEREAS, pursuant to its authority under Sections 4.6 and 4.7 of the Joint Powers Agreement the Board of Directors wishes to delegate authority to its committees and the Chief Executive Officer ("CEO"), for purposes of responding efficiently to requests from contractors, suppliers, lenders or other parties for documentation of such authority for MCE during the normal course of business; and

WHEREAS, Resolutions 2013-04 and 2016-05 set forth contracting authorities delegated by the Board of Directors; and

WHEREAS, the Board intends that this Resolution 2017-02 shall supersede and replace Resolutions 2013-04 and 2016-05.

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

A. Resolutions 2013-04 and 2016-05 are hereby rescinded and replaced by this Resolution 2017-02.

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

C. The Board of Directors shall retain authority over all legally required authorities, including, for the avoidance of doubt, authority over contracting for borrowing as described in Government Code Section 536.35.7 or its successor.

D. For purposes of this Resolution, "Energy Procurement" shall mean all contracting for energy and energy-related products for MCE, including but not limited to products related to electricity, capacity, energy efficiency, distributed energy resources, demand response, and storage.

E. The Board of Directors hereby delegates the following contracting authorities consistent with an approved resource plan and/or budget, as applicable, including contracts that are consistent with the current fiscal year's budget but extend beyond the current fiscal year:

1. Delegation to the Executive Committee

The Executive Committee has all necessary and proper authority to approve and direct the CEO to execute all contracts, amendments and addenda; provided that any contract, amendment or addenda with total consideration greater than \$25,000 shall also be executed by the Executive Committee Chair.

2. Delegation to the Technical Committee

The Technical Committee has all necessary and proper authority to approve and direct the CEO and Technical Committee Chair to execute:

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

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

The CEO and Technical Committee Chair, jointly, shall have all necessary and proper authority, after consultation with a Committee of the Board, 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 all such executed contracts.

4. Delegation to the Chief Executive Officer

The CEO shall have all necessary and proper authority to approve and execute:

- a. contracts for Energy Procurement for terms of less than or equal to 12 months, which the CEO shall timely report to the Board;
- b. contracts with a not-to-exceed maximum dollar amount of less than or equal to \$25,000 per vendor for a given scope of work, per fiscal year;
- c. amendments or addenda to existing contracts, regardless of the existing contract's price or total amount, which improves the terms of the contract to MCE's benefit without increasing the contract's not-to-exceed maximum dollar amount; and
- d. in the event of an emergency situation contracts with a not-to-exceed maximum dollar amount of:
 - i. \$150,000 in the aggregate; or
 - ii. \$500,000 in the aggregate with the prior written consent of three (3) Executive Committee members

in order to avert or alleviate damage to property, to protect the health, safety and welfare of the community and MCE's employees, or to repair or restore damaged or destroyed property of MCE.

An "emergency situation" for purposes hereof is a situation creating an imminent danger to life or property or other material financial loss that calls for immediate action with inadequate time for prior Board approval. The Chief Executive Officer shall within thirty (30) days of the emergency, deliver a report to the Board of Directors explaining the necessity for the action, a listing of expenditures made under these emergency powers and any recommended future actions.

PASSED AND ADOPTED at a regular meeting of the Board of Directors on this 16th day of February 2017, by the following vote:

APPROVED

FEB 18 2017

MARIN CLEAN ENERGY

	AYES	NOES	ABSTAIN	ABSENT
City of American Canyon	✓			
City of Belvedere	✓			
City of Benicia				✓
City of Calistoga	✓			
Town of Corte Madera	✓			
City of El Cerrito	✓			
Town of Fairfax	✓			
City of Lafayette	✓			
City of Larkspur	✓			
County of Marin	✓			
City of Mill Valley	✓			
City of Napa	✓			
County of Napa	✓			
City of Novato	✓			
City of Richmond	✓			
Town of Ross	✓			
Town of San Anselmo				✓
City of San Pablo				✓
City of San Rafael				✓
City of Sausalito	✓			
City of St. Helena	✓			
Town of Tiburon	✓			
City of Walnut Creek	✓			
Town of Yountville	✓			

Fitz Sears

CHAIR, MCE BOARD

ATTEST:

Dana DeLong

SECRETARY, MCE BOARD

APPROVED

FEB 16 2017

MARIN CLEAN ENERGY

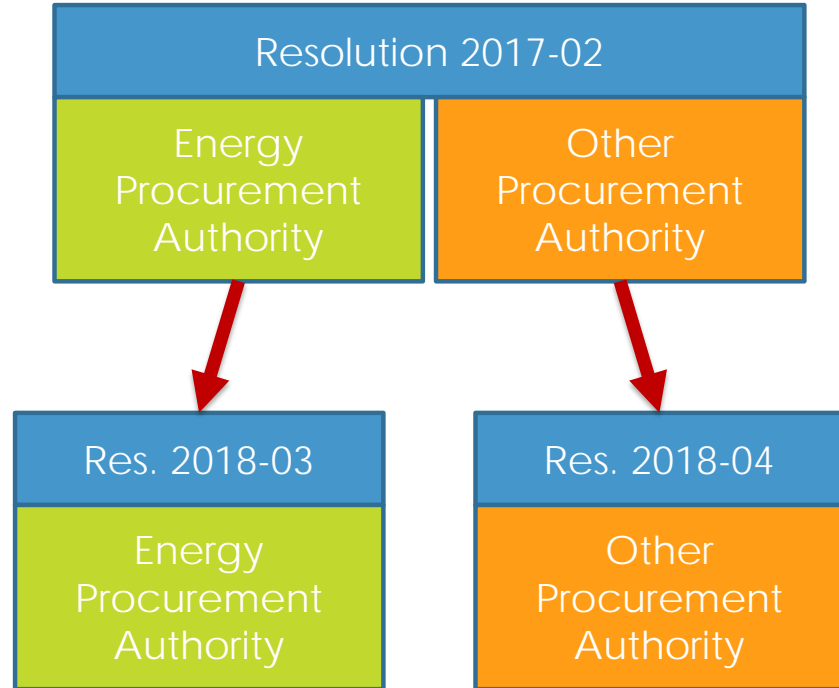


Updating Contracting Authorities

Elizabeth Kelly, General Counsel

Best Practice: Update Procurement Rules

- Designate a Purchasing Agent
- Revise Purchasing Agent authority
- Clarify exemptions to procurement rules



Proposed Resolution 2018-03

Function: Delegating Energy Procurement
Authority

Changes from Existing Resolution:

- None

Proposed Resolution 2018-04

Function: Designating CEO as Purchasing Agent

Changes from Existing Resolution:

1. Defines Purchasing Agent and appoints CEO
2. Increases authority of Purchasing Agent
3. Exempts certain transactions from purchasing and procuring authority limits

Proposed Resolution 2018-04

1. Defines Purchasing Agent and appoints CEO
 - Prepares for a future MCE state where other individuals are authorized to enter into transactions, e.g. COO
 - Distinguishes Energy Procurement from other procurement

Proposed Resolution 2018-04

2. Increases authority of Purchasing Agent

- Increases the authority from \$25k to \$100k
- Represents 0.02% of MCE annual budget
- This increase is consistent with:
 - Monterey Bay Community Power
 - Silicon Valley Clean Energy
 - Lancaster Choice Energy (\$125,000)

Proposed Resolution 2018-04

3. Exempts certain transactions from purchasing and procuring authority limits

- Must be consistent with the adopted budget
- Scenarios where bidding / procurement rules are inapplicable, infeasible or unnecessary
- Sample Exemptions: Utilities, tariffed costs and fees, notices required by law, etc.

RECOMMENDATION

- Adopt proposed Resolution No. 2018-03 Rescinding Resolution No. 2017-02 and Delegating Energy Procurement Authority
- Adopt proposed Resolution No. 2018-04 Designating the Chief Executive Officer as Purchasing Agent and Delegating Purchasing Agent Authority

THANK YOU

Questions?



March 15, 2018

TO: MCE Board of Directors

FROM: David McNeil, Manager of Finance

RE: Proposed Amendment to MCE Policy 013: Reserve Policy
(Agenda Item #07)

ATTACHMENTS: A. MCE Policy 013: Reserve Policy
B. Proposed Amended MCE Policy 013: Reserve Policy

Dear Board Members:

SUMMARY:

In February 2016 your Board approved MCE Policy 013: Reserve Policy to guide the building of Reserves at the agency. Adequate Reserves enable MCE to satisfy working capital requirements, procure energy at competitive rates, adhere to loan covenants, cover unanticipated expenditures, support rate stability, and help MCE obtain a strong credit rating.

Staff review the Reserve Policy annually and propose changes as needed. Changes proposed at this time appear in the attached proposed Reserve Policy and include the following;

1. A revised methodology for calculating the Reserve target
2. Extending the target date for achieving MCE's Reserve target from March 31, 2019 to March 31, 2020

The Reserve target is currently calculated as the sum of 90 days of operating expenses plus 15% of revenues. Operating expenses formerly included energy costs for budgeting purposes. Staff proposes to set the Reserve target at an amount equal to 40% of energy and operating costs for the upcoming year. For instance, the FY 2018/19 target net position would be equal to 40% of projected operating and energy expenses in FY 2019/2020.

The proposed methodology is intended to simplify and clarify the method of calculating Reserve targets and approximate the current target amounts. Extending the target date for achieving Reserve targets is intended to reflect the growth of the agency resulting from the onboarding of new communities in April 2018.

Additions to MCE Reserves are established through the budget and rate setting processes. Reserves contribute to MCE's liquidity. Liquidity – defined as unrestricted

cash, marketable investments and unused bank lines of credit – is important for ensuring MCE’s financial strength and “days liquidity on hand” is an established metric used by industry participants and rating agencies to assess MCE’s credit worthiness. 140 days liquidity on hand is generally associated with organizations that have strong credit ratings.

The Reserve and liquidity calculation methodologies appears in Table A below for information and illustrative purposes and are intended to be read in conjunction with the proposed Reserve Policy.

Table A: Reserve and Liquidity Projections¹

	Reserve Projections	FY 2017/18	FY 2018/19	FY 2019/20
A	Reserve target (%)	40%	40%	40%
B=AxK	Reserve target (\$)	132,419,600	140,052,400	146,618,400
C	Projected reserves (\$)	51,909,000	105,764,000	148,787,000
D=C/B	Projected reserves as a % of target	39%	76%	101%
	Liquidity Projections	FY 2017/18	FY 2018/19	FY 2019/20
E	Projected unrestricted cash and investments	36,656,000	75,382,000	117,982,000
F	Projected unused bank line	25,000,000	30,000,000	30,000,000
G=E+F	Total projected liquidity	61,656,000	105,382,000	147,982,000
H=G*365/K	Projected days liquidity on hand	68	110	147
I	Target days liquidity on hand	140	140	140
J=K*I/365	Liquidity target (\$)	126,978,000	134,297,000	140,593,000
	Annual Expenses	FY 2018/19	FY 2019/20	FY 2020/21
K	Projected annual operating expenses + cost of energy for the upcoming fiscal year	331,049,000	350,131,000	366,546,000

1. Projections are based on MCE’s current retail electricity rates

Fiscal Impacts: The proposed Reserve Policy has an indirect fiscal impact by providing a policy framework for adding to and maintaining Reserves as part of MCE’s annual budget and rate setting processes.

Recommendation: Approve the proposed MCE Policy 013: Reserve Policy.



POLICY 013: Reserve Policy

Policy Statement

MCE will adopt budgets and establish rates that provide for a growing Reserve until target funding levels are met.

The Reserve will grow to and be maintained at the following funding levels:

- Available Cash: equal to 90 days of operating expenditures; and
- Contingency/Rate Stabilization: equal to 15% of projected annual revenues.

The MCE Board will adopt budgets and establish rates for MCE with the goal of building up the Reserve by March 2019, subject to MCE's ability to meet operational expenditures and maintain competitive rates.

Policy Purpose

MCE will prudently manage its operations in a manner that supports its long-term financial independence and stability while providing sufficient financial capacity to meet short term obligations. This Reserve Policy (or "Policy") is important in meeting MCE's strategic objectives, securing favorable commercial terms from both third-party service providers and lenders and in the development of a future stand-alone MCE credit rating. The Reserve Policy will govern the accumulation of reserves in the enterprise fund. The Reserve will be accounted for as the Net Position in MCE's financial statements.

Adequate Reserves will enable MCE to satisfy working capital requirements, procure energy at competitive rates, adhere to loan covenants, cover unanticipated expenditures, and support rate stability.

Relationship to the Budget and Periodic Review

Authority to spend from reserves must align with Board approved Budgets. Staff will review the Reserve Policy annually to ensure it meets the needs of the agency. The future development of MCE may require the expansion of reserve requirements to support new activities such as major expansion of MCE activities or the acquisition of generating assets.



POLICY 013: Reserve Policy

Policy Statement

MCE will adopt budgets and establish rates that provide for a growing Reserve until target funding levels are met.

The Reserve will grow to and be maintained at ~~the following funding levels: a funding level equal to or exceeding 40% of projected energy and operating expenses for the upcoming fiscal year. The Reserve will be accounted for as the Net Position in MCE's financial statements. Available Cash: equal to 90 days of operating expenditures; and~~
◆ ~~Contingency/Rate Stabilization: equal to 15% of projected annual revenues.~~

The MCE Board will adopt budgets and establish rates for MCE with the goal of building ~~up the Reserve and maintaining Reserves at or above the target level~~ by March ~~2019~~2020, subject to MCE's ability to meet operational expenditures and maintain competitive rates.

Policy Purpose

MCE will prudently manage its operations in a manner that supports its long-term financial independence and stability while providing sufficient financial capacity to meet short term obligations. This Reserve Policy ~~(or "Policy")~~ is important in meeting MCE's strategic objectives, securing favorable commercial terms from both third-party service providers and lenders and in the development of a future stand-alone MCE credit rating. ~~The Reserve Policy will govern the accumulation of reserves in the enterprise fund. The Reserve will be accounted for as the Net Position in MCE's financial statements.~~

Adequate Reserves will enable MCE to satisfy working capital requirements, procure energy at competitive rates, adhere to loan covenants, cover unanticipated expenditures, and support rate stability.

Relationship to the Budget, Liquidity and Periodic Review

~~Authority to spend from reserves must align with Board approved Budgets. By setting rates and authorizing expenditures through approved Budgets, MCE determines targeted additions to Reserves. Staff will carefully monitor MCE's liquidity to ensure it meets the objectives of the organization with the goal of securing 140 days liquidity on hand¹. Staff will review the Reserve Policy annually to ensure it meets the needs of the agency. The future development of MCE~~

¹ Days liquidity on hand = (unrestricted cash and investments + unused bank lines of credit) x 365 / (operating expenses + cost of energy, each for the upcoming fiscal year)

may require the expansion of reserve requirements to support new activities such as major expansion of MCE activities or the acquisition of generating assets.

New Board Member Additions to Committees

Current need: Formation of the 2018 Hoc Audit Committee

MCE Board Offices and Committees

Board Offices:

Kate Sears, Chair

Tom Butt, Vice Chair

Denise Athas, Auditor/Treasurer

Dawn Weisz, Secretary

Executive Committee

1. Tom Butt, Chair
2. Denise Athas
3. Sloan Bailey
4. Edi Birsan
5. Lisa Blackwell
6. Barbara Coler
7. Federal Glover
8. Ford Greene
9. Kevin Haroff
10. Bob McCaskill
11. Kate Sears
12. Dave Trotter

Technical Committee

1. Kate Sears, Chair
2. Kevin Haroff
3. Greg Lyman
4. Scott Perkins
5. Rob Schroder
6. Don Tatzin
7. Ray Withy

Ad Hoc Ratesetting Committee 2018

1. Sloan Bailey
2. Ford Greene
3. Kevin Haroff
4. Greg Lyman
5. Bob McCaskill
6. Sashi McEntee
7. Scott Perkins
8. Alan Schwartzman
9. Dave Trotter
10. Ray Withy

Ad Hoc Contract Committee 2018 Open Season

1. Sloan Bailey
2. Rich Carlston
3. Kevin Haroff
4. Greg Lyman
5. Scott Perkins
6. Don Tatzin
7. Maureen Toms

(Ad Hoc Audit Committee 2017)

1. Bob McCaskill
2. Sashi McEntee
3. Don Tatzin
4. Ray Withy

Ad Hoc Audit Committee 2018

1. Bob McCaskill (interest expressed)
- 2.
- 3.
- 4.



MCE Ad Hoc Audit Committee Overview and Scope

Typical Membership: 3 or 4

2017 Members:

1. Bob McCaskill
2. Sashi McEntee
3. Don Tatzin
4. Raymond Withy

Membership Process: MCE strives to assemble an Ad Hoc Audit Committee comprised of at least one county representative and one city/town representative from each county in the MCE service area. Available seats on the Ad Hoc Audit Committee are therefore first offered to any interested and applicable Board member whose county is not yet represented by one county and one city member. Interested members can be added at a meeting of the Board when “New Committee Members” is on the Agenda. The Ad Hoc Audit Committee is typically formed by the Board in March in advance of the annual audit cycle that begins in April each year.

Meeting Dates: To be determined; typically, in mid-May and late June

Scope

Each year MCE contracts with an independent auditing firm to audit MCE’s annual financial statements. The Ad Hoc Audit Committee is responsible for appointing the independent auditor, meeting with the auditor on at least one occasion without staff present, reviewing financial issues or judgments, and investigating other matters pertaining to the audit as it deems necessary. The mandate of the Ad Hoc Audit Committee begins once the Board approves its creation, and will end with the presentation of the audited financial statements to the Board.

Authority of Ad Hoc Audit Committee

- Approve the selection of auditor and direct Staff to execute the contract for services with MCE’s auditor
- Receive the findings of the auditor and meet with the auditor privately as needed
- Investigate other matters pertaining to the audit as it deems necessary
- Report to the governing body that the audit committee has discussed the financial statements with management, with the independent auditors in private, and privately among committee members and believes that they are fairly presented, to the extent such a determination can be made solely on the basis of such conversations



March 15, 2018

TO: MCE Board of Directors

FROM: Elizabeth Kelly, General Counsel

RE: Streamlining Public Works Contracting (Agenda Item #09)
a) Second Reading and Adoption of Ordinance No. 2018-01
Establishing Informal Bidding Procedures under the Uniform
Public Cost Accounting Act

ATTACHMENT: Draft Ordinance No. 2018-01 Establishing Informal Bidding Procedures
under the Uniform Public Cost Accounting Act

Dear Board Members:

SUMMARY:

On February 15, 2018 your Board voted to introduce for first reading Ordinance No. 2018-01 of the Board of Directors of Marin Clean Energy Establishing Informal Bidding Procedures under the Uniform Public Cost Accounting Act. Before you is the second reading and adoption of the Ordinance to bring the informal bidding procedures into effect.

The California Uniform Public Construction Cost Accounting Act ("the Act") allows for public project work in the amount of \$45,000 or less to be performed by negotiated contract or other simplified means outlined in PCC Section 22032(a). Public projects in the amount of \$175,000 or less can use the informal bidding procedures set forth in the Act in Section 22032(b), provided an informal bidding ordinance is passed. Public projects at a cost of more than \$175,000 continue to use formal bidding procedures pursuant Section 22032(c).

In order for MCE to utilize informal bidding in the \$45,000-\$100,000 range, MCE's Board of Directors must enact an Informal Bidding Ordinance required by the Act: PCC Section 22034 provides that the agency shall enact an informal bidding ordinance to govern the selection of contractors to perform public projects valued between \$45,000 and \$175,000. The attached Ordinance sets forth the specific language in Section 22034.

Guidance from the California State Controller's Office clarifies that a participating agency does not need to maintain an informal bidders list.¹

¹ "For agencies that do not maintain an informal bidders list...Section 22034(a)(2) provides for notifications to construction trade journals and exchanges in lieu of sending notifications to contractors on an informal bidders list." <https://www.sco.ca.gov/Files-ARD->

Bidding Requirement	Uniform Public Construction Cost Accounting Act (UPCCAA)
Negotiated Contract or Other Streamlined Procurement	<\$45,000
Informal Bids	\$45,000-\$175,000
Formal Bids	\$175,000+

Staff recommends the passage of the informal bidding Ordinance as it will streamline contracting procedures for smaller public works projects and afford MCE the opportunity to contract with qualified local and small businesses for such projects, streamlining the process for all parties, while also promoting MCE's supplier diversity goals.

Fiscal Impact: No direct budgetary impact will occur; staff and contractor efficiencies may have some positive influence on agency costs.

Recommendation: Adopt Ordinance No. 2018-01 of the Board of Directors of Marin Clean Energy Establishing Informal Bidding Procedures under the Uniform Public Cost Accounting Act.

DRAFT

ORDINANCE NO. 2018-01

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF MARIN CLEAN ENERGY
ESTABLISHING INFORMAL BIDDING PROCEDURES UNDER THE
UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT**

**THE BOARD OF DIRECTORS OF MARIN CLEAN ENERGY DOES ORDAIN
AS FOLLOWS:**

Section 1. Informal Bid Procedures.

Public projects, as defined by the Act and in accordance with the limits listed in Section 22032(b) of the Public Contract Code, may be let to contract by informal procedures as set forth in Section 22032, et seq., of the Public Contract Code.

Section 2. Contractors List.

The agency shall comply with the requirements of Public Contract Code Section 22034.

Section 3. Notice Inviting Informal Bids.

Where a public project is to be performed which is subject to the provisions of this Ordinance, a notice inviting informal bids shall be circulated using one or both of the following alternatives:

1. Notices inviting informal bids may be mailed, faxed, or emailed to all contractors for the category of work to be bid, as shown on the list developed in accordance with Section 2,
2. Notices inviting informal bids may be mailed to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code.

Additional contractors and/or construction trade journals may be notified at the discretion of the Chief Executive Officer or his or her designee. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

Section 4. Award of Contracts

The Chief Executive Officer and the appropriate Committee of the Board of Directors, as authorized by the Board, are hereby authorized to award informal contracts pursuant to this Ordinance.

Section 5. Notice and Effect.

This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of the members of the Board of Directors voting for and against the same in the Marin Independent Journal, a newspaper of general circulation published in the County of Marin.

PASSED, APPROVED and ADOPTED by the Board of Directors of Marin Clean Energy, State of California, this ____ day of _____, 2018, by the following vote:

	AYES	NOES	ABSTAIN	ABSENT
City of American Canyon				
City of Belvedere				
City of Benicia				
City of Calistoga				
City of Concord				
Contra Costa County				
Town of Corte Madera				
The Town of Danville				
City of El Cerrito				
Town of Fairfax				
City of Lafayette				
City of Larkspur				
County of Marin				
The City of Martinez				
City of Mill Valley				
Town of Moraga				
City of Napa				
County of Napa				
City of Novato				
City of Oakley				
City of Pinole				
City of Pittsburg				
City of Richmond				
Town of Ross				
Town of San Anselmo				

City of San Pablo				
City of San Rafael				
City of San Ramon				
City of Sausalito				
City of St. Helena				
Town of Tiburon				
City of Walnut Creek				
Town of Yountville				

CHAIR, MCE

Attest:

SECRETARY, MCE



March 15, 2018

TO: MCE Board of Directors

FROM: Shalini Swaroop, Deputy General Counsel

RE: Policy Update on Regulatory and Legislative Items (Agenda Item #10)

Dear Board Members:

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

I. Legislature

In partnership with MCE Board Legislative Ambassadors, MCE staff has met with every Assemblymember and Senator represented in MCE's service area. MCE Board Legislative Ambassadors were instrumental in effective relationship-building and advocacy.

II. California Public Utilities Commission (CPUC)

CalCCA Files Response to Joint IOUs' Petition for Modification to Modify the CCA Code of Conduct and Allow Lobbying of Local Elected Officials Without an Independent Marketing Division

On March 1, 2018, CalCCA filed a response to the Petition for Modification of PG&E, SCE and SDG&E (the IOUs) to change current lobbying restrictions on CCA issues. MCE had an active role in shaping the response in conjunction with CalCCA attorneys. The response raised several issues: 1) the lobbying restrictions on the IOUs were validly imposed due to egregious actions by PG&E during MCE's launch; 2) the Commission has the legal authority to impose marketing and lobbying restrictions on the IOUs; 3) IOUs can currently provide factual information to local governments without advocating against the formation of a CCA program; 4) the IOUs are able to market against CCAs if they simply create an independent marketing division; and 5) first amendment jurisprudence allows the Commission to restrict commercial speech. There is no deadline for the CPUC to rule on the IOU's Petition for Modification.