

Board of Directors Meeting Agenda

Date: June 20, 2024

Time: 5:00 p.m.

Location: SMUD Headquarters Building, Auditorium
6201 S Street, Sacramento, California

•**AMENDED AGENDA**

•**Remote Telephonic Location added.**

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

•**Remote Telephonic Location:**

**37 Forest Road
Windsor, SL4 4HX
United Kingdom**

June 20, 2024 – 5:00 p.m.

Virtual Viewing or Attendance:

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

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

Webinar/Meeting ID: 160 269 1149

Passcode: 465214

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

Verbal Public Comment:

Members of the public may provide verbal public comment by:

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

Written Public Comment:

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

Call to Order.

a. Roll Call.

1. Approval of the Agenda.

2. Committee Chair Reports.

- a. Committee Chair report of June 11, 2024, Strategic Development Committee
- b. Committee Chair report of June 12, 2024, Policy Committee
- c. Committee Chair report of June 18, 2024, Finance & Audit Committee
- d. Committee Chair report of June 18, 2024, Energy Resources & Customer Services Committee

Item 6 was reviewed by the May 14, 2024, Finance and Audit Committee. Items 7 through 10 were reviewed by the June 12, 2024, Policy Committee. Items 11 through 13 were reviewed by the June 18, 2024, Finance and Audit Committee. Item 14 was reviewed by the June 18, 2024, Energy Resources & Customer Services Committee.

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

Consent Calendar:

3. Approve revised Board member compensation for service rendered at the request of the Board (pursuant to Resolution No. 23-06-02) for the period of April 16, 2024, through May 15, 2024.
4. Approve Board member compensation for service rendered at the request of the Board (pursuant to Resolution No. 23-06-02) for the period of May 16, 2024, through June 15, 2024.
5. Approval of the minutes of the meeting of May 16, 2024.
6. Approve proposed revisions to **Board-Staff Linkage BL-8, Delegation to the CEO with Respect to Procurement**. Finance and Audit Committee 5/14. (Laura Lewis)
7. Accept the monitoring report for **Strategic Direction SD-4, Reliability**. Policy Committee 6/12. (Frankie McDermott)
8. Approve proposed revisions to:
 - a. **Board-Staff Linkage BL-1, Board-CEO Relationship;**
 - b. **Board-Staff Linkage BL-5, Unity of Control;** and
 - c. **Board-Staff Linkage BL-6, Evaluating the CEO's Performance.**Policy Committee 6/12. (President Herber)
9. Approve proposed revisions to **Governance Process GP-15, Board Travel and Training Reimbursement**. Policy Committee 6/12. (Laura Lewis)
10. Approve proposed revisions to the **Energy Risk Management and Energy Trading Standards**. Policy Committee 6/12. (Scott Martin)
11. Authorize the Chief Executive Officer and General Manager to negotiate and award a contract to **Utility Partners of America** for meter replacement services for a period of one year, with two optional one-year extensions, for a total not-to-exceed amount of \$21,442,000. Finance and Audit Committee 6/18. (Frankie McDermott)

- 12. Approve Contract Change No. 1 to Contract No. 4600001773 with **Kortick Manufacturing, LLC**, for supply of network transformers to extend the contract expiration date from November 14, 2024, to February 28, 2026, and increase the contract not-to-exceed amount by \$10 million, from \$11 million to \$21 million. **Finance and Audit Committee 6/18. (Frankie McDermott)**
- 13. Authorize the Chief Executive Officer and General Manager to negotiate and award a contract to **Andritz Hydro Corp** for the Camino Generator 1 Rehabilitation for a period of two years for an amount not to exceed \$11,903,140. **Finance and Audit Committee 6/18. (Lora Anquay)**
- 14. Authorize the Chief Executive Officer and General Manager to negotiate and execute the **Grace Orchard Energy Center Solar Project (Grace Solar Project) Power Purchase Agreement (PPA)** with a 20-year term for 70 MW of solar photovoltaic power at an annual approximate cost of \$11 million, substantially in the form attached, and all other agreements necessary to facilitate the **Grace Solar Project**. **Energy Resources & Customer Services Committee 6/18. (Laura Lewis)**

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Public Comment:

- 15. Items not on the agenda.

Board and CEO Reports:

- 16. Directors' Reports.
- 17. President's Report.
- 18. CEO's Report.
 - a. Board Video

Summary of Board Direction

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

June 18, 2024	Finance and Audit Committee and Special SMUD Board of Directors Meeting	Auditorium*	6:00 p.m.
June 18, 2024	Energy Resources & Customer Services Committee and Special SMUD Board of Directors Meeting	Auditorium	Immediately following the Finance and Audit Committee and Special SMUD Board of Directors Meeting scheduled to begin at 6:00 p.m.

* * * * *

**The Auditorium is located in the lobby of the SMUD Headquarters Building, 6201 S Street, Sacramento, California.*

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

July 18, 2024

Auditorium*

6:00 p.m.

**The Auditorium is located in the lobby of the SMUD Headquarters Building, 6201 S Street, Sacramento, California.*

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

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

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

DRAFT

RESOLUTION NO. _____

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

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

DRAFT

RESOLUTION NO. _____

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

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

Sacramento, California

May 16, 2024

The Board of Directors of the Sacramento Municipal Utility District met in regular session simultaneously in the Auditorium of the SMUD Headquarters Building at 6201 S Street, Sacramento, telephonically at 500 Canal Street, New Orleans, LA, and via virtual meeting (online) at 6:00 p.m.

Roll Call:

Presiding: President Herber

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

Present also were Suresh Kotha, acting Chief Executive Officer and General Manager; Laura Lewis, Chief Legal & Government Affairs Officer and General Counsel and Secretary, other members of SMUD's executive management; and SMUD employees and visitors.

Director Kerth shared the 2030 Climate Action Tip.

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

Director Bui-Thompson, Chair, presented the report on the Strategic Development Committee meeting held on May 7, 2024.

Director Tamayo, Chair, presented the report on the Policy Committee meeting held on May 8, 2024.

Director Kerth, Chair, presented the report on the Finance & Audit Committee meeting held on May 14, 2024.

Director Rose, Chair, presented the report on the Energy Resources & Customer Services Committee meeting held on May 14, 2024.

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

President Herber then addressed the consent calendar consisting of Items 3 and 10. Director Sanborn moved for approval of the consent calendar,

Vice President Fishman seconded, and Resolution Nos. 24-05-01 through 24-05-07 were unanimously approved.

RESOLUTION NO. 24-05-01

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

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

Approved: May 16, 2024

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

RESOLUTION NO. 24-05-02

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

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

Approved: May 16, 2024

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

RESOLUTION NO. 24-05-03

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

This Board accepts the monitoring report for **Strategic Direction SD-8, Employee Relations**, substantially in the form set forth in **Attachment A** hereto and made a part hereof.

Approved: May 16, 2024

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

SACRAMENTO MUNICIPAL UTILITY DISTRICT

OFFICE MEMORANDUM

TO: Board of Directors

DATE: April 25, 2023

FROM: Claire Rogers *CR 4/25/24*

**SUBJECT: Audit Report No. 28007743
Board Monitoring Report; SD-8: Employee Relations**

Internal Audit Services (IAS) received the SD-8 *Employee Relations* 2023 Annual Board Monitoring Report and performed the following:

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

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

CC:

Paul Lau

Board Monitoring Report 2023 SD-8, Employee Relations



1. Background

Strategic Direction 8 (SD-8) states that:

Developing and maintaining a high quality, diverse and inclusive workplace that engages and inspires employees to commit to SMUD's purpose, vision and values is a core value of SMUD.

SMUD is committed to diversity and inclusion and will foster and support a workplace that values employees representing a variety of backgrounds, including but not limited to, race, ethnicity, gender, gender identification and/or expression, sexual orientation and identification, national origin, age, physical abilities, veteran status, socio-economic status, life experiences, talents, and thinking styles.

Therefore:

- a) SMUD shall attract and retain a highly qualified and diverse workforce.
- b) SMUD shall promote inclusion and diversity and engage its workforce in activities that demonstrate and support inclusion and diversity across the organization.
- c) SMUD shall engage its workforce in personal and professional development.
- d) SMUD's percentage of engaged employees as measured through the Engagement Index shall exceed 80%.
- e) SMUD shall use a broad mix of communication and outreach channels to ensure its recruitment activities reflect the diversity of the communities it serves.
- f) SMUD shall maintain and communicate written policies that define procedures and expectations for staff and provide for effective handling of grievances.
- g) Annually, and consistent with State and Federal law, the Board shall receive a report detailing the demographics and trends of the SMUD workforce, the available workforce, and the Sacramento region. The report shall also provide information on veterans as a part of SMUD's workforce.

2. Executive Summary

SMUD is in full compliance with SD-8, Employee Relations.

The rapid pace of change in today's energy industry and economy requires that employer workforce strategies shift in kind. SMUD has accordingly accelerated the rate at which we implement changes to how we attract, retain, engage, and develop our employees. After several years enhancing people strategies with better data and stronger partnerships, the 2023 outcomes in this report will illustrate early signs of the building momentum we're experiencing within our programs.

SD Support (Program, Policy, Procedure or Initiative)	SD Requirement(s)	Purpose	Outcome	Notes
Education Outreach	a) Attract and retain qualified, diverse workforce b) Promote and engage employees in inclusion, diversity e) Broad mix of recruiting communication and outreach	Train future energy leaders; increase STEM awareness and curiosity; engage the community in SMUD's 2030 Zero Carbon Plan; promote new tech/SMUD programs; increase customer engagement and value	Engaged 13,201 students in learning about SMUD's Zero Carbon effort and related energy industry careers	Up from less than 13,000 students in 2022
Career Ambassador Program	a) Attract and retain qualified, diverse workforce b) Promote and engage employees in inclusion, diversity e) Broad mix of recruiting communication and outreach	Increase future workforce talent while simultaneously engaging employees through early outreach & connection with future pipeline (K-12, college, and community)	Reached 11,378 students and community members at 128 Career Ambassador outreach events (103 in-person, 25 virtual).	While we reached fewer community members compared to 2022, total 2023 events increased by 64%. Our strategy prioritized attendance at smaller events to provide 1:1 instruction & learning for the most underserved communities. (2022 stats: 17,495 community members reached, 78 events - 53 in-person and 25 virtual)
Internships	a) Attract and retain qualified, diverse workforce b) Promote and engage employees in inclusion, diversity e) Broad mix of recruiting communication and outreach	Strengthen talent pipeline by immersing students of varied backgrounds in SMUD's culture and careers	3,146 college intern applicants, 58 college interns hired 303 high school intern applicants, 11 high school interns hired	Up from 1,659 applicants in 2022, up from 55 interns hired Up from 80 high school applicants, down from 17 interns hired
Regional Workforce Development	a) Attract and retain qualified, diverse workforce b) Promote and engage employees in inclusion, diversity e) Broad mix of recruiting communication and outreach	Develop workforce training and partnerships to support readiness and skills for a zero carbon economy; help close economic disparity gaps by creating equitable access to resulting economic growth	Partnered with 48 community organizations to deploy workforce development and training, reaching over 1,905 youth & adults and training more than 750 in work-readiness and technical skills. Placed 856 trainees into new careers	High emphasis on bringing opportunities to under-resourced communities

Sacramento Power Academy Programs	<p>a) Attract and retain qualified, diverse workforce</p> <p>b) Promote and engage employees in inclusion, diversity</p> <p>e) Broad mix of recruiting communication and outreach</p>	Provide communities with knowledge and exposure needed to compete in a high wage and complex skilled trades career in the growing utility industry	<p>682 Lineworker Training Scholarship applicants, 35 awarded to learn pole climbing, industry tools, equipment installation, and groundwork; 25 participants graduated from the program</p> <p>205 Powering Careers program applicants, 16 program graduates</p> <ul style="list-style-type: none"> - 6 hired as limited-term Utility Assistants - 3 went on to obtain full-time employment with SMUD 	<p>512 applicants were in SMUD service territory. Interested grads have applied for SMUD linework apprenticeships and are competing for positions.</p> <p>Assistants completed 6-month rotations in workgroups including Line Equipment Operators, High Voltage Electricians, Cable Splicers, Gas Control Techs, and Meter Techs to learn new skills and develop</p>
Skilled Trades Apprenticeship Programs	<p>a) Attract and retain qualified, diverse workforce</p> <p>c) Workforce personal and professional development</p>	Engage SMUD employees in personal and professional development through formal apprenticeship	<p>Managed training plans, on-the-job training hours, and classroom instruction for 75 apprentices, 28 of which were new in 2023</p> <ul style="list-style-type: none"> - 12 Lineworkers - 1 Network cable splicer - 2 Hydro high voltage electricians - 13 High voltage electricians 	Each apprentice completes approximately 2,000 on-the-job hours each year
Corporate Learning & Development Curriculum	<p>a) Attract and retain qualified, diverse workforce</p> <p>b) Promote and engage employees in inclusion, diversity</p> <p>c) Workforce personal and professional development</p> <p>d) Employee engagement</p>	Develop skills and leadership competencies that will support SMUD's current and future business strategy	<p>Employees averaged 70 hours of training throughout 2023</p> <ul style="list-style-type: none"> - 25 hours of mandatory training - 45 hours of non-mandatory training 	Up from 29 hours in 2022; includes mandatory training, LinkedIn Learning, Safety, and Learning@SMUD
Internal & External Leadership Programs	<p>a) Attract and retain qualified, diverse workforce</p> <p>b) Promote and engage employees in inclusion, diversity</p> <p>c) Workforce personal and professional development</p> <p>d) Employee engagement</p>	Provide experiential learning opportunities to develop leadership, and support collaboration and philanthropy in the community	24 employees completed or graduated from nine different local and regional leadership development programs	Up from 21 employees in 2022; currently adding a 10 th opportunity: Western Energy Institute's Utility Business Essentials

Education Assistance	a) Attract and retain qualified, diverse workforce c) Workforce personal and professional development d) Employee engagement	Support employee continued education to attract & retain a highly qualified workforce	136 employees used the Education Assistance Tuition Reimbursement (EATR) program	Up from 102 employees; successfully curbed participation decline noted in 2021 and 2022
Inclusive Culture Implementation Plan	a) Attract and retain qualified, diverse workforce b) Promote and engage employees in inclusion, diversity d) Employee engagement	Create an environment where all employees feel psychologically safe and a sense of belonging <i>(Note: Next survey scheduled for Fall 2024)</i>	Prioritized employee growth and development by establishing Enterprise Performance goal to increase non-mandatory training participation by 5%	Exceeded goal; - Learning@SMUD (32% increase) - LinkedIn Learning (18% increase) - Mentoring Program (81% increase) - Field employee learning (46% increase)
Employee Resource Groups (ERGs)	b) Promote and engage employees in inclusion, diversity c) Workforce personal and professional development d) Employee engagement	Contribute to an inclusive work culture by creating a sense of community and promoting education and awareness in alignment with SMUD's mission and values and our Inclusion Policy	Hosted 72 ERG events to increase cultural awareness, foster a sense of support and belonging, and promote employee engagement	Up from 45 ERG events in 2022; including: ERG Leader Retreat, Toastmasters ERG Leader Cohort, Young Professionals Book Club, Parents ERG Mental Health Awareness and more
Code of Business Ethics and Employee Conduct	a) Attract and retain qualified, diverse workforce d) Employee engagement f) Maintain and communicate policies re: staff expectations, grievances	Equip employees with an easy-to-read explanation of SMUD's values and expectations for employee behavior	100% of all employees received and acknowledged code of ethics and conduct	Code supplements SMUD's state law-mandated Conflict of Interest Code
Workforce Demographics Reporting	g) Reporting on demographics, SMUD and regional workforce trends, veterans	Provide informational update on workforce demographics	Identify and report on trends and ongoing efforts for a high quality, diverse and inclusive workforce	See SD-8 appendix for detailed reporting

3. Additional Supporting Information

Please see attached Appendix for additional information related to the SD-8 metrics.

4. Challenges

As we continue to enhance our programs, we must consider impacts to bandwidth, program service level, and resource allocation so as not to impair employee engagement, customer experience, or our robust organizational culture. We're mitigating these risks with an increased focus on cross-functional collaboration, improving the awareness of neighboring projects and appropriately committing resources.

While improved data, tools, and planning are enhancing the line of sight into our changing workforce composition and we are beginning to note shifts, changes to our workforce make-up and future skill requirements will require a significant investment of time. We suspect tomorrow's workforce won't look entirely different from today's. According to the [U.S. Bureau of Labor Statistics](#), the labor force is growing more slowly than in previous decades and remaining in the workforce longer.

These trends, SMUD's historically low employee turnover, and the realities of a fast-changing energy industry and economy indicate the need for a careful investment in both current and future priorities. As we continue to adapt, our goal is sustainable progress.

5. Recommendations

As reflected in this report, SMUD has achieved the goals set forth in SD-8 for ensuring SMUD develops and maintains a high quality, inclusive workplace that engages and inspires employees to commit to SMUD's purpose, vision, and values.

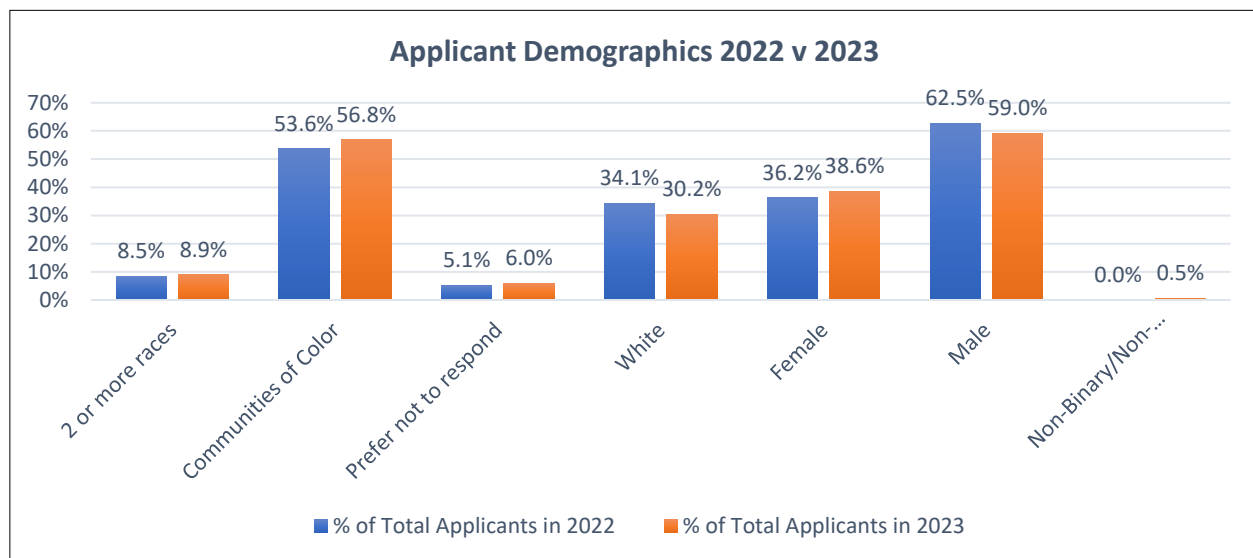
It is recommended the Board accept the monitoring report for Strategic Direction 8.

Appendix

Recruitment

The Talent Acquisition team tackled an unprecedented workload in 2023, managing 801 hiring requisitions and screening almost 30,000 applications. External applications more than doubled from just under 12,500 applicants in 2022 to just over 25,000 in 2023! While this increase can be attributed to several multi-year efforts across SMUD and the region, we suspect a large portion of this success is due to our recruiters' smart use of Circa - the third-party software solution we acquired in 2022.

In addition to traditional email blasts, job board postings, social media ads, and internal employee communication channels; we can now affordably and efficiently advertise jobs to partners, schools, and community organizations within a 150-mile radius via the Circa platform. We're already noticing impacts to the diversity of our applicant pools thanks to this strategic technological investment. A marked increase in communities of color and females can be seen in the chart below.



Recruiters conducted more than 400 consultations with SMUD's hiring managers last year to ensure a shared understanding of candidate qualifications. These interactions facilitated education to support transparency and consistency across the organization, mitigating potential for bias within the selection process.

Additionally, the Talent Acquisition team completed a series of efforts in 2023 to improve equitable access to job opportunities. These included:

- A "Brass Tacks" workshop to support internal career mobility at SMUD where employees learned about the gears that keep the hiring process moving (eligibility lists, job descriptions, the selection process, and more).
- A series of resume workshops to educate employees about screening requirements and stand-out application materials.
- Enhanced candidate support for job classifications that historically receive a high volume of applicants. Recruiters ensured improved access to these opportunities via timely and succinct social media announcements about resources, important dates, and capped application requirements.

- A collaboration with the Diversity, Equity, Inclusion, and Belonging (DEIB) Council and Subcommittees to establish Diverse Hiring Panel guidelines. These guidelines ensure interview panels at SMUD are both representative of, and educated in, the diversity of our organization and community.

Early Talent Programs

Alongside Toyota, Paramount, Fox Corporation, and Intuit, SMUD was recognized by Interns2Pros in 2023 as a top 5 finalist for Internship Program of the Year. Here's a sampling of the accomplishments that made this possible:

- We touched 34 college and university events reaching nearly 3,000 students.
- We increased face-to-face interactions with diverse college populations like career centers, clubs, and student groups.
- We redesigned existing internship workshops and events to better meet the needs of our university partners. One example: the Talent Acquisition team designed and delivered a workshop titled "Through the Eyes of a Recruiter" to UC Davis, Sac State, Chico, Los Rios College District, UOP, and Sierra College to educate students on SMUD's selection processes. To complement the training, they also provided student coaching on resume building and behavior-based interviewing.
- We experienced a 50% increase in college applicants for the summer intern program. More than 1,400 students from diverse backgrounds competed for 25 coveted spots.
- Those accepted tackled a variety of important initiatives, including contributions to biological field surveys for endangered species in SMUD's Upper American River Project; cybersecurity tasks and help desk tickets; and support for SMUD Cares.
- We also increased our on-site programming for interns, hosting numerous financial wellness workshops, coffee with executives, two Habitat for Humanity volunteer events, and a tour of the Sacramento Power Academy.

The Early Talent Programs team also administers two annual community scholarships:

- Powering Futures
21 scholarships were awarded in 2023, ranging from \$2,000 for community college students to \$4,000 for 4-year university students. Those with a demonstrated financial need pursuing majors related to careers at SMUD received preference.
- Powering Aggies and Powering Hornets
These scholarship programs were established in 2018 to benefit 1 student each from UC Davis and Sac State. Eligible students who majored in a SMUD-related career field at UC Davis or electrical engineering at Sac State were selected by their respective universities. In 2023, the Powering Aggies winner was awarded \$1,800 and the Powering Hornets winner \$2,500.

Employee Onboarding

New Employee Orientation (NEO) is SMUD's first opportunity to engage its employees. We refreshed this program in 2023 by returning to an in-person format and switching from a weekly to a bi-weekly cadence for improved class sizes and labor efficiencies. The money and time saved was reallocated to support additional program enhancements like sponsored cohort lunches, campus tours, and post-NEO check-ins. We recognize that continued communication with these employees is critical to making sure they feel supported and seen as newcomers to our workforce.

Diversity, Equity, Inclusion & Belonging (DEIB)

The DEIB team drove improved structure and accountability in 2023, bolstering important work supporting trust, respect, and inclusion at SMUD. In January, they launched an official handbook to support the organization in creating, growing, and sustainably managing Employee Resource Groups (ERGs). The book includes templates and guidance on everything from budget and governance structures to cross-collaboration and metrics. ERGs are currently working to establish baseline data on topics such as representation, allyship, and participation. We're looking forward to gleaning additional insight about our workforce with the help of these measures.

SMUD's 8 ERGs include:

- Black Employee Resource Group (BERG)
- Asian Pacific Islander (GRAIN ERG)
- Latinos Unity Network for Action (LUNA)
- Military Employee Resource Group (MERG)
- People Reaffirming Inclusion Diversity and Equality (PRIDE)
- Women's Employee Resource Group (WERG)
- Young Professionals Employee Resource Group (YP)
- Parents ERG

Established in 2022, the DEIB Council is comprised of a group employees across the enterprise acting on behalf of the SMUD to support DEIB initiatives. The Council advises, advocates for, informs, assesses and/or monitors the DEIB strategic plan, as well as provides recommendations to the DEIB Department on behalf of SMUD.

Additional structural enhancements were made to SMUD's DEIB Council, whose role is to advise, advocate for, inform, assess and/or monitor the DEIB strategic process. Through the establishment of its four subcommittees in 2023, (Diverse Workforce, Inclusive Culture, Community Impact, and Equity), the council is now equipped to provide resources and recommendations to the Workforce, Diversity & Enterprise Partnerships group and DEIB team.

Workforce Culture

SMUD's most recent organizational commitments to a culture of inclusion were documented in our 2023 Inclusive Culture Implementation Plan. The first of two goals was to foster the norms and values of an inclusive culture within our core competencies. Last updated in 2017, we worked with executives and senior leaders to identify refreshed competencies reflecting the skills and behaviors needed to execute on our 2030 Clean Energy Vision. We added the competencies Values Differences and Instills Trust—both key components of inclusion.



The second goal in the 2023 Inclusive Culture Implementation Plan was to prioritize employee growth and development. We focused on a 5% increase in utilization of four key learning programs last year, and the numbers in the table on Page 4 of this report show the extent to which we exceeded this goal for all programs.

Our 2021 engagement results showed “My work gives me opportunities to learn and grow” is one of four questions that are strong drivers of engagement based on statistical analysis. While our last survey indicated that 73% of employees agree with this question, that score is 7% below the global average for our vendor. We look forward to revisiting this question with our workforce when we next survey them in fall of 2024.

Corporate Learning

There are several indicators that SMUD employees are deepening their relationship to learning.

- Employee mandatory training accounted for an average of 25 hours per person in 2023, but employees also averaged 45 hours of *non*-mandatory training.
- 1,044 employees leveraged the LinkedIn Learning platform and completed courses totaling more than 2,917 hours. Unique users increased by 39%!
- We also saw increased participation across several learning and development programs:

Program	2022	2023	% Increase
Learning at SMUD Annual program of employee-led learning	2,458 participants	3,236 participants	32%
Mentoring Program Relationship building for continued career success	32 mentor/mentee pairs	58 mentor/mentee pairs	81%
Field Employee Learning In-person training offered by Sacramento Power Academy	100 participants	146 participants	46%

Leadership Development

To provide experiential learning opportunities that develop leadership, and support collaboration and philanthropy in the community, SMUD currently supports 9 different leadership programs: Nehemiah Emerging Leaders, WEI Business Acumen for Emerging Leaders, Asian Pacific Chamber Catalyst program, Leadership Rancho Cordova program, Leadership Elk Grove, Leadership Sacramento, Creciente Leadership Program (formerly Nueva Epoca), Leadership Folsom, and SMUD’s Building Leadership Talent program. A selection process is conducted annually to match applicants with a program that effectively meets their development needs and SMUD’s business objectives, and individuals that sit on selection panels are required to complete unconscious bias training.

Wellness

Our goal at SMUD is to create an environment where wellness is seamlessly integrated into our corporate culture, contributing to the overall success of our organization and the satisfaction of our employees. Health and wellness program participation increased by 4%, with 365 participants in 2023 compared to 351 in 2022. We continue to enhance our strategy with flexible programs supporting several aspects of social, mental, physical, and financial wellness.

- We implemented One SMUD Stroll – a scheduled walking event with SMUD’s Chief Diversity Officer where colleagues can casually convene, connect and converse with peers and members of SMUD’s leadership team at Headquarters and the East Campus Operations Center.
- ERGs sponsored 7 health and wellness-themed events throughout the year, including:
 - o “Mental Health Awareness: Take care of you first so you can help take care of others”, a workshop hosted by the Parents ERG; and
 - o “Stress Management through Bhagavad-Gita”, a South Asian Heritage Month event sponsored by the GRAIN ERG to share how spiritual teachings can help reduce stress.
- We re-introduced the employee vanpool program and on-site fitness centers, which were both suspended post-pandemic. Championing the needs of our hybrid workforce and commitment to financial prudence, we updated the operating models for both:
 - o For \$130/month via pre-tax payroll deduction, employees can join SMUD’s new vanpool program in partnership with Enterprise, which provides transportation to and from designated stops; participation in the Commute with Enterprise Guaranteed Ride Home Program; insurance through Commute with Enterprise; and roadside assistance.
 - o Fitness Centers at both the Customer Service Center and East Campus Operations Center are now open with non-supervised, full access to equipment. Employees were previously charged a membership fee to offset the cost of staffing, but centers are now free for all full-time, part-time, limited-term and casual employees to use after completing a 10-minute orientation video and a release of liability waiver.

Benefits

Our transition to a post-pandemic hybrid work culture ramped up in 2023 with enhanced policy and decision making. The Enterprise Culture & Change team conducted extensive research on remote work best practices, analysis of employee location data, outreach to over 40 Western Energy Institute members, and focus groups with SMUD’s directors to understand how remote work was functioning. SMUD executive leadership ultimately arrived at the decision that all employees would spend a minimum of 1 day per pay period onsite beginning in Q1 of 2024.

To make this possible, we updated SMUD’s remote work policy, planned for the space needs of approximately 400 previously fully remote employees, and sponsored brown bag lunches and training to communicate changes and expectations about the remote work benefit. As a hybrid organization, our goal is to intentionally promote in-person connections that build relationships and trust while continuing to enable employees to work remotely for part of their schedule. This hybrid approach provides flexibility that can be an important part of work-life balance.

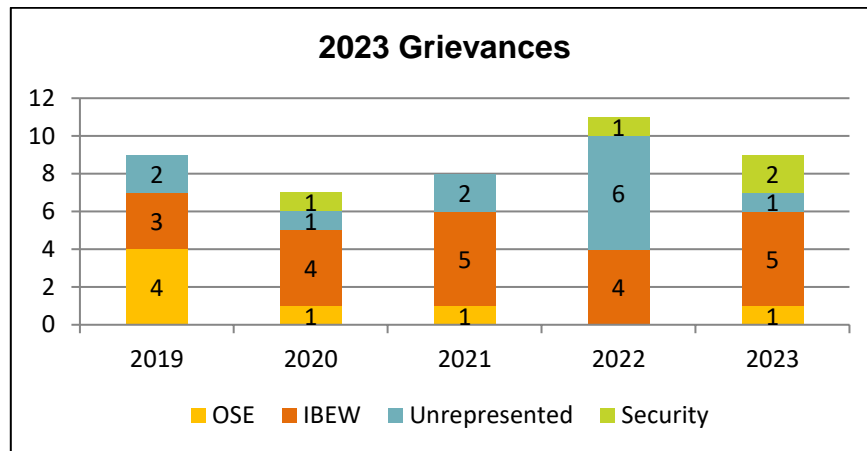
Other post-pandemic considerations in 2023 included a full return to office for in-person open enrollment – the first since the COVID-19 pandemic in 2020. Employees and retirees had the option to meet with the Benefits teams in-person or virtually, or to continue using the Virtual Benefit Fair platform featuring guidebooks, plan summary documents, and the ability to send questions to our benefit providers. Staff also arranged for vendors to present on coverage options for each of their plans.

Two additional noteworthy accomplishments:

- We conducted 2 pre-retirement seminars to packed rooms in 2023. Pre-COVID attendance hovered around 30-40 people. We saw close to 90 attendees at both pre-retirement seminars last year, helping to reengage those who were previously unable to leverage technology.
- For another consecutive year, we negotiated an impressive medical renewal under 5% compared to the industry standard of 7%. Our staff remains committed to addressing the rising cost of health care.

Conduct & Grievances

In addition to SMUD’s Code of Business Ethics and Employee Conduct, the Employee and Labor Relations teams provide daily guidance and counsel to ensure all employees (represented and unrepresented) understand SMUD policies and procedures, and their responsibilities with respect to the Code of Ethics. The teams resolved a total of 9 grievances in 2023, down from 11 in 2022.

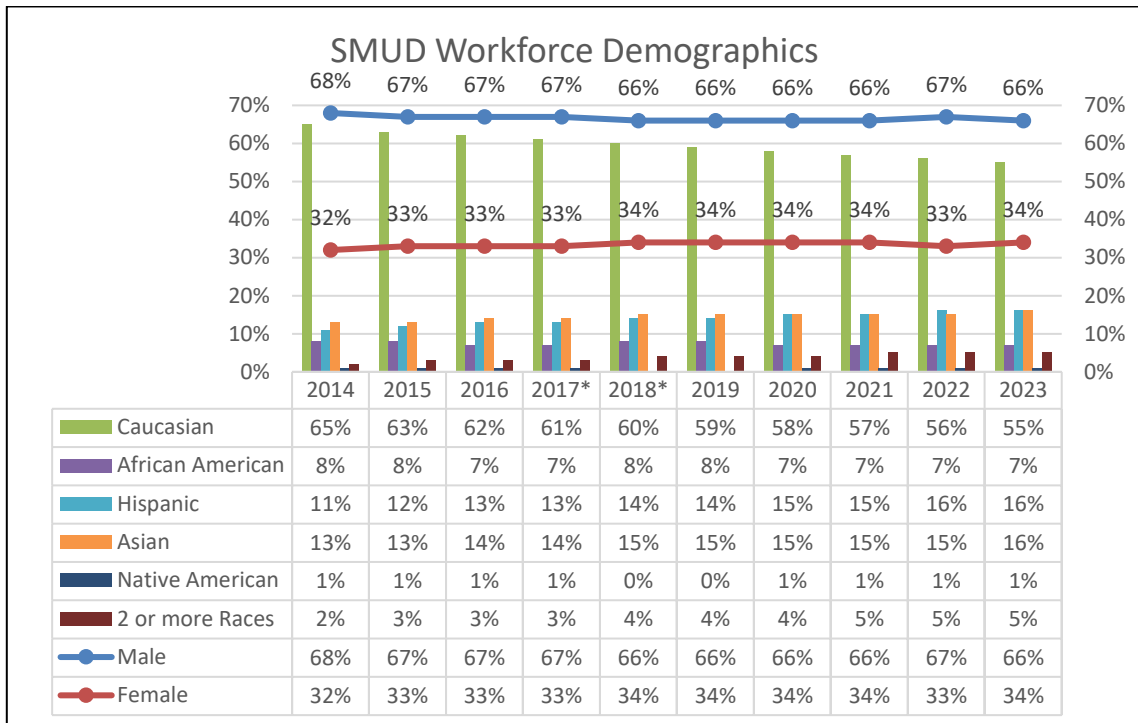


SMUD Workforce Demographics

The following chart provides demographic information about SMUD’s workforce (excluding “casual” positions and members of the Board of Directors). A thorough analysis of this data resulted in the following findings for 2023:

- A 0.6% increase in Hispanic employees
- A 0.4% increase in Asian employees
- A continued downward trend in the percentage of Caucasian employees

The cumulative impact of enhancements to our employee programs and organic turnover are the likely drivers for this change as SMUD continues to develop its talent pipeline and build a workforce that reflects the diversity of the communities we serve.



Percentages may not add up to 100% due to rounding.

Regional Workforce Demographics

The “Civilian” labor force referenced in the following chart represents residents aged 16 and older. These numbers exclude houseworkers, unpaid volunteers, institutionalized individuals, and U.S. Armed Forces Active Duty.

	Sacramento, El Dorado & Placer Co. (Civilian) *	Sacramento Co. (Civilian) *	Sacramento Co. (Total Population)**
Caucasian	55%	48%	41%
African American	7%	9%	9%
Hispanic	20%	22%	24%
Asian	14%	17%	19%
Native American	0%	0%	0%
2 or more Races	4%	4%	7%
Male	52%	52%	49%
Female	48%	48%	51%

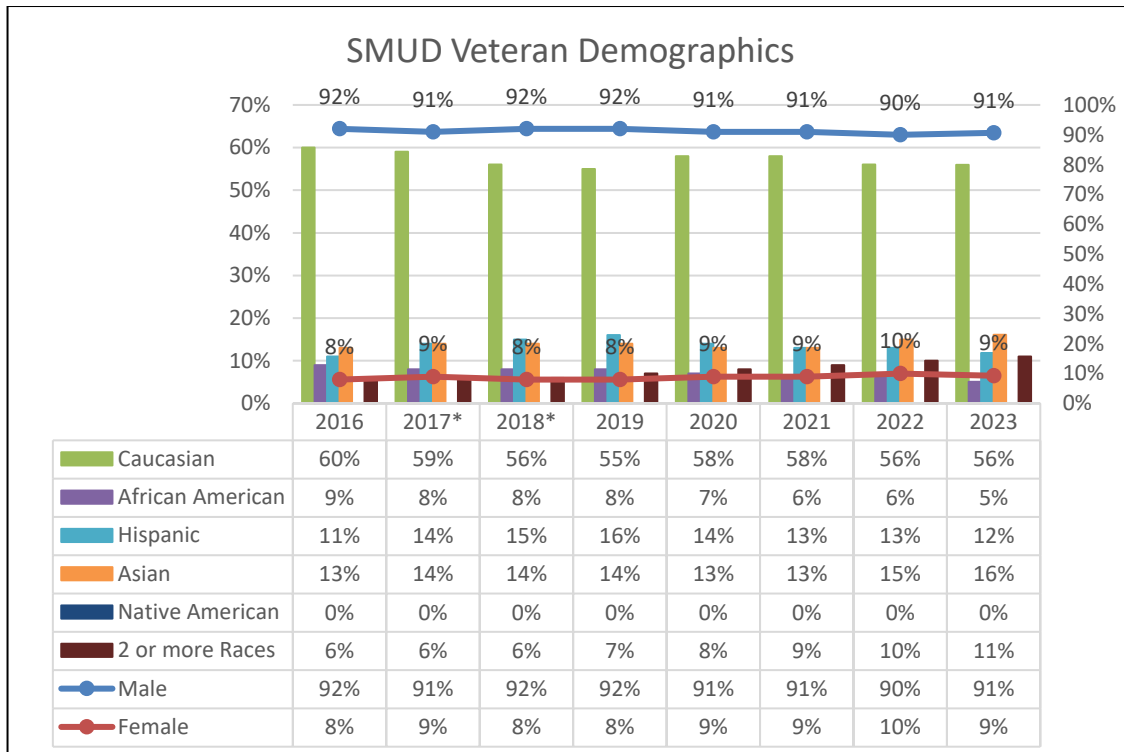
*2018 American Community Survey, 5-Year Estimates EEO

**2020 United States Census (April 1, 2020)

SMUD’s Veteran Workforce

Veterans are a small but important part of SMUD’s workforce, and in 2023, we attended 11 vet-specific events to help with tools to enter civilian careers. This included California Employment Development Department’s VetNet Series, Sacramento Veteran Employee Resource Groups, and Volunteers of America, where we assisted with mock interviews, resume workshops, hiring process questions, and information about SMUD programs.

We leveraged the Circa platform to complete outreach to 563 veteran organizations last year, sending more than 6,000 email announcements about SMUD jobs, and saw a 20% increase in veteran applicants (540 in 2023 compared to 434 in 2022). We ultimately hired 12 veterans, and SMUD’s vet population increased from 4.5% in 2022 to 5.2% in 2023. Per the Biddle Consulting Group, 6.7% is the national percentage of veterans in the civilian labor force.



*Percentages may not add up to 100% due to rounding

Source: va.gov/vetdata(09/30/23)

SMUD Workforce Demographics by Employee Level

When compared to 2022 data, we saw an increase in female directors, supervisors, and staff at SMUD last year. This trend, combined with the increase in female applicants reported on page 6, indicate our targeted efforts to improve female representation are working.

Employee Level	Male		Female	
	2022	2023	2022	2023
Executives	60%	60%	40%	40%
Directors	59%	57%	41%	43%
Managers	62%	64%	38%	36%
Supervisors	66%	62%	34%	38%
Staff	67%	66%	33%	34%

Additional shifts in demographics by employee level for 2023 include increases in:

- African American executives, directors, managers, and supervisors
- Hispanic directors, managers, and supervisors
- Asian directors and supervisors
- Directors and supervisors of two or more races

As a note, this reporting remains dynamic in the sense that all demographics are self-reported and, while uncommon, employees can change their gender identity or ethnicity at any time.

Employee Level	Caucasian		African American		Hispanic		Asian		Native American		2 or more Races	
	2022	2023	2022	2023	2022	2023	2022	2023	2022	2023	2022	2023
Executives	50%	50%	10%	20%	0%	0%	30%	30%	0%	0%	10%	0%
Directors*	69%	67%	9%	10%	6%	7%	9%	10%	0%	0%	6%	7%
Managers*	69%	70%	3%	4%	7%	8%	13%	13%	1%	1%	6%	5%
Supervisors	62%	56%	7%	8%	10%	12%	16%	18%	0%	0%	5%	6%
Staff*	54%	54%	7%	7%	17%	17%	15%	15%	1%	1%	5%	5%

* Percentages may not add up to 100% due to rounding.

Workforce Turnover

SMUD's turnover decreased in 2023 from 7.0% in 2022 to 6.4%, which we believe to be in large part due to fewer retirements. Retirements decreased from 78 in 2022 to 63 retirements last year. Our turnover continues to rank below the industry benchmark of 11.1%. While SMUD's Baby Boomer workforce is entering retirement eligibility, economic influences are also extending the average length of time a person may choose to stay in the workforce.

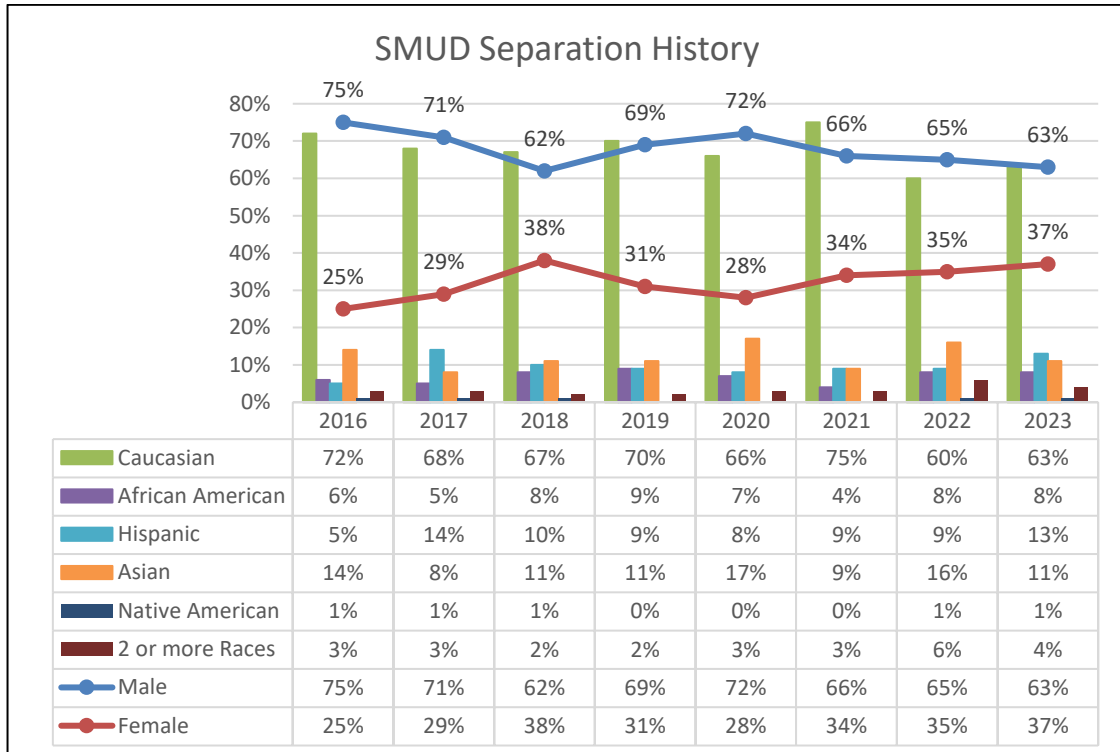
Completing the Employee Lifecycle

To help identify strengths and opportunities across the organization, we introduced voluntary voice-to-voice exit interviews for departing employees in 2023. In the first year of the program, 88 employees elected to share feedback on their experiences at SMUD.

- 94% of all exiting employees would recommend SMUD to a friend or colleague.
- 90% of exiting employees would consider returning to SMUD if the conditions were right.
- Less than half of employees specified that they were leaving because they were dissatisfied with some part of their job - either promotional opportunities, remote work limitations, or work/life balance in their specific job.
- Most employees view the people they worked with at SMUD as the best part of their job and listed a substantial number of positive descriptors for them.
- Employees felt recognized and appreciated for the contributions they made to SMUD. There were many more positive reactions when asked this question than critical commentary.

There is a strong correlation with the information discovered through the exit interview process and SMUD's engagement survey data, which senior leaders have been actively addressing since developing engagement action plans in 2022.

The 2023 separation data tells us that Caucasian employees represented 63% of departing employees, up from 60% in 2022. This shift was offset by an increase of 4% for Hispanic employees, a 5% decrease for Asian employees, and a 2% decrease for employees of two or more races. While we did see fewer employees leave SMUD in 2023 overall, we're continuing to conduct a deeper analysis of this data to learn if correlations exist between specific populations and exit interview feedback.



RESOLUTION NO. 24-05-04

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

This Board accepts the monitoring report for **Strategic Direction SD-12, Ethics**, substantially in the form set forth in **Attachment B** hereto and made a part hereof.

Approved: May 16, 2024

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

SACRAMENTO MUNICIPAL UTILITY DISTRICT

OFFICE MEMORANDUM

TO: Board of Directors

DATE: April 24, 2024

FROM: Claire Rogers *CR 4/24/24*

SUBJECT: Audit Report No. 28007744
Board Monitoring Report; SD-12: Ethics

Internal Audit Services (IAS) received the SD-12 *Ethics* 2023 Annual Board Monitoring Report and performed the following:

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

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

CC:

Paul Lau

Board Monitoring Report 2023

SD-12, Ethics



1. Background

Strategic Direction 12 states that:

Maintaining the public trust and confidence in the integrity and ethical conduct of the Board and SMUD employees is a core value. Therefore, to ensure the public interest is paramount in all official conduct, the Board shall adopt and update, as necessary: a Conflict of Interest Code as required by State law. SMUD shall also maintain and enforce a code of conduct applicable to all employees.

Among other things the code of conduct shall:

- a) Require high ethical standards in all aspects of official conduct;
- b) Establish clear guidelines for ethical standards and conduct by setting forth those acts that may be incompatible with the best interests of SMUD and the public;
- c) Require disclosure and reporting of potential conflicts of interest; and
- d) Provide a process for (i) reporting suspected violations of the code of conduct and policies through multiple channels, including an anonymous hotline, and (ii) investigating suspected violations.

2. Executive Summary

SMUD is in compliance with the requirements of SD-12.

Strategic Direction 12 requires SMUD to have a process to report potential conflicts of interest and a process for reporting and investigating suspected violations of the Code of Conduct. Compliance is foundational for acting in the best interests of our customers and community. Several SMUD policies and procedures support the requirement of high ethical standards in all aspects of official conduct.

SD Requirement	Supporting Process/Procedure
a) Require high ethical standards	SMUD's Ethics policy (AP 05.02.03) sets the requirements and expectations for ethical behavior, including communication, training and other resources.

<p>b) Establish clear guidelines for ethical standards and conduct</p>	<p>SMUD's Code of Business Ethics and Employee Conduct were updated and approved by the CEO & General Manager in 2020. SMUD's Ethics procedure (MP 05.02.03.100) was adopted in 2008 and updated in January 2021. SMUD's Conflict of Interest policy (AP 05.02.02) was adopted in 1998 and approved by the FPPC (Fair Political Practices Commission) in 2023.</p>
<p>c) Require disclosure and reporting potential conflicts of interest statements</p>	<p>Notice of filing requirements were sent to employees as early as January and through March. 97.7% of the annual conflict of interest statements were received by the time this report was finalized.</p>
<p>d) Provide a process for reporting and investigating suspected violations of the code of ethics</p>	<p>SMUD's Whistleblower Anti-Retaliation policy (AP 05.01.03) was approved in 2014. SMUD's Complaint Process Policy (AP 05.01.04) was adopted in 2006 and updated in August 2022. SMUD's Ethics and Compliance Hotline has been in place since 2008.</p>

3. Additional Supporting Information

Ethics Policy

In accordance with Board Policy SD-12 Ethics, SMUD developed the Code of Business Ethics and Employee Conduct, approved by the CEO & General Manager in 2020. This document supplements SMUD's State-law mandated Conflict of Interest Code and provides an easy-to-read explanation of SMUD's values and expectations for employee behavior. It also identifies various staff resources to obtain further guidance, as well as alternative methods to report suspected violations of SMUD's Code of Business Ethics. The Code provides a framework for how employees should act toward customers, vendors and each other. It also emphasizes that as a publicly-owned utility, SMUD and its employees must adhere to the highest ethical standards.

All new employees receive a copy of SMUD's Code of Business Ethics prior to or during new employee orientation and are required to review and submit a signed acknowledgement to People, Services & Strategies within 30 days of orientation. In addition, all contractors with unescorted access receive a copy of the Code when their background check is conducted. PS&S verifies Code acknowledgements on a quarterly basis to ensure signed acknowledgments are received from all new employees and contractors.

Ethics Training

Ethics training is a mandatory requirement for all SMUD employees. They are required to complete the training every 2 years on a fixed rotating schedule. New and returning employees have one year for completion while newly promoted leaders are required to take Ethics training within 90 days of promotion into their role. Course completion is tracked using SMUD's Learning Management System (LMS) and reported as part of SMUD's mandatory training statistics. The 2023 completion rate for employees with 2023 due dates is 99.61%.

Disclosure and Reporting of Potential Conflicts of Interest

The Political Reform Act (Cal. Gov. Code §§ 81000, et seq.) requires certain government officials and employees to publicly disclose certain financial information relevant to the scope of decision-making for their positions with SMUD.

To maintain compliance, all employees in positions designated by the SMUD Board must complete and submit an annual Statement of Economic Interests, FPPC Form 700 (Conflict of Interest Statement). Incumbents of designated positions shall file an Assuming Office Statement within 30 days of starting their employment or beginning the new position. Employees in designated positions who leave SMUD shall file Leaving Office Statements within 30 days of their final dates of employment.

The annual Conflict of Interest Statements are public documents filed with Corporate Records or in the designated record repository. PS&S sent financial disclosure materials electronically to designated employees as early as January and through March to successfully meet the FPPC filing deadline of April 2. At the time of this report, 97.7% percent of the annual Conflict of Interest Statements from SMUD officials and designated employees were received. PS&S staff follows up to ensure total compliance. In the rare event that full compliance is not achieved, SMUD is obligated to report violations to the FPPC for enforcement. This has occurred only two times in the last decade.

Process for Reporting and Investigating Suspected Violations

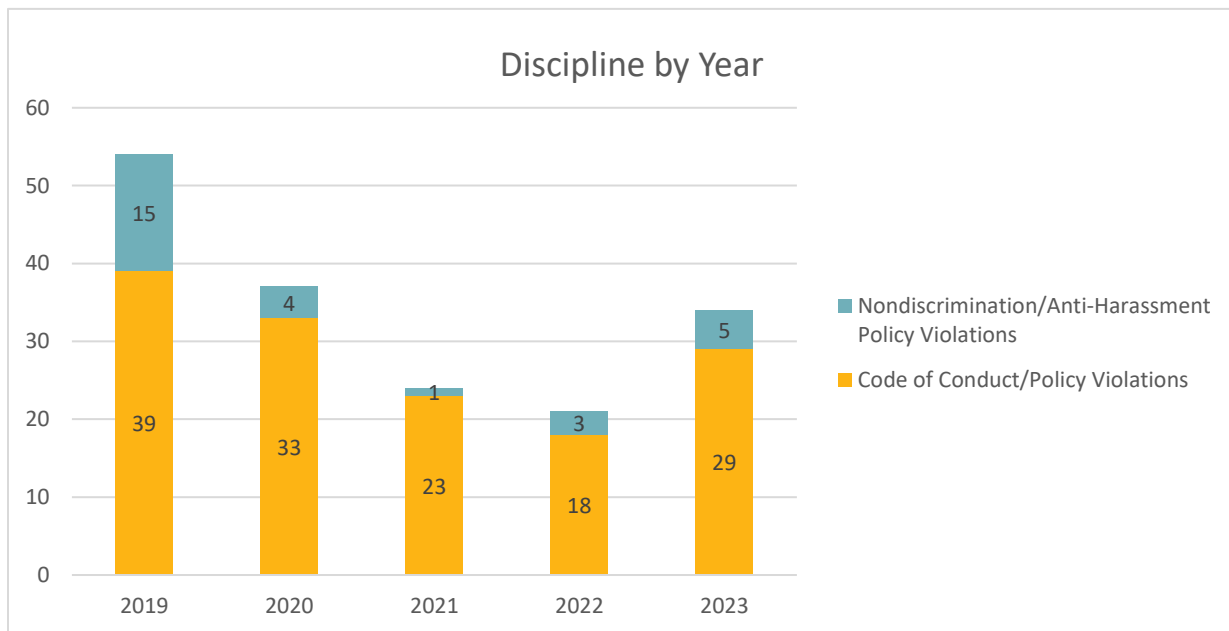
SMUD holds its employees to a higher standard than that required by law and is committed to providing a work environment in which all individuals are treated with dignity and respect. SMUD encourages employees to bring concerns about potential legal violations or violations of SMUD policies to the attention of a SMUD leader. All SMUD leaders are required to immediately report all complaints they receive regarding suspected policy violations to the Fair Employment Office. An employee who believes that they are unable to make a complaint through their management reporting line may report complaints directly to the Fair Employment Office, Labor Relations, Internal Auditor's or General Counsel's Office.

Additionally, SMUD has contracted with Navex Global Compliance since November 2008 to operate an anonymous Ethics and Compliance Hotline. This hotline can be used by employees to file complaints anonymously should they so choose, either online or by calling Navex Global Compliance directly.

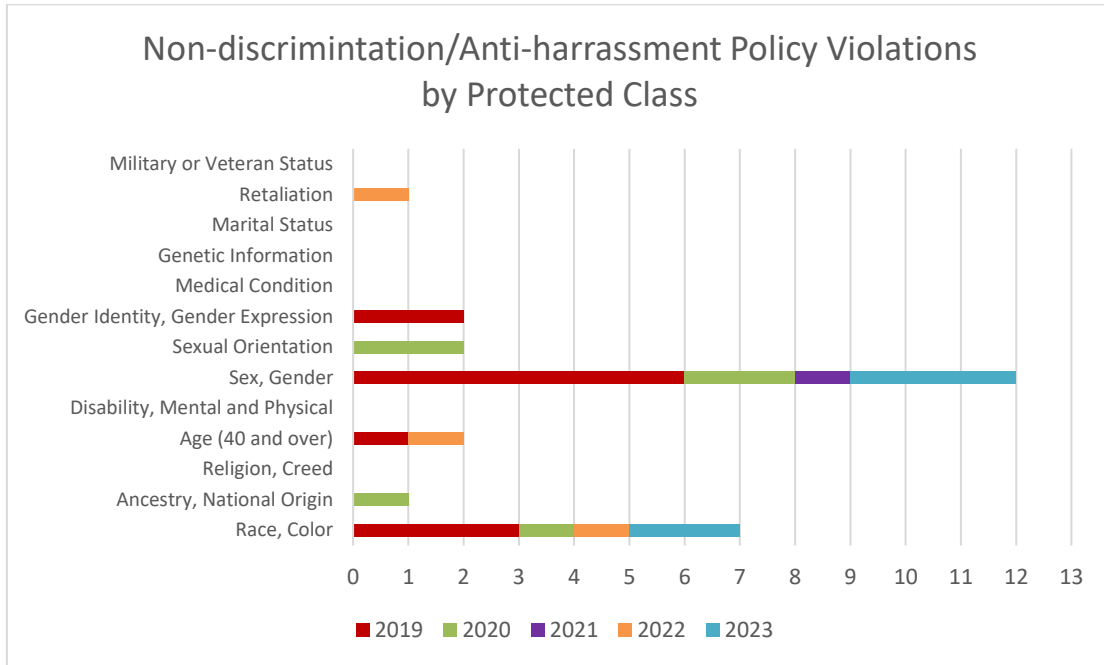
As part of SMUD's Complaint Process and Whistleblower Anti-Retaliation policies, a Whistleblower Committee was established to review and act, when appropriate, on hotline/whistleblower complaints. The committee is comprised of representatives from the General Counsel's office, Internal Audit Services and PS&S, including members of our Fair Employment Office and Labor Relations team.

In addition to investigating potential violations of SMUD’s Nondiscrimination, Anti-Harassment and Non-Retaliation Policy (AP 05.01.01) and Code of Ethics, Labor Relations and Fair Employment analysts also advise, consult with and support leaders on recommended action and coaching to address problematic behaviors and attitudes among the workforce that are not necessarily prohibited by law. This includes working with a leaders’ leader or senior leadership when improved leadership skills would benefit relationships. These proactive measures play a critical role in a culture where all employees are respected and valued.

The following chart illustrates discipline issued to employees between 2019-2023. Summarized below are the disciplines issued for violations of SMUD’s Nondiscrimination, Anti-Harassment and Non-Retaliation Policy (AP 05.01.01) as well as discipline for misconduct/policy violations under SMUD’s Positive Discipline Policy (AP 05.02.09) including dishonesty, bullying, discourteous behavior, unprofessional conduct, driving policy violations, insubordination, conflicts of interest and unethical behavior. The below reporting does *not* include discipline related to safety incidents (e.g. preventable vehicle accidents), attendance (tardiness and/or absences) or work performance unless there was a conduct component covered by SMUD’s Code of Business Ethics & Employee Conduct, such as willful negligence or dishonesty.



The chart shown next indicates violations of SMUD’s Nondiscrimination, Anti-Harassment and Non-Retaliation Policy (AP 05.01.01) as they relate to protected categories for FEO investigations that occurred in the past five years.



4. Challenges

Completing training and obtaining necessary documents can be a challenge for employees on any type of extended leave. Broad or anonymous complaints are sometimes filed without supporting and/or contact information to allow for follow-up and further investigation.

5. Recommendations

As reflected in this report, SMUD has achieved the goals set forth in SD-12 for maintaining the public trust and confidence in the integrity and ethical conduct of the Board and SMUD employees. The policies, guidelines, staff training and monitoring and reporting components have played a part in ensuring high ethical standards in all areas of conduct and in operations.

It is recommended the Board accept the monitoring report for Strategic Direction 12.

6. Appendices N/A

RESOLUTION NO. 24-05-05

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

This Board approves the revisions to **Board-Staff Linkage BL-10, Delegation to the CEO with Respect to Real and Personal Property,** substantially in the form as set forth in **Attachment C.**

Approved: May 16, 2024

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

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-10
Title: Delegation to the CEO with Respect to Real and Personal Property

Normal business operations require SMUD to engage in: (i) the acquisition, disposition, and lease of interests in real property; and (ii) the disposition and lease of surplus personal property.

- a) **Delegation of Authority:** The Chief Executive Officer and General Manager (CEO) is delegated decision making and approval authority within the parameters that follow.

- b) **Real Property:**
 - i) Purchase, Sale or Exchange of Real Property. The purchase price does not exceed \$5 million and is no more than \$150,000 over 115% of the appraised value of the property. The sale of real property shall be at fair market value and offered in accordance with California Government Code section 54220 et seq. and other applicable law. In an exchange of real property, SMUD shall remain financially whole or benefit from the transaction.

 - ii) Lease of SMUD Real Property. Leases shall be for fair market value and shall not adversely impact SMUD's current or anticipated future operations.

 - iii) Option for Purchase of Real Property. The option price shall be commercially reasonable and not to exceed \$1,000/acre, with the option to be exercised only by the Board or consistent with Section b)i) of this policy.

 - iv) Easements, Rights of Way, Licenses or Quitclaim Deeds. Easements, rights of way, licenses and quitclaim deeds may be granted to third parties where SMUD's current or anticipated future operations are not adversely impacted. Lease, easements, licenses and rights-of-way from third parties may be obtained within 125% of fair market value.

 - v) Special Assessments, Governmental Fees and Property Taxes. Cast all ballots, negotiate, pay taxes, assessments, fees, levies or charges arising from or related to SMUD's ownership or other interests in real property.

- c) **Personal Property:**
 - i) Disposal of Surplus, Scrap or Obsolete Personal Property. The disposal of surplus, scrap, or obsolete personal property shall be done in accordance with applicable law.

- ii) Lease of SMUD Personal Property. Leases shall be for fair market value and shall not adversely impact SMUD's current or anticipated future operations.

Monitoring Method: CEO Report

Frequency: Annual

Versioning:

September 21, 2006	Resolution No. 06-09-11	Date of Adoption.
December 7, 2006	Resolution No. 06-12-03	Date of Revision.
December 18, 2008	Resolution No. 08-12-11	Date of Revision.
August 4, 2011	Resolution No. 11-08-04	Date of Revision.
August 21, 2014	Resolution No. 14-08-03	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
May 16, 2024	Resolution No. 24-05-05	Date of Revision. [Current Policy]

RESOLUTION NO. 24-05-06

WHEREAS, Senate Bill 901 (2018) and Assembly Bill 1054 (2019) revised the California Public Utilities Code section 8387 (PUC § 8387) to require that before January 1, 2020, and annually thereafter, every publicly owned electric utility (POU) prepare a **Wildfire Mitigation Plan (WMP)**, present it in a noticed public meeting, and accept comments; and

WHEREAS, PUC § 8387 also requires that each POU update its plan annually and submit the update to the **California Wildfire Safety Advisory Board (WSAB)** by July 1 of each year; and

WHEREAS, PUC § 8387 also requires that at least once every three years, the plan submitted to the **WSAB** shall be a comprehensive revision of the plan; and

WHEREAS, PUC § 8387 states that the POU shall contract with a qualified independent evaluator experienced in assessing the safe operation of electrical infrastructure to review and assess the comprehensiveness of the POU's **WMP**, who shall issue a report and present the report at a public meeting; and

WHEREAS, by Resolution No. 23-06-05, adopted on June 15, 2023, following opportunity for public input and presentation of the qualified independent evaluator's report, this Board adopted SMUD's 2023-2025 **WMP** and authorized the Chief Executive Officer and General Manager to make future changes to SMUD's 2023-2025 **WMP** that further the primary purpose of SMUD's 2023-2025 **WMP** and provide a net benefit to SMUD; and

WHEREAS, in accordance with PUC § 8387, staff completed the draft **2024 Update** of SMUD's 2023-2025 **WMP (2024 Update)**, conducted public outreach to solicit comments on the draft **2024 Update**; and

WHEREAS, the draft **2024 Update** was posted on smud.org/wildfiresafety and made available for public review and comment for thirty days ending May 13, 2024; and

WHEREAS, SMUD received no public comment on the draft **2024 Update**; and

WHEREAS, the draft **2024 Update** was presented to the SMUD Board of Directors Finance & Audit Committee at a duly noticed public meeting on May 14, 2024, at which meeting opportunity for public comment was provided; **NOW, THEREFORE,**

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

Section 1. This Board adopts the **2024 Update** to SMUD's 2023-2025 **Wildfire Mitigation Plan (WMP)** substantially in the form set forth in **Attachment D** hereto and made a part hereof.

Section 2. The Chief Executive Officer and General Manager, or his designee, is authorized to make future changes to SMUD's 2023-2025 **WMP** that, in his prudent judgment: (a) further the primary purpose of SMUD's 2023-2025 **WMP**; and (b) are intended to provide a net benefit to SMUD.

Approved: May 16, 2024

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

2024 Update 2023 – 2025 Wildfire Mitigation Plan



Powering forward.
Together.



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1 Executive Summary

SMUD adopted a three-year Wildfire Mitigation Plan (WMP) in 2023. This 2023-2025 WMP was a comprehensive update of SMUD's WMP and included a risk assessment, analysis on the impact of climate change, descriptions of prevention and mitigation initiatives, discussion of project updates and outcomes, and metrics to evaluate the WMP performance. This 2024 update to the 2023-2025 WMP outlines progress made on several multi-year projects and provides other minor updates to reported initiatives.

Projects. The multi-year projects outlined in SMUD's 2023 comprehensive update are complete or on-track with one exception. Although SMUD's service territory is outside the CPUC's High Fire Threat District (HFTD), SMUD has been installing Cal FIRE exempt arrestors, connectors, and fuses in the Pole Clearing Area (PCA). In late 2023, a manufacturer of a particular fuse holder halted production and shipments to utilities. This has caused a slight disruption in the overall project. SMUD staff and vendors are exploring alternatives in addition to working with the vendor to see if production will be resumed with a design change. SMUD staff have adjusted the plan to continue installing other hardware that have not been impacted. Overall project completion target remains the same, however, this target may be adjusted if hardware remains unavailable.

Risk management. The bulk of SMUD's efforts continue to be reducing fuel around our facilities to reduce ignition risk. Winter season arrived late in 2022. The late winter season allowed vegetation contractors to continue working in our highest fire risk Upper American River Project (UARP) area late into the fall of 2022, enabling us to get ahead of the scheduled 2023 work. As a result of this accelerated work, 2023 vegetation removal activities in the UARP concluded much earlier than planned. Earlier completion allowed SMUD to lower its wildfire risk in the UARP prior to the hot-dry months of August and September

Northern CA has benefited from atmospheric rivers and snowpacks that have delivered above average rain and water totals in 2023 and 2024. The late wet winter/spring resulted in a shortened and mild wildfire season for Northern CA in 2023. The outlook for wildland fire potential in Northern California looks similar for 2024¹.

The various programs and projects described in the 2023-2025 WMP continue to provide a comprehensive and innovative approach to SMUD's wildfire risk reduction.

1.1 Document Introduction

The numbered sections in this 2024 WMP update are intended to replace the respective numbered sections within the 2023 – 2025 WMP published in July 2023.

¹ https://www.nifc.gov/nicc-files/predictive/outlooks/monthly_seasonal_outlook.pdf. Accessed April 2nd, 2024. (The link will open the most current month. To view historical data, use this link to access the archived monthly reports: <https://www.nifc.gov/nicc/predictive-services/outlooks>)

2.5 Accountability of the plan

SMUD’s Chief Operating Officer has overall responsibility for the WMP. The Chief Operating Officer and Chief Customer Officer are responsible for executing the various components of the WMP.

2.5.1 SMUD operating unit responsibility specific to each component of the plan

Table 3 lists the Director with responsibility for the departments or workgroups that are accountable for the various components of SMUD’s WMP. In each case the Director or the Director’s designees will be responsible for the accuracy of, and for operations in accordance with, the specified component of the plan.

Table 3 Accountability for the WMP components.

Mitigation Activities	Responsible Department and Workgroup
Risk analysis	Manager, Enterprise Strategy and Risk
Fire threat assessment in service area and UARP	Director, Distribution Planning & Operations
Wildfire prevention strategy and programs	
- Disable automatic reclosing - Planned de-energizations	Director, Transmission Planning & Operations, Director, Distribution Planning & Operations
	Director, Line Assets
- Substation visual inspections	Director, Substation, Telecom & Metering Assets
- Vegetation management - Pole clearing program	Director, Line Assets
Fire mitigation construction	
- Natural Ester-based fluid - Cal FIRE exempt equipment in PCA	Director, Distribution Planning & Operations
- Weather stations	Director, Transmission Planning & Operations
Enhancement projects	
Pilot projects	
- Light Detection and Ranging and Ortho Imagery	Director, Line Assets
Emergency preparedness	
- SMUD Emergency Operations Centers	Director, Facilities, Security & IPPS
- Public and agency communications for wildfires	Director, Customer Operations & Community Energy Services, Director, Customer Experience Delivery, Director, Corporate Communications, Director, Commercial Development & Solutions

5.1 CAL FIRE Fire Resource and Assessment Program (FRAP)

CAL FIRE publishes multiple maps related to fire threat throughout the state. SMUD refers to the Fire Hazard Severity Zone (FHSZ)⁶ map for many years to inform and plan maintenance activities. CAL FIRE published new FHSZ map in April 2024. The new map depicts slight changes in fire hazard severity in the PCA. SMUD staff have begun the process of importing the map data. SMUD staff will analyze the impacts of the new map and adjust SMUD's mitigation programs as needed. However, CAL FIRE has not published a new map depicting FHSZ for Local Responsibility Area (LRA)⁷ and Federal Responsibility Area (FRA). The LRA and FRA depict fire hazard within Sacramento County areas, and portions of the UARP where SMUD has transmission lines respectively. SMUD staff will continue monitoring CAL FIRE's website for updates to these two maps.

Although SMUD takes CAL FIRE's FHSZ mapping into consideration as part of its wildfire mitigation planning, SMUD's Wildfire Mitigation Plan references the CPUC Fire Threat Map that focuses on the risk of utility associated wildfires⁸.

6.2 Transmission grid operational practices

6.2.1 Disabling reclosing

All Valley 115 kV, 230 kV and UARP 69 kV, 230 kV transmission auto reclosers are disabled and will remain disabled to mitigate wildfire risks. The disabling of reclosing follows fire season described in 6.1.1

6.2.2 Planned de-energization during fire season

SMUD's Power System Operators (PSO) have the authority to de-energize portions or all the Valley and UARP transmission line(s) for safety, reliability, conditions beyond design criteria, threat of wildfires and during emergency conditions when requested by local law enforcement or fire officials. Per existing protocols, planned de-energizations are coordinated with interconnected agencies.

During active fire season as declared by CAL FIRE the PSO is authorized to de-energize portions or all the Valley and UARP transmission line(s) when there is imminent fire danger, mandatory fire orders are in effect, and/or the transmission system is experiencing conditions beyond design criteria. The PSO will take a combination of many factors into consideration when implementing de-energization procedures, which include the triggers listed below, as well as power system knowledge and potential community impacts. De-energization decisions require a balancing of all these factors as well as a knowledge of the area and operation of the power system. No single element is determinative.

- Extreme fire danger threat levels, as classified by the National Fire Danger Rating System
- A RFW declaration by the National Weather Service
- Low humidity levels lower than what is required for a RFW
- Sustained winds exceeding design standards
- Site-specific conditions such as temperature, terrain, and local climate
- Critically dry vegetation that could serve as fuel for a wildfire
- On-the-ground, real-time observation from SMUD or other agency field staff

The PSO utilizes various operational and situational awareness tools to determine when de-energization is appropriate. The tools are listed below:

⁶ <https://osfm.fire.ca.gov/what-we-do/community-wildfire-preparedness-and-mitigation/fire-hazard-severity-zones>

⁷ <https://osfm.fire.ca.gov/what-we-do/community-wildfire-preparedness-and-mitigation/fire-hazard-severity-zones/fire-hazard-severity-zones-maps>

⁸ <https://www.cpuc.ca.gov/industries-and-topics/wildfires/fire-threat-maps-and-fire-safety-rulemaking>

- Weather data telemetered into SMUD’s Energy Management System, such as wind speed, wind direction, air temperature, barometric pressure and relative humidity
- US Forest Service – Wildland Fire Assessment System, <https://www.wfas.net/>
- CAL FIRE Incidents Information, <https://www.fire.ca.gov/incidents>
- CAL FIRE California Statewide Fire Map: <https://www.fire.ca.gov/incidents/>
- National Weather Service: <https://www.weather.gov/>
- Indji Watch real time operational tool
- Geographic Information System (GIS) based tools
- ALERTWildfire: <http://www.alertwildfire.org/tahoe/index.html>
- NOAA/National Weather Service Storm Prediction Center: <https://www.spc.noaa.gov/>
- National Significant Wildland and Fire Potential Outlook, <https://www.predictiveservices.nifc.gov/outlooks/outlooks.htm>
- Wildfire Forecast & Threat Intelligence Integration Center (WFTIIC), <https://hub.wftiic.ca.gov/>

6.6 Enhancement and mitigation projects

SMUD forecasts and plans for upcoming work several years in advance. This planning process allows adequate level of staffing and funding for needed projects. This section identifies the specific upcoming projects that help reduce SMUD’s wildfire risk.

6.6.2 *Replace #6 Copper conductors in PCA*

Status: Completed 2023

Start Date: 2021

Expected Completion: 2023

This project targets SMUD’s PCA for removal of #6 copper conductors and replacement with heavier gauge aluminum. The project was proposed in conjunction with Eagle Take Permit mitigation work to reduce avian contacts issued in connection with the expansion of SMUD’s Wind Farm in Solano County. The mitigation activity involves re-framing approximately 185 poles to increase overhead conductor spacing.

6.6.4 *UARP Fuels Reduction*

Status: Completed 2023

Start Date: 2019

Expected Completion: 2023

This project is designed to help protect the UARP transmission lines and strengthen the fire break value it provides. The project area includes the entire length of SMUD’s UARP transmission line within the existing right-of-way corridor plus approximately 200 feet on each side. Project treatments are designed to increase the area of forest lands treated for fuels reduction and prescribed fire and contribute to the longer-term restoration of the Crystal Basin forested landscape. Implementation measures will reduce the density of surface and ladder fuels by mechanical thinning, mastication, and hand crew work as part of a larger suite of silvicultural prescriptions that restore mixed conifer composition, health, and vigor. The project seeks to establish conditions that allow for a mosaic of multiple age class forest stands, variation in tree size, density, and species composition through treatments that retain the largest trees while establishing conditions that allow for safe and efficient fire suppression, especially around private inholdings of Sierra foothill communities.

6.6.5 *Install SCADA reclosers in PCA*

Status: Deferred 2025 to 2027 due to unforeseen design and supply chain constraints

Start Date: 2025

Expected Completion: 2027

The existing 12kV feeders serving PCA customers are non-SCADA. This project will install SCADA enabled reclosers on feeders that serves SMUD's PCA customers. The SCADA reclosers will provide distribution operators visibility to the circuits and ability to operate the recloser remotely, including remotely disabling the reclosing function. The SCADA enabled reclosers will have modern microprocessor-based controllers, which will provide SMUD engineers the flexibility of fast-trip settings during fire season, and normal settings for improved reliability during storm season. Visibility to circuit's measured values will provide distribution operators the ability to remotely de-energize the circuit(s) when conditions warrant or when requested by emergency response personnel.

7.2 Public and agency communications for a potential wildfire

Public safety is a guiding principle at SMUD. While SMUD's WMP activities are designed to mitigate wildfire danger, in instances of high fire threat conditions, interruption of electrical service by de-energizing powerlines may be necessary as a last resort. De-energizing powerlines may be the safest approach and makes sense if the risk of a wildfire starting and spreading is severe. SMUD proactively communicates with customers and key stakeholders through multiple channels about preparing for potential power outages, and the power restoration process. SMUD recognizes that many entities and individuals are particularly vulnerable during extended power outages and makes every effort to provide up-to-date information to these populations prior to, during and after an event.

This proactive communication is utilized for:

- 1) A wildfire threat to localized circuits within the SMUD service territory that results in localized de-energization.
- 2) A wildfire threat to SMUD's UARP hydroelectric generation and transmission system that results in a de-energization event causing a capacity/energy shortage (rotating outages).
- 3) A wildfire threat to a major shared transmission line(s) that impacts the statewide grid or parts of it and creates a resource shortage for the utilities, including SMUD, that rely on the resources the line(s) provides.

SMUD has implemented an opt-in program on smud.org that allows for vulnerable populations to receive additional information or notifications in the unlikely event of a wildfire in SMUD service territory.

Among SMUD's most vulnerable customers are those enrolled in the Medical Equipment Discount Rate program (MED rate). These customers rely on specialized medical equipment that may require power. SMUD also has a Vulnerable Customer program which allows customers to self-identify as vulnerable for concerns not covered by our MED Rate, we include our Energy Assistance Program Rate (EAPR) and 3rd Party/Senior Id customers in this group. SMUD has more than 13,000 customers who rely on specialized medical equipment and who are enrolled in the MED rate program, 3rd Party/Senior ID program or enrolled in our Vulnerable Customer program. Additionally, SMUD has nearly 90,000 customers that participate in our EAPR program. SMUD will send these customers an email or letter each year to remind them of the risk of wildfire danger, to have an emergency back-up plan if an outage occurs, to update their contact information and refer them to Smud.org/wildfiresafety for more information.

All SMUD customers can visit the smud.org/wildfiresafety webpage where they'll be able to find:

- Wildfire mitigation plan
- Information on how SMUD mitigates fire risk
- Emergency preparedness tips guide (7 languages)
- Links to additional resources
- Video on wildfire mitigation efforts
- Rotating outage map and periodic event updates
- Frequently Asked Questions on the de-energization process

[Smud.org/WildfireSafety](https://smud.org/WildfireSafety) provides access to information about SMUD's effort in wildfire planning and prevention (including an archive of this and prior WMPs), how to identify fire risk in areas where SMUD maintains electric facilities, a video on our wildfire mitigation efforts, emergency planning and preparation (six different languages) and SMUD's de-energization protocols.

SMUD also proactively communicates before potential emergency events about our efforts to prepare for and reduce wildfire risk.

In advance of peak wildfire season, SMUD conducts ongoing communications about how to prepare for emergencies in the event of a wildfire, natural disaster or major outage. The communications include:

- Letters and emails to MED Rate, EAPR 3rd Party/Senior ID and self-identified vulnerable customers, with preparation checklists.
- Outdoor billboards
- Digital monitors in our customer lobby
- Bill inserts
- Reminders on SMUD.org homepage encouraging customers to update contact information
- Customer newsletters (print and email) on safety tips, preparation.

SMUD's public information specialists will provide ongoing updates on multiple platforms, including social media, to provide customers and the community with up-to-date information about an emergency or potential emergency.

SMUD's government affairs representatives will reach out to the executive staff of local governments, elected officials, SMUD's state delegation, federal and tribe representatives and appropriate agency staff to provide initial contact and ongoing communications by email and phone with messages for their constituents.

In the time leading up to a potential or imminent de-energization event or emergency, SMUD makes every effort to maintain contact with customers it believes may be impacted and keep the media, local agencies and the public aware of the number of customers affected, and SMUD's activities and restoration efforts.

Key stakeholders and public safety partners, including potentially impacted federal, state and local elected officials, City and County executive staff, tribe representatives and first responders are also contacted via a variety of channels. SMUD has specific personnel assigned to elected officials and agencies, and to critical customers including water and telecommunications utilities potentially affected by de-energized powerlines.

9.1 Effectiveness of the WMP

In the initial WMP, SMUD staff identified metrics that met the criteria of PUC 8387. These identified metrics were general in nature. Since those initial metric criteria were identified, the wildfire planning process has continued to develop, and SMUD has received independent evaluation of its WMP. In response to the industry's maturing understanding of wildfire metrics and recommendations received, SMUD undertook a multi-step effort to identify new metrics that can better gauge the success of its many programs and mitigation activities outlined in the WMP.

The first step in this multi-step effort was to assess, identify and establish useful metrics that best measure the activities related to minimizing the probability that SMUD's transmission and distribution system may be the origin or contributing source for the ignition of a wildfire. Metrics identified in this section are measures of quantitative assessment that will be used for assessing, comparing, and tracking performance of the programs and efforts identified in this WMP. This step was completed and reflected in the metrics identified in this WMP.

The second step is to define the benchmarks associated with the metrics. The purpose of these benchmarks is to establish criteria to measure performance of the various activities. Some activities can be measured with specific units of work that are forecasted at the beginning of a year, such as quantities of inspected units etc. Progress towards these forecasted units would indicate on- or off-track completion cadence, which can be adjusted as needed during the year. Other metrics are identified to count uncontrollable units that indicate performance of the grid, such as outage event counts or number of corrective action findings. Development of these benchmarks will require several years of data to determine trendlines and averages. Data collection for the new metrics began in 2021. Following existing practices, SMUD anticipates five years of data will be required to establish the benchmarks, with a target period in 2026.

The third and final step is to determine or define the percentage reduction targets against the benchmarks. Percent reductions against benchmarks would need to be realistic, and not easily achievable. SMUD anticipates the initial benchmarks would require fine adjustments periodically to ensure continued effort towards risk reduction activities. These benchmarks and adjustments will be reflected in SMUD's annual WMP updates.

9.1.1 *Metrics and assumptions for measuring WMP performance*

SMUD will track the following metrics to measure the performance of this WMP, and its effectiveness in reducing catastrophic wildfire. These new set of metrics are more granular and targeted towards specific maintenance activities that can more closely be tied to performance of the WMP.

Work is identified in annual work plans authorized on an executive level, and work that remains incomplete will be flagged in future work plans. Work may be field-verified and open work notifications are regularly reviewed to allow management to prioritize work in accordance with current risks. SMUD's target is always to complete 100 percent of the work within the initially scheduled time frame. However, emergencies or other unforeseen contingencies can occur that require material and labor resources to be otherwise assigned. In this instance delayed work will be prioritized in following time periods. All work is completed within time periods to allow for the safe and reliable operation of the electric system in accordance with applicable requirements and industry standards.

The Inspection Program Performance metrics shown in Table 88 are based on inspection activities for targeted areas. These are key performance indicators (KPI) based metrics, with specific targets for completion within a year.

Table 8 Inspection Program Performance

Inspection Program Performance (KPI)	Target
Number of poles inspected from DLI, Distribution, PCA	≥95%
Number of structures inspected from Patrol, Transmission, PCA	≥95%
Number of structures inspected from Patrol, Transmission, HFTD Tier 3	≥95%
Percentage of circuit miles inspected for vegetation compliance, Distribution, HFTD Tier 2	≥95%
Percentage of circuit miles inspected for vegetation compliance, Transmission, PCA	≥95%
Percentage of circuit miles inspected for vegetation compliance, Transmission, HFTD Tier 3	≥95%
Number of aerial Flight Patrols, Visual, UARP	2
Number of aerial Flight Patrols, Infrared, UARP	1
Number of aerial Flight Patrols, 12kV, Infrared, PCA	1
VM Quality Control for Transmission, UARP	≥95%
Number of trees trimmed or removed, normal activities, UARP	≥95%

9.1.2 Outcome Metrics

Two sets of outcome metrics were identified that measure performance of the grid. These metrics replace the more general “ignition events” identified in previous WMPs, which couldn’t directly be tied to risk categories. The outcome metrics shown in Table 9 are consistent with GO95 Rule 18¹¹ repair priority levels.

Table 9 Grid Condition Findings

Grid Condition Findings (Non KPI)
Number of GO95 Rule 18 Level 1 findings, Distribution, PCA
Number of GO95 Rule 18 Level 1 findings, Distribution, HFTD Tier 2
Number of GO95 Rule 18 Level 1 findings, Distribution, HFTD Tier 3
Number of GO95 Rule 18 Level 1 findings, Transmission, PCA
Number of GO95 Rule 18 Level 1 findings, Transmission, HFTD Tier 2
Number of GO95 Rule 18 Level 1 findings, Transmission, HFTD Tier 3
Number of GO95 Rule 18 Level 2 findings, Distribution, PCA
Number of GO95 Rule 18 Level 2 findings, Distribution, HFTD Tier 2
Number of GO95 Rule 18 Level 2 findings, Distribution, HFTD Tier 3
Number of GO95 Rule 18 Level 2 findings, Transmission, PCA
Number of GO95 Rule 18 Level 2 findings, Transmission, HFTD Tier 2
Number of GO95 Rule 18 Level 2 findings, Transmission, HFTD Tier 3
Number of GO95 Rule 18 Level 3 findings, Distribution, PCA
Number of GO95 Rule 18 Level 3 findings, Distribution, HFTD Tier 2
Number of GO95 Rule 18 Level 3 findings, Distribution, HFTD Tier 3
Number of GO95 Rule 18 Level 3 findings, Transmission, PCA
Number of GO95 Rule 18 Level 3 findings, Transmission, HFTD Tier 2
Number of GO95 Rule 18 Level 3 findings, Transmission, HFTD Tier 3

The second set of outcome metrics are a measure of the ignition drivers during fire season, shown in Table 10.

Table 10 Drivers of Ignitions

Drivers of Ignitions, fire season only (Non KPI)
Number of wire downs, inside PCA
Number of Overhead Outage Events caused by animals, inside PCA
Number of Overhead Outage Events caused by foreign material, inside PCA
Number of Overhead Outage Events caused by Vegetation - Tree Preventable, inside PCA
Number of Overhead Outage Events caused by Vegetation - Tree Non-Preventable, inside PCA

¹¹ <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M338/K730/338730245.pdf>

9.1.3 Enhancement Projects

Once a project or program is approved, it is planned for execution based on the upcoming year’s work schedule. The targets listed here for the approved projects are monitored via milestone achievements.

Table 11 System enhancement capital project performance

Project (KPI)	Target
Circuit feet completed, PCA, #6CU Reconductor (Completed in 2023)	>=95%
Number of SCADA reclosers installed, PCA (Scheduled Start 2025)	>=95%

9.1.4 Community Outreach Measures

SMUD reaches out to customers, local communities, and government agencies for multiple programs. Metrics were developed specific to wildfire mitigation efforts and communication. The various type of community outreach measures is shown in Table 12.

Table 12 Community Outreach Programs

Community Outreach Programs (non KPI)
Number of contacts with Federal, State and Local Govt offices, specific to wildfire or de-energization related contacts
Number of mailers sent to customers related to Wildfire Mitigation Activities, Email, MED rate
Number of mailers sent to customers related to Wildfire Mitigation Activities, Email, Senior ID
Number of mailers sent to customers related to Wildfire Mitigation Activities, Direct Mail, MED rate
Number of mailers sent to customers related to Wildfire Mitigation Activities, Direct Mail, Customer Connection

RESOLUTION NO. 24-05-07

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

Section 1. That an election is called to be held on the 5th day of November, 2024, for the purpose of electing three (3) directors of the Sacramento Municipal Utility District (“SMUD”), one of whom shall be a resident and voter of each of Wards 1, 2, and 5. The boundaries of said wards are hereby fixed and established as shown on the sheets appended hereto. Each director shall be elected for a full four-year term from the ward in which he or she resides and the election shall be held and conducted in all respects as required by law.

<u>Ward</u>	<u>Incumbent</u>	<u>Expiration of Term</u>
1	Brandon D. Rose	2024
2	Nancy Bui-Thompson	2024
5	Rob Kerth	2024

Section 2. That the Boards of Supervisors of the Counties of Sacramento and Placer are requested to consolidate said election of directors of SMUD with the general election to be held on the 5th day of November, 2024.

Section 3. That the Boards of Supervisors of the Counties of Sacramento and Placer are requested to reestablish the boundaries of such election precincts as are divided by the boundaries of Wards 1, 2, and 5 of SMUD to provide that the boundaries of the election precincts coincide with the boundaries of said wards.

Section 4. That the Boards of Supervisors of the Counties of Sacramento and Placer are authorized to canvass the returns of the election of directors and to certify the election results to this Board.

Section 5. That in the event of a tie vote between candidates, the election shall be determined by lot.

Section 6. That any candidate for the Board of Directors of SMUD who files a statement of qualifications for printing and distributing pursuant to Section 13307 of the Elections Code shall pay at the Sacramento County Voter Registration and Elections and/or the Placer County Elections

Office, in advance, for the publication of the candidate's statement, pursuant to Elections Code Section 13307, in the amount estimated by the Sacramento County Registrar of Voters, and that any such statement shall contain 200 words or less.

Section 7. That SMUD agrees to reimburse the Registrar of Voters for actual costs incurred, such costs to be calculated by the method set forth in the County's current Election Fee Schedule, pursuant to Elections Code section 10520.

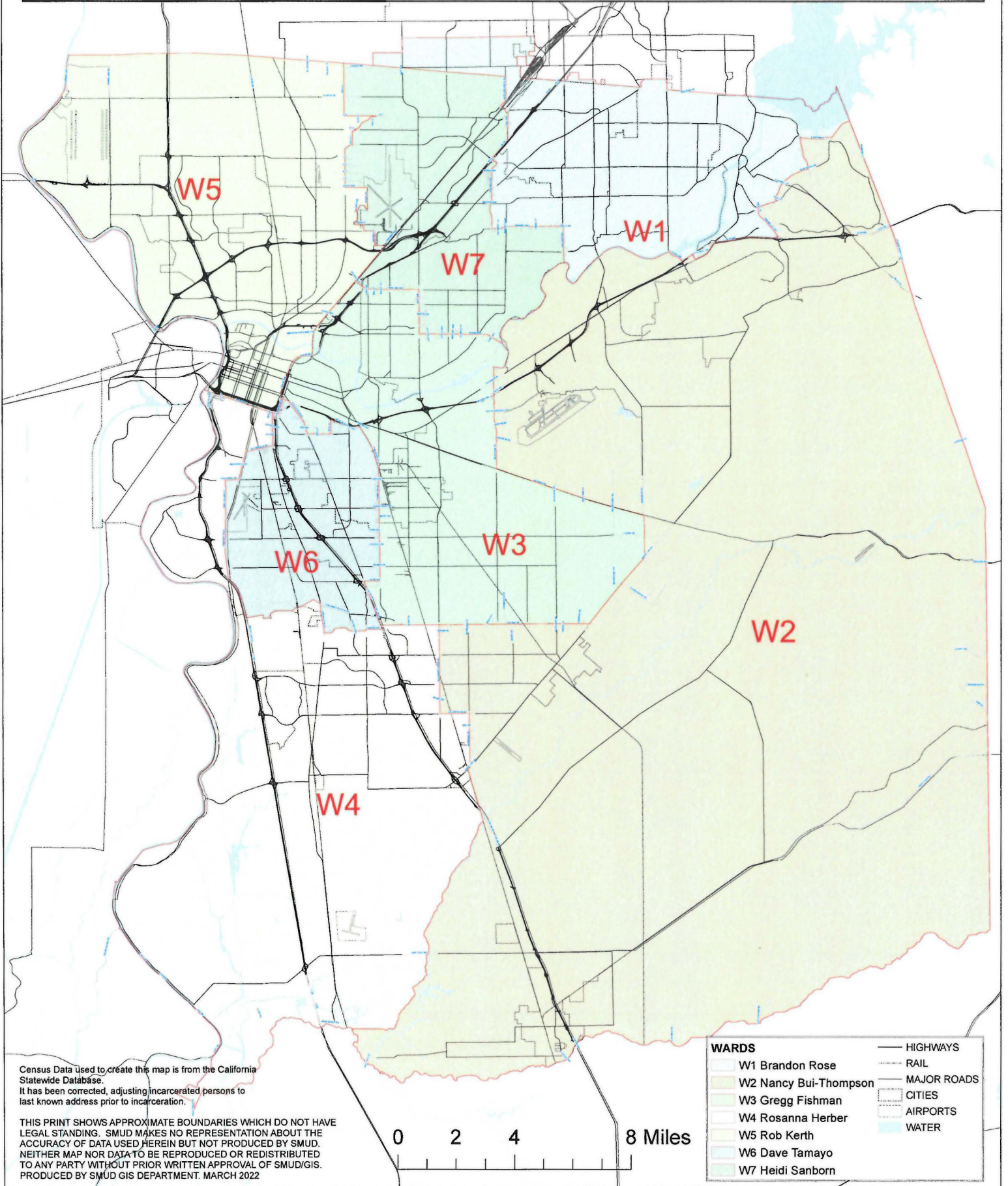
Section 8. That the Secretary of SMUD is directed to transmit certified copies of this resolution to the Clerk of the Boards of Supervisors of the Counties of Sacramento and Placer, to the County Clerks of the Counties of Sacramento and Placer, and to the Registrars of Voters of the Counties of Sacramento and Placer.

Approved: May 16, 2024

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



Sacramento Municipal Utility District Ward Boundaries



Census Data used to create this map is from the California Statewide Database. It has been corrected, adjusting incarcerated persons to last known address prior to incarceration.

THIS PRINT SHOWS APPROXIMATE BOUNDARIES WHICH DO NOT HAVE LEGAL STANDING. SMUD MAKES NO REPRESENTATION ABOUT THE ACCURACY OF DATA USED HEREIN BUT NOT PRODUCED BY SMUD. NEITHER MAP NOR DATA TO BE REPRODUCED OR REDISTRIBUTED TO ANY PARTY WITHOUT PRIOR WRITTEN APPROVAL OF SMUD/GIS. PRODUCED BY SMUD GIS DEPARTMENT, MARCH 2022

WARDS		— HIGHWAYS	
	W1 Brandon Rose		RAIL
	W2 Nancy Bui-Thompson		MAJOR ROADS
	W3 Gregg Fishman		CITIES
	W4 Rosanna Herber		AIRPORTS
	W5 Rob Kerth		WATER
	W6 Dave Tamayo		
	W7 Heidi Sanborn		

SACRAMENTO MUNICIPAL UTILITY DISTRICT
WARD BOUNDARY DESCRIPTIONS
FROM January 20, 2022, TO CURRENT DATE

Ward 1

Beginning at a point of intersection of the Easterly Boundary Line of Sacramento County and the centerline of Green Valley Road; thence Southwesterly along Green Valley Road to the centerline of Cummings Way; thence Westerly and Southerly along the centerline of Cummings Way to the centerline of East Natoma Street; thence Westerly along the centerline of East Natoma Street to the centerline of the two hundred (200') foot wide easement to Sacramento Municipal Utility District as described in the Final Order of Condemnation recorded in the office of the Sacramento County Recorder in Book 3277, at Page 346 of Official Records; thence Southeasterly along the centerline of said easement to the centerline of the two hundred (200') foot wide easement to Sacramento Municipal Utility District as described in the deed recorded in the office of the Sacramento County Recorder in Book 2998, at Page 399 of Official Records; thence Southeasterly along the centerline of last said easement to the centerline of the two hundred (200') foot wide easement to Sacramento Municipal Utility District as described in the Final Order of Condemnation recorded in the office of the Sacramento County Recorder in Book 3277, at Page 346 of Official Records; thence Southeasterly along the centerline of last said easement to the centerline of Oak Avenue Parkway; thence Southeasterly along the centerline of Oak Avenue Parkway to the centerline of Blue Ravine Road; thence Southwesterly along the centerline of Blue Ravine Road to the Northeasterly prolongation of the Southerly Parcel line of Parcel 7 as described in the Quitclaim Deed recorded in the office of the Sacramento County Recorder in Book 19960906 at Page 1665; thence Southwesterly along the Northeasterly prolongation of said parcel and along the Southerly Parcel Line of said Parcel to the centerline of Sibley Street; thence Southerly along the centerline of Sibley Street to merge with the centerline of Prairie City Road; thence Southerly and Southeasterly along the centerline of Prairie City Road to the City of Folsom Boundary Line; thence Westerly and Southwesterly along the City of Folsom Boundary Line to the centerline of Aerojet Road; thence Northwesterly along the City of Folsom Boundary Line and the centerline of Aerojet Road to the centerline of US Highway 50 (the El Dorado Freeway); thence Southwesterly along the centerline of US Highway 50 (the El Dorado Freeway) to the centerline of Hazel Avenue; thence Northwesterly along the centerline of Hazel Avenue to the centerline of the American River; thence Southwesterly, along the centerline of the American River to the southerly prolongation of the centerline of San Juan Avenue; thence Northerly, along the southerly prolongation of the centerline of San Juan Avenue and the centerline of San Juan Avenue to the centerline of Winding Way; thence Westerly, along the centerline of Winding Way to the centerline of Garfield Avenue; thence Northerly, along the centerline of Garfield Avenue to the centerline of Greenback Lane; thence Northwesterly, along the centerline of Greenback Lane to the centerline of Interstate Highway 80; thence Northeasterly along the centerline of Interstate Highway 80 to the City of Citrus Heights Boundary Line; thence Northerly along the City of Citrus Heights Boundary Line to the Southerly prolongation of the Eastern boundary line of

the Plat of "Larchmont Foothills Unit No. 9" as recorded in the office of the Sacramento County Recorder in Book 110 at Page 21; thence Northerly along the Southerly prolongation of said Plat and along the Eastern boundary line of said plat to the Eastern boundary of the Plat of "Larchmont Foothills Unit No. 8" as recorded in the office of the Sacramento County Recorder in Book 113 at Page 2; thence Northerly along the boundary line of said Plat to the Eastern boundary of the Plat of "Larchmont Foothills Unit No. 11" as recorded in the office of the Sacramento County Recorder in Book 129 at Page 19 to the centerline of Daly Avenue; thence Northerly along the centerline of Daly Avenue to the Centerline of Roseville Road; thence Northwesterly along the centerline of Roseville Road to the Southeasterly prolongation of the centerline of Poker Lane; thence Northwesterly along the prolongation of the centerline of Poker Lane and the centerline of Poker Lane to the centerline of Antelope North Road; thence Northeasterly along the centerline of Antelope North Road to the Northern Boundary Line of Sacramento County; thence Westerly along the northerly boundary line of Sacramento County to the west line of Section 11, Township 10 North, Range 5 East, M.D.B. &M.; thence Northerly, along the westerly line of Section 11, one-half mile, more or less, to a road running east and west through the center of Section 11; thence Easterly, along east-west road to the west line of Section 12, Township 10 North, Range 5 East, M.D.B. &M.; thence Northerly, along the west line of Section 12, one-half mile, more or less, to the northwest corner of Section 12; thence Easterly, along the north line of Section 12 to the Range line between Township 10 North, Range 5 East, M.D.B. &M. and Township 10 North, Range 6 East, M.D.B. &M.; thence continuing Easterly, along the north lines of Sections 7, 8, 9 and 10 Township 10 North, Range 6 East, M.D.B. &M. to the northeast corner of Lot 28 as shown on the plat of "Hicken Tract", recorded in the office of the Recorder of Placer County in Book A of Maps, Page 31; thence South 00°03'55" West 20 feet; thence South 00°19'40" East 2635.13 feet, thence South 00°28'00" West 20.22 feet to the southerly line of Booth Road; thence Westerly, along the southerly line of Booth Road the following three (3) courses: 1) South 82°05'00" West 513.96 feet; 2) South 89°18'00" West 292.20 feet; and 3) North 85°19'00" West 237.29 feet; thence leaving the southerly line of Booth Road, and along the Roseville City Limits line South 00°02'00" East 794.50 feet; thence South 89°56'00" East 1038.21 feet to the north-south centerline of Section 10, Township 10 North, Range 6 East, M.D.B. &M.; thence along north-south centerline South 00°28'00" West 367.40 feet to a point in the westerly line of Atkinson Street; thence along the westerly line of Atkinson Street South 33°56'00" East 1221.02 feet; thence along a curve to the right, having a radius of 870 feet, the chord of which bears South 61°12'07" West 810.35 feet, to a point in the northerly line of P.F.E. Road; thence Westerly, along the northerly line of P.F.E. Road, 148 foot to the easterly line of Parcel D as shown on "Parcel Map No. 71906", recorded in the office of the Recorder of Placer County in Book 10 of Parcel Maps at Page 133; thence Northerly, along the easterly line of Parcel D, 1564.15 feet, more or less, to the northeast corner of Parcel D; thence Westerly, along the northerly line of Parcel D and the northerly line of Parcels B and C of the Parcel Map, 1629 feet, more or less, to the northwest corner of

Parcel B; thence Southerly, along the westerly line of Parcel B and its southerly prolongation, 1631.43 feet, more or less, to the southerly line of P.F.E. Road; thence, along the southerly line of P.F.E. Road, North 89°07'01" East 636.84 feet; thence South 00°02'00" East 450 feet; thence South 89°59'00" West 96.80 feet to the westerly line of Section 15, Township 10 North, Range 6 East, M.D.B. &M.; thence along the westerly line of Section 15, South 00°02'00 East 1412.00 feet to the northerly boundary line of Sacramento County; thence Easterly along the northerly line of Sacramento County to the centerline of Interstate 80; thence Northeasterly, along the centerline of Interstate 80 to its intersection with the east-west centerline of Section 14, Township 10 North, Range 6 East, M.D.B. &M.; thence Easterly, along the east-west centerline of Section 14 to the southerly prolongation of the east line of Lots 5 and 6 as shown on the plat of "Livoti Tract", recorded in the office of the Recorder of Placer County in Book E of Maps at Page 5; thence Northerly, along the east line of Lots 5 and 6 and its southerly and northerly prolongation 660 feet, more or less, to the northerly right of way line of Livoti Avenue; thence Easterly, along the northerly line of Livoti Avenue 210.13 feet, to the easterly line of Lot 26 of "Livoti Tract"; thence Northerly, along the easterly line of Lot 26, 227 feet, more or less, to a point 3.00 feet northerly of the northerly line of Lot 25 of "Livoti Tract"; thence Easterly, along a line parallel with and 3.00 feet northerly of the northerly line of Lot 25, 138.75 feet; thence Northerly, along a line parallel with and 138.75 feet easterly of the easterly line of Lot 26, 445.23 feet to the northerly line of "Livoti Tract"; thence along the northerly line of "Livoti Tract", North 89°22'20" East 1712.24 feet to the northeast corner of "Livoti Tract"; thence Southerly, along the easterly line of "Livoti Tract", also being the westerly line of Section 13, Township 10 North, Range 6 East, M.D.B. &M., 1332.60 feet to the southwest corner of the Northwest one-quarter of Section 13; thence Easterly, along the southerly line of the Northwest one-quarter of Section 13, 2640 feet, more or less, to the westerly line of Sunrise Boulevard; thence Southerly, along the westerly line of Sunrise Boulevard 112 feet, more or less, to its intersection with the westerly prolongation of the north line of the parcel of land conveyed to Charles R. and Marjory A. Knoche and recorded in Volume 1138 of Official Records of Placer County at Page 138; thence East, along the westerly prolongation of the north line of the Knoche parcel to the east line of Sunrise Boulevard; thence continuing East, along the north line of the Knoche parcel, 344.67 feet to the northeast corner of Knoche parcel, said northwest corner of the Knoche parcel being a point on the east line of Lot 166, as shown on the plat of "Citrus Heights Addition No. 8" recorded in the Placer County Recorder's Office in Book C of Maps, Page 53; thence South 00°01'00" East 635.60 feet along the east line of Lot 166 to a point on the northerly line of Sacramento County; thence South 84°18'41" East 994.92 feet, along the Sacramento County Line to a point on the east line of Lot 169, as shown on "Citrus Heights Addition No. 8"; thence North 00°01'00" West 845.91 feet, along the east line of Lot 169 to the northeast corner of Lot 169, also being a point on the south line of the North one-half of Section 13, Township 10 North, Range 6 East; thence Easterly 652 feet, more or less, along the south line of the North one-half of Section 13 to the northwest corner of

Lot 172, as shown on "Citrus Heights Addition No. 8"; thence Southerly, along the west line of Lot 172, 906.6 feet, more or less, to the Sacramento County line; thence along the Sacramento County line, South 85°18'30" East 6391 feet, more or less, to the easterly right of way line of Old Auburn Road; thence along the easterly right of way line of Old Auburn Road the following five (5) courses: 1) North 50°33'00" East 120 feet; 2) along a curve to the left, having a radius of 90.3 feet, the chord of which bears North 21°15'00" East 89.3 feet; 3) North 08°41'50" West 413.2 feet; 4) along a curve to the right, having a radius of 330 feet, the chord of which bears North 14°16'50" West 257.6 feet; and 5) North 37°14'50" East 815 feet; thence North 30 feet to the centerline of Old Auburn Road; thence Easterly, along the centerline of Old Auburn Road 4100 feet, more or less, to the centerline of Sierra College Boulevard; thence Southerly, along the centerline of Sierra College Boulevard to the Sacramento County line; thence Easterly along the Sacramento County Line to a point on the boundary line of the 75-foot wide canal described that certain Deed to San Juan Suburban Water District recorded in the office of the Recorder of Placer County in Book 664 of Official Records at Page 618; thence Northerly and Easterly along the canal described in said deed to the Northerly line of Section 23; thence Easterly along the Northerly line of Section 23 to the Westerly line of Folsom Auburn Road; thence Southerly along the Westerly line of Folsom Auburn Road to the northerly boundary line of Sacramento County; thence Easterly and Southerly along the northerly and easterly boundary line of Sacramento County to the point of beginning.

Ward 2

Beginning at a point of intersection of the Easterly Boundary Line of Sacramento County and the centerline of Green Valley Road; thence Southwesterly along Green Valley Road to the centerline of Cummings Way; thence Westerly and Southerly along the centerline of Cummings Way to the centerline of East Natoma Street; thence Westerly along the centerline of East Natoma Street to the centerline of the two hundred (200') foot wide easement to Sacramento Municipal Utility Distract as described in the Final Order of Condemnation recorded in the office of the Sacramento County Recorder in Book 3277, at Page 346 of Official Records; thence Southeasterly along the centerline of said easement to the centerline of the two hundred (200') foot wide easement to Sacramento Municipal Utility District as described in the deed recorded in the office of the Sacramento County Recorder in Book 2998, at Page 399 of Official Records; thence Southeasterly along the centerline of last said easement to the centerline of the two hundred (200') foot wide easement to Sacramento Municipal Utility Distract as described in the Final Order of Condemnation recorded in the office of the Sacramento County Recorder in Book 3277, at Page 346 of Official Records; thence Southeasterly along the centerline of last said easement to the centerline of Oak Avenue Parkway; thence southeasterly along the centerline of Oak Avenue Parkway to the centerline of Blue Ravine Road; thence Southwesterly along the centerline of Blue Ravine Road to the Northeasterly prolongation

of the Southerly Parcel line of Parcel 7 as described in the Quitclaim Deed recorded in the office of the Sacramento County Recorder in Book 19960906 at Page 1665; thence Southwesterly along the Northeasterly prolongation of said parcel and along the Southerly Parcel Line of said parcel to the centerline of Sibley Street; thence Southerly along the centerline of Sibley Street to merge with the centerline of Prairie City Road; thence Southerly and Southeasterly along the centerline of Prairie City Road to the City of Folsom Boundary Line; thence Westerly and Southwesterly along the City of Folsom Boundary Line to the centerline of Aerojet Road; thence Northwesterly along the City of Folsom Boundary Line and the centerline of Aerojet Road to the centerline of US Highway 50 (the El Dorado Freeway); thence Southwesterly along the centerline of US Highway 50 (the El Dorado Freeway) to the centerline of Hazel Avenue; thence Northwesterly along the centerline of Hazel Avenue to the centerline of the American River; thence Southwesterly, along the centerline of the American River to a point on the northerly prolongation of the west line of the plat of "Larchmont Riviera East Unit No. 2", recorded in the office of the Recorder of Sacramento County on July 7, 1970, in Book 85 of Maps, Map No. 16; thence Southerly, along the northerly prolongation of the west line of "Larchmont Riviera East Unit No. 2" and the west line of "Larchmont Riviera East Unit No. 2" to the northwest corner of the plat of "Larchmont Riviera East Unit No. 1", recorded in the office of the Recorder of Sacramento County on September 10, 1969, in Book 84 of Maps, Map No. 15; thence South 105.00 feet, along the west line of "Larchmont Riviera East Unit No. 1", to the southwest corner of Lot 73 as shown on "Larchmont Riviera East Unit No. 1"; thence Southeasterly to the centerline of Hyannis Way; thence Southerly, along the centerline of Hyannis Way to the centerline of Bradshaw Road; thence Southerly along the centerline of Bradshaw Road to the centerline of Jackson Highway (CA State Route 16); thence Southeasterly along the centerline of Jackson Highway (CA State Route 16) to the centerline of Sunrise Boulevard; thence Southerly along the centerline of Sunrise Boulevard to the centerline of Grant Line Road; thence Southwesterly along the centerline of Grant Line Road to the centerline of Calvine Road; thence Westerly along the centerline of Calvine Road to the centerline of Elk Grove Florin Road; thence Southerly along the centerline of Elk Grove Florin Road to the centerline of Elk Grove Boulevard; thence Easterly along the centerline of Elk Grove Boulevard to the centerline of Waterman Road; thence Southerly along the centerline of Waterman Road to the centerline of Grant Line Road; thence Southwesterly along the centerline of Grant Line Road to the centerline of the Southern Pacific Transportation Company's Sacramento-Stockton Main Line right of way (now owned by Union Pacific railroad); thence Southeasterly along the centerline of the Southern Pacific Transportation Company's Sacramento-Stockton Main Line right of way (now owned by Union Pacific railroad) to the centerline of the Cosumnes River; thence Southwesterly along the centerline of the Cosumnes River to the Easterly prolongation of the Northern Parcel line of the Parcel as described in the Grant Deed recorded by the Sacramento County Recorder's Office in Book 20080606 at Page 1041; then Westerly along the Easterly prolongation of and along the Northern Parcel Line of

said parcel to the Sacramento County Boundary Line; thence Southeasterly and Easterly along the Sacramento County Boundary Line to the Southeastern most point of the Sacramento County Boundary Line; thence Northerly and Northwesterly along the Sacramento County Boundary Line to the point of beginning.

Ward 3

Beginning at a point which is the intersection of the centerline of Howe Avenue with the centerline of Marconi Avenue; thence from said point of beginning Northwesterly along the centerline of Marconi Avenue to the centerline of the Southern Pacific Transportation Company's Sacramento-Salt Lake City Right of Way (now owned by Union Pacific Railroad); thence Southwesterly along the centerline of the Southern Pacific Transportation Company's Sacramento-Salt Lake City Right of Way (now owned by Union Pacific Railroad) to the centerline of the Capitol City Freeway (Business 80); thence Southwesterly along the centerline of the Capitol City Freeway (Business 80) to the centerline of R Street; thence Southeasterly along the centerline of R street to the centerline of what was previously known as R Street as shown on the Parcel Map recorded in Book 42 of Parcel Maps, at Page 40 in the Sacramento County Recorder's Office; thence Southeasterly along the centerline of what was previously known as R Street to the centerline of Stockton Boulevard; thence Southeasterly along the centerline of Stockton Boulevard to the centerline of Broadway; thence Easterly, along the centerline of Broadway to the centerline of 57th Street; thence Northerly along the centerline of 57th Street to the centerline of T Street; thence Southeasterly along the centerline of T Street to the centerline of 59th Street; thence Northerly along the centerline of 59th Street to the centerline of Eastbound US Highway 50, thence Easterly along the centerline of Eastbound US Highway 50 to the Eastbound 65th Street Off-Ramp of US Highway 50; thence Easterly along the centerline of the Eastbound 65th Street Off-Ramp of US Highway 50 to the centerline of 65th Street; thence Northerly along the centerline of 65th Street to the centerline of Eastbound US Highway 50; thence Easterly along the centerline of Eastbound US Highway 50 to the centerline of the Southern Pacific Transportation Company's Sacramento-Stockton Main Line right of way (now owned by Union Pacific railroad); thence Southeasterly along the centerline of the Southern Pacific Transportation Company's Sacramento-Stockton Main Line right of way (now owned by Union Pacific railroad) to the centerline of Power Inn Road; thence Southerly, along the centerline of Power Inn Road to the centerline of Elsie Avenue; thence Westerly along the centerline of Elsie Avenue to the centerline of Stockton Boulevard; thence Southeasterly along the centerline of Stockton Boulevard and its southerly prolongation to the centerline of California State Highway 99; thence Southerly along the centerline of California State Highway 99 to the Westerly prolongation of the centerline of Geneva Pointe (formerly Old Calvine Road); thence Easterly along the prolongation of the centerline of Geneva Pointe (formerly Old Calvine Road) and the centerline of Geneva Pointe to the centerline of

Calvine Road; then Easterly along the centerline of Calvine Road to the centerline of Grant Line Road; thence Northeasterly along the centerline of Grant Line Road to the centerline of Sunrise Boulevard; then Northerly along the centerline of Sunrise Boulevard to the centerline of Jackson Highway (CA State Route 16); thence Northwesterly along the centerline of Jackson Highway (CA State Route 16) to the centerline of Bradshaw Road; thence Northerly, along the centerline of Bradshaw Road to the centerline of Hyannis Way; thence Northerly, along the centerline of Hyannis Way and its northerly prolongation to the southwest corner of Lot 73, as shown on the plat of "Larchmont Riviera East Unit No. 1", recorded in the office of the Recorder of Sacramento County on September 10, 1969, in Book 84 of Maps, Map No. 15; thence North 105.00 feet, along the west line of "Larchmont Riviera East Unit No. 1", to the northwest corner of "Larchmont Riviera East Unit No. 1"; thence Northerly, along the west line of "Larchmont Riviera East Unit No. 2" recorded in the office of the Recorder of Sacramento County on July 7, 1970 in Book 85 of Maps, Map No. 16, and the northerly prolongation of the west line of "Larchmont Riviera East Unit No. 2" to the centerline of the American River; thence Northeasterly, along the centerline of the American River to the southeasterly prolongation of the centerline of Arden Way; thence Northwesterly, along the prolongation of the centerline of Arden Way and the centerline of Arden Way to the centerline of Watt Avenue; thence North along the centerline of Watt Avenue to the centerline Marconi Avenue; thence West along the centerline of Marconi Avenue to the centerline of Howe Avenue, said point being the point of beginning.

Ward 4

Beginning at the intersection of the centerline of the Sacramento River and the Sacramento County Boundary with the westerly prolongation of Broadway; thence from said point of beginning Southeasterly, along the westerly prolongation of Broadway and the centerline of Broadway to the centerline of Franklin Boulevard; thence Southerly along the centerline of Franklin Boulevard to the centerline of Sutterville Road; thence Southwesterly along the centerline of Sutterville Road to the centerline of Freeport Boulevard; thence Southerly, along the centerline of Freeport Boulevard to the centerline of Fruitridge Road; thence Westerly along the centerline of Fruitridge Road to the easterly line of the Record of Survey entitled "A Portion of the East 1/2 of Section 2 and the NE 1/4 of Section 11, Township 7 North, Range 4 East, Mount Diablo Meridian and a Portion of Sections 14, 23, 26, and 35, Township 8 North, Range 4 East, Mount Diablo Meridian", recorded in the office of the Recorder of Sacramento County on November 25, 1991, in Book 49 of Surveys at Page 29; thence Southerly, Easterly, Southerly, and Westerly along the easterly line of said Record of Survey recorded in Book 49 of Surveys at Page 29 to the centerline of Park Village Street; thence Southerly along the centerline of Park Village Street and the southerly prolongation of Park Village Street to the centerline of Freeport Boulevard; thence Southerly along the centerline of Freeport Boulevard and the southerly prolongation of Freeport Boulevard to the centerline of Interstate 5; thence Southeasterly,

along the centerline of Interstate 5 to the centerline of Morrison Creek; thence Northeasterly, along the centerline of Morrison Creek to the centerline of Union House Creek (otherwise known as Beacon Creek); thence Easterly, along the centerline of Union House Creek (otherwise known as Beacon Creek) to the centerline of Franklin Boulevard; thence Southerly, along the centerline of Franklin Boulevard to the centerline of Calvine Road; thence Easterly along the centerline of Calvine Road to the centerline of Bruceville Road; thence Northerly along the centerline of Bruceville Road to the centerline of Shasta Avenue; thence Easterly along the centerline of Shasta Avenue to the centerline of California State Highway 99; thence Northwesterly along the centerline of California State Highway 99 to the Westerly prolongation of the centerline of Geneva Pointe (formerly Old Calvine Road); thence Easterly along the Westerly prolongation of the centerline of Geneva Pointe (formerly Old Calvine Road) and the centerline of Geneva Pointe to the centerline of Calvine Road; then Easterly along the centerline of Calvine Road to the centerline of centerline of Elk Grove Florin Road; thence Southerly along the centerline of Elk Grove Florin Road to the centerline of Elk Grove Boulevard; thence Easterly along the centerline of Elk Grove Boulevard to the centerline of Waterman Road; thence Southerly along the centerline of Waterman Road to the centerline of Grant Line Road; thence Southwesterly along the centerline of Grant Line Road to the centerline of the Southern Pacific Transportation Company's Sacramento-Stockton Main Line right of way (now owned by Union Pacific railroad); thence Southeasterly along the centerline of the Southern Pacific Transportation Company's Sacramento-Stockton Main Line right of way (now owned by Union Pacific railroad) to the centerline of the Cosumnes River; thence Southwesterly along the centerline of the Cosumnes River to the Easterly prolongation of the Northern Parcel line of the Parcel as described in the Grant Deed recorded by the Sacramento County Recorder's Office in Book 20080606 at Page 1041; thence Westerly along the Easterly prolongation of and along the Northern Parcel Line of said parcel to the Sacramento County Boundary Line and the centerline of the Mokelumne River; thence Southwesterly, along the centerline of the Mokelumne River to a point located South $85^{\circ}45'00''$ East 1534.5 feet and South $76^{\circ}45'00''$ East 1181.4 feet from the most southerly corner of Tract 2 as shown on the "Amended Plat of Survey of Property of Green, Harley, Marsh, and Sansforth", recorded in the office of the Recorder of Sacramento County in Book 3 of Surveys at Page 61; thence North $76^{\circ}45'00''$ West 1181.4 feet; thence North $85^{\circ}45'00''$ West 1534.5 feet to the most southerly corner of Tract 2; thence North $57^{\circ}32'00''$ West 1458.64 feet, along the south line of Tract 2 to the easterly right of way line of the Southern Pacific Railroad (now abandoned); thence Southerly, along the easterly right of way line of the Southern Pacific Railroad (now abandoned); to the south line of that certain Record of Survey recorded in the office of the Recorder of Sacramento County in Book 3 of Surveys at Page 100; thence Westerly, along the south line of the Record of Survey recorded in Book 3 of Surveys at Page 100, to the westerly right of way line of the Southern Pacific Railroad (now abandoned); thence Northerly, along the westerly right of way line of the Southern Pacific Railroad (now abandoned); to the westerly line of Race

Track Road; thence Northerly, along the westerly line of Race Track Road to the most southerly corner of Parcel B as shown on the Parcel Map entitled "Swamp Land Survey No 336 Located on Tyler Island", recorded in the office of the Recorder of Sacramento County on September 30, 1985, in Book 89 of Parcel Maps at Page 12; thence North 64°12'51" West along the southwesterly line of the Parcel Map recorded in Book 89 of Parcel Maps at Page 12, and along it's northwesterly prolongation to the centerline of Georgiana Slough; thence Northeasterly, along the centerline of Georgiana Slough to the centerline of the Sacramento River; thence Northerly, along the centerline of the Sacramento River and the Sacramento County Boundary line to a point on westerly prolongation of the centerline of Broadway, said point being the point of beginning.

Ward 5

Beginning at the intersection of the Northerly boundary line of Sacramento County and the centerline of 16th Street; thence from said point of beginning Southerly along the centerline of 16th Street to the centerline of U Street; thence Easterly along the centerline of U Street and the easterly prolongation of U Street to the Northerly line of 24th Street; thence at right angles, Southerly to the centerline of 24th Street; thence Southwesterly along the centerline of 24th Street the easterly prolongation of the south line of Parcel 3 as shown on the Parcel Map recorded in Book 132 of Parcel Maps, at Page 22 in the office of the Sacramento County Recorder; thence Westerly along said easterly prolongation and the south line of said Parcel 3 to the centerline of Dry Creek; thence Southwesterly along the centerline of Dry Creek to the centerline of Q Street; thence Easterly along the centerline of Q Street to the centerline of 18th Street; thence Southerly along the centerline of 18th Street to the centerline of Elkhorn Boulevard; thence Southwesterly along the centerline of Elkhorn Boulevard to the centerline of 16th Street; thence Southerly along the centerline of 16th Street to the centerline of Ascot Avenue; thence Easterly along the centerline of Ascot Avenue to the City of Sacramento City Limit Line as shown on the Record of Survey entitled "McClellan Park" recorded in the office of the Recorder of Sacramento County on December 31, 2001 in Book 61 of Records of Survey at Page 25; thence following said City of Sacramento City Limit Line in the Southerly direction to the centerline of North Avenue; thence Easterly along the centerline of North Avenue and the Easterly prolongation of North Avenue to the centerline of the Southern Pacific Transportation Company's Sacramento-Salt Lake City Right of Way (now owned by Union Pacific Railroad); thence Southwesterly, along the centerline of the Southern Pacific Transportation Company's Sacramento-Salt Lake City Right of Way (now owned by Union Pacific Railroad) to the centerline of the Capitol City Freeway (Business 80); thence Southwesterly along the centerline of the Capitol City Freeway (Business 80) to the centerline of R Street; thence Easterly along the centerline of R Street to the centerline of Alhambra Boulevard; thence Southerly along the centerline of Alhambra Boulevard to the centerline of Broadway; thence Westerly, along the centerline of Broadway and its westerly

prolongation to the centerline of the Sacramento River; thence Northerly, along the centerline of the Sacramento River to its intersection with the northerly boundary line of Sacramento County and the southerly boundary line of Sutter County; thence Easterly, along the northerly boundary line of Sacramento County to a point on the centerline of 16th Street, said point being the point of beginning.

Ward 6

Beginning at the intersection of the centerline of Alhambra Boulevard and the centerline of what was previously known as R Street as shown in Parcel Map recorded at Book 42 at Page 40 in the Sacramento County Recorder's Office; thence Southeasterly along the centerline of said R Street to the centerline of Stockton Boulevard; thence Southeasterly along the centerline of Stockton Boulevard to the centerline of Broadway; thence Easterly, along the centerline of Broadway to the centerline of 57th Street; thence Northerly along the centerline of 57th Street to the centerline of T Street; thence Southeasterly along the centerline of T Street to the centerline of 59th Street; thence Northerly along the centerline of 59th Street to the centerline of Eastbound US Highway 50, thence Easterly along the centerline of Eastbound US Highway 50 to the centerline of the Eastbound 65th Street Off-Ramp of US Highway 50; thence Easterly along the centerline of the Eastbound 65th Street Off-Ramp of US Highway 50 to the centerline of 65th Street; thence Northerly along the centerline of 65th Street to the centerline of Eastbound US Highway 50; thence Easterly along the centerline of Eastbound US Highway 50 to the centerline of the Southern Pacific Transportation Company's Sacramento-Stockton Main Line right of way (now owned by Union Pacific railroad); thence Southeasterly, along the centerline of the Southern Pacific Transportation Company's Sacramento-Stockton Main Line right of way (now owned by Union Pacific railroad) to the centerline of Power Inn Road; thence Southerly, along the centerline of Power Inn Road to the centerline of Elsie Avenue; thence Westerly along the centerline of Elsie Avenue to the centerline of Stockton Boulevard; thence Southeasterly along the centerline of Stockton Boulevard and its southerly prolongation to the centerline of California State Highway 99; thence Southerly along the centerline of California State Highway 99 to the Easterly prolongation of the centerline of Shasta Avenue; thence Westerly along the Easterly prolongation of the centerline of Shasta Avenue and the centerline of Shasta Avenue to the centerline of Bruceville Road; thence Southerly along the centerline of Bruceville Road to the centerline of Calvine Road; thence Westerly along the centerline of Calvine Road to the centerline of Franklin Boulevard; thence Northerly along the centerline of Franklin Boulevard to the centerline of Union House Creek (otherwise known as Beacon Creek); thence Westerly, along the centerline of Union House Creek (otherwise known as Beacon Creek) to the centerline of Morrison Creek; thence Southwesterly, along the centerline of Morrison Creek to the centerline of Interstate 5; thence Northwesterly, along the centerline of Interstate 5 to the southerly prolongation of the centerline of Freeport Boulevard; thence Northerly along the southerly prolongation of

Freeport Boulevard and Northerly along the centerline of Freeport Boulevard to the southerly prolongation of Park Village Street; thence Northerly along the southerly prolongation of Park Village Street and Northerly along the centerline of Park Village Street to the easterly line of the Record of Survey entitled "A Portion of the East 1/2 of Section 2 and the NE 1/4 of Section 11, Township 7 North, Range 4 East, Mount Diablo Meridian and a Portion of Sections 14, 23, 26, and 35, Township 8 North, Range 4 East, Mount Diablo Meridian", recorded in the office of the Recorder of Sacramento County on November 25, 1991, in Book 49 of Surveys at Page 29; thence Easterly, Northerly, Westerly, and Northerly along the easterly line of said Record of Survey recorded in Book 49 of Surveys at Page 29 to the centerline of Fruitridge Road; thence Easterly, along the centerline of Fruitridge Road to the centerline of Freeport Boulevard; thence Northeasterly along the centerline of Freeport Boulevard to the centerline of Sutterville Road; thence Northeasterly along the centerline of Sutterville Road to the centerline of Franklin Boulevard; thence Northerly along the centerline of Franklin Boulevard to the centerline of Broadway; thence Southeasterly along the centerline of Broadway to the centerline of Alhambra Boulevard; thence Northerly along the centerline of Alhambra Boulevard at to the point of beginning.

Ward 7

Beginning at the point of intersection of the northerly boundary line of Sacramento County and the centerline of Watt Avenue; thence from said point of beginning Westerly along the northerly boundary line of Sacramento County to the centerline of 16th Street; thence Southerly along the centerline of 16th Street to the centerline of U Street; thence Easterly along the centerline of U Street and the easterly prolongation of U Street to the Northerly line of 24th Street; thence at right angles, Southerly to the centerline of 24th Street; thence Southwesterly along the centerline of 24th Street the easterly prolongation of the south line of Parcel 3 as shown on the Parcel Map recorded in Book 132 of Parcel Maps, at Page 22 in the office of the Sacramento County Recorder; thence Westerly along said easterly prolongation and the south line of said Parcel 3 to the centerline of Dry Creek; thence Southwesterly along the centerline of Dry Creek to the centerline of Q Street; thence Easterly along the centerline of Q Street to the centerline of 18th Street; thence Southerly along the centerline of 18th Street to the centerline of Elkhorn Boulevard; thence Southwesterly along the centerline of Elkhorn Boulevard to the centerline of 16th Street; thence Southerly along the centerline of 16th Street to the centerline of Ascot Avenue; thence Easterly along the centerline of Ascot Avenue to the City of Sacramento City Limit Line as shown in the Record of Survey "McClellan Park" recorded in the office of the Sacramento County Recorder on December 31, 2001 at Book 61 and Page 25; thence following said City of Sacramento City Limit Line in the Southerly direction to the centerline of North Avenue; thence easterly along the centerline of North Avenue and the Easterly prolongation of North Avenue to the centerline of the Southern Pacific Transportation

Company's Sacramento-Salt Lake City Right of Way (now owned by Union Pacific Railroad); thence Southwesterly, along the centerline of the Southern Pacific Transportation Company's Sacramento-Salt Lake City Right of Way (now owned by Union Pacific Railroad) to the centerline Marconi Avenue; thence Easterly along the centerline of Marconi Avenue to the centerline of Watt Avenue; thence Southerly along the centerline of Watt Avenue to the centerline of Arden Way; thence Easterly along the centerline of Arden Way to the Southeasterly prolongation of Arden Way; thence along the Southeasterly prolongation of Arden Way to the centerline of the American River, thence Northeasterly along the centerline of the American River to the Southerly prolongation of San Juan Avenue; thence North along the Southerly prolongation of San Juan Avenue and the centerline of San Juan Avenue to the centerline of Winding Way; thence Westerly along the centerline of Winding Way to the centerline of Garfield Avenue; thence Northerly along the centerline of Garfield Avenue to the centerline of Greenback Lane; thence Northwesterly along the centerline of Greenback Lane to the centerline of Interstate Highway 80; thence Northeasterly along the centerline of Interstate Highway 80 to the Southerly prolongation of the Eastern boundary line of the Plat of "Larchmont Foothills Unit No. 9" as recorded in the office of the Sacramento County Recorder in Book 110 at Page 21; thence Northerly along the Southerly prolongation of said Plat and along the Eastern boundary line of said plat to the Eastern boundary of the Plat of "Larchmont Foothills Unit No. 8" as recorded in the office of the Sacramento County Recorder in Book 113 at Page 2; thence Northerly along the boundary line of said Plat to the Eastern boundary of the Plat of "Larchmont Foothills Unit No. 11" as recorded in the office of the Sacramento County Recorder in Book 129 at Page 19 to the centerline of Daly Avenue; thence Northerly along the centerline of Daly Avenue to the Centerline of Roseville Road; thence Northwesterly along the centerline of Roseville Road to the Southeasterly prolongation of the centerline of Poker Lane; thence Northwesterly along the prolongation of the centerline of Poker Lane and the centerline of Poker Lane to the centerline of Antelope North Road; thence Northeasterly along the centerline of Antelope North Road to the Northern Boundary Line of Sacramento County; thence Northwesterly along the Northerly Boundary Line of Sacramento County to a point on the centerline of Watt Avenue, said point of beginning.

President Herber then called for statements from the public regarding items not on the agenda.

Public comment, a copy of which is attached to these minutes, was received from the following member of the public:

- Jim Holt

President Herber then turned to Directors' Reports.

Director Sanborn reported on her attendance and speaking engagement at EarthX Conference as well as her attendance at the Sacramento Academic and Vocational Academy (SAVA) Career Technical Education (CTE) Showcase. She concluded by reporting on her attendance at the Carmichael Improvement District State of the PBID Annual Dinner.

Director Tamayo reported thanked SMUD Interim Director of Line Assets Lucas Raley for a tour at the Sacramento Power Academy where he was able to observe lineworker apprentice training as well as different pole replacements. He noted he also observed a SMUD contractor performing a replacement, and he was pleased to see the emphasis on safety. He then reported on his meeting with Vince Valdez and Richard Falcon of United Latinos regarding an upcoming project to encourage residents to plant trees in South Sacramento. He concluded by reporting on his meeting with a developer in Little Saigon who was putting in 20 all-electric kitchens along with electric vehicle charging.

Director Kerth reported on his attendance at the Sacramento Police and Sheriff's Memorial Foundation event in North Sacramento. He then reported on his attendance at the Sacramento Host Breakfast put on by the California Chamber of Commerce.

Vice President Fishman reported on his attendance at the Solar Car Race, the Solar Regatta, and the Construction Industry Education Foundation Tiny Home Design Build Competition.

Director Bui-Thompson noted she was absent at last month's meeting and reported on her attendance at the Sacramento Metro Chamber's Capitol to Capitol trip. She then reported on her attendance, along with CEO

Paul Lau, Chief Zero Carbon Officer Lora Anguay, and Chief Customer Officer Brandy Bolden, at the Energy Thought Summit in Austin. She concluded by reporting on her attendance at the annual Trout Derby at Rancho Seco.

Director Rose reported on his attendance at the Rotary Club of Historic Folsom, the Sacramento Local Agency Formation Commission (LAFCo) Special District Advisory Committee meeting, and the ribbon cutting for the Arcade Cripple Creek Trail. He concluded by reporting on his attendance, along with President Herber, at the ribbon cutting for the Solano 4 Wind Project Repower and Upgrade. He then invited Board members to participate in an induction cooktop demonstration that would be occurring the following week.

President Herber reported on her attendance and speaking engagement at the Sacramento Hispanic Chamber of Commerce's Salud! Business Awards and thanked Cathy Rodriguez Aguirre for the wonderful event. She then reported on her attendance at the Construction Industry Education Foundation Tiny Home Design Build Competition, her speaking engagement at the Foundation for Advancements Sustainable Facilities Forum, and her attendance at the Locke Foundation's Asian Pacific Spring Festival. She concluded by reporting on her attendance at the Solano 4 Wind Project ribbon cutting.

Directors Tamayo and Sanborn departed the meeting at 6:37 p.m.

Suresh Kotha, acting Chief Executive Officer and General Manager, reported on the following items:

- 1) AAPI Month & Military Appreciation Month.** I would like to start tonight's report by recognizing May as Asian American and Pacific Islander (AAPI) Heritage Month and Military Appreciation Month. AAPI Heritage Month gives us an opportunity to learn about and honor the unique cultures, history and achievements of Asian Americans and Pacific Islanders in our community. During Military Appreciation Month, we want to express our deepest gratitude to the brave men and women who have served, and continue to serve, our country. A big thank you to

our Groups Reaching Across International Networks, or GRAIN, and Military Employee Resource Groups for the work you do to provide inclusive representation for our employees through offering support, networking opportunities and a sense of community within SMUD. Each group hosted a special event for our employees in recognition of these observances. We have also been out in the community with our partners celebrating these important observances.

- 2) **Solano 4 Wind Project.** As you all know, we cut the ribbon at Solano 4 this week, celebrating an important milestone in our journey to decarbonize our power supply by 2030. The project's increased capacity now brings the overall total to 300 megawatts annually. I am grateful to the Board for your deep commitment to our goal of a clean energy future. Thank you to those of you who were there on Monday to celebrate with us. We are getting there, and I am excited about our next effort – our Solano 5 wind repower project, which is planned to be online in 2029!
- 3) **Learning@SMUD.** Right now, we are in the middle of our three-week annual Learning@SMUD program! By offering employees dozens of learning sessions, with a combination of in-person and hybrid events, they are able to learn from peers, subject-matter experts and special guest speakers. This in-house professional development effort demonstrates our commitment to foster a culture of growth and excellence by empowering employees with comprehensive learning opportunities. Thank you and great work by all who made this year's lineup possible!
- 4) **Annual Solar Regatta and Solar Car Race.** On the theme of learning, we held two big events for students this month. SMUD's 11th Annual Solar Regatta was a great success! High

school and college students raced their handcrafted boats across Rancho Seco Lake over two days. Local students also gathered at Sac State and Cosumnes River College to participate in SMUD's 17th Annual Solar Car Race. And this year for the first time, middle school students joined the high schoolers in the fun, competing and racing their own solar powered cars. Thanks to the SMUD Board members who attended these events, and to our team of employees for creating engaging events for our next generation of clean energy leaders.

5) **Awards.** As for awards, team SMUD continues to shine! First off, our own Jose Bodipo-Memba, Chief Diversity Officer, was recognized with a 2024 C-Suite Award by the *Sacramento Business Journal*! Jose's professional accomplishments reflect his commitment to the betterment of our workforce and of our entire region. His positive vision has fostered an inclusive company culture by ensuring all voices are included and heard. Congratulations, Jose! We were also thrilled to be recognized by the Smart Electric Power Alliance with their Equity Power Player of the Year Award for our Community Impact Plan. This is especially gratifying as it acknowledges how, through the Plan, we are addressing energy inequities and ensuring all communities benefit from a clean energy future. Lastly, the California Department of General Services awarded SMUD the Reciprocity Partner of the Year, specifically for our Supplier Education & Economic Development (SEED) program. Truthfully, I am humbled every day by what we are accomplishing together. Congratulations to all.

6) **Board Video.** Tonight's video gives an inside look at the great work our employees are doing at SMUD's substations and how they help us maintain our world class reliability.

President Herber requested the Summary of Board Direction, but there were no items.

No further business appearing, President Herber adjourned the meeting at 6:47 p.m.

Approved:

President

Secretary

From: [jim.holt](#)
To: [Public Comment](#)
Subject: [EXTERNAL] separately imposed infrastructure charge
Date: Monday, May 6, 2024 12:37:58 PM

CAUTION: This email originated from outside of SMUD. Do not click links or open attachments unless you recognize the sender and know the content is safe.

So unfair to force customers who use make a conscious effort toward utilization of low amounts of energy to subsidize those who use larger amounts. This comment refers to the separately imposed infrastructure charge which SMUD chooses to assess equally upon all customers. Once again, my infrastructure charge, 24.15, is not proportionate to my March period energy usage charge of 27.40. I truly resent the fact that someone who chucks up multiple times my usage fees pays equal to myself, 24.15, for the cost of infrastructure.

If you look at my account 2500499, the fact may be verified that, for most months the infrastructure charge has been higher than fees charged for my energy usage. Subsidization for low-income users is not the answer, subsidization of high energy users by way of an equally applied infrastructure charge is problematic.

Finally, although SMUD contact information is on your website, the link that one is directed to following bill payment is not reliably functional. My offered comments consistently bounce back as undeliverable, possibly because I am blocked within your system for my frequent attempts to address this issue. An honorable community entity such as SMUD would claim to be, should identify accurate communication links on the monthly printed bill.

James Holt

SSS No. LEG 2024-0088

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date N/A
Board Meeting Date June 20, 2024

TO				TO					
1.				6.					
2.				7.					
3.				8.					
4.				9.	Legal				
5.				10.	CEO & General Manager				
Consent Calendar	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<i>If no, schedule a dry run presentation.</i>				
Budgeted	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No	<i>(If no, explain in Cost/Budgeted section.)</i>				
FROM (IPR) Laura Lewis				DEPARTMENT Executive Office			MAIL STOP B308	EXT. 6123	DATE SENT 06/06/24

NARRATIVE:

Requested Action: Approve proposed non-substantive revisions to **Board-Staff Linkage BL-8, Delegation to the CEO with Respect to Procurement.**

Summary: At the Finance & Audit Committee meeting of May 14, 2024, staff provided the quarterly procurement report and recommended, for placement on the June consent calendar, non-substantive revisions to BL-8 to change references to the “Supplier Code of Conduct” and “supplier” to the more encompassing terms of “Contractor Code of Conduct” and “contractor.” Copies of the proposed revisions are attached in redline and “clean” format.

Board Policy: *(Number & Title)* Governance Process GP-1, Purpose of Board states in pertinent part, that the purpose of the Board is to “[i]dentify and define the purpose, values and vision of SMUD and communicate them in the form of policy.”

Benefits: Enables Board members to review and make changes to policy to reflect current information.

Cost/Budgeted: N/A

Alternatives: Maintain the existing policy; approve a different revision; table the item for another meeting.

Affected Parties: Procurement, Warehouse & Fleet and Contractors

Coordination: Executive Office, Board Office, Procurement, Warehouse & Fleet, Legal, and Contractors

Presenter: Laura Lewis, Chief Legal & Government Affairs Officer and General Counsel

Additional Links:

SUBJECT Approve Proposed Revisions to Board-Staff Linkage BL-8, Delegation to the CEO with Respect to Procurement	ITEM NO. (FOR LEGAL USE ONLY) <b style="font-size: 1.2em; color: blue;">6
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-8
Title: Delegation to the CEO with Respect to Procurement

The procurement of goods and services is an integral part of SMUD operations. SMUD's procurement activities shall take place in accordance with the following principles:

- a) **Competition:** SMUD's procurement activities shall be competitive whenever practical.
- b) **Direct Procurement:** Direct procurement may be utilized when it is in SMUD's best interest. Direct procurement is the purchase of goods or services without competition when multiple sources of supply are available.
- c) **Sole Source Procurement:** Sole source procurement shall be performed only in the case of emergency or when a competitive process would be an idle act.
- d) **Inclusiveness:** SMUD's procurement practices shall promote inclusiveness of the entire supplier-contractor community in its contracting opportunities.
- e) **Economic Development:** SMUD's procurement practices shall promote the economic development of the community we serve.
- f) **Environmental Procurement:** SMUD shall minimize the impact on the environment through its procurement practices. In making procurement decisions, staff shall consider the environmental impacts in assessing total cost and benefits.
- g) **Responsible Bidder:** SMUD shall only do business with reputable and responsible supplierscontractors. A Responsible Bidder demonstrates trustworthiness, quality, capacity, financial capability, fair labor practices, and experience to satisfactorily perform SMUD work through the bidding and evaluation process. In addition, SMUD will determine Responsible Bidders by considering a supplier's-contractor's social, environmental ethical, and safety accountability where applicable.
- h) **Supplier-Contractor Code of Conduct:** SMUD shall set minimum expectations or standards for all suppliers-contractors to follow in the course of doing business with SMUD (in some cases by submitting data and reporting annually) including but not limited to, labor and human rights, environmental, social, governance (ESG), health and safety accountability, ethics and compliance, and diversity, equity, inclusion, and belonging practices.
- i) **Best Value Procurement:** SMUD may procure goods and services by the best value at the lowest cost methodology, where cost and other factors are used to obtain the maximum value while ensuring a fair and equitable process.

- j) **Leveraged Procurement Agreement (LPA):** SMUD may procure goods and services where another lead public agency or organization competitively procures the same goods or services under applicable state and federal laws to streamline procurement processes and leverage collective buying power of multiple agencies to achieve cost savings and other benefits to SMUD. Leveraged procurement agreements are generally referred to by other public agencies as “Cooperative Purchasing Agreements.”
- k) **Strategic Alliances:** SMUD may enter into strategic alliance contracts for the procurement of goods or services. A Strategic Alliance is a competitively bid multi-year contract for goods and/or services in which the Supplier-Contractor and SMUD work collaboratively over the life of the contract to improve quality, and to explore design and process improvements to reduce the cost of production, service delivery, and the total cost of ownership. These benefits are shared both by SMUD and the Supplier-Contractor.
- l) **Supply Chain Risk:** SMUD’s procurement activities shall identify, manage, and mitigate supply chain risks through a coordinated effort across the enterprise.
- m) **Protest Policy:** SMUD shall ensure that suppliers-contractors are afforded the opportunity to have their grievances heard through a fair protest process.
- n) **Delegation of Authority to the CEO:** The Chief Executive Officer and General Manager (CEO) is delegated authority to perform and approve the procurement activities in accordance with the below matrix. This delegation includes the authority to amend contracts for time extensions or other changes that create no additional cost to SMUD.

<u>Category</u>	<u>Amount*</u>
Competitive Awards:	
Operational Inventory	\$11 million
Non-inventory Materials	\$11 million
Construction and Maintenance Services	\$11 million
Information Technology	\$11 million
Professional and Consulting Services	\$3 million
Rents and Leases	\$1 million
Sole Source:	
All types except Maintenance/Licensing Fees	\$1.5 million
Maintenance/Licensing Fees	\$3 million or original approved amount
Direct Procurement:	
Materials/Supplies/Services	\$50k**
Government Entities	\$1 million
Nonprofit Entities (services/goods)	\$1 million

<u>Category</u>	<u>Amount*</u>
Emergency Procurements:	
All types	\$2 million
Nonprofit Entities:	
Memberships/Project Participation Agreement	\$3 million
Contingencies:	
Board Awarded Contracts	Up to 10% of Contract Award

***The amounts for all categories except Direct Procurement Materials/Supplies/Services shall be adjusted automatically on an annual basis beginning Jan 1, 2024, consistent with the U.S. Bureau of Labor Statistics (BLS) published national consumer price index (CPI) per the Federal Reserve Bank of Minneapolis Average Annual CPI calculator.**

****The amount shall be adjusted automatically on an annual basis pursuant to the implicit price deflator as set forth in California Public Utilities Code section 12751, using the base year of 1997.**

Monitoring Method: CEO Report

Frequency: Quarterly

Versioning:

August 21, 2003	Resolution No. 03-08-07	Date of Adoption.
October 16, 2003	Resolution No. 03-10-14	Date of Revision.
June 3, 2004	Resolution No. 04-06-04	Date of Revision.
October 16, 2008	Resolution No. 08-10-09	Date of Revision.
October 1, 2009	Resolution No. 09-10-05	Date of Revision.
August 4, 2011	Resolution No. 11-08-04	Date of Revision.
November 17, 2011	Resolution No. 11-11-06	Date of Revision.
March 15, 2012	Resolution No. 12-03-13	Date of Revision.
August 21, 2014	Resolution No. 14-08-03	Date of Revision.
December 15, 2016	Resolution No. 16-12-18	Date of Revision.
July 16, 2020	Resolution No. 20-07-05	Date of Revision.
March 18, 2021	Resolution No. 21-03-04	Date of Revision.
June 15, 2023	Resolution No. 23-06-04	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision. [Current Policy]
<u>June 20, 2024</u>	<u>Resolution No. 24-06-XX</u>	<u>Date of Revision. [Current Policy]</u>

Category: Board-Staff Linkage
Policy No.: BL-8
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September 21, 2023	Resolution No. 23-09-02	Date of Revision.
June 20, 2024	Resolution No. 24-06-XX	Date of Revision. [Current Policy]

DRAFT

RESOLUTION NO. _____

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

This Board approves the revisions to **Board-Staff Linkage BL-8, Delegation to the CEO with Respect to Procurement**, substantially in the form as set forth in **Attachment ____**.

SSS No. DP&O 24-002

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date Policy - June 12, 2024
Board Meeting Date June 20, 2024

TO	TO
1. Claire Rogers	6.
2. Frankie McDermott	7.
3. Brandy Bolden	8.
4. Farres Everly	9. Legal
5. Suresh Kotha	10. CEO & General Manager

Consent Calendar	<input checked="" type="checkbox"/>	Yes		No <i>If no, schedule a dry run presentation.</i>	Budgeted	<input checked="" type="checkbox"/>	Yes	No <i>(If no, explain in Cost/Budgeted section.)</i>
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FROM (IPR) Katarina Miletijev	DEPARTMENT Distribution Planning & Operations	MAIL STOP EA502	EXT. 6235	DATE SENT 5/17/24
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NARRATIVE:

Requested Action: Accept the monitoring report for **Strategic Direction SD-4, Reliability.**

Summary: The purpose of this report is to provide the Board with an update on SD-4, Reliability for the year 2023. The information in the monitoring report can be used by the Board to determine if any policies or metrics need to be changed or further developed.

Board Policy: *(Number & Title)* Strategic Direction SD-4, Reliability. The information in the monitoring report will provide a summary of system reliability, availability, and related activities for 2023.

Benefits: Allows the Board of Directors and Executive staff a better understanding of the Board Policies and gives them an opportunity to make revisions if necessary.

Cost/Budgeted: Contained in internal labor budget.

Alternatives: Provide the Board written report and communications through the CEO & General Manager.

Affected Parties: Power Generation, Transmission Planning & Operations

Coordination: Power Generation, Transmission Planning & Operations

Presenter: Katarina Miletijev, Interim Director, Distribution Planning & Operations

Additional Links:

SUBJECT SD-4, Reliability Board Monitoring Report	ITEM NO. <i>(FOR LEGAL USE ONLY)</i> 7
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

SACRAMENTO MUNICIPAL UTILITY DISTRICT

OFFICE MEMORANDUM

TO: Board of Directors

DATE: May 23, 2024

FROM: Claire Rogers *CR 5/23/24*

**SUBJECT: Audit Report No. 28007745
Board Monitoring Report; SD-4: Reliability**

Internal Audit Services (IAS) received the SD-4 *Reliability* 2023 Annual Board Monitoring Report and performed the following:

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

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

CC:

Paul Lau

Board Monitoring Report 2023

SD-4 Reliability



1) Background

Strategic Direction SD-4 Reliability states that:

Meeting customer energy requirements is a core value of SMUD.

Therefore:

- a) SMUD will assure all customer energy requirements are met. This will be accomplished through the use of: (i) its generation resources and purchase power portfolio 100 percent of the time; and (ii) its transmission assets to assure an overall availability of at least 99.99 percent.

- b) SMUD will achieve distribution system reliability by:

Limiting the average frequency of outage per customer per year to:

With major event: 0.99 – 1.33
Excluding major event: 0.85 – 1.14

Limiting the average duration of outages per customer per year to:

With major event: 67.5 – 93.3 minutes
Excluding major event: 49.7 – 68.7 minutes

Ensuring that no individual circuits exceed these targets for more than two consecutive years. For circuits that exceed these targets for two consecutive years, a remedial action plan will be issued and completed within eighteen months.

- c) SMUD will maintain the electric system in good repair and make the necessary upgrades to maintain load serving capability and meet regulatory standards.

2) Executive summary

Improving reliability is essential to meeting customer energy requirements and drives customer loyalty.

SMUD was in compliance for both generation and transmission availability. SMUD met all energy supply requirements 100% of the time through its generation resources and purchased power. At a peak load of 3,092 megawatts (MW) (which occurred on

August 16), 53% of the generation was provided by internal resources and 47% was provided by purchased power. The transmission availability was at 100% for the year.

SMUD was in compliance for System Average Interruption Frequency Index (SAIFI) (excluding major events). Reliability targets were exceeded for System Average Interruption Duration Index (SAIDI) excluding major events (75.6 minutes), as well as SAIFI (1.42) and SAIDI (318.2 minutes) including major events. The 2023 distribution system reliability performance is summarized in Table 1 below.

Table 1: 2023 Distribution System Reliability Performance

	Including Major Events		Excluding Major Events	
	SD-4 Limit	2023 Results	SD-4 Limit	2023 Results
SAIFI	1.33	1.42	1.14	1.01
SAIDI (minutes)	93.3	318.2	68.7	75.6

Major events are defined as events caused by earthquake, fire, or storms of sufficient intensity which result in a state of emergency being declared by the government. Absent the declaration of a state of emergency, any other natural disaster may be excluded only if it affects more than 15% of the system facilities or 10% of the customers, whichever is less.

There are 763 distribution circuits of which 98.7%, or 753 circuits, met the SD-4 reliability criteria. Twenty projects (primarily cable replacement) were issued to improve reliability, of which eleven have been completed. The remaining nine projects are on schedule to be completed within the eighteen-month requirement. These projects include cable replacement, avian mitigation, tripsaver installations and other work.

3) Additional supporting information

Generation

Hydro Generation Facilities

The availability rate for SMUD’s hydro generation system in 2023 was 86.41% and for the June 1st through September 30th period, hydro generation availability was 88.11%. SMUD’s Upper American River Project (UARP) hydro system generated 2,375 gigawatt hours (GWh). The budgeted generation was 1,635 GWh.

The lower hydro availability rate was due to an unscheduled outage at Camino resulting from a transformer failure (T1). This outage began in June and extended through the end of the year. The failed transformer was replaced in March 2024.

Gas Pipeline Operations

SMUD's gas pipeline had a 100% availability rating in 2023 and provided a constant flow of gas to SMUD's thermal generation facilities. All necessary maintenance activities were successfully completed in accordance with our operations and maintenance plans and procedures.

Thermal Generation Facilities

The overall availability rate for SMUD's thermal generation facilities in 2023 was 80.83% and for the June 1st through September 30th period, thermal plant availability was 96.55%. SMUD's thermal generation facilities generated a net total of 4,442 GWh against the budgeted generation of 5,156 GWh.

Transmission and Distribution

SMUD has approximately 488 miles of transmission lines and 10,882 miles of distribution lines including 69 kilovolt (kV). Approximately 40% of the distribution lines are installed overhead and 60% are installed underground. The transmission system is predominately overhead except for 19 miles of underground lines located in the Carmichael and downtown areas.

Staff monitors circuit reliability regularly to assess circuits that could potentially exceed the reliability limits. Outage causes, trends, and reliability impacts are analyzed to identify corrective actions that will bring the reliability of these circuits within the acceptable range.

4) Challenges

On the evening of December 31, 2022, the first of nine atmospheric river storms hit northern California. The impact of these storms started in 2022 and carried over into 2023 causing significant damage to the grid, affecting approximately 264,000 customers, a SAIDI contribution of 242.6 minutes, and a SAIFI contribution of 0.41 in 2023. The unexpected storms brought over 60 miles per hour (mph) wind gusts, with 48 mph sustained winds, coupled with almost two inches of rain. With the ground saturated by heavy rains combined with high winds, over 1000¹ trees over several days were uprooted all over the Sacramento region with many trees falling onto SMUD's overhead lines. These types of tree related outages take longer to resolve since the trees must be removed from the tangled powerlines prior to the start of rebuilding the lines.

¹ <https://www.caprado.org/articles/2023/01/12/why-did-so-many-trees-fall-in-sacramento-what-to-know-about-damage-to-citys-tree-canopy-amid-storms/#:~:text=%E2%80%9Cive%20been%20here%2032,fallen%20since%20New%20Years'%20Eve.>

Drivers for Reliability Performance

The main drivers for the distribution system performance excluding major events, along with the mitigation measures for each, are summarized below.

Non-Preventable Tree Outages

The leading cause of outages in 2023 was non-preventable tree outages. Overall, there was a 143% increase in the number of non-preventable tree outages, with a 609% increase in SAIDI minutes and a 285% increase in SAIFI, when comparing with 2022. This dramatic increase in non-preventable tree outages was caused by the numerous storm days in the first quarter of 2023 that did not qualify as major event days.

To further improve on the impact of non-preventable tree outages on the grid, SMUD's vegetation management department continues to be proactive in our maintenance activities. This will improve the reduction of non-preventable tree outages.

Equipment Failures

Equipment failures are associated with a wide variety of distribution line components, such as fuses, poles, wire hardware, broken connectors, broken jumpers, failed transformers, broken cutouts and more. Outages due to failed equipment continue to be evaluated to locate and address any systemic deficiencies.

Failed equipment was the second leading cause of outages in 2023. When compared to 2022, outages due to equipment failures increased by 17%, SAIDI minutes increased by 37% and SAIFI decreased by 12%. This decrease in SAIFI was caused by a reduction in the number of customers experiencing equipment related outages from 107,206 customers in 2022 to 95,915 customers in 2023.

Multiple inspection and maintenance programs are in place to identify and correct deficiencies before they result in failure. We have annual line patrols to detect obvious deficiencies. In addition, we perform detailed line inspections (DLI) every five years. During a DLI, the inspector examines every attachment on the pole and documents deficiencies found. The deficiencies are prioritized and repaired based upon pre-determined schedules.

Underground Cable Failures

In 2023, underground cable failures were the third leading driver to quantity of outage events. The number of outages due to cable failures decreased by 12% compared to 2022. Additionally, SAIDI and SAIFI values decreased by 1% and 7% respectively. Improved performance in this area is primarily driven by targeted selection of cables.

Furthermore, there has been a 15% reduction in number of single-phase circuit failures in 2023 compared to 2022, which has led to the reduction of overall cable outages. Additionally, cable injection work in 2024, will target 69kV circuits, which impact a large number of customers. Injection is expected to improve reliability of those lines for up to 25 additional years.

5) Recommendation

It is recommended that the Board accept the Monitoring Report for SD-4 Reliability.

6) Appendices

Appendix 1: Generation Supplementary Information

Hydro Generation Facilities

Major hydro generation maintenance and construction activities include:

- Ice House spillway chute wall drainage remediation project.
- Big Hill Emergency backup generator.
- Robb's Peak emergency generator and transfer switch.
- Loon Lake scroll case bleed valve replacement.
- Buck Island gate operator upgrade.
- White Rock penstock reconductoring.
- Camino 1 controls upgrade.
- Jaybird transformer temperature relay redesign.
- Robbs forebay hydraulic skid replacement.
- Camino transformers Transformer 1 & Transformer 2 Dissolved Gas Analysis/Bushing monitor installation.
- Loon Lake fire protection.
- Camino 1 Runner Repair.

Gas Pipeline Operations (GPO)

Capital improvements and major maintenance activities include:

- Clay Station Road Inspection Dig - Line 800C
- Franklin Blvd. Inspection Dig – Line 800C
- Quantitative Risk Assessment Model Contract Award
- Pipeline Hazardous Materials Safety Administration (PHMSA) Integrity Management Program Audit
- Performed In-Line Inspection (ILI) on Line 800C to check for pipe subsidence due to heavy rains and flooding event.
- Pipeline Corrosion Assessment

- Completed installation of wireless gateway transmitters for new Edge Remote Terminal Units (RTU) at (Winters Intertie, Main Line Valve 1, Main Line Valve 2).
- Replaced Valve 205 and Valve 805 Actuators
- Completed GPO station assessment report for low stress piping at Carson Ice and Campbell Soup Metering and Regulating Stations.

Thermal Generation Facilities

Major thermal generation maintenance and construction activities completed include:

- Carson Power Plant:
 - Started Seam Turbine major overhaul.
- Procter & Gamble Power Plant:
 - Completed chiller 1A replacement.
 - Completed Combustion Turbine Engine 185-117 Overhaul.
- Campbell Power Plant & McClellan Power Plant:
 - Completed Combustion Turbine Major overhaul.
 - Completed Carbon Dioxide (CO2) Fire Systems Upgrades.
 - Completed Steam Turbine & Combustion Turbine Generator Inspections.
- Cosumnes Power Plant:
 - Completed Steam Turbine Generator Stator Repair.
 - Completed Combustion Turbine #2 Major overhaul.
 - Completed Combustion Turbine #2 Generator Major Inspection.

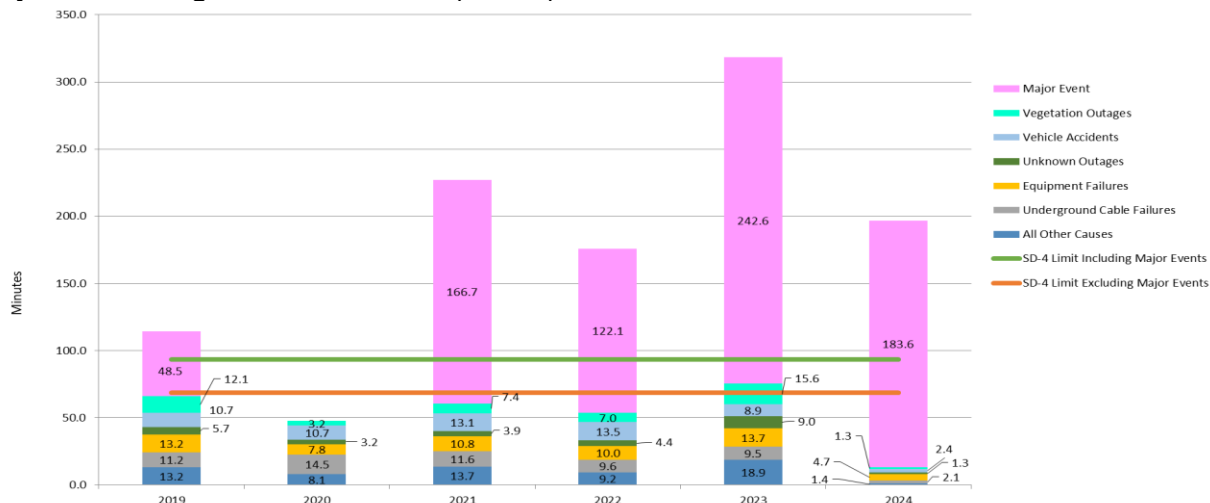
Appendix 2: Graphs

The graphs below provide a five-year comparison of the impacts of outage causes to the average frequency (SAIFI) and duration (SAIDI) of outages. 2024 SAIDI and SAIFI are year-to-date through Apr. 30, 2024.

Graph 1: Multi-Year Comparison System Average Frequency Index (SAIFI)



Graph 2: Multi-Year Comparison
System Average Duration Index (SAIDI)



Appendix 3: Reliability Comparison

Table 3 below provides a comparison between SMUD’s average distribution system performance compared to that of Pacific Gas and Electric’s (PG&E)’s distribution system. PG&E defines its distribution system as operating voltages less than 60kV and uses the Institute of Electrical and Electronics Engineers (IEEE) 1366 standards to define major event days, while SMUD includes the 69kV operating voltage as part of the distribution system and uses an alternate method to determine major event days. The information regarding PG&E’s system average performance was obtained from the 2022 reliability report posted on the California Public Utilities Commission (CPUC) website. PG&E’s 2023 Reliability Report is not posted on the CPUC website yet.

Table 3: Distribution System Reliability Comparison (excluding major events)

Year	SAIDI (minutes)		SAIFI	
	SMUD	PG&E	SMUD	PG&E
2019	66.0	103.1	1.04	0.88
2020	47.6	111.2	0.90	0.93
2021	60.4	160	1.04	1.03
2022	53.7	184.5	0.93	1.28
2023	75.6	N/A	1.01	N/A
Notes: 1. Listed SAIFI and SAIDI numbers are based on outages greater than 5 minutes (CPUC criteria).				

Appendix 4: Year-to-Date 2024 Reliability Update

Table 4: 2024 Year-to-Date Distribution System Reliability Performance

	Excluding Major Events			Including Major Events		
	SD-4 Limit	Jan.1 – Apr. 30, 2024	2024 Year End Projection	SD-4 Limit	Jan.1 – Apr. 30, 2024	2024 Year End Projection
SAIFI	1.14	0.21	0.81	1.33	0.90	1.65
SAIDI (minutes)	68.7	13.2	48.8	93.3	196.7	275.8

SMUD service territory was yet again hit hard by major rain and wind events in February causing year end projected SAIDI and SAIFI values to exceed SD-4 limits.

RESOLUTION NO. _____

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

This Board accepts the monitoring report for **Strategic Direction SD-4, Reliability**, substantially in the form set forth in **Attachment ____** hereto and made a part hereof.

SSS No. LEG 2024-0078

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date
Policy – 06/12/24
Board Meeting Date
June 20, 2024

TO	TO
1. Farres Everly	6.
2. Brandy Bolden	7.
3. Suresh Kotha	8.
4.	9. Legal
5.	10. CEO & General Manager

Consent Calendar	<input checked="" type="checkbox"/>	Yes		No <i>If no, schedule a dry run presentation.</i>	Budgeted		Yes	<input checked="" type="checkbox"/>	No <i>(If no, explain in Cost/Budgeted section.)</i>
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FROM (IPR) Laura Lewis	DEPARTMENT Executive Office	MAIL STOP B308	EXT. 6123	DATE SENT 05/22/24
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NARRATIVE:

Requested Action: Approve proposed revisions to

- a. **Board-Staff Linkage BL-1, Board-CEO Relationship;**
- b. **Board-Staff Linkage BL-5, Unity of Control;** and
- c. **Board-Staff Linkage BL-6, Evaluating the CEO’s Performance.**

Summary: At the Board of Directors Workshop on March 26, 2024, Board Consultant Eric Douglas facilitated a review of multiple policies to identify potential revisions to existing language. Based on the review, potential revisions to BL-1, BL-5, and BL-6 are provided in redline and “clean” formats for the Board’s discussion and potential approval at the June Board meeting.

Board Policy: *(Number & Title)* Governance Process GP-3, Board Job Description – a) Produce and maintain written policies that ensure high quality of governance and clear roles in decision-making between Board and staff.

Benefits: Enables Board members to review, edit, and update language to keep policies current.

Cost/Budgeted: N/A

Alternatives: Maintain the existing policies; approve different revisions; table discussion for a later time.

Affected Parties: Board of Directors, Executive Office

Coordination: Board Consultant, Board Office, and Legal

Presenter: Eric Douglas, Board Consultant, Leading Resources, Inc.

Additional Links:

SUBJECT Proposed Revisions to BL-1, BL-5, and BL-6	ITEM NO. (FOR LEGAL USE ONLY) 8a
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-1
Title: Board-CEO Relationship

The Board of Directors governs the Sacramento Municipal Utility District and is the policy-making body of SMUD. The Board operates under the provisions of the Municipal Utility District Act of the State of California (the MUD Act) and all other applicable statutes and laws.

- a) The Board of Directors is responsible for the following:
 - i) Identify and define the purpose, values and vision of SMUD, along with the results that are acceptable and not acceptable for SMUD to achieve, and communicate them in the form of policy.
 - ii) Make certain operational decisions as are designated by law.
 - iii) Hire, evaluate, and terminate the Chief Executive Officer and General Manager (CEO).
 - iv) Serve as a conduit of community input to the CEO.

- b) The CEO is responsible for the following:
 - i) Manage all operations and business affairs of SMUD.
 - ii) Achieve the results established by the Board within the appropriate and ethical standards of business conduct set by the Board.
 - iii) Prepare and submit to the Board for approval each year a budget to achieve the Board's strategic directives.
 - iv) Enforce SMUD ordinances, administer the civil service system (including hiring and terminating of all officers and employees except the Chief Legal Officer and General Counsel and the Board Special Assistant), attend meetings of the Board and report on the general affairs of SMUD, and keep the Board advised as to the needs of SMUD.
 - v) Establish and enforce a code of ethics applicable to all employees, which provides clear guidelines for ethical standards and conduct.
 - vi) Implement and maintain an integrated enterprise risk management process that identifies, assesses, prudently manages and mitigates a variety of risks facing SMUD.
 - vii) Ensure the smooth continuous operation of SMUD in the event of the planned or unplanned absence of the CEO.

- viii) Interact with the public and other utilities and government agencies, pursuant to policies adopted by the Board. The CEO shall assure, in cooperation and consultation with the Board, that SMUD is appropriately represented in the community it serves.
- ix) Perform other responsibilities as may be delegated by the Board either by resolution or through the CEO's contract of employment.

DRAFT

Monitoring Method: Board Report

Frequency: Annual

Versioning:

December 19, 2002	Resolution No. 02-12-14	Date of Adoption.
October 16, 2003	Resolution No. 03-10-14	Date of Revision.
May 6, 2004	Resolution No. 04-05-05	Date of Revision.
December 6, 2007	Resolution No. 07-12-02	Date of Revision.
December 20, 2007	Resolution No. 07-12-13	Date of Revision.
October 16, 2008	Resolution No. 08-10-09	Date of Revision.
January 21, 2010	Resolution No. 10-01-07	Date of Revision.
February 18, 2010	Resolution No. 10-02-11	Date of Revision.
January 20, 2011	Resolution No. 11-01-09	Date of Revision.
July 16, 2015	Resolution No. 15-07-02	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision. [Current Policy]
<u>June 20, 2024</u>	<u>Resolution No. 24-06-XX</u>	<u>Date of Revision. [Current Policy]</u>

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-1
Title: Board-CEO Relationship

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 - iv) Serve as a conduit of community input to the CEO.
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 - iv) Enforce SMUD ordinances, administer the civil service system (including hiring and terminating of all officers and employees except the Chief Legal Officer and General Counsel and the Board Special Assistant), attend meetings of the Board and report on the general affairs of SMUD, and keep the Board advised as to the needs of SMUD.
 - v) Establish and enforce a code of ethics applicable to all employees, which provides clear guidelines for ethical standards and conduct.
 - vi) Implement and maintain an integrated enterprise risk management process that identifies, assesses, prudently manages and mitigates a variety of risks facing SMUD.
 - vii) Ensure the smooth continuous operation of SMUD in the event of the planned or unplanned absence of the CEO.

- viii) Interact with the public and other utilities and government agencies, pursuant to policies adopted by the Board. The CEO shall assure, in cooperation and consultation with the Board, that SMUD is appropriately represented in the community it serves.
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DRAFT

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October 16, 2008	Resolution No. 08-10-09	Date of Revision.
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September 21, 2023	Resolution No. 23-09-02	Date of Revision.
June 20, 2024	Resolution No. 24-06-XX	Date of Revision. [Current Policy]

DRAFT

RESOLUTION NO. _____

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

This Board approves the revisions to **Board-Staff Linkage BL-1, Board-CEO Relationship**, substantially in the form as set forth in **Attachment _____**.

SSS No. LEG 2024-0078

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date Policy – 06/12/24
Board Meeting Date June 20, 2024

TO	TO
1. Farres Everly	6.
2. Brandy Bolden	7.
3. Suresh Kotha	8.
4.	9. Legal
5.	10. CEO & General Manager

Consent Calendar	<input checked="" type="checkbox"/>	Yes		No <i>If no, schedule a dry run presentation.</i>	Budgeted		Yes	<input checked="" type="checkbox"/>	No <i>(If no, explain in Cost/Budgeted section.)</i>
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FROM (IPR) Laura Lewis	DEPARTMENT Executive Office	MAIL STOP B308	EXT. 6123	DATE SENT 05/22/24
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NARRATIVE:

Requested Action: Approve proposed revisions to

- a. **Board-Staff Linkage BL-1, Board-CEO Relationship;**
- b. **Board-Staff Linkage BL-5, Unity of Control;** and
- c. **Board-Staff Linkage BL-6, Evaluating the CEO’s Performance.**

Summary: At the Board of Directors Workshop on March 26, 2024, Board Consultant Eric Douglas facilitated a review of multiple policies to identify potential revisions to existing language. Based on the review, potential revisions to BL-1, BL-5, and BL-6 are provided in redline and “clean” formats for the Board’s discussion and potential approval at the June Board meeting.

Board Policy: *(Number & Title)* Governance Process GP-3, Board Job Description – a) Produce and maintain written policies that ensure high quality of governance and clear roles in decision-making between Board and staff.

Benefits: Enables Board members to review, edit, and update language to keep policies current.

Cost/Budgeted: N/A

Alternatives: Maintain the existing policies; approve different revisions; table discussion for a later time.

Affected Parties: Board of Directors, Executive Office

Coordination: Board Consultant, Board Office, and Legal

Presenter: Eric Douglas, Board Consultant, Leading Resources, Inc.

Additional Links:

SUBJECT Proposed Revisions to BL-1, BL-5, and BL-6	ITEM NO. <i>(FOR LEGAL USE ONLY)</i> 8b
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-5
Title: Unity of Control

Only decisions of the Board acting as a body are binding on the Chief Executive Officer and General Manager (CEO), the Chief Legal Officer and General Counsel, and the Internal Auditor.

Specifically, ~~in or out of the Board meeting:~~

- a) Decisions or instructions of individual Board members, officers, or committees are not binding on the CEO, Chief Legal Officer and General Counsel or Internal Auditor except in instances when the Board has specifically authorized such exercise of authority.
- b) In the case of Board members or committees requesting information or assistance without Board authorization, the CEO, Chief Legal Officer and General Counsel or Internal Auditor must refuse such requests that require, in their opinion, a material amount of staff time, or funds, ~~or are disruptive.~~
- c) Board members may communicate directly with SMUD employees or contractors. However, the Board as a body and the Board members will never give direction to persons who report directly or indirectly to the CEO, with the exception of the Chief Legal Officer and General Counsel, Internal Auditor and Special Assistant. If individual Board members are dissatisfied with the response they receive, they may seek a resolution by the Board.
- d) Board members may provide feedback about staff, but Board Members ~~members~~ will refrain from evaluating, either formally or informally, any staff.
- e) The Board as a body will refrain from evaluating, either formally or informally, any staff other than the CEO, the Chief Legal Officer and General Counsel, the Internal Auditor, and the Special Assistant.
- f) Board members will refrain from attending any staff meetings unless explicitly invited by the CEO, the Chief Legal Officer and General Counsel, or the Internal Auditor.

Monitoring Method: Board Report

Frequency: Annual

Versioning:

December 19, 2002	Resolution No. 02-12-14	Date of Adoption.
October 16, 2003	Resolution No. 03-10-14	Date of Revision.
June 15, 2006	Resolution No. 06-06-05	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision. [Current Policy]
<u>June 20, 2024</u>	<u>Resolution No. 24-06-XX</u>	<u>Date of Revision. [Current Policy]</u>

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-5
Title: Unity of Control

Only decisions of the Board acting as a body are binding on the Chief Executive Officer and General Manager (CEO), the Chief Legal Officer and General Counsel, and the Internal Auditor.

Specifically:

- a) Decisions or instructions of individual Board members, officers, or committees are not binding on the CEO, Chief Legal Officer and General Counsel or Internal Auditor except in instances when the Board has specifically authorized such exercise of authority.
- b) In the case of Board members or committees requesting information or assistance without Board authorization, the CEO, Chief Legal Officer and General Counsel or Internal Auditor must refuse such requests that require, in their opinion, a material amount of staff time or funds.
- c) Board members may communicate directly with SMUD employees or contractors. However, the Board as a body and the Board members will never give direction to persons who report directly or indirectly to the CEO, with the exception of the Chief Legal Officer and General Counsel, Internal Auditor and Special Assistant. If individual Board members are dissatisfied with the response they receive, they may seek a resolution by the Board.
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- e) The Board as a body will refrain from evaluating, either formally or informally, any staff other than the CEO, the Chief Legal Officer and General Counsel, the Internal Auditor, and the Special Assistant.
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Monitoring Method: Board Report

Frequency: Annual

Versioning:

December 19, 2002	Resolution No. 02-12-14	Date of Adoption.
October 16, 2003	Resolution No. 03-10-14	Date of Revision.
June 15, 2006	Resolution No. 06-06-05	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
June 20, 2024	Resolution No. 24-06-XX	Date of Revision. [Current Policy]

DRAFT

RESOLUTION NO. _____

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

This Board approves the revisions to **Board-Staff Linkage BL-5, Unity of Control**, substantially in the form as set forth in **Attachment ____**.

SSS No. LEG 2024-0078

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date Policy – 06/12/24
Board Meeting Date June 20, 2024

TO	TO
1. Farres Everly	6.
2. Brandy Bolden	7.
3. Suresh Kotha	8.
4.	9. Legal
5.	10. CEO & General Manager

Consent Calendar	<input checked="" type="checkbox"/>	Yes		No <i>If no, schedule a dry run presentation.</i>	Budgeted		Yes	<input checked="" type="checkbox"/>	No <i>(If no, explain in Cost/Budgeted section.)</i>
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FROM (IPR) Laura Lewis	DEPARTMENT Executive Office	MAIL STOP B308	EXT. 6123	DATE SENT 05/22/24
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NARRATIVE:

Requested Action: Approve proposed revisions to

- a. **Board-Staff Linkage BL-1, Board-CEO Relationship;**
- b. **Board-Staff Linkage BL-5, Unity of Control;** and
- c. **Board-Staff Linkage BL-6, Evaluating the CEO’s Performance.**

Summary: At the Board of Directors Workshop on March 26, 2024, Board Consultant Eric Douglas facilitated a review of multiple policies to identify potential revisions to existing language. Based on the review, potential revisions to BL-1, BL-5, and BL-6 are provided in redline and “clean” formats for the Board’s discussion and potential approval at the June Board meeting.

Board Policy: *(Number & Title)* Governance Process GP-3, Board Job Description – a) Produce and maintain written policies that ensure high quality of governance and clear roles in decision-making between Board and staff.

Benefits: Enables Board members to review, edit, and update language to keep policies current.

Cost/Budgeted: N/A

Alternatives: Maintain the existing policies; approve different revisions; table discussion for a later time.

Affected Parties: Board of Directors, Executive Office

Coordination: Board Consultant, Board Office, and Legal

Presenter: Eric Douglas, Board Consultant, Leading Resources, Inc.

Additional Links:

SUBJECT Proposed Revisions to BL-1, BL-5, and BL-6	ITEM NO. (FOR LEGAL USE ONLY) 8c
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-6
Title: Evaluating the CEO's Performance

The CEO's job performance shall be evaluated by comparing the organization's results, operations and their personal performance to the policies established by the Board.

Specifically:

- a) The Board shall evaluate the CEO's performance on an annual basis in December. ~~In the same month, the CEO shall propose performance criteria for the following year that represent their reasonable interpretation of achieving the results defined by the Board.~~
- b) The evaluation will be based on a review of the organization's performance and the CEO's ~~personal~~ performance against the ~~performance criteria proposed under subsection a), as accepted by the Board~~ Board's Strategic Direction policies and Board-Staff Linkage policies.
- c) The Board will use data to determine the degree to which Board policies are being met.
- ~~d)~~ In the same month ~~December~~, the CEO shall ~~will~~ propose performance criteria for the following year that represent their reasonable interpretation of achieving the results defined by the Board.
- ~~d)e)~~ Additional performance discussions and check-ins with the CEO should occur at mid-year.
- ~~d)~~ ~~The Board will use data to determine the degree to which Board policies are being met.~~
- e)f) All policies that instruct the CEO shall be monitored at a frequency and by a method chosen by the Board.

Monitoring Method: Board Report

Frequency: Annual

Versioning:

December 19, 2002	Resolution No. 02-12-14	Date of Adoption.
October 16, 2003	Resolution No. 03-10-14	Date of Revision.
November 3, 2005	Resolution No. 05-11-03	Date of Revision.
December 18, 2008	Resolution No. 08-12-16	Date of Revision.
November 19, 2009	Resolution No. 09-11-07	Date of Revision.
December 10, 2020	Resolution No. 20-12-06	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision. [Current Policy]
<u>June 20, 2024</u>	<u>Resolution No. 24-06-XX</u>	<u>Date of Revision. [Current Policy]</u>

SMUD BOARD POLICY



Category: Board-Staff Linkage
Policy No.: BL-6
Title: Evaluating the CEO's Performance

The CEO's job performance shall be evaluated by comparing the organization's results, operations and their personal performance to the policies established by the Board.

Specifically:

- a) The Board shall evaluate the CEO's performance on an annual basis in December.
- b) The evaluation will be based on a review of the organization's performance and the CEO's performance against the Board's Strategic Direction policies and Board-Staff Linkage policies.
- c) The Board will use data to determine the degree to which Board policies are being met.
- d) In December, the CEO will propose performance criteria for the following year that represent their reasonable interpretation of achieving the results defined by the Board.
- e) Additional performance discussions and check-ins with the CEO should occur at mid-year.
- f) All policies that instruct the CEO shall be monitored at a frequency and by a method chosen by the Board.

Monitoring Method: Board Report

Frequency: Annual

Versioning:

December 19, 2002	Resolution No. 02-12-14	Date of Adoption.
October 16, 2003	Resolution No. 03-10-14	Date of Revision.
November 3, 2005	Resolution No. 05-11-03	Date of Revision.
December 18, 2008	Resolution No. 08-12-16	Date of Revision.
November 19, 2009	Resolution No. 09-11-07	Date of Revision.
December 10, 2020	Resolution No. 20-12-06	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
June 20, 2024	Resolution No. 24-06-XX	Date of Revision. [Current Policy]

DRAFT

RESOLUTION NO. _____

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

This Board approves the revisions to **Board-Staff Linkage BL-6, Evaluating the CEO's Performance**, substantially in the form as set forth in **Attachment ____**.

SSS No. LEG 2024-0091

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date N/A
Board Meeting Date June 20, 2024

TO	TO
1.	6.
2.	7.
3.	8.
4.	9. Legal
5.	10. CEO & General Manager

Consent Calendar	<input checked="" type="checkbox"/>	Yes		No <i>If no, schedule a dry run presentation.</i>	Budgeted		Yes	<input checked="" type="checkbox"/>	No <i>(If no, explain in Cost/Budgeted section.)</i>
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FROM (IPR) Laura Lewis	DEPARTMENT Executive Office	MAIL STOP B308	EXT. 6123	DATE SENT 06/13/24
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NARRATIVE:

Requested Action: Approve proposed revisions to **Governance Process GP-15, Board Travel and Training Reimbursement.**

Summary: At the Policy Committee meeting of June 12, 2024, the Board discussed proposed policy revisions to Governance Process GP-15, Board Travel and Training Reimbursement to include payment of baseline dues in organizations that further Board members’ professional development, when accompanied by written justification, as part of the annual training budget. Copies of the proposed revisions are attached in redline and “clean” format.

Board Policy: Governance Process GP-15, Board Travel and Training Reimbursement.
(Number & Title)

Benefits: Enables Board members to review the policy in light of present-day factors.

Cost/Budgeted: N/A

Alternatives: Maintain the existing policy; approve a different revision.

Affected Parties: Board Members

Coordination: Executive Office, Board Office, People Services & Strategies, and Legal

Presenter: Laura Lewis, Chief Legal & Government Affairs Officer and General Counsel

Additional Links:

SUBJECT Proposed Revisions to Governance Process GP-15, Board Travel and Training Reimbursement	ITEM NO. (FOR LEGAL USE ONLY) 9
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

SMUD BOARD POLICY



Category: Governance Process
Policy No.: GP-15
Title: Board Travel and Training Reimbursement

Board members shall have the opportunity to attend conferences, meetings, training, and various activities that are appropriate to their work as Directors and provide value to SMUD.

As part of this policy:

- a) Each Board member shall have an annual budget for travel and training, which shall be adjusted annually for inflation based on the Travel Price Index (July-June) and rounded to the nearest hundred dollars. The training budget shall include funds for attendance at community functions and baseline dues in organizations that further Board members' professional development, when accompanied by written justification.
- b) The Board shall approve its travel and training budget as part of the annual budget process. Budgeted travel and training funds shall expire at the end of each calendar year with no rollover option.
- c) The Board travel and training budget shall be managed by the Special Assistant to the Board as part of the Board Office budget.
- d) Requests for travel, training and events in excess of \$1,000 shall be accompanied by a written justification of the benefits to SMUD and consistency with Board policy and submitted to the Board Special Assistant.
- e) Written travel and training justifications required by sections a) and d) of this policy, along with a status report on the Board's travel and training budget and individual directors' expenditures, shall be distributed to all Board members monthly for the purposes of transparency and oversight.
- f) Board members shall submit all relevant travel and training receipts to Board Office staff within two weeks for reconciliation.
- g) Board members shall publicly report the results of their travel and training at a Board meeting.
- h) New Board members shall receive an orientation in the Board's travel and training policy.

Monitoring Method: Board Report

Frequency: Annual

Versioning:

November 13, 2008	Resolution No. 08-11-07	Date of Adoption. (Effective Date = January 1, 2009)
August 20, 2009	Resolution No. 09-08-15	Date of Revision.
October 6, 2011	Resolution No. 11-10-02	Date of Revision.
December 1, 2016	Resolution No. 16-12-03	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
February 15, 2024	Resolution No. 24-02-04	Date of Revision. [Current Policy]
<u>June 20, 2024</u>	<u>Resolution No. 24-06-XX</u>	<u>Date of Revision. [Current Policy]</u>

DRAFT

SMUD BOARD POLICY



Category: Governance Process
Policy No.: GP-15
Title: Board Travel and Training Reimbursement

Board members shall have the opportunity to attend conferences, meetings, training, and various activities that are appropriate to their work as Directors and provide value to SMUD.

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- a) Each Board member shall have an annual budget for travel and training, which shall be adjusted annually for inflation based on the Travel Price Index (July-June) and rounded to the nearest hundred dollars. The training budget shall include funds for attendance at community functions and baseline dues in organizations that further Board members' professional development, when accompanied by written justification.
- b) The Board shall approve its travel and training budget as part of the annual budget process. Budgeted travel and training funds shall expire at the end of each calendar year with no rollover option.
- c) The Board travel and training budget shall be managed by the Special Assistant to the Board as part of the Board Office budget.
- d) Requests for travel, training and events in excess of \$1,000 shall be accompanied by a written justification of the benefits to SMUD and consistency with Board policy and submitted to the Board Special Assistant.
- e) Written travel and training justifications required by sections a) and d) of this policy, along with a status report on the Board's travel and training budget and individual directors' expenditures, shall be distributed to all Board members monthly for the purposes of transparency and oversight.
- f) Board members shall submit all relevant travel and training receipts to Board Office staff within two weeks for reconciliation.
- g) Board members shall publicly report the results of their travel and training at a Board meeting.
- h) New Board members shall receive an orientation in the Board's travel and training policy.

Monitoring Method: Board Report

Frequency: Annual

Versioning:

November 13, 2008	Resolution No. 08-11-07	Date of Adoption. (Effective Date = January 1, 2009)
August 20, 2009	Resolution No. 09-08-15	Date of Revision.
October 6, 2011	Resolution No. 11-10-02	Date of Revision.
December 1, 2016	Resolution No. 16-12-03	Date of Revision.
September 21, 2023	Resolution No. 23-09-02	Date of Revision.
February 15, 2024	Resolution No. 24-02-04	Date of Revision.
June 20, 2024	Resolution No. 24-06-XX	Date of Revision. [Current Policy]

DRAFT

RESOLUTION NO. _____

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

This Board approves the revisions to **Governance Process GP-15, Board Travel and Training Reimbursement**, substantially in the form as set forth in **Attachment ____**.

SSS No. CFO 24-008

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date Policy - 06/12/24
Board Meeting Date June 20, 2024

TO	TO
1. Jon Olson	6. Suresh Kotha
2. Russell Mills	7.
3. Scott Martin	8.
4. Farres Everly	9. Legal
5. Brandy Bolden	10. CEO & General Manager

Consent Calendar	<input type="checkbox"/>	Yes		No <i>If no, schedule a dry run presentation.</i>	Budgeted	<input type="checkbox"/>	Yes		No <i>(If no, explain in Cost/Budgeted section.)</i>
FROM (IPR)	DEPARTMENT			MAIL STOP	EXT.	DATE SENT			
Jillian Rich	Enterprise Strategy & Risk			B205	n/a	5/22/2024			

NARRATIVE:

Requested Action: a) Enterprise Risk Management update.
b) Discuss proposed revisions to the Energy Risk Management and Energy Trading Standards.

Summary: Staff issued a memo in January 2024 outlining recent organizational changes to SMUD’s Enterprise Risk Management (ERM) program and committing to a Board update in June 2024.

The annual Monitoring Report for Strategic Direction SD-17, Enterprise Risk Management is generally presented at the Policy Committee meeting in November. Staff proposes changes to ERM Board reporting in response to industry trends and a recent maturity assessment led by Internal Audit Services. Part of the proposed changes include amendments to the Energy Risk Management and Energy Trading Standards under Board-Staff Linkage BL-12, Delegation to the CEO with Respect to Transactions Involving Transmission and Wholesale Energy, Fuel, and Environmental Attributes, to align and coordinate commodity risk reporting with overall enterprise risk reporting.

Board Policy: Board-Staff Linkage BL-12, Delegation to the CEO with Respect to Transactions Involving Transmission and Wholesale Energy, Fuel, and Environmental Attributes; Governance Process GP-3, Board Job Description – a) Produce and maintain written policies that ensure high quality of governance and clear roles in decision-making between Board and staff.

Benefits: Provides the Board the opportunity to give input on SMUD’s Enterprise Risk Management program and reporting mechanisms.

Cost/Budgeted: N/A

Alternatives: Do not make the proposed revision to Energy Risk Management and Energy Trading Standards, meaning that enterprise risk and commodity risk would continue to be reported separately.

Affected Parties: Board Office, Legal, Commodity Risk Management, Enterprise Strategy & Risk

Coordination: Board Office, Legal, Commodity Risk Management, Enterprise Strategy & Risk

Presenter: Jillian Rich, Manager, Enterprise Strategy & Risk

Additional Links:

SUBJECT Enterprise Risk Management Update and Energy Trading Standards Proposed Revisions	ITEM NO. (FOR LEGAL USE ONLY) 10
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ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

**ENERGY RISK MANAGEMENT AND ENERGY TRADING STANDARDS
SACRAMENTO MUNICIPAL UTILITY DISTRICT**

PURPOSE

The wholesale energy markets are exposed to numerous risks including, but not limited to, market price risk, supply risk, credit risk and regulatory risk. The purpose of the Energy Risk Management and Energy Trading Standards (the “Standards”) is to establish protocols for prudent risk mitigation and management.

SCOPE

The Standards apply to:

- The operation of SMUD-owned or controlled generation, transmission, natural gas and other fuel reserves and pipeline assets;
- Contracts for and related to the purchase and sale of wholesale electricity, electric capacity and storage, natural gas and clean and emissions-free fuel, and environmental products;
- Contracts for and related to transmission, natural gas and clean or emissions-free fuel transportation, and storage; and
- Contracts for and related to financially hedging or mitigating risks associated with wholesale electricity, electric capacity and natural gas and other fuel prices, supplies and markets.

PRIORITIES

The Chief Executive Officer/General Manager (CEO/GM) implement the Standards in accordance with Board policies and with the following priorities, listed in order of importance:

Priority 1. Manage resource mix to comply with Board Strategic Direction (SD-4) Reliability.

Priority 2. Minimize net commodity energy purchase costs while operating within the targets established in Board Strategic Direction (SD-3) Access to Credit Markets.

Priority 3. Optimize SMUD-owned or controlled assets, including but not limited to, generation, transmission, fuel reserves, pipeline assets, fuel storage and contract resources to create additional value for SMUD and its customers, while complying with Board policies and all applicable laws and regulations.

Priority 4. Provide our customers and community with a sustainable power supply in accordance with Board Strategic Direction (SD-9) Resource Planning.

DIVERSIFICATION AND PORTFOLIO MIX

SMUD will maintain a diverse portfolio of generation, transmission, fuel-related assets and contracts to reasonably mitigate risk and to support its clean energy goals. Risks associated with wholesale contracts will be mitigated through diversified terms and conditions, contract periods and durations, delivery points, counter-parties, and product types.

PORTFOLIO RISK MANAGEMENT PROCEDURES

The CEO/GM will develop and maintain written procedures to implement the Standards and will ensure that appropriate internal controls and limits are in place to ensure compliance with Board policies, the Standards and applicable laws and regulations. Consistent with Board policies and the Standards, the CEO/GM will analyze and implement risk mitigation measures, as appropriate. For illustrative purposes, examples of identified risks and risk mitigation tools are as follows:

<u>Risks</u>	<u>Risk Description</u>	<u>Risk Identification/Mitigation Tools</u>
Market Price Risk	The risk that the absolute price of a given commodity (power, gas) will fluctuate, thereby exposing the District to potential financial losses.	<ul style="list-style-type: none"> • Market and volatility analysis • Forward price curve development • Net position and financial exposure analysis • Mark-to-market analysis • Net income-at-risk analysis • Diversification of product purchases • Dollar-average over time by programmatic purchases
Weather/Volumetric Risk	The potential adverse economic impact of anticipated changes in supply and/or demand. For example, the risk of having less than average generation from SMUD’s hydro project due to a drier than normal year, or less than anticipated retail sales due to a cooler than normal summer.	<ul style="list-style-type: none"> • Frequent snow surveys • Runoff forecast update • Diversification of volumetric hedging programs • Temperature vs. load analysis • Frequent hydro spill risk assessment • Maintain Hydro Stabilization Fund • Diversification of product purchases

<u>Risks</u>	<u>Risk Description</u>	<u>Risk Identification/Mitigation Tools</u>
Credit/Counter-party Risk	The potential financial loss resulting from a counter-party's failure to honor its obligations, including the obligation to settle on a timely basis. For example, a bankrupt counter-party may force SMUD to cover the contracted obligation from the market at a higher price than originally contracted.	<ul style="list-style-type: none"> • Credit Analysis • Credit Limits • Minimum rating levels • Diversification of counter-parties • Guarantees and financial assurances • Netting Agreements
Supply/Delivery Risk	The risk of loss due to non-delivery of power and/or fuel; which could decrease SMUD's system reliability and/or increase financial exposure.	<ul style="list-style-type: none"> • Diversification of delivery points • Retain delivery point flexibility/optionality when practicable • Transmission and pipeline capacity outage duration risk analysis • Natural gas and other fuel storage
Unplanned Outage Risk	The risk of under-supply due to unexpected plant outages, which may increase SMUD's system reliability and/or financial exposure.	<ul style="list-style-type: none"> • Historical plant performance risk analysis • Plant Outage Insurance • Planning and Operating Reserve Analysis • 24-hour trading desk to balance system needs on real-time basis

<u>Risks</u>	<u>Risk Description</u>	<u>Risk Identification/Mitigation Tools</u>
Operational/Human Risk	The risk of human error or fraud, or the risk that the system of controls will fail to adequately record, monitor, and account for transactions or positions.	<ul style="list-style-type: none"> • Develop written trading rules and limits • Establish procedures and standards • Establish system of controls for transaction approval, scheduling and payment • Minimize manual hand-off and multiple input of transaction information • Standardize software applications as appropriate • Implement cross-functional training • Implement structured area expertise training • Conduct periodic audits
Regulatory Risk	Market structure and operational risks associated with shifting state and federal regulatory policies, rules and regulations.	<ul style="list-style-type: none"> • Analysis of regulatory, regional and industry trends • Participation in regulatory forums
Extreme Event Risk	The potential financial risk and or reliability risk created by extreme events such as the 2000-2001 energy crisis and the summer 2020 western heat wave.	<ul style="list-style-type: none"> • Portfolio stress testing • Scenario/sensitivity analysis • Maintain Rate Stabilization Fund
Legislative Risk	Risks associated with actions by international, federal and state legislative bodies.	<ul style="list-style-type: none"> • Legislative analysis and monitor industry wide initiatives • Advocacy of issues consistent with Board established policies.

PROHIBITED TRANSACTIONS

SMUD will not engage in the following prohibited transactions:

- Any transaction that is not related to serving load and/or reducing financial exposure;
- Sale of any **uncovered** financial “Put” and/or “Call” options on electric energy, gas, electric transmission or gas pipeline capacity;
- Sale of any other **uncovered** Financial Options;
- Unless adequate credit support is provided, transactions with any counter-party of: (i) longer than one year in duration, with a credit rating less than investment grade; or (ii) one year or less in duration, with a credit rating less than the Standard and Poors equivalent of BB, except for the following transactions with counter-parties having a credit rating equivalent to Standard and Poors B: (a) purchases which are within the next seven days; and (b) sales which are within the current calendar month that do not present at anytime, payment risk to SMUD (i.e., no associated receivable after exercising netting rights which apply offsetting purchases; this transaction restriction does not apply to sales of ancillary services to the California Independent System Operator;
- Any deceptive transactions, including but not limited to transactions that: (i) are intended to manipulate the market; (ii) circumvent market rules; (iii) manipulate market prices; or (iv) inflate volumes traded or available in any region or market; or
- Any transactions prohibited by federal and/or state laws and regulations.

AUTHORIZED TRANSACTIONS

Any transaction or contract entered into by the CEO/GM that is consistent with the Standards and the Delegation of Authority will be deemed authorized and approved by the Board at the time of execution by the CEO/GM or his/her designee.

DELEGATION OF AUTHORITY

Consistent with the Board policies and the Standards, the CEO/GM or his/her designee is delegated the following authority:

Section 1. Transactional Authority. To negotiate and execute on behalf of SMUD the types of contracts and transactions listed below, provided that: (i) such agreement(s) do not have a term greater than three (3) years, as measured from the commencement of performance by either party (e.g., the first date of delivery of

electricity, transmission capacity, fuel, or pipeline capacity); (ii) the commencement of performance is no longer than three (3) years from the date of execution; and (iii) the prices paid under such agreements are at or below prevailing market rates for similar products at the time the contract is made.

- * Purchases, sales and exchanges of electricity, electric capacity and storage, natural gas and clean and emissions-free fuel commodity.
- * Purchases and sales of transmission capacity.
- * Purchase and sales of ancillary services including, but not limited to, spinning reserve, non-spinning reserve, and regulation.
- * Purchase of put and/or call options for electricity and natural gas commodity.
- * Purchase and sale of natural gas and other fuel pipeline capacity.
- * Purchase and sale of natural gas and other fuel storage capacity.
- * Sales of covered call and put options.
- * Purchase and sale of Renewable Energy Credits evidencing the renewable attribute associated with Renewable Energy.
- * Contracts for financial fixed-for-floating or floating-for-fixed price swaps, options and other financially settled energy derivative transactions for purposes of hedging and/or mitigating the price risk of: (i) an underlying physical position in electricity, natural gas or other energy used for the production of District electricity matching a retail load obligation; or (ii) embedded in the pricing formula of a Power Purchase and Sale Agreement; or (iii) for purposes of hedging against the potential financial impact of unpredictable weather conditions, such as heat storms in the District's service territory and/or below average precipitation in the District's Upper American River Project.
- * Purchases and sale of carbon allowances, offsets, and other GHG related products, including both physical and financial transactions.
- * Purchase and sale of low carbon fuel standard credits.

Section 2. Long-term Fuel and Power Transactional Authority. To negotiate and execute on behalf of SMUD long-term natural gas, clean and emissions-free fuel, and power supply agreements to purchase discounted tax-exempt fuel and power subject to the following parameters: (i) total purchases from all suppliers shall not exceed 80,000 average dekatherms per day for fuel and 500,000 MWh annually for power; (ii) supplier diversification under this authority shall be maintained by requiring no single supplier

provides more than 30,000 average dekatherms per day for fuel or 200,000 MWh annually for power; (iii) contract durations shall not exceed thirty years; (iv) prices paid to suppliers must have expected market discounts at least 75 percent as great as otherwise achievable from a SMUD-sponsored pre-paid transaction; and (v) suppliers must have a proven track record in successfully executing similar transactions.

Section 3. Ancillary Services Transactional Authority. Notwithstanding the credit support restrictions set forth in “Prohibited Transactions,” to make sales of ancillary services to the California Independent System Operator.

Section 4. Enabling Agreement Authority. To negotiate and execute on behalf of SMUD enabling agreements, irrespective of term, including but not limited to the agreements sponsored by the Western Systems Power Pool (“WSPP”), Edison Electric Institute (“EII”), North America Energy Standards Board (“NAESB”), Gas Industry Standards Board (“GISB”), International Swap Dealers Association (“ISDA”) and other prevailing industry form agreements for purposes of facilitating the negotiation of future transactions specified in Section 1, above. An Enabling Agreement does not commit SMUD to any specific transaction; rather it is an agreement setting forth standard terms and conditions (other than terms and conditions for transaction specific agreements, such as, price, quantity, term and delivery point), which will apply to future transactions entered into under the respective Enabling Agreement. All transactions entered into under any Enabling Agreement will be subject to the limits set forth in Section 1, above.

Section 5. Tariff Related Agreement Authority. To negotiate and execute on behalf of SMUD transmission, facilities, distribution, generator and scheduling agreements, irrespective of term, pursuant to approved tariffs.

Section 6. Transmission Planning Agreement Authority. To negotiate and execute on behalf of SMUD agreements intended to facilitate regional transmission planning, irrespective of term; provided the agreement does not commit SMUD to the development, support for or funding of any particular transmission project or projects.

Section 7. GHG Market-Based Compliance Program Related Authority. To transact in, and to negotiate and execute on behalf of SMUD all agreements necessary to participate in, the auctions administered by the California Air Resources Board or successor entity as part of California’s greenhouse gas market-based compliance program.

Section 8. Advance Funding Authority. To negotiate and execute on behalf of SMUD revisions to Exhibit C of the Agreement for the Funding of Operation and Maintenance for the Central Valley Project Power Facilities for the purposes of establishing SMUD’s advance funding contribution to the Western Area Power Administration (Western) in an amount no greater than the estimated annual power deliveries from Western.

Section 9. Purchase, Sale, or Exchange of Air Emission Reduction Credits (ERCs). To negotiate and execute on behalf of SMUD agreements for the:

- i) Purchase of ERCs (a) that are needed or anticipated to be needed for SMUD operations; (b) that are priced at or below fair market value and (c) that do not exceed \$10 million.
- ii) Sale of ERCs that are (a) are surplus to SMUD's actual or anticipated needs; (b) are for use within the SMUD service territory; (c) are priced at or above fair market value; and (d) do not exceed \$100,000.
- iii) Exchange of ERCs that (a) provide present or future operational flexibility; (b) are of equal or superior quality and value; and (c) do not exceed a fair market value of \$100,000.

REPORTING

The CEO/GM will report to the Board of Directors as follows:

Annually - Submit a five (5) year commodity budget forecast report.

| **QuarterlyMonthly** - Submit a report to include: (i) a current year commodity budget update; and
(ii) a current and next year commodity financial exposure update.

| **QuarterlyMonthly** – Report on any new multi-year contracts entered into under the Delegation of Authority for wholesale energy, fuel and environmental attribute transactions and contracts.

ENERGY RISK MANAGEMENT AND ENERGY TRADING STANDARDS SACRAMENTO MUNICIPAL UTILITY DISTRICT

PURPOSE

The wholesale energy markets are exposed to numerous risks including, but not limited to, market price risk, supply risk, credit risk and regulatory risk. The purpose of the Energy Risk Management and Energy Trading Standards (the “Standards”) is to establish protocols for prudent risk mitigation and management.

SCOPE

The Standards apply to:

- The operation of SMUD-owned or controlled generation, transmission, natural gas and other fuel reserves and pipeline assets;
- Contracts for and related to the purchase and sale of wholesale electricity, electric capacity and storage, natural gas and clean and emissions-free fuel, and environmental products;
- Contracts for and related to transmission, natural gas and clean or emissions-free fuel transportation, and storage; and
- Contracts for and related to financially hedging or mitigating risks associated with wholesale electricity, electric capacity and natural gas and other fuel prices, supplies and markets.

PRIORITIES

The Chief Executive Officer/General Manager (CEO/GM) implement the Standards in accordance with Board policies and with the following priorities, listed in order of importance:

Priority 1. Manage resource mix to comply with Board Strategic Direction (SD-4) Reliability.

Priority 2. Minimize net commodity energy purchase costs while operating within the targets established in Board Strategic Direction (SD-3) Access to Credit Markets.

Priority 3. Optimize SMUD-owned or controlled assets, including but not limited to, generation, transmission, fuel reserves, pipeline assets, fuel storage and contract resources to create additional value for SMUD and its customers, while complying with Board policies and all applicable laws and regulations.

Priority 4. Provide our customers and community with a sustainable power supply in accordance with Board Strategic Direction (SD-9) Resource Planning.

DIVERSIFICATION AND PORTFOLIO MIX

SMUD will maintain a diverse portfolio of generation, transmission, fuel-related assets and contracts to reasonably mitigate risk and to support its clean energy goals. Risks associated with wholesale contracts will be mitigated through diversified terms and conditions, contract periods and durations, delivery points, counter-parties, and product types.

PORTFOLIO RISK MANAGEMENT PROCEDURES

The CEO/GM will develop and maintain written procedures to implement the Standards and will ensure that appropriate internal controls and limits are in place to ensure compliance with Board policies, the Standards and applicable laws and regulations. Consistent with Board policies and the Standards, the CEO/GM will analyze and implement risk mitigation measures, as appropriate. For illustrative purposes, examples of identified risks and risk mitigation tools are as follows:

<u>Risks</u>	<u>Risk Description</u>	<u>Risk Identification/Mitigation Tools</u>
Market Price Risk	The risk that the absolute price of a given commodity (power, gas) will fluctuate, thereby exposing the District to potential financial losses.	<ul style="list-style-type: none"> • Market and volatility analysis • Forward price curve development • Net position and financial exposure analysis • Mark-to-market analysis • Net income-at-risk analysis • Diversification of product purchases • Dollar-average over time by programmatic purchases
Weather/Volumetric Risk	The potential adverse economic impact of anticipated changes in supply and/or demand. For example, the risk of having less than average generation from SMUD’s hydro project due to a drier than normal year, or less than anticipated retail sales due to a cooler than normal summer.	<ul style="list-style-type: none"> • Frequent snow surveys • Runoff forecast update • Diversification of volumetric hedging programs • Temperature vs. load analysis • Frequent hydro spill risk assessment • Maintain Hydro Stabilization Fund • Diversification of product purchases

<u>Risks</u>	<u>Risk Description</u>	<u>Risk Identification/Mitigation Tools</u>
Credit/Counter-party Risk	The potential financial loss resulting from a counter-party's failure to honor its obligations, including the obligation to settle on a timely basis. For example, a bankrupt counter-party may force SMUD to cover the contracted obligation from the market at a higher price than originally contracted.	<ul style="list-style-type: none"> • Credit Analysis • Credit Limits • Minimum rating levels • Diversification of counter-parties • Guarantees and financial assurances • Netting Agreements
Supply/Delivery Risk	The risk of loss due to non-delivery of power and/or fuel; which could decrease SMUD's system reliability and/or increase financial exposure.	<ul style="list-style-type: none"> • Diversification of delivery points • Retain delivery point flexibility/optionality when practicable • Transmission and pipeline capacity outage duration risk analysis • Natural gas and other fuel storage
Unplanned Outage Risk	The risk of under-supply due to unexpected plant outages, which may increase SMUD's system reliability and/or financial exposure.	<ul style="list-style-type: none"> • Historical plant performance risk analysis • Plant Outage Insurance • Planning and Operating Reserve Analysis • 24-hour trading desk to balance system needs on real-time basis

<u>Risks</u>	<u>Risk Description</u>	<u>Risk Identification/Mitigation Tools</u>
Operational/Human Risk	The risk of human error or fraud, or the risk that the system of controls will fail to adequately record, monitor, and account for transactions or positions.	<ul style="list-style-type: none"> • Develop written trading rules and limits • Establish procedures and standards • Establish system of controls for transaction approval, scheduling and payment • Minimize manual hand-off and multiple input of transaction information • Standardize software applications as appropriate • Implement cross-functional training • Implement structured area expertise training • Conduct periodic audits
Regulatory Risk	Market structure and operational risks associated with shifting state and federal regulatory policies, rules and regulations.	<ul style="list-style-type: none"> • Analysis of regulatory, regional and industry trends • Participation in regulatory forums
Extreme Event Risk	The potential financial risk and or reliability risk created by extreme events such as the 2000-2001 energy crisis and the summer 2020 western heat wave.	<ul style="list-style-type: none"> • Portfolio stress testing • Scenario/sensitivity analysis • Maintain Rate Stabilization Fund
Legislative Risk	Risks associated with actions by international, federal and state legislative bodies.	<ul style="list-style-type: none"> • Legislative analysis and monitor industry wide initiatives • Advocacy of issues consistent with Board established policies.

PROHIBITED TRANSACTIONS

SMUD will not engage in the following prohibited transactions:

- Any transaction that is not related to serving load and/or reducing financial exposure;
- Sale of any **uncovered** financial “Put” and/or “Call” options on electric energy, gas, electric transmission or gas pipeline capacity;
- Sale of any other **uncovered** Financial Options;
- Unless adequate credit support is provided, transactions with any counter-party of: (i) longer than one year in duration, with a credit rating less than investment grade; or (ii) one year or less in duration, with a credit rating less than the Standard and Poors equivalent of BB, except for the following transactions with counter-parties having a credit rating equivalent to Standard and Poors B: (a) purchases which are within the next seven days; and (b) sales which are within the current calendar month that do not present at anytime, payment risk to SMUD (i.e., no associated receivable after exercising netting rights which apply offsetting purchases; this transaction restriction does not apply to sales of ancillary services to the California Independent System Operator;
- Any deceptive transactions, including but not limited to transactions that: (i) are intended to manipulate the market; (ii) circumvent market rules; (iii) manipulate market prices; or (iv) inflate volumes traded or available in any region or market; or
- Any transactions prohibited by federal and/or state laws and regulations.

AUTHORIZED TRANSACTIONS

Any transaction or contract entered into by the CEO/GM that is consistent with the Standards and the Delegation of Authority will be deemed authorized and approved by the Board at the time of execution by the CEO/GM or his/her designee.

DELEGATION OF AUTHORITY

Consistent with the Board policies and the Standards, the CEO/GM or his/her designee is delegated the following authority:

Section 1. Transactional Authority. To negotiate and execute on behalf of SMUD the types of contracts and transactions listed below, provided that: (i) such agreement(s) do not have a term greater than three (3) years, as measured from the commencement of performance by either party (e.g., the first date of delivery of

electricity, transmission capacity, fuel, or pipeline capacity); (ii) the commencement of performance is no longer than three (3) years from the date of execution; and (iii) the prices paid under such agreements are at or below prevailing market rates for similar products at the time the contract is made.

- * Purchases, sales and exchanges of electricity, electric capacity and storage, natural gas and clean and emissions-free fuel commodity.
- * Purchases and sales of transmission capacity.
- * Purchase and sales of ancillary services including, but not limited to, spinning reserve, non-spinning reserve, and regulation.
- * Purchase of put and/or call options for electricity and natural gas commodity.
- * Purchase and sale of natural gas and other fuel pipeline capacity.
- * Purchase and sale of natural gas and other fuel storage capacity.
- * Sales of covered call and put options.
- * Purchase and sale of Renewable Energy Credits evidencing the renewable attribute associated with Renewable Energy.
- * Contracts for financial fixed-for-floating or floating-for-fixed price swaps, options and other financially settled energy derivative transactions for purposes of hedging and/or mitigating the price risk of: (i) an underlying physical position in electricity, natural gas or other energy used for the production of District electricity matching a retail load obligation; or (ii) embedded in the pricing formula of a Power Purchase and Sale Agreement; or (iii) for purposes of hedging against the potential financial impact of unpredictable weather conditions, such as heat storms in the District's service territory and/or below average precipitation in the District's Upper American River Project.
- * Purchases and sale of carbon allowances, offsets, and other GHG related products, including both physical and financial transactions.
- * Purchase and sale of low carbon fuel standard credits.

Section 2. Long-term Fuel and Power Transactional Authority. To negotiate and execute on behalf of SMUD long-term natural gas, clean and emissions-free fuel, and power supply agreements to purchase discounted tax-exempt fuel and power subject to the following parameters: (i) total purchases from all suppliers shall not exceed 80,000 average dekatherms per day for fuel and 500,000 MWh annually for power; (ii) supplier diversification under this authority shall be maintained by requiring no single supplier

provides more than 30,000 average dekatherms per day for fuel or 200,000 MWh annually for power; (iii) contract durations shall not exceed thirty years; (iv) prices paid to suppliers must have expected market discounts at least 75 percent as great as otherwise achievable from a SMUD-sponsored pre-paid transaction; and (v) suppliers must have a proven track record in successfully executing similar transactions.

Section 3. Ancillary Services Transactional Authority. Notwithstanding the credit support restrictions set forth in “Prohibited Transactions,” to make sales of ancillary services to the California Independent System Operator.

Section 4. Enabling Agreement Authority. To negotiate and execute on behalf of SMUD enabling agreements, irrespective of term, including but not limited to the agreements sponsored by the Western Systems Power Pool (“WSPP”), Edison Electric Institute (“EII”), North America Energy Standards Board (“NAESB”), Gas Industry Standards Board (“GISB”), International Swap Dealers Association (“ISDA”) and other prevailing industry form agreements for purposes of facilitating the negotiation of future transactions specified in Section 1, above. An Enabling Agreement does not commit SMUD to any specific transaction; rather it is an agreement setting forth standard terms and conditions (other than terms and conditions for transaction specific agreements, such as, price, quantity, term and delivery point), which will apply to future transactions entered into under the respective Enabling Agreement. All transactions entered into under any Enabling Agreement will be subject to the limits set forth in Section 1, above.

Section 5. Tariff Related Agreement Authority. To negotiate and execute on behalf of SMUD transmission, facilities, distribution, generator and scheduling agreements, irrespective of term, pursuant to approved tariffs.

Section 6. Transmission Planning Agreement Authority. To negotiate and execute on behalf of SMUD agreements intended to facilitate regional transmission planning, irrespective of term; provided the agreement does not commit SMUD to the development, support for or funding of any particular transmission project or projects.

Section 7. GHG Market-Based Compliance Program Related Authority. To transact in, and to negotiate and execute on behalf of SMUD all agreements necessary to participate in, the auctions administered by the California Air Resources Board or successor entity as part of California’s greenhouse gas market-based compliance program.

Section 8. Advance Funding Authority. To negotiate and execute on behalf of SMUD revisions to Exhibit C of the Agreement for the Funding of Operation and Maintenance for the Central Valley Project Power Facilities for the purposes of establishing SMUD’s advance funding contribution to the Western Area Power Administration (Western) in an amount no greater than the estimated annual power deliveries from Western.

Section 9. Purchase, Sale, or Exchange of Air Emission Reduction Credits (ERCs). To negotiate and execute on behalf of SMUD agreements for the:

- i) Purchase of ERCs (a) that are needed or anticipated to be needed for SMUD operations; (b) that are priced at or below fair market value and (c) that do not exceed \$10 million.
- ii) Sale of ERCs that are (a) are surplus to SMUD's actual or anticipated needs; (b) are for use within the SMUD service territory; (c) are priced at or above fair market value; and (d) do not exceed \$100,000.
- iii) Exchange of ERCs that (a) provide present or future operational flexibility; (b) are of equal or superior quality and value; and (c) do not exceed a fair market value of \$100,000.

REPORTING

The CEO/GM will report to the Board of Directors as follows:

Annually - Submit a five (5) year commodity budget forecast report.

Quarterly - Submit a report to include: (i) a current year commodity budget update; and (ii) a current and next year commodity financial exposure update.

Quarterly – Report on any new multi-year contracts entered into under the Delegation of Authority for wholesale energy, fuel and environmental attribute transactions and contracts.

RESOLUTION NO. _____

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

Section 1. This Board approves the revisions to the **Energy Risk Management and Energy Trading Standards**, substantially in the form set forth in **Attachment ___** hereto and made a part hereof.

Section 2. Resolution No. 21-06-05 is superseded in its entirety.

SSS No. SCS 24-142

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date Finance & Audit – 06/18/24
Board Meeting Date June 20, 2024

TO	TO
1. Casey Fallon	6. Jose Bodipo-Memba
2. Eric Poff	7.
3. Frankie McDermott	8.
4. Scott Martin	9. Legal
5. Lora Anguay	10. CEO & General Manager

Consent Calendar	X	Yes	No <i>If no, schedule a dry run presentation.</i>	Budgeted	x	Yes	No <i>(If no, explain in Cost/Budgeted section.)</i>
FROM (IPR) Greg Hovious			DEPARTMENT Procurement				MAIL STOP EA404 EXT. 4860 DATE SENT 05/24/24

NARRATIVE:

Requested Action: Authorize the Chief Executive Officer and General Manager to negotiate and award a contract to Utility Partners of America for meter replacement services for a period of one year, with two optional one-year extensions, for a total not-to-exceed amount of \$21,442,000.

Summary: In October 2023, SMUD was awarded \$50 million from the Department of Energy Grid Deployment Office’s Grid Resilience and Innovation Partnerships (GRIP) program for SMUD’s Connected Clean PowerCity®. The Connected Clean PowerCity project will enhance SMUD’s infrastructure to interact with technology and customers at the grid's edge, establishing improved visibility, management and control.

As part of the project, we will deploy up to 200,000 Itron Riva meters with up to eight Distributed Intelligence apps per meter to support various use cases. A condition of the GRIP grant requires installation of 5,000 meters per month in September and October 2024, and 19,000 per month from November 2024 through August 2025.

For the meter installation services, on February 5, 2024, SMUD issued Request for Proposal No. Doc4413278410 (RFP) to solicit qualified firms to install 200,000 SMUD-furnished Itron Riva meters. On February 14, 2024, SMUD held an online Pre-Proposal Conference that was attended by four Contractors. On March 7, 2024, SMUD received one proposal from Utility Partners of America. Their proposal was evaluated in accordance with the advertised criteria and was found to be responsive. SMUD initiated and continues to negotiate a contract with Utility Partners of America for an aggregate not-to-exceed amount of \$21,442,000 upon successful completion of negotiations. The current result of the solicitation is shown below.

Recommendation: Award to the Highest Evaluated Responsive Proposer

Award to:

Utility Partners of America
1881 Suber Mill Road
Greer, South Carolina 29650

<u>Proposers Notified by Procurement:</u>	19
<u>Proposers Downloaded:</u>	8
<u>Pre-Proposal Conference Attendance:</u>	4
<u>Proposals Received:</u>	1

Responsive Proposals Received	<u>P/F</u>	<u>60 Points Technical</u>	<u>40 Points Pricing</u>	Total Score	Overall Rank	Proposal Amount	Proposed Award Amount
Utility Partners of America	P	52.30	40	92.30	1	\$52,978,000	Not-to-Exceed \$21,442,000

Supplier Diversity Program:

Due to the provisions of the grant, SMUD was unable to include Supplier Education & Economic Diversity (SEED) Program goals or incentives in this RFP or contract.

Board Policy: Board-Staff Linkage BL-8, Delegation to the CEO with Respect to Procurement; Board-Staff Linkage (Number & Title) BL-13, Delegation to the CEO with Respect to Grants

Benefits: Award of this contract will provide SMUD with a qualified contractor to install 200,000 Itron Riva meters.

Cost/Budgeted: \$21,442,000; Budgeted for 2024 and 2025 by Energy Delivery & Operations.

Alternatives: Do not award this contract and lose the GRIP grant funding.

Affected Parties: Energy Delivery & Operations, Information Technology Supply Chain Services, and Utility Partners of America

Coordination: Energy Delivery & Operations, Information Technology and Supply Chain Services

Presenter: Eric Poff, Director, Substation, Telecommunications & Metering Assets

Additional Links:

SUBJECT	Award Meter Replacement Contract	<small>ITEM NO. (FOR LEGAL USE ONLY)</small>
		11

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

RESOLUTION NO. _____

WHEREAS, in October 2023, SMUD was awarded a \$50 million **Department of Energy (DOE) Grid Resilience and Innovation Partnerships (GRIP)** grant for its **Connected Clean PowerCity®** project; and

WHEREAS, **Connected Clean PowerCity®** will enhance SMUD's infrastructure to interact with technology and customers at the grid's edge, establishing improved visibility, management and control; and

WHEREAS, as part of the project, we will deploy up to 200,000 Itron Riva meters with up to eight Distributed Intelligence apps per meter to support various use cases; and

WHEREAS, by Resolution No. 23-12-05, adopted on December 14, 2023, this Board authorized sole source Contract No. 4600001818 with **Itron** for a one-year term in the amount of \$15 million, plus applicable taxes and fees, for the initial purchase of meters due to global supply chain lead time constraints of 12-plus months; and

WHEREAS, by Resolution No. 24-02-09, adopted on February 15, 2024, this Board authorized a sole source **Master Services Agreement** with **Itron** to purchase hardware, software, and professional services to enhance the **Advanced Metering Infrastructure (AMI)** platform in an amount not to exceed \$42,500,000; and

WHEREAS, condition of the **GRIP** grant requires installation of 5,000 meters per month in September and October 2024 and 19,000 per month from November 2024 through August 2025; and

WHEREAS, for the meter installation services, in February 2024, SMUD issued Request for Proposals No. Doc4413278410 (RFP) to solicit qualified firms to install 200,000 SMUD-furnished **Itron** Riva meters; and

WHEREAS, one proposal, submitted by **Utility Partners of America**, in response to the RFP was evaluated and found to be responsive; and

WHEREAS, SMUD initiated and continues to negotiate with **Utility Partners of America**; and

WHEREAS, staff requests approval to award a contract to **Utility Partners of America** upon successful completion of negotiations; **NOW, THEREFORE,**

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

Section 1. As a result of such examination, **Utility Partners of America** is hereby determined and declared to be the highest evaluated responsive proposer to provide meter replacement services.

Section 2. That the Chief Executive Officer and General Manager, or his designee, is authorized, on behalf of SMUD, to negotiate and award a contract to **Utility Partners of America** for meter replacement services for a period of one year, with two optional one-year extensions, for a total not-to-exceed amount of \$21,442,000.

Section 3. The Chief Executive Officer and General Manager, or his designee, is authorized to make future changes to the terms and conditions of the contract that, in his prudent judgment: (a) further the primary purpose of the contract; (b) are intended to provide a net benefit to SMUD; and (c) do not exceed the authorized contract amount and applicable contingencies.

SSS No. SCS 24-163

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date
Finance & Audit - 06/18/24

Board Meeting Date
June 20, 2024

TO	TO
1. Casey Fallon	6. Jose Bodipo-Memba
2. Eric Poff	7.
3. Frankie McDermott	8.
4. Scott Martin	9. Legal
5. Lora Anguay	10. CEO & General Manager

Consent Calendar	X	Yes		<i>No If no, schedule a dry run presentation.</i>	Budgeted	X	Yes	<i>No (If no, explain in Cost/Budgeted section.)</i>
FROM (IPR) Jose Noriega			DEPARTMENT Procurement		MAIL STOP EA404		EXT. 6687	DATE SENT 6/7/2024

NARRATIVE:

Requested Action: Approve Contract Change No. 1 to Contract No. 4600001773 with Kortick Manufacturing, LLC, for supply of network transformers, to extend the contract expiration date from November 14, 2024, to February 28, 2026, and increase the contract not-to-exceed amount by \$10 million, from \$11 million to \$21 million.

Summary: Contract No. 4600001270 was awarded on a competitive basis to Frase Enterprises, Inc. in May 2019 for supply of network transformer to support SMUD’s ongoing maintenance requirements. The original contract was awarded for the period from May 15, 2019 to May 14, 2023, for a not-to-exceed amount of \$1 million. Contract Change No. 1 increased the contract not to exceed amount from \$1 million to \$3.5 million and added one new transformer stock code to the contract. Contract Change No. 2 increased the contract amount from \$3.5 million to \$8 million and extend the contract expiration date from May 14, 2023 to May 14, 2024. Contract Change No. 3 increased the contract not-to-exceed amount from \$8 million to \$11 million and extended the contract expiration date from May 14, 2024 to November 14, 2024. Contract Change No. 4 assigned Contract No. 4600001270 with Frase Enterprises, Inc. to Kortick Manufacturing LLC. Contract No. 4600001270 was replaced with Contract No. 4600001773. This Contract Change No. 1 to Contract No. 4600001773 requests approval to increase the contract not-to-exceed amount by \$10 million, from \$11 million to \$21 million and extend the contract expiration date from November 14, 2024, to February 28, 2026. The original contract was intended to support SMUD’s ongoing maintenance requirements. SMUD’s Energy Delivery & Operations team identified a significant increase in our upcoming demand for network transformers with plans to replace approximately 50 network transformers each year through 2028. Due to equipment lead times, SMUD needs to order the network transformers now to maintain the transformer replacement schedule for 2025. SMUD is currently sourcing replacement contract(s) for network transformers with expectations to award later this year. The new contracts will not be awarded in time to place orders for work scheduled to take place in 2025 but will support the needed transformers for years 2026 through 2028.

Currently, the contract balance is approximately \$168,000.

Contract Actions	Amount	Cumulative Total	Description
Original Contract 4600001270	\$1,000,000		
Change No. 01	\$2,500,000	\$3,500,000	Increase contract value
Change No. 02	\$4,500,000	\$8,000,000	Increase contract value and extend term.
Change No. 03	\$3,000,000	\$11,000,000	Increase contract value and extend term.

Change No. 04	\$0	\$11,000,000	Assign contract to Kortick Manufacturing. Contract No. 4600001270 replaced with Contract No. 4600001773.
Pending Change No. 1 Contract No. 4600001773	\$10,000,000	\$21,000,000	Increase contract value and extend term.

Board Policy: Board-Staff Linkage BL-8, Delegation to the CEO with Respect to Procurement; Strategic Direction SD-4, Reliability.
(Number & Title)

Benefits: This contract change will allow SMUD to purchase network transformers required for replacement projects scheduled to take place in 2025.

Cost/Budgeted: \$21,000,000; Budgeted for 2019 to 2026 by Energy Delivery & Operations.

Alternatives: Wait to order the network transformers until the new contract(s) are awarded and delay the network transformer replacement project. Delaying the transformer replacement increases the risk of transformer failure.

Affected Parties: Energy Delivery & Operations, Supply Chain Services, and Kortick Manufacturing, LLC.

Coordination: Energy Delivery & Operations and Supply Chain Services.

Presenter: Eric Poff, Director, Substation, Telecommunications & Metering Assets

Additional Links:

SUBJECT

**Contract Change for Supply of Network Transformers
(Kortick Manufacturing, LLC)**

ITEM NO. (FOR LEGAL USE ONLY)

12

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

RESOLUTION NO. _____

WHEREAS, Contract No. 4600001270 with **Frase Enterprises, Inc.** was awarded on a competitive basis in May 2019 for supply of network transformers for the period May 15, 2019, to May 14, 2023, for a not-to-exceed amount of \$1,000,000 (**Frase Contract**); and

WHEREAS, Contract Change No. 1 to the **Frase Contract** increased the contract not-to-exceed amount by \$2.5 million, from \$1 million to \$3.5 million, and added a new transformer stock code line item; and

WHEREAS, Contract Change No. 2 to the **Frase Contract** extended the expiration date from May 14, 2023, to May 14, 2024, and increased the not-to-exceed amount by \$4.5 million, from \$3.5 million to \$8 million; and

WHEREAS, Contract Change No. 3 to the **Frase Contract** extended the expiration date from May 14, 2024, to November 14, 2024, and increased the not-to-exceed amount by \$3 million, from \$8 million to \$11 million; and

WHEREAS, Contract Change No. 4 to the **Frase Contract** assigned the **Frase Contract** to **Kortick Manufacturing, LLC**, creating new Contract No. 4600001773 (**Kortick Contract**); and

WHEREAS, the **Kortick Contract** replaced the **Frase Contract**; and

WHEREAS, since the original contract award in 2019, SMUD has identified a significant increase in upcoming demand for network transformers with plans to replace approximately 50 network transformers each year through 2028; and

WHEREAS, increasing the contract amount and extending the expiration date of the **Kortick Contract** will allow SMUD to order necessary inventory now to

ensure sufficient lead time to maintain the transformer replacement schedule for 2025, to ensure continuity until replacement contracts for network transformers are awarded;

NOW, THEREFORE,

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

Section 1. That this Board approves Contract Change No. 1 to Contract No. 4600001773 with **Kortick Manufacturing, LLC** for network transformers to extend the contract expiration date from November 14, 2024, to February 28, 2026, and increase the contract not-to-exceed amount by \$10 million, from \$11 million to \$21 million.

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

SSS No. SCS 24-147

BOARD AGENDA ITEM

STAFFING SUMMARY SHEET

Committee Meeting & Date
Finance & Audit - 06/18/24

Board Meeting Date
June 20, 2024



TO	TO
1. Casey Fallon	6.
2. Bryan Swann	7.
3. Scott Martin	8.
4. Lora Anguay	9. Legal
5. Jose Bodipo-Memba	10. CEO & General Manager

Consent Calendar	x	Yes	No <i>If no, schedule a dry run presentation.</i>	Budgeted	Yes	No <i>(If no, explain in Cost/Budgeted section.)</i>
FROM (IPR) Greg Hovious			DEPARTMENT Procurement, Warehouse & Fleet			MAIL STOP EA404 EXT. 4860 DATE SENT 05/24/24

NARRATIVE:

Requested Action: Authorize the Chief Executive Officer and General Manager to negotiate and award a contract to Andritz Hydro Corp for the Camino Generator 1 Rehabilitation for a period of two years for an amount not to exceed \$11,903,140.

Summary: Camino Generator #1 has reached its maximum beneficial use and must be rehabilitated. On February 12, 2024, SMUD issued Request for Proposal No. Doc4407380073 (RFP) to solicit qualified firms to provide design, manufacturing, disassembly, removal of the existing generator windings/core, install replacement windings/core, and test the rehabilitated Camino Unit#1 Generator. A mandatory Pre-proposal Conference was held of which six (6) Contractors attended. A mandatory Site Inspection was conducted on March 21, 2024, of which four (4) Contractors attended. On May 3, 2024, SMUD received four (4) proposals. Two (2) proposers were deemed non-responsive as they did not possess the required contractor’s license. SMUD initiated and continues to negotiate with the highest evaluated Proposer, Andritz Hydro Corp. (Andritz). SMUD is requesting approval to award a contract to Andritz upon successful negotiations for a not-to-exceed amount of \$11,903,140.

Recommendation: Award to Highest Evaluated Responsive Proposer

Award to:

Andritz Hydro Corp
10735 David Taylor Drive #500
Charlotte, NC 28262

Proposers Notified by Procurement: 33

Proposers Downloaded: 9

Pre-Proposal Conference Attendance: 6

Proposals Received: 4

Responsive Proposals Received	P/F	10 Points SEED	50 Points Technical	40 Points Pricing	Total Score	Overall Rank	Proposal Amount	Evaluated Proposal Amount	Proposed Award Amount Not To Exceed
Andritz Hydro Corp	P	0	47.33	40	87.33	1	\$10,494,700	\$11,241,940	\$11,903,140
National Electric Coil LP	P	0	24.08	35.18	59.26	2	\$11,962,514	\$12,759,570	

Non-Responsive Proposals Received	Proposal Amount
Industrial Service Solutions	\$7,695,577
Integrated Power Services, LLC	\$7,198,037

Supplier Diversity Program: The highest evaluated responsive Proposer, Andritz Hydro Corp, is self-performing 99% of the work and subcontracting 1% to non-Supplier Education & Economic Development (SEED) vendor, A1 Remediation Service.

Board Policy: Board-Staff Linkage BL-8, Delegation to the CEO with Respect to Procurement; Strategic Direction SD-4, Reliability.
(Number & Title)

Benefits: SMUD contracts with a qualified contractor to rehabilitate Camino Generator #1.

Cost/Budgeted: \$11,903,140; Budgeted for 2024 and 2025 by Zero Carbon Energy Solutions.

Alternatives: Not rehabilitating Camino Generator #1 will result in total failure of the generator.

Affected Parties: Zero Carbon Energy Solutions, Supply Chain Services, and Contractor.

Coordination: Zero Carbon Energy Solutions, Legal, and Supply Chain Services.

Presenter: Joel Ledesma, Director, Power Generation

Additional Links:

SUBJECT

Award Contract for Camino Generator 1 Rehabilitation

ITEM NO. (FOR LEGAL USE ONLY)

13

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

RESOLUTION NO. _____

WHEREAS, in February 2024, SMUD issued Request for Proposal No. Doc4407380073 (RFP) to solicit qualified firms to provide design, manufacturing, disassembly, removal of existing generator windings/core, install replacement windings/core, and testing of the rehabilitated Camino Unit #1 Generator; and

WHEREAS, four proposals submitted in response to the RFP were evaluated; **NOW, THEREFORE**,

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

Section 1. As a result of such examination, **Andritz Hydro Corp** is hereby determined and declared to be the highest evaluated responsive proposer to provide design, manufacturing, disassembly, removal of existing generator windings/core, install replacement windings/core, and testing of the rehabilitated Camino Unit #1 Generator.

Section 2. The Chief Executive Officer and General Manager, or his designee, is authorized, on behalf of SMUD, to negotiate and award a contract to **Andritz Hydro Corp** for the Camino Generator 1 Rehabilitation for a period of two years for an amount not to exceed \$11,903,140.

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

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

SSS No. ET&C 24-019

BOARD AGENDA ITEM STAFFING SUMMARY SHEET

Committee Meeting & Date ERCS – 06/19/24
Board Meeting Date June 20, 2024

TO	TO
1. Jon Olson	6. Lora Anguay
2. Bryan Swann	7. Brandy Bolden
3. Russell Mills	8. Frankie McDermott
4. Scott Martin	9. Legal
5. Suresh Kotha	10. CEO & General Manager

Consent Calendar	X	Yes	No	<i>If no, schedule a dry run presentation.</i>	Budgeted	X	Yes	No	<i>(If no, explain in Cost/Budgeted section.)</i>
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FROM (IPR) Josh Gordon	DEPARTMENT Energy Trading & Contracts	MAIL STOP A404	EXT. 6389	DATE SENT 5/24/2024
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NARRATIVE:

Requested Action: Authorize the Chief Executive Officer and General Manager, or his designee, to negotiate and execute the Grace Orchard Energy Center Solar Project (Grace Solar Project) Power Purchase Agreement (PPA) with a 20-year term for 70 MW of solar photovoltaic power at an annual approximate cost of \$11 million, substantially in the form attached, and all other agreements necessary to facilitate the Grace Solar Project.

Summary: In August 2023, SMUD received a competitive offer from NextEra Energy Resources, LLC, a leading national independent power producer. SMUD conducted an evaluation of the market and determined that the Grace Orchard Energy Center Solar Project (Grace Solar Project) offer provided superior value versus the available alternatives. SMUD and NextEra negotiated a mutually beneficial PPA under which SMUD will purchase the energy and environmental attributes, include Portfolio Content Category 1 Renewable Energy Credits (PCC1 RECs), for an annual approximate cost of \$11 million. The Grace Solar Project will have an approximate production of 206,000 MWh/year of carbon free generation.

The scheduled commercial operation date is December 1, 2027. The 70 MW Grace Solar Project PPA is for SMUD’s portion of the larger 500 MW Grace Orchard Complex and is located in Riverside County, interconnecting to the CAISO grid at Southern California Edison’s (SCE) Colorado River 230 kV substation.

Board Policy: *(Number & Title)* Strategic Direction SD-2, Competitive Rates; Strategic Direction SD-7, Environmental Leadership; Strategic Direction SD-9, Resource Planning. This contract provides economic, carbon free generation supporting SMUD’s Renewable Portfolio Standards (RPS) and 2030 Zero Carbon Plan.

Benefits: Competitively priced renewable energy that helps meet SMUD’s renewable energy and carbon reduction goals under its 2030 Zero Carbon Plan.

Cost/Budgeted: The average annual cost for the PPA of approximately \$11 million will be included in SMUD’s budget.

Alternatives: Find another source for renewable energy.

Affected Parties: Energy Trading & Contracts, Energy Settlements, Resource Planning, Commodity Risk Management, Treasury, and Legal.

Coordination: Energy Contracts

Presenter: Chad Adair, Manager, Energy Contracts

Additional Links:

SUBJECT

Execute a 20-year Power Purchase Agreement with Grace Orchard Energy Center,
LLC

ITEM NO. (FOR LEGAL USE ONLY)

14

ITEMS SUBMITTED AFTER DEADLINE WILL BE POSTPONED UNTIL NEXT MEETING.

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SMUD Draft June 4, 2024
SMUD Power Purchase Agreement

POWER PURCHASE AGREEMENT

BETWEEN

GRACE ORCHARD ENERGY CENTER, LLC
as Seller

and

SACRAMENTO MUNICIPAL UTILITY DISTRICT,
as Buyer

dated

as of

[], 2024

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**POWER PURCHASE AGREEMENT
BETWEEN
SACRAMENTO MUNICIPAL UTILITY DISTRICT
AND
GRACE ORCHARD ENERGY CENTER, LLC**

This POWER PURCHASE AGREEMENT (the “Agreement”) for an Eligible Renewable Energy Resource is made and entered into this _____ day of _____, 2024, (“Effective Date”), by and between the Sacramento Municipal Utility District (“Buyer” or “SMUD”), and Grace Orchard Energy Center, LLC, a Delaware limited liability company (“Seller”). Buyer and Seller are sometimes referred to in this Agreement individually as a “Party” and collectively as the “Parties”.

- A. Seller is developing, and desires to interconnect and operate, an approximately 500 MW project known as the Grace Orchard Complex that is proposed to be built in two phases—a planned 210 MW initial phase and a planned 290 MW second phase;
- B. Seller desires to sell to Buyer the Energy and associated Environmental Attributes from a 70 MW portion of the second phase of the Grace Orchard Complex (such 70 MW portion, which will be separately metered, is the “Project” for all purposes of this Agreement) for the Delivery Term, subject to the terms and conditions set forth herein;
- C. Buyer desires to purchase from Seller all Energy and associated Environmental Attributes from the Project for the Delivery Term, subject to the terms and conditions set forth herein; and
- D. Buyer also desires to purchase from Seller all Capacity Attributes available from the Project and has requested that Seller seek deliverability for the Project via the California Independent System Operator Corporation (as further defined below, the “CAISO”) process for allocating transmission plan deliverability (as defined below, “TP Deliverability”), and Seller has agreed to seek TP Deliverability for the Project, subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement, and of other good and valuable considerations, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions of Terms

AASMTC AD/CVD Case: The filing of, and any proceedings, rulemakings, orders, determinations, tariffs, or duties related to, any of the Petitions for the Imposition of Antidumping and Countervailing Duties, filed on or around April 24, 2024 by the American Alliance for Solar Manufacturing Trade Committee, concerning Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from Cambodia, Malaysia, Thailand, and Vietnam, in any of the DOC dockets A-555-003, A-557-830, A-549-851, A-552-841, C-555-004, C-557-831, C-549-852, or C-552-842.

AD/CVD: Antidumping and/or countervailing duty.

Actual Annual Solar Insolation: The actual amount of global horizontal irradiance at the Project site for each Contract Year, as reflected in the Solar Irradiance Data obtained from Vaisala or other mutually agreeable third party, or as derived using another mutually agreeable mechanism.

Adjusted AEP (AAEP): The Annual Energy Production adjusted for energy that was not delivered to Buyer due to Force Majeure, any Buyer Curtailment (measured as Buyer Curtailed Production), Buyer's failure to perform in a manner that directly affects the generation of Products by the Project, and/or Dispatch Down Periods according to the following formula:

$$\text{Adjusted Annual Energy Production (AAEP)} = \text{AEP} + \text{Deemed Energy Production}$$

Adjusted EAEP (AEAEP): The Expected Annual Energy Production adjusted for Actual Annual Solar Insolation according to the following formula:

$$\text{Adjusted Expected Annual Energy Production (AEAEP)} = \text{EAEP} \times (\text{Actual Annual Solar Insolation} / \text{Typical Annual Solar Insolation})$$

Adjusted MAEP (AMAEP): The Minimum Annual Energy Production adjusted for Actual Annual Solar Insolation according to the formula set forth in the definition of Minimum Annual Energy Production (MAEP). Any variance in the Actual Annual Solar Insolation shall adjust the MAEP (up or down) according to the following formula:

$$\text{Adjusted Minimum Annual Energy Production (AMAEP)} = \text{MAEP} \times (\text{Actual Annual Solar Insolation} / \text{Typical Annual Solar Insolation}).$$

Additional Payment: Has the meaning set forth in the definition of After-Tax Basis.

ADS: Has the meaning set forth in the CAISO Tariff.

Affiliate: With respect to any Person, each other Person that directly or indirectly Controls, is Controlled by, or is under common Control with such Person. Notwithstanding the foregoing, the Parties hereby agree and acknowledge that with respect to Seller, Affiliate as used herein includes any investment funds or publicly-traded vehicles for the ownership of operating power generation, storage, or transmission assets (such as a “yield co”) controlled by NEE, NEP, NEOP, NEECH, or any of their respective direct or indirect subsidiaries.

After-Tax Basis: With respect to any payment received, or deemed to have been received, by any Person, the amount of such payment (the “Base Payment”), supplemented by a further payment (the “Additional Payment”) to such Person so that the sum of the Base Payment plus the Additional Payment will be equal to the Base Payment, after deduction of the amount of all taxes required to be paid by such Person in respect of the receipt or accrual of the Base Payment and the Additional Payment (taking into account any current or previous credits or deductions arising from the underlying event giving rise to the payment, the Base Payment and the Additional Payment). Such calculations shall be made on the assumption that the recipient is subject to Federal income taxation at the statutory rate applicable to corporations under subchapter C of the Internal Revenue Code of 1986, as amended, and subject to the highest state and local income tax rate then in effect for corporations in the states in which the Person is subject to taxation during the applicable fiscal year, and shall take into account the deductibility, if applicable (for Federal income tax purposes), of state and local income taxes.

Agreement: Has the meaning set forth in the preamble hereto.

Ancillary Services: Those ancillary services as defined in the CAISO Tariff that the Project is capable of providing without modification to the Project or incurrence by Seller of additional non-administrative costs, excluding Black Start as defined in the CAISO Tariff.

Annual Energy Production (AEP): For any particular Contract Year, is equal to the total Energy generated by the Project and delivered to Buyer at the Delivery Point.

Applicable Instructions: Has the meaning set forth in Section 9.1.2.1.

Auxin Anti-Circumvention Proceeding: The DOC's anti-circumvention investigation and proceeding concerning Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China, Petition filed February 8, 2022 by Auxin Solar, Inc. in four separate DOC dockets: A-570-979 Malaysia; Thailand; Cambodia; and Vietnam.

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

Base Payment: Has the meaning set forth in the definition of After-Tax Basis.

Billing Month: The period beginning on the first day and extending through the last day of each calendar month during the Delivery Term of this Agreement.

Business Day: Any Monday through Friday, inclusive, but excluding (a) Federal Reserve Bank holidays in California, and (b) days that are NERC Holidays. A Business Day begins at 8:00 a.m. and ends at 5:00 p.m. local time for the Party sending a notice, or payment, or performing a specified action.

Buyer: Has the meaning set forth in the preamble hereto.

Buyer Curtailed Production: The amount of Energy expressed in MWh that the Project would have produced and delivered to the Delivery Point, but that is not produced by the Project and delivered to the Delivery Point during a Buyer Curtailment Period, which amount shall be equal to (a) the VER Forecast expressed in MWh, applicable to the Buyer Curtailment Period, (b) if there is no VER Forecast available or the VER Forecast does not represent an accurate forecast of generation from the Project, the result of the equation reasonably calculated and provided by Seller to reflect the potential generation of the Project as a function of available Capacity, solar insolation, ambient temperature and wind speed, and using relevant Project availability, weather, historical and other pertinent data for the period of time during the Buyer Curtailment Period, in either case less the amount of Energy delivered to the Delivery Point during such Buyer Curtailment Period; provided, that if the applicable difference is negative, the Buyer Curtailed Production shall equal zero (0).

Buyer Curtailment: Any instruction, direction or order to produce less Energy than forecasted or available, arising out of: (a) an Economic Bid or other bid or Schedule submitted in accordance with this Agreement or Buyer's instructions hereunder with respect to the Project or the Products, recognizing that Seller or Seller's designee as Scheduling Coordinator will submit such Economic Bids and other bids and Schedules in accordance with this Agreement; or (b) Seller or Seller's designee as Scheduling Coordinator reduces, or causes to be reduced (to the extent such reduction is caused by any Economic Bid or Applicable Instruction) Energy from the Project by an amount, and for a period of time, that results in the Project producing less than the full amount of the applicable VER Forecast for that same period of time, and such Dispatch Instruction is consistent with the Economic Bid or Applicable Instructions. For avoidance of doubt, Buyer Curtailment does not include any instruction, direction, or order to produce less Energy than forecasted or available for reasons related to a Force Majeure, Forced Outage, Planned Outage or Dispatch Down Instruction.

Buyer Curtailment Period: Any period of reduction of the Project's output or its generation of Products arising out of a Buyer Curtailment. Buyer Curtailment Periods include ramp up and ramp down periods.

CAISO: The California Independent System Operator Corporation or any successor entity performing similar functions.

CAISO Revenue Meter: A CAISO-approved revenue quality meter or meters, metering scheme, CAISO-approved data processing gateway or remote intelligence gateway, telemetering equipment and data acquisition services sufficient for monitoring, recording and reporting, in real time, all Energy delivered to the Delivery Point.

CAISO Tariff: The California Independent System Operator Corporation Fifth Replacement FERC Electric Tariff (Open Access Transmission Tariff), Business Practice Manuals (BPMs), and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC.

California Renewables Portfolio Standard or RPS: The standard, codified in Public Utilities Code (PUC) Sections 399.11 through 399.31, and Public Resources Code (PRC) Sections 25740 through 25751, as may be amended from time to time.

Capacity: The instantaneous ability of a generator to produce Energy (real power) at a specified output. Capacity is measured in MW or kW.

Capacity Attributes: Any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the Contract Capacity of the Project to produce Energy or Ancillary Services, including any accounting construct so that any Resource Adequacy attributes of the Project (in such amounts as may be available from the Project based on then current Resource Adequacy counting rules) may be counted toward a Resource Adequacy requirement or any other measure adopted by an entity invested with the authority under federal or state law to require Buyer to procure, or to procure at Buyer's expense, Resource Adequacy or other such products.

Capacity Damages: Has the meaning set forth in Section 2.3.8.

CEC: The California Energy Commission or any successor agency responsible for certifying eligible renewable resources and tracking the procurement of such resources.

Certificate of Compliance: Has the meaning set forth in the CAISO Tariff.

Change of Control: Any circumstance in which Seller ceases to be Controlled by the Ultimate Parent; provided that in calculating voting and ownership percentages for all purposes of the definition of Control:

- (a) any voting or ownership interest in Seller held by Ultimate Parent indirectly through one or more intermediate entities shall not be counted towards Ultimate Parent's ownership interest in Seller unless Ultimate Parent directly or indirectly owns more than fifty percent (50%) of the outstanding equity interests (measured by either voting power or economic interests) in each such intermediate entity; and
- (b) ownership interests in Seller owned directly or indirectly by any lender (including any tax equity provider and any agent acting for or on behalf of such lender) shall be excluded from the total outstanding equity interests in Seller;

Furthermore, a foreclosure by any Lender on the direct or indirect ownership interests in Seller (including a transfer in lieu of foreclosure) or any transfer to a Permitted Transferee shall not constitute or be deemed a "Change of Control".

Claiming Party: Has the meaning set forth in Section 12.4.

Commercial Operation: The period of operation for the Project, once the Commercial Operation Date has occurred.

Commercial Operation Date (COD): The date, as specified in the Commercial Operation Date Confirmation Letter, on which the Project conforms to the requirements for Commercial Operation in Section 2.3.3.

Commercial Operation Date Confirmation Letter: A letter that the Parties execute and exchange in accordance with this Agreement, the form of which is attached as Exhibit E.

Compliance Expenditures: All incremental costs and expenses incurred by Seller to comply with a change in Law after the Execution Date pursuant to Section 4.9.

Compliance Expenditure Cap: Has the meaning set forth in Section 4.9.1.

Confidential Information: Has the meaning set forth in Section 30.1.

Contract Capacity: 70 MW.

Contract Price: The price (\$/MWh) paid by Buyer to Seller for all Products, which price is set forth in Exhibit B.

Contract Year: A period of twelve (12) consecutive months. The first Contract Year shall commence on either (a) the Commercial Operation Date if the Commercial Operation Date occurs on the first day of the month, or (b) the first day of the calendar month following the Commercial Operation Date if the Commercial Operation Date occurs on any day other than the first day of the month. Each subsequent Contract Year shall commence on the day that is twelve (12) months later than the first day of the preceding Contract Year.

Control: Control and correlative terms, including Controlled by and under common Control with, as used with respect to any Person, means that another Person has:

- (a) the direct or indirect right to cast at least fifty percent (50%) of the votes exercisable at an annual general meeting (or its equivalent) of such first Person;
- (b) the direct or indirect ownership of at least fifty percent (50%) of the equity or other ownership interest in such first Person; or
- (c) the right to direct the policies or operations of such first Person.

Costs: Has the meaning set forth in Section 10.3(c).

CPUC: The California Public Utilities Commission or its regulatory successor agency.

Credit Rating: With respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt obligations (not supported by third party credit enhancements) or if such entity does not have a rating for its senior unsecured long-term debt, then the rating then assigned to such entity as an issuer rating by S&P, Fitch or Moody's. If ratings by Fitch, S&P and Moody's are not equivalent, the two (2) highest ratings shall apply.

Cure Plan: Has the meaning set forth in Section 10.1.2.4.

Cure Plan Year: The Contract Year addressed by the Cure Plan following the Performance Measurement Period in which Seller has failed to perform under Section 10.1.2.4.

Curtail: Curtail, including any other capitalized form of the word such as Curtailment, Curtailing, Curtailed, and Curtailable, means any partial or total reduction of deliveries of Product pursuant to Buyer's economic curtailment right under Section 8.5.

Damage Payment: The dollar amount that equals the amount of the Project Development Security required to be posted initially under this Agreement, less (i) any amounts paid by Seller to Buyer under this Agreement, including any Delay Damages, and (ii) any amounts that Buyer has drawn from the Project Development Security.

Deemed Energy Production: For the relevant period of time, the amount of Energy that could have been generated by the Project and delivered to Buyer but for each of (a) Force Majeure, (b) any Buyer Curtailment or other Curtailment of the Project directed by Buyer, calculated as Buyer Curtailed Production, (c) Buyer's failure to perform in a manner that directly affects the generation of Products by the Project, or (d) Dispatch Down Periods.

Defaulting Party: Has the meaning set forth in Section 10.1.1.

Delay Damages: Has the meaning set forth in Section 2.3.6.1.

Delivery Point: The point of first interconnection of the Project with the CAISO grid at the Southern California Edison Company (SCE) Colorado River 230 kV Substation, or such other specific location or locations as may be mutually agreed by Buyer and Seller in writing, where Seller can deliver Energy included in the Product to Buyer.

Delivery Term: Has the meaning set forth in Section 2.3.1.

Delivery Term Security: Has the meaning set forth in Section 11.2.

Disclosing Party: Has the meaning set forth in Section 30.2.

Discounted Energy: Has the meaning set forth in in Section 2.4.4.

Dispatch Down Instructions: Seller shall be required to reduce generation upon any direction, instruction or order requiring the Project to curtail or reduce generation that is given by:

- (d) the CAISO or RC West (whether directly or through the Scheduling Coordinator, Host Electric Utility, or any Transmission Provider) for System Emergencies or warnings of a System Emergency, or imminent

condition or situation, which jeopardizes the CAISO's electric system integrity or the integrity of other systems to which the CAISO is connected, or

- (e) the Host Electric Utility, or any Transmission Provider for reasons to prevent equipment damage, loss of load, abnormal voltage conditions, or any warning, forecast or anticipation of conditions or situations that jeopardize the Host Electric Utility or Transmission Provider's system integrity or due to scheduled or unscheduled maintenance or construction on the Host Electric Utility or Transmission Provider's transmission or distribution facilities that prevent the Buyer from receiving or the Seller from delivering Energy at the Delivery Point; provided, however, that Dispatch Down Instructions shall not include any Buyer Curtailments.

Dispatch Down Period: Any period of reduction of the Project output or its generation of Products arising out of a Dispatch Down Instruction. Dispatch Down Periods include ramp up and ramp down periods.

DOC: The U.S. Department of Commerce.

Early Termination Date: Has the meaning set forth in Section 10.2.

Economic Bids: Has the meaning set forth in Section 9.1.2.1.

Effective Date: Has the meaning set forth in the preamble hereto.

EIM: The Western Energy Imbalance Market.

Eligible Intermittent Resource Protocol: The Eligible Intermittent Resource Protocol, as may be amended or supplemented from time to time, set forth in the CAISO Tariff.

Eligible Renewable Energy Resource (ERR): An Eligible Renewable Energy Resource as defined in California Public Utilities Code Section 399.12 and California Public Resources Code Section 25471, as either code may be amended or supplemented from time to time, as defined in the CEC Renewables Portfolio Standard Eligibility Guidebook, as may be amended or supplemented from time to time.

Energy: Electric energy from the Project, of the character commonly known as three-phase alternating current, with a nominal frequency of sixty (60) Hertz, a nominal voltage equivalent to that of the Transmission System, delivered by Seller to the Delivery Point, and measured in MWh.

Energy Supply Bid: Has the meaning set forth in the CAISO Tariff.

Environmental Attributes: All Environmental Attributes, as that term is defined in D.08-08-028 of the California Public Utilities Commission, as may be amended, and all renewable energy credits as that term is defined under section 399.12 of the California Public Utilities Code, as may be amended, all Renewable and Environmental Attributes as defined by WREGIS, as well as any all Green Attributes, credits, carbon benefits, carbon emission reductions, carbon offsets or allowances, howsoever entitled, attributed to the Energy produced at the Project and delivered to the Delivery Point recognized under Assembly Bill 32 Global Warming Solutions Act of 2006, as may be amended; provided, however, that Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) Renewable Energy Incentives including Tax Benefits including PTCs or ITCs associated with the development, construction, operation or ownership of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or “tipping fees” that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating or air quality permits..

Event of Default: Has the meaning set forth in Section 10.1.1.

Excused Delay: Has the meaning set forth in Section 2.3.6.2.

Expected Annual Energy Production (EAEP): The Energy that the Project can be expected to produce during a typical year of operation, factoring in typical weather patterns, expected fuel availability, etc. which amount for each Contract Year is set forth in Exhibit C, as Exhibit C may be updated within two percent (2%) of the original values by Seller after the Effective Date to reflect the final Project design.

FERC: The Federal Energy Regulatory Commission or any successor government agency.

Fitch: Fitch Ratings Ltd., or its successor.

Forced Outage: An unplanned outage of one or more of the Project's components that results in a reduction of the ability of the Project to produce Energy due to an unanticipated failure, and specifically excluding any outage due to Force Majeure or Planned Outage.

Force Majeure: Has the meaning set forth in Section 12.2.

Force Majeure Notice: Has the meaning set forth in Section 12.1.

Generator PNode: The PNode (as defined by the CAISO Tariff) which is the location of a generator's injection of power into the CAISO-controlled grid where the locational marginal pricing for that generator is determined.

Generator PNode Price: The Locational Marginal Price (as defined by the CAISO Tariff) for the Generator PNode.

Governmental Authority: The federal government of the United States, the government of any foreign nation, and any domestic or foreign federal, state, county, municipal or local government or regulatory department, body, political subdivision, commission, agency, instrumentality, ministry, court, judicial or administrative body, taxing authority, or other authority thereof (including any corporation or other entity owned or controlled by any of the foregoing) having jurisdiction over any Party, the Project, the site of the Project, the PV Equipment (including the manufacture, export, or import thereof), or the rights or obligations of any Party under this Agreement, whether acting under actual or assumed authority, provided, however, that Buyer shall not be considered a Governmental Authority hereunder. Notwithstanding the foregoing definition, the CAISO shall be considered a Governmental Authority for purposes of this Agreement.

Green Attributes: Any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project and its displacement of conventional energy generation. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (a) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to

contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (c) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes under the preceding definition are limited to Green Attributes that exist under applicable Law as of the Effective Date. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) Renewable Energy Incentives including Tax Benefits including PTCs or ITCs associated with the development, construction, operation or ownership of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating or air quality permits.

Guaranteed Commercial Operation Date or Guaranteed COD: Has the meaning set forth in Section 2.3.2.

Host Electric Utility: Southern California Edison Company (SCE).

Imbalance Energy: The difference between Energy scheduled into CAISO markets and Energy actually delivered to the Delivery Point as determined by metered output of the Project.

Integral Station Service Load: That subset of Station Service Load that is so integrated with the Project design that it is not feasible for the host Transmission System to separately meter and serve such demand during Project operations on a stand-alone basis.

Interest Rate: For any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in The Wall Street Journal, or any successor thereto, under "Money Rates" on such day (or if not published on such day, then on the most recent preceding day on which The Wall Street Journal was published), or (b) the maximum rate permitted by applicable law.

Installed Capacity: Has the meaning set forth in Exhibit S.

Interconnection Agreement: Has the meaning set forth in the CAISO Tariff.

ITC: The investment tax credit established pursuant to Section 48, 48E or other applicable provisions of the United States Internal Revenue Code of 1986, as in effect from time-to-time throughout the Term or any successor provision.

J. Aron: Has the meaning set forth in Section 20.3.

kW: Kilowatt(s) of alternating current.

Law: Any statute, law, treaty, rule, regulation, ordinance, code, approval, enactment, injunction, order, writ, decision, authorization, judgment, decree or other written legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction.

Lender: Any Person (i) providing senior or subordinated construction, interim, back leverage or long-term debt, equity or tax equity financing or refinancing for or in connection with the development, construction, purchase, installation or operation of the Project, whether that financing or refinancing takes the form of private debt, equity, public debt or any other form, (ii) providing interest rate or commodity protection under an agreement hedging or otherwise mitigating the cost of any of the foregoing obligations, and/or (iii) participating in a lease financing (including a sale leaseback or leveraged leasing structure) with respect to the Project.

Letter of Credit: A Seller Letter of Credit.

Licensed Professional Engineer: An independent, professional engineer selected by Seller and reasonably acceptable to Buyer, licensed in the State of California.

Limited Assignee: Has the meaning set forth in Section 20.3.

Locational Marginal Price or LMP: Has the meaning set forth in the CAISO Tariff.

Loss: Has the meaning set forth in Section 10.3(a).

Maintenance Schedule: Has the meaning set forth in Section 7.2.1.

Meter Service Agreement: Has the meaning set forth in the CAISO Tariff.

Minimum Annual Energy Production (MAEP): The amount equal to eighty-five percent (85%) of the Expected Annual Energy Production (EAEP) for each Contract Year as set forth in Exhibit C, as Exhibit C may be updated by Seller within two percent (2%) of the original values after the Effective Date to reflect the final Project design.

Month: A calendar month or partial calendar month, as applicable, recognizing that the Commercial Operation Date and the start of the Delivery Term may occur on a day that is not the first of the month and the first Contract Year may start on the first day of the first calendar month after the Commercial Operation Date.

Monthly Energy Charge: Has the meaning given it in Section 2.4.1.2.

Moody's: Moody's Investors Service, Inc., or its successor.

MW: Megawatt(s) of alternating current.

MWh (Megawatt-hour): A unit of energy measurement corresponding to 1,000 kilowatt-hours.

NEE: NextEra Energy, Inc.

NEECH: NextEra Energy Capital Holdings, Inc.

Negative LMP: In any Settlement Period or Settlement Interval, the LMP at the Project's PNode is less than zero dollars (\$0).

NEOP: NextEra Energy Operating Partners, LP

NEP: NextEra Energy Partners, LP

NERC: The North American Electric Reliability Corporation, or any successor organization.

NERC Holidays: Days that NERC establishes as holidays for electric energy trading.

Network Upgrades: Has the meaning set forth in the CAISO Tariff.

New PV Trade Measure Event: Any of the following events during the period while the applicable ruling request, inquiry, rulemaking, or other filing or proceeding remains

pending or subject to appeal before the DOC or other applicable Governmental Authority:

- (a) Filing of any anti-circumvention ruling request alleging that manufacturers or importers are circumventing any AD/CVD orders on PV Equipment;
- (b) Initiation of any anti-circumvention inquiry into whether manufacturers or importers are circumventing any AD/CVD orders on PV Equipment or issuance in any such inquiry of any finding or ruling that manufacturers or importers are circumventing any AD/CVD orders on PV Equipment; or
- (c) Filing or initiation of any rulemakings, adjudications, or other proceedings or actions to increase, extend, or expand application of, or impose any new, tariffs, duties (including but not limited to AD/CVD), or other trade measures, or issuance of any related determinations, orders, tariffs, duties, or trade measures, on PV Equipment.

For the avoidance of doubt, the Parties acknowledge that any of the following shall trigger the occurrence of a New PV Trade Measure Event with respect to the Auxin Anti-Circumvention Proceeding: (i) any legislative, judicial, or administrative challenge to, or withdrawal (in whole or in part) of, (A) that certain Declaration of Emergency and Authorization for Temporary Extensions of Time and Duty-Free Importation of Solar Cells and Modules from Southeast Asia, by the President of the United States, dated June 6, 2022, or supporting Presidential Determination Pursuant to Section 303 of the Defense Production Act, or (B) any implementation thereof by the DOC or other Governmental Authority, including through any rulemaking; or (ii) any legislative, judicial, or administrative challenge that seeks to expand the scope of the DOC's final affirmative circumvention determinations, as published on August 23, 2023 in 88 Fed. Reg. 57,419, to cover companies or activities excluded in such final affirmative determinations, or to narrow the scope of, or vacate or reverse, any negative circumvention determinations or guidance on avoiding circumvention in such published issuance. The Parties further acknowledge that the AASMTC AD/CVD Case constitutes a New PV Trade Measure Event.

New Resource Implementation: The CAISO's process and requirements that enables resource interconnection to the CAISO grid and participation in the CAISO market(s).

Non-Claiming Party: Has the meaning set forth in Section 12.4.

Non-Defaulting Party: Has the meaning set forth in Section 10.2.

Operating Procedures: Has the meaning set forth in Section 4.8.

Participating Generator Agreement: Has the meaning set forth in the CAISO Tariff.

Participating Intermittent Resource (PIR): Has the meaning set forth in the CAISO Tariff.

Participating Transmission Operator (PTO): Has the meaning set forth in the CAISO Tariff.

Party and Parties: Have the meanings set forth in the preamble hereto.

PCC1 REC Price: Has the meaning set forth in Section 2.4.4.

Permitted Transfer: Any assignment, transfer, or change in control in which the entity that is the Seller at the conclusion of such assignment, transfer, or change in control is a Permitted Transferee.

Permitted Transferee: An entity that has, or is controlled by another Person that has, (a) a tangible net worth of not less than one hundred fifty million (\$150,000,000), or a senior unsecured long-term credit rating of BBB- or better from S&P or Baa3 or better from Moody's, and (b) at least three (3) years of experience in the ownership and operations of power generation facilities similar to the Project, or has retained a third-party with such experience to assist in performing Seller's obligations hereunder.

Person: Any legal or natural person, including any individual, corporation, partnership, limited liability company, joint stock company, association, joint venture, trust, governmental or international body or agency, or other entity.

Planned Outage: An outage that has been scheduled in advance of one or more of the Project's components that results in a reduction of the ability of the Project to produce Energy.

PNode: Has the meaning set forth in the CAISO Tariff.

Portfolio Content Category 1 (PCC-1): Renewable energy comprised of Energy and Environmental Attributes meeting the criteria defined by the CEC Renewables Portfolio Standard Eligibility Guidebook, Ninth Edition (Revised) issued January 2017 (RPS Eligibility Guidebook) and the CEC's POU Regulations (Section 3203(a)), for PCC-1, as may be amended or supplemented from time to time. Product delivered to Buyer hereunder must count 'as PCC-1 under the foregoing definition.

POU Regulations: The CEC's Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities (California Code of Regulations, Title 20, Division 2, Chapter 13, Sections 3200 – 3208; and Chapter 2, Article 4, Section 1240), as may be amended or supplemented from time to time.

Present Value Rate: Present Value Rate means the yield reported in the Wall Street Journal for intraday trading in United States government securities having a maturity that matches the average remaining Delivery Term.

Products: All Energy generated by the Project and all Environmental Attributes associated with such Energy (in each case not to exceed the quantity of Energy and associated Environmental Attributes available from the Contract Capacity), all Capacity, all Ancillary Services (if applicable), and, only if included in the Products pursuant to Section 2.1, all Capacity Attributes available from the Project.

Production: With respect to any time period, the sum of (a) the total Energy produced by the Project in such time period, plus (b) any Buyer Curtailed Production applicable to such time period.

Project: A separately metered 70 MW portion of the second phase of the larger Grace Orchard Complex as described in Exhibit A from which the Products delivered or scheduled hereunder shall be generated.

Project Allocation Amount: Has the meaning set forth in Section 2.1.

Project Development Security: Has the meaning set forth in Section 11.1.

Prudent Industry Practice: Those practices, methods and acts that would be implemented and followed by prudent operators of electric energy generating facilities in the Western United States, similar to the Project, during the relevant time period, which practices, methods and acts, in the exercise of prudent and responsible professional

judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result consistent with prudent business practices, reliability, and safety. Seller acknowledges that the use of Prudent Industry Practice by Seller does not exempt Seller from any obligations set forth in this Agreement.

Prudent Industry Practice includes, at a minimum, those professionally responsible practices, methods and acts described in the preceding paragraph that comply in all material respects with manufacturers' warranties, restrictions in this Agreement, the CAISO interconnection requirements and the requirements of Governmental Authorities, including WECC and NERC.

Prudent Industry Practice is not required to be the optimum practice, method or act to the exclusion of all others.

PTC: The production tax credit established pursuant to Section 45 or 45Y or other applicable provisions of the United States Internal Revenue Code of 1986, as in effect from time-to-time throughout the Term or any successor provision.

PTC Amount: The amount, on a dollar per MWh basis, equal to the Production Tax Credits that Seller would have earned, under Internal Revenue Code (Title 26 of the U.S. Code, Sections 45 and 45Y), in respect of Energy produced by the Project at the time, grossed up on an After-Tax Basis at the then-highest marginal combined federal and state corporate tax rate, but failed to earn as a result of Buyer Curtailment, or any other action or omission by Buyer (or its agents) including an Event of Default by Buyer which causes Seller to be unable to deliver Energy to the Delivery Point, with the applicable MWh figure to be calculated by reference to the amount of Buyer Curtailed Production. Such PTC Amount shall apply starting on the Commercial Operation Date and continuing only for the first ten (10) Contract Years of the Delivery Term, shall not exceed \$45/MWh from Commercial Operation through the end of Contract Year 1, and shall increase annually with inflation.

PV Equipment: Solar photovoltaic cells, modules, onboard sensors, control components, inverters, or any of their components.

Qualified Issuer: Has the meaning set forth in Section 11.2.

RC West: The entity that fulfills the duties of the Reliability Coordinator, as defined by the NERC, and as delegated by the WECC, for its Reliability Coordinator Area in the western United States and western Canada, or any successor organization.

Receiving Party: Has the meaning set forth in Section 30.2.

Refund Payment: Has the meaning set forth in in Section 2.4.4.

Renewable Energy Credit (REC): A certificate of proof issued by WREGIS that an ERR has generated one megawatt hour (MWh or 1,000 kWh) of electricity. A REC shall also have the same meaning as in California Public Utilities Code Section 399.12(h). Currently RECs are used to convey Environmental Attributes associated with electricity production by a renewable energy resource. For purposes of this Agreement, the term REC shall be synonymous with bundled or unbundled renewable energy credit, tradable renewable energy certificates, WREGIS certificate, or any other term used to describe the documentation that evidences the renewable and Environmental Attributes associated with electricity production by an ERR.

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

Replacement Green Attributes: Renewable Energy Credits of the same Portfolio Content Category (i.e., PCC1) as the Green Attributes portion of the Product and of the same timeframe for retirement as the Renewable Energy Credits that would have been generated by the Facility during the relevant period.

Replacement Product: Has the meaning set forth in Section 2.4.4.

Resource Adequacy (RA): A requirement by the CPUC or other applicable Governmental Authority, or a policy approved by a local regulatory authority, that is

binding upon Buyer and that requires Buyer to procure a certain amount of electric generating Capacity.

Resource Adequacy Capacity: Has the meaning set forth in the CAISO Tariff.

Resource Adequacy Requirements: A standard established and administered by an applicable regulatory authority (such as the CPUC and/or the CAISO), whereby entities serving load demonstrate that in advance of any period they have acquired the capacity needed to serve forecast customer load plus a mandated reserve margin during that period, and where generating unit-specific capacity is identified and the physical generating unit is made available for dispatch.

Resource ID: Has the meaning set forth in the CAISO Tariff.

RPS Certification: A certification by the CEC, obtained by the Seller once Commercial Operation has been achieved, that the Project is eligible for the purposes of the California Renewables Portfolio Standard, and that all Energy produced by the Project and delivered to the Delivery Point qualifies as generation from an ERR (subject, for the avoidance of doubt, to any reductions required by the CEC for Station Service Load and applicable losses).

RPS Pre-Certification: A pre-certification by the CEC, obtained by the Seller prior to Commercial Operation of the Project, that the Project is eligible for the purposes of the California Renewables Portfolio Standard.

S&P: The Standard & Poor's Financial Services, LLC (a subsidiary of S&P Global Inc.) or its successor.

Schedule: Has the meaning set forth in the CAISO Tariff, and "Scheduled" has a corollary meaning.

Scheduled Commercial Operation Date or Scheduled COD: December 1, 2027, as such date may be extended under Section 2.3.6.

Scheduled Maintenance: Maintenance which is performed, or scheduled to be performed, on the Project or any major component thereof, that is necessary to carry out maintenance of such Project consistent with Prudent Industry Practices, which

results in a partial derate or full outage of such Project, and which has been scheduled in accordance with Section 7.2. Scheduled Maintenance is not a Forced Outage.

Scheduling: The act of producing, or relating to the production of, a schedule for the delivery, production or use of Energy and/or ancillary services that is in compliance with NERC Scheduling (NERC tagging) requirements (if applicable), and all requirements under the CAISO Tariff.

Scheduling Coordinator: Has the meaning set forth in the CAISO Tariff.

Security Interest: Has the meaning set forth in Section 11.3.

Self-Schedule: Has the meaning set forth in the CAISO Tariff.

Seller: Has the meaning set forth in the preamble hereto.

Seller Letter of Credit: Has the meaning set forth in Section 11.1.

Serial Defect: Malfunctions or defects occurring in twenty percent (20%) or more of the same part or component of the Project.

Settlement Interval: Has the meaning set forth in the CAISO Tariff.

Settlement Period: Has the meaning set forth in the CAISO Tariff.

Shared Facilities: The gen-tie lines, transformers, substations, or other equipment, permits, contract rights, and other assets and property (real or personal), in each case, as necessary to enable delivery of Energy from the Project (which is excluded from Shared Facilities) to the point of interconnection, including the Interconnection Agreement itself, that are used in common with Affiliates of Seller and/or other third parties or by Seller for electric generation or storage facilities owned by Seller other than the Project.

Solar Irradiance Data: Data used for measuring solar insolation comprising global horizontal irradiance (GHI, W/m²), diffuse horizontal irradiance (DHI, W/m²), and direct normal irradiance (DNI, W/m²), and as otherwise agreed upon by the Parties.

Station Service Load: The electrical loads associated with the operation and maintenance of the Project that may at times be supplied from the Project.

Supporting Resource: A “Generating Resource” that is a “Supporting Resource” as those terms are defined in the CAISO’s *SIBR—Scheduling Coordinator Users Guide* dated January 26, 2024, available as of the Effective Date at https://www.caiso.com/Documents/SIBR_SCUserGuide_80.pdf.

Surety Bond: A surety bond from a Surety Bond Provider provided for the benefit of Buyer substantially in the form attached as Exhibit K-2.

Surety Bond Provider: An insurance company or companies rated not lower than A-/IX by the A.M. Best Company.

System Emergency: Has the meaning set forth in the CAISO Tariff.

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

Tax Benefits: The PTC, ITC, and any other state, local and/or federal tax benefit or incentive, including energy credits determined under Sections 38, 45, 45Y, 46, 48 and 48E of the Internal Revenue Code of 1986, as amended, investment tax credits, production tax credits, depreciation, amortization, deduction, expense, exemption, preferential rate, and/or other tax benefit or incentive associated with the production, sale, or storage of renewable energy and/or the operation, construction, investments in or ownership of, the Project (including any cash payment or grant).

Term: The period of time from the Effective Date through the last day of the Delivery Term.

Termination Payment: Has the meaning set forth in in Section 10.3.

Test Energy: All Energy produced by the Project before the Commercial Operation Date.

TP Deliverability: Has the meaning set forth in the CAISO Tariff.

Transformer Failure: A failure of any final step-up transformer used by the Project.

Transmission Provider: Any entity or entities transmitting the Product on behalf of Seller or Buyer to or from the Delivery Point hereunder; provided, however, that Transmission Provider shall not include Buyer or Seller.

Transmission System: The high voltage wires, transformers and related equipment owned or controlled by a particular electric utility or grid operator, and generally used to move bulk quantities of power between different electric utilities or from large electric generators to a utility's distribution system; as opposed to being used to make final delivery of electric power to retail customers.

Typical Annual Solar Insolation: The typical annual global horizontal irradiance at the Project site set forth in Exhibit D.

Ultimate Parent: NEE, NEP, NEOP, NEECH, or any combination of the foregoing.

Unexcused Cause: Has the meaning set forth in in Section 12.2.

Uninstructed Imbalance Energy: Has the meaning set forth in the CAISO Tariff.

VER Forecast: The amount of energy forecasted for the Project determined in accordance with the VER Forecasting Program.

VER Forecasting Program: The rules, protocols, procedures and standards for Participating Intermittent Resources under the CAISO's Eligible Intermittent Resource Protocol, as may be amended from time to time, as set forth in the CAISO Tariff.

WECC: The Western Electricity Coordinating Council, the regional entity responsible for coordinating and promoting Bulk Electric System reliability in the western United States and western Canada, or any successor organization.

WREGIS: The Western Renewable Energy Generation Information System, sponsored by WECC and utilized by the CEC for tracking the generation and transfer of RECs, or any successor renewable energy tracking system sponsored by WECC and utilized by the CEC for implementing California's RPS, including tracking the generation and transfer of RECs.

WREGIS Certificates: Has the same meaning as "Certificate" as defined by WREGIS in the WREGIS Operating Rules and are designated as eligible for complying with the California Renewables Portfolio Standard.

WREGIS Compliance Procedures: Has the meaning set forth in Section 4.8.

WREGIS Operating Rules: Those operating rules and requirements adopted by WREGIS as of June 4, 2007, as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

WREGIS Shortfall: Has the meaning set forth in in Section 2.4.4.

WRO Restraint: Any withhold release order or other import restraint issued or made applicable to the PV Equipment after the Effective Date of this Agreement, or changes to how such orders and restraints existing as of the Effective Date of this Agreement are administered, by U.S. Customs and Border Protection or other applicable Governmental Authority, including under the Uyghur Forced Labor Prevention Act, that prevents or delays the import or release of any PV Equipment into the United States and such order or restraint, despite the use by Seller of commercially reasonable efforts to avoid procurement or sourcing of PV Equipment that was reasonably foreseeable to become subject to such order or restraint, prevents or delays the delivery of such PV Equipment into the United States for delivery to Seller for incorporation into the Project.

1.2 Rules of Interpretation

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

- (a) headings and the rendering of text in bold and italics are for convenience and reference purposes only and do not affect the meaning or interpretation of this Agreement;
- (b) words importing the singular include the plural and vice versa and the masculine, feminine and neuter genders include all genders;
- (c) the words “hereof”, “herein”, and “hereunder” and words of similar import shall refer to this Agreement as a whole and not to any particular provision of this Agreement;
- (d) a reference to an Article, Section, subsection, paragraph, clause, Party, or Exhibit is a reference to that Section, subsection, paragraph, clause of, or that Party or Exhibit to, this Agreement unless otherwise specified;
- (e) a reference to a document or agreement, including this Agreement shall mean such document, agreement or this Agreement including any amendment or supplement to, or replacement, novation or modification of

this Agreement, but disregarding any amendment, supplement, replacement, novation or modification made in breach of such document, agreement or this Agreement;

- (f) a reference to a Person includes that Person's successors and permitted assigns;
- (g) the terms "include" and "including" mean "include without limitation" or "including without limitation" and any list of examples following such term shall in no way restrict or limit the generality of the word or provision in respect of which such examples are provided;
- (h) references to any statute, code or statutory provision are to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or reenacted, and include references to all bylaws, instruments, orders and regulations for the time being made thereunder or deriving validity therefrom unless the context otherwise requires;
- (i) in the event of a conflict, a mathematical formula or other precise description of a concept or a term shall prevail over words providing a more general description of a concept or a term;
- (j) references to any amount of money shall mean a reference to the amount in United States Dollars;
- (k) the expression "and/or" when used as a conjunction shall connote "any or all of";
- (l) words, phrases or expressions not otherwise defined herein that (i) have a generally accepted meaning in Prudent Industry Practice shall have such meaning in this Agreement, or (ii) do not have well known and generally accepted meaning in Prudent Industry Practice but that have well known and generally accepted technical or trade meanings, shall have such recognized meanings; and
- (m) each Party acknowledges that it was represented by counsel in connection with this Agreement and that it or its counsel reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.

2. PROJECT, PURCHASE AND SALE OF PRODUCTS

2.1 Project and Deliverability

This Agreement governs Seller's sale and delivery, and Buyer's purchase and receipt, of Products from the Project. Seller agrees to request from the CAISO an allocation of TP

Deliverability for the Project, which may be submitted as part of a request by Seller or its Affiliates for TP Deliverability for some or all of the capacity of the larger Grace Orchard Complex. Seller shall not be obligated to request an allocation of TP Deliverability for the Project more than one time, and such one-time request may be made before or after the Effective Date as long as Seller provides documentation to Buyer that reasonably substantiates the submission of the request. Buyer and Seller acknowledge and agree that a certain amount (potentially as much as approximately 450 MW) of capacity at the Grace Orchard Complex is committed under offtake agreements executed before the Effective Date that may also require deliverability, and that such previously committed capacity therefore will have priority over the Project in apportioning any allocation of TP Deliverability for the Grace Orchard Complex. If Seller receives an allocation of TP Deliverability that can be apportioned to the Project based on its relative priority as acknowledged in the foregoing sentence, then Seller shall apportion such amount to the Project and notify Buyer of the amount of TP Deliverability that has been apportioned to the Project (the "Project Allocation Amount"). If Seller has not received an allocation of TP Deliverability for the Project by June 1, 2025, then Seller shall not have any further obligation to seek an allocation of TP Deliverability for the Project and the Products shall consist only of Energy and associated Environmental Attributes (not to exceed the Energy and associated Environmental Attributes available from the Contract Capacity), and Ancillary Services to the extent available from the Project without additional cost to Seller, and shall not include Capacity Attributes.

2.2 Products Purchased

2.2.1 Obligation to Deliver

During the Delivery Term, Seller shall sell and deliver, or cause to be delivered, and Buyer shall purchase and receive, or cause to be received, all Products supplied by the Project.

- (a) Energy shall be supplied only from the Project, and shall be supplied from the Project whenever available. Seller agrees to sell to Buyer the Energy in kilowatt-hours, net of Integral Station Service Load and transformation and transmission losses to the Delivery Point.
- (b) Any Capacity Attributes available from the Project and included in the Products pursuant to Section 2.1 shall be supplied only from the Project, and shall be supplied from the Project in the quantities available under applicable counting rules for resource adequacy, up to the applicable

Project Allocation Amount, if any. If the Project does not receive any Project Allocation Amount, then Capacity Attributes shall not be included in the Products.

- (c) All Products delivered by Seller to Buyer hereunder shall be a sale made at wholesale.

2.2.2 No Product Substitution

Except as provided in Section 2.4.4, in no event shall Seller have the right to procure any Energy, Environmental Attributes, or Capacity Attributes from sources other than the Project for sale or delivery of Products to Buyer under this Agreement or to substitute any Energy, Environmental Attributes, or Capacity Attributes from sources other than the Project for delivery to Buyer hereunder.

2.2.3 Energy Produced Prior to COD

Prior to COD Buyer shall not purchase Products hereunder, and Seller shall have the right to sell such Products to a third party or into the CAISO's markets and to retain resulting revenues for Seller's own account.

2.2.4 Buyer Production Curtailment

Buyer shall pay Seller for all Buyer Curtailed Production in accordance with Section 2.4 and Section 8.5.

2.2.5 Meter Data Access

Buyer shall have the right, but not the obligation, to read the Project's meter data on a daily basis. Energy from the Project will be delivered through one or more dedicated CAISO Revenue Meters used only for the Project (and not for other portions of the Grace Orchard Complex). Seller shall be responsible for installing and operating all metering equipment installed to accommodate the Project. Seller shall bear all costs relating to all metering equipment installed to accommodate the Project. In addition, Seller hereby agrees to provide all meter data to Buyer in a form reasonably acceptable to Buyer, and consents to Buyer obtaining from the CAISO the CAISO meter data applicable to the Project and all inspection, testing and calibration data and reports. Seller shall grant Buyer the right to retrieve the meter reads from the CAISO Market Results Interface –

Settlements (MRI-S) web and/or directly from the CAISO Revenue Meter at the Project site.

2.3 Delivery Term, Delivery Point, and Commercial Operation

2.3.1 Delivery Term

The “Delivery Term” shall begin with the COD and shall end on the hour ending at midnight PPT on the last day of the twentieth (20th) Contract Year.

2.3.2 Guaranteed COD

The “Guaranteed Commercial Operation Date” or “Guaranteed COD”, the latest date for Commercial Operation of the Project, is six (6) months following the Scheduled COD, as the Scheduled COD may be extended pursuant to Section 2.3.6. As of the Effective Date, the Scheduled COD is December 1, 2027 and the Guaranteed COD is June 1, 2028.

2.3.3 Requirements for Commercial Operation

The Commercial Operation Date shall occur on the latest date on which all five (5) of the following conditions have been satisfied:

2.3.3.1 Seller has delivered to Buyer a completion certificate from a Licensed Professional Engineer substantially in the form of Exhibit R, and a certificate from a Licensed Professional Engineer substantially in the form of Exhibit S setting forth the Installed Capacity on the Commercial Operation Date;

2.3.3.2 An Interconnection Agreement for the Project with the Participating Transmission Operator (PTO) shall have been executed and delivered and be in full force and effect and a copy of the Interconnection Agreement delivered to Buyer;

2.3.3.3 A Participating Generator Agreement and a Meter Service Agreement for the Project with CAISO shall have been executed and delivered and be in full force and effect, and a copy of each has been delivered to Buyer;

2.3.3.4 Seller shall have installed and demonstrated accurate operation of all necessary facilities, including metering, communications, telemetry and meteorological equipment as required under the CAISO Tariff; and

2.3.3.5 If available from the CAISO at the time of the planned COD, Seller shall deliver to Buyer a copy of the signed Certificate of Compliance from CAISO.

2.3.4 Notice of Commercial Operation

Seller shall provide Buyer with written notice of Commercial Operation when the Project has satisfactorily completed the requirements for Commercial Operation. The written notice shall include a description detailing the satisfaction of the requirements in Section 2.3.3.

2.3.5 Commercial Operation Date Confirmation Letter

The Commercial Operation Date shall occur upon satisfaction of the requirements for Commercial Operation. Buyer shall execute and then provide to Seller for execution, the "Commercial Operation Date Confirmation Letter" in substantially the form attached as Exhibit E to this Agreement; provided, however, that the dates of such execution shall not delay or affect the occurrence of the Commercial Operation Date.

2.3.6 Delays in Achievement of Commercial Operation

2.3.6.1 Unless caused by any Excused Delay as addressed in Section 2.3.6.2, if the Project fails to achieve Commercial Operation of at least ninety-five percent (95%) of the Contract Capacity on or before the Scheduled COD, then Seller shall pay "Delay Damages" to Buyer equal to three hundred fifty dollars per MW of Contract Capacity per day (\$350/MW/day) for each MW or portion thereof by which the installed Capacity of the Project that has achieved Commercial Operation is less than ninety-five percent (95%) of the Contract Capacity of the Project, to be adjusted daily as additional parts of the Project achieve Commercial Operation, until either Commercial Operation of the full Contract Capacity of the Project is achieved or Seller pays the Capacity Damages for any remaining shortfall in accordance with Section 2.3.8; provided that the Delay Damages shall not exceed the amount of the Project Development Security provided by Seller pursuant to Section 11.1.

2.3.6.2 If the Project fails to achieve Commercial Operation of at least ninety-five percent (95%) of the Contract Capacity on or before the Scheduled COD due to any one or more of the causes or circumstances identified in subsections (a) through (c) below (each, an "Excused Delay"), then Seller shall not owe any Delay Damages to Buyer for the duration of the Excused Delay, and the Scheduled COD shall be extended automatically on a day-for-day basis for each day of Excused Delay:

- (a) Force Majeure;
- (b) A delay by the Host Electric Utility or a Transmission Provider beyond the date that is four (4) months before the original Scheduled COD (before

any extensions under this Section 2.3.6.2) in completion of
(i) interconnection facilities required for the Project to deliver Energy to the Delivery Point, or (ii) if the Product includes Capacity Attributes pursuant to Section 2.1, any Network Upgrades required for delivery of such Capacity Attributes; or

- (c) Buyer has not made all necessary arrangements to receive Energy generated by the Project for delivery at the Delivery Point.

2.3.6.3 Seller shall notify Buyer promptly after becoming aware of an Excused Delay that will extend the Scheduled COD under Section 2.3.6.2. Upon request from Buyer, Seller shall provide documentation demonstrating to Buyer's reasonable satisfaction that the delays described in such notice did not result from Seller's actions or failure to take commercially reasonable actions to avoid or mitigate the delay. Notwithstanding anything to the contrary herein, no extension shall be given for an Excused Delay if, and to the extent that the delay is the result of Seller's failure to take commercially reasonable actions to meet its requirements and deadlines. Excused Delays will extend the Scheduled COD and Guaranteed COD simultaneously on a day-for-day basis.

2.3.7 Notice of Delivery Point

Seller shall provide written notice to Buyer as to which Delivery Point it elects no later than the date on which Seller commences construction of the Project. For purposes of this Section 2.3.7, Seller will be deemed to have commenced construction upon mobilization of resources and beginning of construction work at the Project site.

2.3.8 Failure to Reach Contract Capacity

If, on the Commercial Operation Date, the installed Capacity of the Project is less than one hundred percent (100%) of the Contract Capacity, Seller shall have one hundred fifty (150) days after the Commercial Operation Date to install additional Capacity such that the installed Capacity is equal to (but not greater than) the Contract Capacity, and Seller shall provide to Buyer a new Commercial Operation Date Confirmation Letter in substantially the form attached as Exhibit E specifying the new installed Capacity. If Seller fails to construct the Contract Capacity by such date, Seller shall pay "Capacity Damages" to Buyer, in an amount equal to the product of (i) \$200,000/MW, and (ii) each MW (or portion thereof) that the Contract Capacity exceeds the installed Capacity, and the Contract Capacity and other applicable portions of the Agreement, including the

values in Exhibit C, shall be adjusted accordingly to align with the total installed Capacity of the Project.

2.4 Payments and Charges

2.4.1 Monthly Energy Charge

2.4.1.1 Buyer shall pay Seller the Monthly Energy Charge for each MWh of Production, plus, for each MWh of Buyer Curtailed Production during the applicable invoice calculation period, an additional amount equal to the PTC Amount calculated by Seller for the relevant period.

2.4.1.2 On a monthly basis, beginning with deliveries of Energy on and after COD, Buyer shall pay Seller (a) the “Monthly Energy Charge”, calculated as the aggregate sum over the Month of the product of (i) the Contract Price, and (ii) the Production for each hour during the Month, plus (b) for each MWh of Buyer Curtailed Production during the Month, an additional amount equal to the PTC Amount calculated by Seller for such Buyer Curtailed Production during the Month.

2.4.1.3 Seller is responsible for all losses from the Project to the Delivery Point, including transformer losses, which will be calculated in accordance with CAISO's requirements for accounting for losses.

2.4.2 CAISO and Related Charges

Except as otherwise set forth in this Agreement, Buyer shall be responsible for CAISO costs (including penalties, Imbalance Energy costs, and other charges) and shall be entitled to all CAISO revenues (including credits, Imbalance Energy revenues, and other payments), including revenues associated with Dispatch Instructions and other CAISO dispatches, bid cost recovery, or other credits in respect of the Product that is Scheduled or delivered from the Project. Seller shall be responsible for (a) all CAISO penalties resulting from any failure by Seller or its Scheduling Coordinator to comply with the CAISO Tariff or the outage notification requirements set forth in this Agreement, (b) any administrative charges, penalties, or fees assessed by the CAISO to the Project solely in its capacity as a generator in the CAISO market (including the Forecast Fee(s) and Grid Management Charge(s)), (c) any CAISO charges, penalties, or fees related to Seller's failure to comply with a Buyer Curtailment or Dispatch Down Instruction, and (d) negative pricing consequences as specified in Section 9.1.2.3. Any costs, charges and penalties assessed by the CAISO and

any CAISO revenues related to Uninstructed Imbalance Energy shall be split equally between the Buyer and Seller.

The Parties agree that any Availability Incentive Payments (as defined in the CAISO Tariff) are for the benefit of the Seller and for Seller's account and that any Non-Availability Charges (as defined in the CAISO Tariff) are the responsibility of the Seller and for Seller's account. In addition, if during the Delivery Term, the CAISO implements or has implemented any sanction or penalty related to scheduling, outage reporting, or generator operation, and any such sanctions or penalties are imposed upon the Project or to Seller or its designee as Scheduling Coordinator due to failure by Seller to comply with the CAISO Tariff or the outage notification requirements set forth in this Agreement, the cost of the sanctions or penalties shall be Seller's responsibility.

Subject to the foregoing, Seller shall pass through to Buyer all applicable CAISO costs and revenues associated with the Project, which shall be reflected as a credit or charge (as applicable) on the monthly invoices provided to Buyer in accordance with the invoicing and payment provisions of Section 3, including the netting provisions of Section 3.1.3.

2.4.3 Timing of Imbalance Energy and CAISO Charges

The Parties acknowledge that due to the CAISO settlement timelines, the above-referenced CAISO charges, penalties or fees in Section 2.4.2 will not be passed through to Buyer in the same month that they are incurred. Instead, Seller shall pass-through such charges, penalties, or fees after receipt of the settlement invoices from the CAISO.

2.4.4 Adjustment for Non-Delivery of RECs

In the event that (a) SMUD fails to receive WREGIS Certificates associated with the amount of Energy delivered to the Delivery Point (other than any WREGIS Certificates that are not provided due to any compliance or conformance issues resulting from Buyer's assignment to a Limited Assignee pursuant to Section 20.3) within one hundred ten (110) days after the end of the Month that the Energy was generated and delivered to SMUD at the Delivery Point, and (b) the cause of such failure is due to Seller's actions or inactions that fail to comply with Seller's obligations under this Agreement (subject to the exclusions

referenced above, a “WREGIS Shortfall”), then Seller shall either (i) deliver to Buyer at no cost to Buyer, and Buyer shall accept delivery of, a quantity of Energy and PCC1 RECs equal to the WREGIS Shortfall (“Replacement Product”), or (ii) pay to Buyer a “Refund Payment” equal to the greater of (A) the PCC1 REC Price, and (B) the Contract Price, multiplied by the quantity of Energy previously delivered at the Delivery Point for which there is a WREGIS Shortfall (“Discounted Energy”). The “PCC1 REC Price” means the market value of PCC1 RECs of the same year that the WREGIS Shortfall is identified, determined by the average of three (3) broker quotes for such PCC1 RECs. SMUD will provide notice to Seller of any WREGIS Shortfall, including SMUD’s calculation and supporting evidence for such WREGIS Shortfall and PCC1 REC Price (including the three (3) broker quotes used to determine such PCC1 REC Price). Seller shall have the right to elect to provide Replacement Product, or pay a Refund Payment for Discounted Energy, in its sole discretion. If Seller elects to provide Replacement Product, Seller shall provide written notification to Buyer of the time, physical location, and generating resource from which Seller will provide the Replacement Product to Buyer; provided, that the Parties agree that the Energy from such generating resource shall be resold into a California balancing authority at the time of delivery. Any disputes with respect to the cause of a WREGIS Shortfall or the calculation of the Replacement Product, Discounted Energy or Refund Payment will be resolved pursuant to the provisions of Section 22. Seller shall deliver the Replacement Product or pay the Refund Payment to SMUD, or, if Seller elects to pay the Refund Payment, SMUD may offset and credit the Refund Payment against SMUD’s payment to Seller in the next regular settlement. If Seller cures a WREGIS Shortfall after Seller has delivered Replacement Product or paid Buyer (directly or through an offset or credit against a monthly settlement), then SMUD shall pay Seller the lower of the Contract Price or the PCC1 REC Price (as calculated above) for the Replacement Product, or refund to Seller all or part of the Refund Payment associated with such cure, as applicable, in the next invoice after such WREGIS Shortfall is cured.

2.4.5 Annual Production Guarantee, Project Performance Adjustment

Seller shall follow Prudent Industry Practices in operating and maintaining the Project and shall make any needed and commercially reasonable repairs

identified through compliance with the foregoing requirements in a reasonably timely manner so as to maximize the Project's availability for generation of electricity.

Within thirty (30) calendar days after the end of each Contract Year, Seller shall submit records of annual Project curtailment data (including Dispatch Down Periods, Buyer Curtailed Production, and other Deemed Delivered Energy) and any record of Force Majeure or Buyer's failure to perform in a manner that directly affects the generation of Products by the Project, which Buyer shall reconcile with its own records of annual Project curtailment data (including Dispatch Down Periods, Buyer Curtailed Production, Deemed Delivered Energy, Force Majeure, and any such Buyer failure), in order to calculate AAEP.

If, at the end of any Contract Year, the AAEP for such Contract Year is less than eighty-five percent (85%) of the AEAEP for such Contract Year, then Seller shall pay Buyer liquidated damages calculated as set forth below, which, except as set forth in Section 10.1.2.4, shall be Buyer's sole and exclusive remedy in connection with Seller's failure to achieve in any Contract Year an AAEP that is equal to or greater than eighty five- percent (85%) of the AEAEP for such Contract Year.

Liquidated damages shall equal: $[(A - B) * (C - D)]$, where:

A = Eighty-five percent (85%) of the AEAEP for such Contract Year, in MWh;

B = the AAEP for such Contract Year, in MWh;

C = The replacement price for the Contract Year, in \$/MWh, which is the sum of (a) the simple average of the Integrated Forward Market hourly price in the Contract Year, as published by the CAISO, for the Existing Zone Generation Trading Hub (as defined in the CAISO Tariff) for the Delivery Point, plus (b) the market value of Replacement Green Attributes, based on the average of three (3) broker quotes; and

D = the Contract Price, in \$/MWh

Notwithstanding anything to the contrary herein, no payment shall be due from Seller under this Section 2.4.5 if (i) the calculation of (A - B) or (C - D) yields a

negative number, or (ii) the result of the calculation of $[(A - B) * (C - D)]$ results in a dollar amount that exceeds 100% percent of the Monthly Energy Charges paid by Buyer to Seller for the Contract Year for which the calculation is performed.

2.4.6 System Losses

All Products specified herein are amounts as provided at the Delivery Point, and Seller is responsible for all losses to the Delivery Point.

2.4.7 Title and Risk of Loss

Title to and risk of loss related to the Products produced from the Project shall transfer from Seller to Buyer at the Delivery Point, except that title to RECs shall transfer when the associated WREGIS Certificates are transferred to Buyer's WREGIS account. Seller warrants that it shall deliver to Buyer all Products from the Project free and clear of all liens, security interests, claims and encumbrances, or any interest therein or thereto by any person.

2.5 Energy Market Participation

The Parties acknowledge and agree that as of the date hereof, SMUD is participating in the EIM and/or other energy markets. Notwithstanding anything herein to the contrary, SMUD's joining or continued participation in such markets shall not require Seller to perform any additional measures or incur any additional or increased cost other than administrative expenses, liability or obligation, in each case other than what Seller is already otherwise expressly obligated under this Agreement to perform or incur, unless compensated by SMUD. If in the future, market rules or policies change, then the Parties shall meet and confer to discuss the new market rules and whether updates to the scheduling, settlements, or other procedures are required and to preserve the economic "benefit of the bargain" to both Parties to this Agreement.

3. BILLING AND INVOICING

3.1 Settlement Statements

3.1.1 Amounts Owed by Buyer

Seller shall make good faith efforts to deliver a settlement statement to Buyer for Product within fifteen (15) Business Days after the end of the prior Month of the Delivery Term. Each settlement statement shall reflect (a) records of metered data, including CAISO metering and transaction data sufficient to document and verify the amount of Product delivered by the Project for the previous Month, and (b) the Monthly Energy Charge for the previous Month calculated in accordance with Section 2.4.1 and the PTC Amount (if any) owed by Buyer for the previous Month, (c) any amounts owing between the Parties pursuant to Section 2.4.2, (d) any amounts owing to Seller pursuant to Section 2.4.3, (e) amounts owing between the Parties pursuant to Section 2.4.4, and (f) any other fees, charges or other amounts due and owing to Seller pursuant to this Agreement. Buyer shall pay Seller according to the provisions of Section 3.2.

3.1.2 Amounts Owed to Buyer

The monthly settlement statements delivered by Seller shall set forth, as applicable, any fees, charges or other amounts due and owing to Buyer pursuant to this Agreement.

3.1.3 Set-offs and Deductions

Either Party may offset the payment due to the other Party under this Agreement against the amounts owing from such other Party to the offsetting Party pursuant to this Agreement.

3.1.4 Form of Settlement Statements

Seller shall include in each monthly settlement statement sufficient detail to allow Buyer to verify the amounts. Seller shall send the settlement statements under this Agreement by email.

3.2 Method of Payment

3.2.1 Payment to Seller

Buyer shall pay to Seller by wire transfer of immediately available funds (or electronically through the Automated Clearinghouse (ACH) to a specified account designated by Seller in a written notice to Buyer, the amount set forth as due in

the monthly settlement statement. Such payment shall be made on (a) the last Business Day of the Month immediately following the Month to which Seller's monthly settlement statement relates (or the next succeeding Business Day), or (b) the tenth (10th) day after receipt by Buyer of Seller's monthly settlement statement (or the next succeeding Business Day), if such tenth day is not a Business Day, whichever is later.

3.2.2 Payment to Buyer

In the event that the amount owed to Buyer by Seller for any Month exceeds the amount owed by Buyer to Seller, Seller shall pay to Buyer, by wire transfer of immediately available funds to a specified account, or by other means agreed to by the Parties, the amount set forth as due in the monthly settlement statement. Such payment shall be made on (a) the twentieth (20th) day of the Month immediately following the calendar Month to which Seller's settlement statement relates (or the next succeeding Business Day), or (b) the tenth (10th) day after receipt by Buyer of Seller's monthly settlement statement (or the next succeeding Business Day, if such tenth day is not a Business Day), whichever is later.

3.3 Billing Disputes

A Party may, in good faith, dispute the correctness of any invoice or adjustment to an invoice rendered under this Agreement or adjust any invoice for any arithmetic or computational error within twenty-four (24) months of the end of the Contract Year of which the subject invoice was rendered. In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with notice of the objection given to the Party issuing such invoice. Any billing dispute or billing adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. If it is determined that an adjustment to the invoice is appropriate, then such payment shall be required to be made within two (2) Business Days of such determination along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Overpayments by a Party shall, at the option of the Party making such overpayment, be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or

deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in accordance with this Section 3.3 within twenty-four (24) months of the end of the Contract Year of which the subject invoice was rendered or any specific adjustment to the invoice is made.

4. CERTIFICATION AS AN ELIGIBLE RENEWABLE ENERGY RESOURCE

4.1 RPS Certification

Buyer requires that all Energy sold under this Agreement shall meet the RPS requirements. At its own expense, Seller shall obtain RPS Pre-Certification and RPS Certification of the Project with the CEC. Seller shall file an application with the CEC for RPS Certification as soon as possible but in no event later than thirty (30) days after receipt of the Exhibit E, Commercial Operation Date Confirmation Letter from Buyer, and shall provide the CEC all information necessary to verify the RPS Certification filing. Seller shall obtain RPS Certification as soon as reasonably possible after COD and thereafter shall maintain RPS Certification throughout the Delivery Term.

Seller shall ensure that throughout the Term, Energy and Environmental Attributes from the Project meet the criteria defined by the CEC Renewables Portfolio Standard Eligibility Guidebook for PCC-1 and the criteria of California Public Utilities Code 399.16(b)(1). The Parties agree that the sale and delivery of Energy and RECs from the Project under this Agreement is a sale of bundled Energy and RECs according to the applicable CEC RPS Eligibility Guidebook.

4.2 Environmental Attribute Delivery Obligation

Seller shall sell and deliver, and Buyer shall receive and purchase from Seller, all rights, title, and interest in all Environmental Attributes associated with Energy produced by the Project and delivered to Buyer at the Delivery Point whether now existing or that hereafter come into existence during the Term; provided that, pursuant to Section 2.4.4, Buyer shall pay Seller the Refund Payment for any Discounted Energy as calculated therein. Seller agrees to sell to Buyer all such Environmental Attributes to the fullest extent allowable by applicable Law, and convey the same to Buyer in accordance with the procedures in Exhibit H. Seller warrants that all Environmental Attributes provided to Buyer shall be free and clear of all liens, security interests, claims and encumbrances.

4.3 WREGIS Registration

Documentation of Environmental Attributes associated with the Energy produced under this Agreement shall be tracked through WREGIS. Seller shall register the Project in WREGIS and transfer RECs from its WREGIS account into Buyer's WREGIS account, in accordance with Exhibit H. Seller shall be responsible for all WREGIS costs and fees associated with the issuance/creation of WREGIS RECs in Seller's account for the Project and for transfers out of its account to Buyer, and Buyer shall be responsible for any fees associated with the transfer of Project WREGIS RECs into its WREGIS account and/or retirement of such WREGIS RECs in Buyer's WREGIS account.

In addition to the Energy, RECs are required to be provided monthly for all Energy produced from the Project (not including an amount of Energy equal to the Project's Station Service Load and any losses prior to the Delivery Point), evidencing that Buyer has exclusive rights to the Environmental Attributes.

4.4 Additional Evidence of Environmental Attribute Conveyance

At Buyer's request, Seller shall provide additional reasonable evidence to Buyer or to third parties of Buyer's right, title, and interest in Environmental Attributes and information with respect to Environmental Attributes.

4.5 Modification of Environmental Attribute Reporting and Conveyance Procedure

The Parties shall revise Exhibit H as appropriate, and issue a new Exhibit H which shall then become part of the Agreement, in order to reflect changes necessary in the Environmental Attribute conveyance procedure for Seller to be able to receive WREGIS Certificates and transfer them to Buyer, and for Buyer to be able to receive and report the Environmental Attributes purchased under the Agreement as belonging to Buyer, in the event that:

- (a) WREGIS changes the WREGIS Operating Rules after the Effective Date or applies the WREGIS Operating Rules in a manner inconsistent with Exhibit H after the Effective Date; or,
- (b) WREGIS is replaced as the primary method that the Parties use for conveyance of Environmental Attributes, or additional methods to convey all Environmental Attributes are required.

4.6 Reporting of Ownership of Environmental Attributes

Seller shall not report to any person or entity that the Environmental Attributes sold and conveyed hereunder to Buyer belong to anyone other than Buyer, and Buyer may report under any such program that such Environmental Attributes purchased hereunder belong to it.

4.7 Greenhouse Gas (GHG) Emissions

Seller shall bear all liability for reporting any and all GHG emissions from the Project, and for any compliance obligations under federal, state (including AB 32) and local laws for such emissions.

4.8 Operating Procedures; WREGIS

The Parties shall cooperate to develop detailed operating procedures (the “Operating Procedures”) for the performance of the Parties’ respective obligations under this Agreement related to operation of the Project on or prior to three (3) months before the start of the Delivery Term.

The Operating Procedures shall include, but shall not be limited to: (a) procedures concerning the method of day-to-day communications; (b) key personnel lists for each of Seller and Buyer, (c) compliance procedures to ensure WREGIS tracking of the Environmental Attributes associated with the Product (“WREGIS Compliance Procedures”), which shall incorporate and be consistent with the procedures described in Exhibit H.

WREGIS Compliance Procedures shall provide that Seller shall take all actions and execute all documents or instruments necessary to ensure that all WREGIS Certificates associated with all RECs corresponding to all delivered Energy are issued and tracked for purposes of satisfying the requirements of the California Renewables Portfolio Standard or other applicable laws or regulations and transferred in a timely manner to Buyer for Buyer’s sole benefit.

The Parties shall review and, if appropriate, update the WREGIS Compliance Procedures to reflect any changes in WREGIS requirements at least annually.

4.9 Change in Law and Compliance Expenditure Cap

4.9.1 Compliance Expenditure Cap

The Parties agree that expenditures to comply with the requirements of Sections 4.1 through 4.8 and Sections 5.1 through 5.3 are “Compliance Expenditures” and that the Compliance Expenditures that Seller shall be required to bear during the Term of this Agreement shall be capped at a total of one hundred twenty-five thousand dollars (\$125,000) per Contract Year and one million two hundred fifty thousand dollars (\$1,250,000) in the aggregate over the Term (“Compliance Expenditure Cap”).

4.9.2 Change in Law

If a change in Law occurs after the Effective Date that affects Seller’s compliance with its obligations under any of Sections 4.1 through 4.8 and Sections 5.1 through 5.3, Seller shall not be in breach of such obligations if Seller has used commercially reasonable efforts to comply with such change in Law as it pertains to such obligations. For purposes of this Section 4.9, the term “commercially reasonable efforts” shall not require additional out-of-pocket expenditures in the aggregate in excess of the Compliance Expenditure Cap in complying with the changes in Law described in this Section 4.9 unless Buyer and Seller have agreed in writing for Buyer to reimburse Seller for or to pay directly such excess expenditures.

4.9.3 Excess Compliance Expenditures

4.9.3.1 Within thirty (30) calendar days after the end of each calendar quarter during the Term, Seller shall provide Buyer with a report describing the Compliance Expenditures that Seller incurred during that calendar quarter and the total Compliance Expenditures incurred during the Contract Year that includes such calendar quarter. Prior to incurring Compliance Expenditures that are anticipated to exceed the Compliance Expenditure Cap in any Contract Year or over the Term, Seller shall notify Buyer of the expected Compliance Expenditures. Following such notice, the Parties shall attempt to agree to limit such Compliance Expenditures to the extent practicable; provided, however, that nothing herein limits Seller’s right to incur Compliance Expenditures that Seller believes in good faith must be incurred for Seller to comply with its obligations under this Agreement, as long as the above notification provisions are met.

4.9.3.2 If Seller determines that Compliance Expenditures in excess of the Compliance Expenditure Cap will have to be incurred, then Seller shall notify Buyer and provide documentation and calculations to support the expected

excess Compliance Expenditures. Buyer may then: (1) approve the expected excess Compliance Expenditures and notify Seller of such approval, and Seller shall comply upon receipt of notice of Buyer's approval and Buyer's payment to Seller for the expected excess Compliance Expenditures; or (2) elect not to pay Seller for the expected excess Compliance Expenditures and notify Seller of such decision, in which case this Agreement shall continue in full force and effect and Seller shall continue to be excused from performing or meeting any obligation that causes, or would cause, the incurrence of such Compliance Expenditures in excess of the Compliance Expenditure Cap, and Buyer shall pay Seller the Contract Price in full notwithstanding any such non-performance or non-compliance. Buyer is not required to reimburse Seller for any Compliance Expenditures unless and until Buyer agrees to the expected Compliance Expenditures in excess of the Compliance Expenditure Cap and, if Buyer elects not to reimburse Seller for any such Compliance Expenditures, then Seller shall be excused from performing or meeting any obligation in this Agreement that requires Seller's payment or incurrence of such unreimbursed Compliance Expenditures in excess of the Compliance Expenditure Cap. For avoidance of doubt, if a Change in Law makes it infeasible for Seller to comply with its obligations under this Section 4.9, and it is not possible to overcome the Change in Law through the expenditure of money, then (i) Seller shall be excused from the corresponding Compliance Actions under this Agreement, and (ii) Buyer shall continue to pay Seller under this Agreement without any reduction in revenues that otherwise would result from the Change in Law.

5. CONVEYANCE OF CAPACITY ATTRIBUTES

5.1 Conveyance of Capacity Attributes

If Capacity Attributes are included in the Products pursuant to Section 2.1, then Seller shall provide to Buyer any attestation that Buyer reasonably requires in order for Buyer to show evidence that it has procured the Capacity Attributes associated with the Project in accordance with the procedure in Exhibit F. At Buyer's request, Seller shall execute such documents and instruments as may be reasonably required to affect recognition and transfer of the Capacity Attributes.

5.2 Reporting of Ownership of Capacity Attributes

If Capacity Attributes are included in the Products pursuant to Section 2.1, then Seller shall not report to any person or entity that the Capacity Attributes sold and conveyed hereunder to Buyer belong to anyone other than Buyer, and Buyer may report under any such program that such Capacity Attributes purchased hereunder belong to it.

5.3 Modification of Capacity Attribute Conveyance Procedure

If Capacity Attributes are included in the Products pursuant to Section 2.1, then Buyer may propose revisions to Exhibit F as appropriate, give written notice to Seller regarding the revision, and, if Seller agrees to such proposed revisions, issue a new Exhibit F which shall then become part of the Agreement, in order to reflect changes necessary in the Capacity Attribute conveyance procedure for Buyer to be able to receive and report any Capacity Attributes purchased under the Agreement as belonging to Buyer.

In no event shall such revised Exhibit F cause Seller to incur any category of cost for which it is not already otherwise responsible under this Agreement, without prior notice by Buyer and agreement of the Parties as to the appropriateness of such cost belonging with the Seller.

6. INTERCONNECTION

6.1 Interconnection Agreement and Interconnection Costs

Seller shall be responsible for: it or its Affiliate negotiating and executing an Interconnection Agreement prior to commencing first deliveries of energy to Buyer; maintaining such Interconnection Agreement throughout the balance of the Term; and bearing any and all necessary costs under such Interconnection Agreement.

6.2 Transmission

Seller shall arrange and be responsible for transmission service for delivery of the Product to the Delivery Point. Buyer shall arrange and be responsible for transmission service for delivery of the Product at and from the Delivery Point.

6.3 Solar Irradiance Data

Solar Irradiance Data with respect to the Project must be available to Buyer upon request. For the purpose of forecasting solar energy production, Buyer has the right to share solar data with Buyer's contractors. Seller shall be responsible for retaining Vaisala, or other mutually agreeable third party, to collect and provide Solar Irradiance Data to Buyer. In addition, Seller shall provide real-time Solar Irradiance Data from a meteorological ground monitoring station at the site. On an annual basis, within thirty (30) calendar days of the end of each Contract Year, Seller shall be responsible for submission of an annual report of Actual Annual Solar Insolation data for Buyer's review and use in calculating adjustments to the Expected Annual Energy Production and Minimum Annual Energy Production for the Project.

In the event that Seller desires to replace Vaisala, or other agreed upon service provider, Seller and Buyer shall meet and confer and agree upon a substitute provider of Solar Irradiance Data. Pending such agreement, Seller may directly provide such data to Buyer.

6.4 Shared Facilities

The Parties acknowledge and agree that certain of the Shared Facilities and interconnection facilities, and Seller's rights and obligations under the Interconnection Agreement, may be subject to certain shared facilities or co-tenancy agreements to be entered into among Seller, the Participating Transmission Owner, Seller's Affiliates, or other third parties pursuant to which certain Shared Facilities and interconnection facilities may be subject to joint ownership and shared maintenance and operation arrangements; provided that such agreements (i) shall permit Seller to perform or satisfy, and shall not purport to limit, its obligations hereunder, including by obtaining sufficient rights to interconnection capacity to allow delivery of Energy in the amount of the Contract Capacity (with the interconnection capacity for the Facility in an amount no greater than the Contract Capacity), (ii) provide for separate metering of the Project, (iii) provide that any other generating or energy storage facilities not included in the Project but using Shared Facilities shall not be included within the Project's Resource ID, and (iv) provide that any curtailment of the Shared Facilities that is ordered by Transmission Provider that Seller and its Affiliates have discretion to allocate across generating or energy storage facilities using the Shared Facilities shall not be allocated to the Project in an amount that is higher than Buyer's pro rata portion of the total Capacity of all generating or energy storage facilities using the Shared Facilities.

7. MAINTENANCE

7.1 In General

Seller covenants to Buyer that Seller shall maintain the Project in accordance with Prudent Industry Practices. Seller covenants to Buyer that Seller shall perform Scheduled Maintenance between the hours from 10:00 p.m. PPT on any day to 6:00 a.m. PPT on the following day, or on a Saturday or Sunday, where economically and technologically feasible. Seller shall use commercially reasonable efforts to avoid performing Scheduled Maintenance during the months of May through September.

7.2 Scheduled Maintenance

7.2.1 Maintenance Schedule

Seller shall notify Buyer in writing no later than thirty (30) calendar days before the Commercial Operation Date, and thereafter on or before thirty (30) calendar days before the commencement of each Contract Year, of the planned maintenance schedule ("Maintenance Schedule") for the Project for the subsequent Contract Year, setting forth therein the Scheduled Maintenance to be performed during each Month of the subsequent Contract Year; it being understood, however, that the Maintenance Schedule may be changed from that submitted to Buyer on each such date and/or additional Scheduled Maintenance outage hours may be scheduled as reasonably necessary and consistent with Prudent Industry Practices. Seller shall provide Buyer with written notice of any change to the Maintenance Schedule promptly following the time that such determination has been made.

7.2.2 Additional Maintenance

In the event Seller or any third party performs any Scheduled Maintenance of the Project in addition to that set forth in the Maintenance Schedule provided to Buyer under Section 7.2.1, Seller shall provide written advance notice to Buyer of all such additional Scheduled Maintenance in accordance with the following notice provisions: (i) for any full or partial outage of less than two (2) calendar days expected duration, at least forty-eight (48) hours' notice to Buyer; (ii) for any full or partial outage of two (2) to five (5) calendar days expected duration, at least seven (7) calendar days' notice; and (iii) for any full or partial outage of more than five (5) days expected duration, at least ninety (90) calendar days' notice; unless, in each case, Buyer has given its prior written permission for shorter notice or the work to be performed during such Scheduled Maintenance must occur earlier in accordance with Prudent Industry Practices.

7.2.3 Forced Outages

Seller or any third party shall have the right, but not the obligation, to perform any additional maintenance of all or any portion of a Project during any time in which a Forced Outage has occurred with respect to all of such Project, or that portion of such Project to which additional maintenance is performed; provided, however, that:

- (a) Seller shall have no obligation to provide any additional notice to Buyer prior to performing such maintenance; and

- (b) such additional maintenance shall not extend the time for which Seller's obligation to deliver Energy is Curtailed under Section 8.5 beyond that which would have occurred if no such additional maintenance had been performed during such Forced Outage.

7.3 Modification of Project

Seller may make technological, equipment and other updates or modifications to the Project from time to time, so long as (a) the Contract Capacity, determined on an AC basis, does not exceed 70 MW, (b) the Delivery Point is not changed, and (c) the Energy, Capacity, Capacity Attributes, and Environmental Attributes produced by the Project comply with the requirements of this Agreement. No such updates or modifications shall excuse or otherwise modify Seller's obligations under this Agreement.

8. PERMITTING, STANDARD OF CARE, OPERATIONS, CURTAILMENT

8.1 Permitting

Seller shall be responsible for obtaining and maintaining, all permits and other governmental approvals for the construction, ownership and operation of the Project. Buyer may cooperate in such permitting efforts to the extent reasonably requested by Seller.

8.2 Standard of Care

Seller shall pay the costs of and be responsible for designing, installing, operating, and maintaining the Project in accordance with all applicable laws and regulations, and shall comply with all applicable WECC, RC West, FERC and NERC requirements, and with Prudent Industry Practice, including applicable interconnection and telemetering requirements set forth in the Interconnection Agreement.

Seller shall ensure that: (a) operation and maintenance of the Project is conducted in a safe manner in accordance with the Interconnection Agreement and Prudent Industry Practice; and (b) any governmental authorizations and permits required for the construction and operation thereof are maintained. Seller shall ensure that any necessary and commercially reasonable repairs are made with the intent of optimizing the availability of Energy and Environmental Attributes to Buyer.

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

8.3 Operation of the Project

The Project shall be operated in accordance with Prudent Industry Practice. Seller has an obligation to maximize availability of the Project in accordance with Prudent Industry Practice. Seller may interrupt or reduce deliveries only due to Force Majeure, Buyer Curtailment pursuant to Section 8.5, curtailment by the CAISO or any interconnection or transmission service provider, Planned Outages, Forced Outages, work performed under a Maintenance Schedule or otherwise in accordance with Section 7, and Buyer's failure to perform in any manner that directly affects the generation of Products by the Project. Seller shall take all reasonable measures in accordance with Prudent Industry Practice to minimize the frequency and actual duration of Planned Outages. All Planned Outages shall be scheduled in advance.

8.4 Buyer Performance Excuse

Buyer shall not be obligated to accept or pay for Energy produced by the Project during a Force Majeure event that prevents Buyer's ability to accept Energy from the Project at the Delivery Point.

8.5 Buyer Economic Curtailment Rights

Seller acknowledges that Buyer shall retain the ability to curtail the output of the Project through full or partial curtailment, by specifying the terms of the Economic Bids in accordance with Section 9.1 below, subject to Buyer's obligation to pay Seller for all Buyer Curtailed Production in accordance with the terms hereof.

9. SCHEDULING AND FORECASTING; OUTAGES; ACCESS RIGHTS

9.1 Scheduling Coordination Service

9.1.1 Seller or Seller's Designee

For all periods hereunder, Seller or Seller's designee shall be the Scheduling Coordinator for scheduling the Project and Products (and any Ancillary Services, if

applicable and available at no additional cost to Seller) into the CAISO at the Delivery Point.

9.1.2 Applicable Instructions and Economic Bids

9.1.2.1 No later than ninety (90) days prior to the expected COD of the Project (as communicated by Seller to Buyer, and as may be extended in accordance with this Agreement), the Parties shall cooperate to agree upon instructions for bidding and submitting Schedules for the Project (“Applicable Instructions”). As part of the Applicable Instructions, Buyer may specify the terms of the bids to be submitted by Seller in the CAISO market (“Economic Bids”).

9.1.2.2 Seller or its designee as Scheduling Coordinator shall submit Schedules and Economic Bids in accordance with the Applicable Instructions and this Section 9.1, including any updates to such Schedules and Economic Bids, to the CAISO based on the most current forecast of Energy consistent with the VER Forecast. Seller or its designated Scheduling Coordinator shall submit Schedules and Economic Bids to the CAISO in accordance with the Applicable Instructions, this Agreement, and the applicable CAISO Tariff on a day-ahead, hour-ahead, fifteen-minute market, real time basis, or other applicable period.

9.1.2.3 Buyer may, at its sole discretion, change its Economic Bid price from time to time by written notification to Seller, provided that any updated Economic Bid continues to comply with this Section 9.1.2, and Seller shall accommodate such changes within two (2) Business Days of receipt of such written notification. If all or part of Buyer’s Economic Bid does not clear in the applicable CAISO market, then Seller will promptly curtail Project output to the amount of the Economic Bid that did clear in the applicable CAISO market. Buyer shall pay Seller for the resulting Buyer Curtailed Production pursuant to Section 2.2.4. Seller assumes all financial risk for discrepancies, if any, between Economic Bid instructions provided by Buyer in conformance with this Agreement, and the prices and quantities actually submitted by Seller or Seller’s designated Scheduling Coordinator. If Seller or its Scheduling Coordinator incorrectly submits an Economic Bid, then Seller shall be responsible for any negative pricing consequences related to the Energy that would not have cleared in the applicable CAISO market if Seller had accurately submitted such Economic Bid.

9.1.2.1 To the extent permissible under the CAISO Tariff, Seller shall follow Buyer's instructions to appropriately bid and/or schedule the Project's (i.e., Buyer's share of the Grace Orchard Complex's) generation into the CAISO as a Supporting Resource and shall not cause any limitation on Buyer's ability to use any Capacity Attributes for resource adequacy (or similar) purposes or the Contract Capacity as a Supporting Resource. In addition, Seller shall not take any action to restrict or otherwise limit such bidding/scheduling capability associated with the Contract Capacity serving as a Supporting Resource or any Capacity Attributes; provided, however, that Seller shall not be obligated under this Section 9.1.2.1 to comply with instructions or refrain from taking actions that would (i) require modification to the Project or incurrence by Seller of additional non-administrative costs, or (ii) result in material adverse impacts to Seller or the Project, or curtailments of the Project's generation that are not compensated by Buyer hereunder as Buyer Curtailed Production.

9.1.3 Other Responsibilities

In its role as the Party responsible for acting as or retaining a Scheduling Coordinator to schedule the Project, Seller shall perform or comply with the following, as applicable.

- (a) Seller shall be responsible for all settlement functions with the CAISO related to the Project including the validation of settlements consistent with the ISO Tariff.
- (b) Seller may be required to dispute CAISO settlements in respect of the Project per section (a). If after Seller has performed their due diligence Buyer disagrees and directs Seller to dispute a CAISO settlement, Buyer agrees to pay Seller's costs and expenses (including reasonable attorneys' fees) associated with its involvement with such CAISO disputes to the extent they relate to CAISO charges payable by Buyer with respect to the Project.
- (c) Seller shall provide the data to the CAISO (and to Buyer) that is required for the CAISO's Master Data File and Resource Data Template (or successor data systems) for the Project consistent with this Agreement. Seller shall not change such data without providing Buyer with notice.

- (d) Seller shall comply with NERC reliability standards.

9.1.4 Cooperation

Each Party shall use commercially reasonable efforts as necessary to facilitate the other Party's efforts to meet its obligations under applicable CAISO, Host Utility, other Transmission Provider, FERC, CEC, or other Governmental Authority requirements. To the extent that Capacity Attributes are included in the Products pursuant to Section 2.1, Seller shall use commercially reasonable efforts to support Buyer's efforts to (i) obtain capability rights for such Capacity Attributes, (ii) obtain any other rights that Buyer is required to obtain, or (iii) take any other actions that Buyer is required to take in order for Buyer to make use of the Capacity Attributes of the Project, in each case as may be required under applicable Law.

9.1.5 CAISO New Resource Implementation Process.

Seller shall provide to Buyer a project schedule and timeline for planned completion of the CAISO's New Resource Implementation process at least 60 days prior to the first planned synchronization test. Seller as Scheduling Coordinator shall provide Buyer with access to a web based system through which Buyer may verify Seller has submitted to the CAISO all notices and updates required under the CAISO Tariff regarding the Project's status, including all outage requests, Forced Outages, Forced Outage reports, clearance requests, or must offer waiver forms. Seller as Scheduling Coordinator shall provide Seller with up to ten (10) combined total (or more, if agreed by Seller) read-only certificates for both portal and API access to all CAISO applications that allow certificate access for a Generating Unit Resource ID, including ADS, MRI-S and OMS.

9.2 Forecasting

Seller shall cause the Project to become a Participating Intermittent Resource including executing all necessary documents to become a Participating Intermittent Resource. Seller shall be responsible for all CAISO forecasting fees and related charges associated with the Project becoming a Participating Intermittent Resource and participating in the VER Forecasting Program. Seller and Buyer shall comply with the VER Forecasting Program, and all additional protocols issued by the CAISO relating to Participating Intermittent Resources, including the VER Forecasting Program, for the Delivery Term, and shall elect to use the forecast of the Project's output provided by CAISO for submitting Schedules and Economic Bids in the CAISO markets, unless

otherwise agreed to in writing. Seller, in its role as the Party responsible for acting as or obtaining a Scheduling Coordinator, expects to receive notification from CAISO approximately thirty (30) days after COD that the Participating Intermittent Resource has been certified. If CAISO notification has not been received by forty (40) days after COD, Seller will take all necessary steps to ensure that CAISO certifies the project as a Participating Intermittent Resource. From the time the Project begins producing Test Energy until such time that the resource VER forecast is visible in the VER Forecasting Program, Seller shall provide a fifteen (15)-minute forecast of the Project's Energy output to Buyer. In the event that the VER Forecasting Program or the CAISO Tariff and/or any protocols relating thereto are changed, amended, modified replaced or terminated, and Seller's costs to comply increase, Seller and Buyer agree to comply with such revisions and, to the extent practical, to implement such revisions in a manner that maintains the relative economic positions of the parties as of the date of this Agreement. Seller shall perform according to the Scheduling Procedures, attached as Exhibit J to the Agreement, which may be amended by the Parties' agreement from time to time.

9.3 Planned Outages

For the purposes of this Agreement a maintenance outage shall constitute a Planned Outage; provided that this Section 9.3 does not modify or restrict Seller's rights under Section 7.2. Planned Outages may only be taken upon thirty (30) calendar days' written notice to Buyer; provided, however, if there are short maintenance outages that can be completed between 10:00 p.m. and 6:00 a.m. or on Saturday or Sunday in accordance with Prudent Industry Practice, such outages may be conducted upon three (3) calendar days written notice to Buyer. Seller shall avoid Planned Outages during the months of May through September, to the extent practicable. Seller shall provide Planned Outage and short maintenance outage notifications in accordance with the Outage Notification Procedure detailed in Exhibit G.

9.4 Forced Outages

Seller shall notify Buyer of any Forced Outage of the Project that reduces the Project Capacity by more than five percent (5%) for more than twenty-four (24) hours' duration or that is expected to reduce the available Capacity by more than five percent (5%) during any WECC defined on-peak period during the months of May through

September. Seller shall provide Forced Outage notifications as described above in accordance with the Outage Notification Procedure detailed in Exhibit G.

9.5 Modification of Outage Notification Procedure

The Parties may modify Exhibit G to reflect mutually agreed -upon changes necessary in the Outage Notification Procedure, and issue a new Exhibit G reflecting such mutually agreed upon changes which shall then become part of the Agreement.

9.6 Access Rights

Buyer, its authorized agents, employees and inspectors, shall have the right to inspect the Project on reasonable advance notice during normal business hours and for any purposes reasonably connected with this Agreement or the exercise of any and all rights secured to Buyer by law. During any on-site inspections, Buyer shall comply, and shall cause its representatives to comply, with Seller's or the Project operator's safety and security requirements and protocols. Seller shall keep Buyer informed of current procedures for communicating with Seller's or the Project operator's safety and security departments or personnel. Buyer shall be responsible for having provided commercially reasonable insurance for any such Buyer-related personnel, and shall not interfere with work on or operation of the Facility.

9.7 Control Facilities

Seller shall ensure accurate operation of all necessary facilities, including metering, communications, telemetry and meteorological equipment as required under the CAISO Tariff. Seller shall test such facilities, and implement such protocols and practices, and thereafter maintain such facilities, as necessary (a) for Seller or the Project operator to respond and follow instructions, including an electronic signal conveying real time instructions, to operate the Project as directed by the Buyer in accordance with this Agreement and the CAISO Tariff and/or the CAISO, and (b) for Buyer and/or the CAISO to control the quantity of Energy generated by the Project in order to respond to curtailments.

10. EVENTS OF DEFAULT, TERMINATION AND REMEDIES

10.1 Events of Default

10.1.1 Events of Default by Either Party

An “Event of Default” shall mean with respect to a Party (a “Defaulting Party”), the occurrence of any of the following:

- 10.1.1.1 the failure to make, when due, any payment required pursuant to this Agreement if such failure is not remedied within ten (10) Business Days after written notice from the other Party;
- 10.1.1.2 any representation or warranty made by such Party herein is false or misleading in any material respect when made, and such representation or warranty is not made true and correct within thirty (30) calendar days after written notice from the other Party;
- 10.1.1.3 the failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default, and except for (i) any failure to deliver WREGIS Certificates, the exclusive remedy for which is set forth in Section 2.4.4, and (b) any failure to meet the AEAEP, the exclusive remedy for which is set forth in Section 2.4.5) if such failure shall not be cured within thirty (30) calendar days after written notice from the other Party; provided, however, that if (i) such failure cannot be cured within such thirty (30) calendar day period, (ii) such failure is susceptible of cure within ninety (90) calendar days, (iii) the Defaulting Party is proceeding with diligence and in good faith to cure such failure, and (iv) the Defaulting Party shall have delivered notice to the other Party describing the details of clauses (i), (ii) and (iii) above and periodic updates regarding its efforts to cure such failure, then such thirty (30) calendar day cure period shall be extended to such date, not to exceed a total of ninety (90) calendar days, as shall be necessary to cure such failure;
- 10.1.1.4 such Party becomes Bankrupt;
- 10.1.1.5 such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement to which it or its predecessor was a Party by operation of Law or pursuant to an agreement reasonably satisfactory to the other Party; or
- 10.1.1.6 the failure by such Party to satisfy the collateral requirements pursuant to Section 11, within ten (10) Business Days after notice from the other Party; or
- 10.1.1.7 with respect to any outstanding Letter of Credit provided for the benefit of the other Party that is not then required under this Agreement to be canceled or returned, the failure by such Party to provide for the benefit of such other Party either cash or a substitute Letter of Credit from a different issuer meeting the criteria set forth in the definition of Letter of Credit, or, in the case of the

Delivery Term Security required to be provided by Seller, a Surety Bond meeting the requirements of this Agreement, in each case, in the amount required hereunder within ten (10) Business Days after such Party receives notice from the other Party of the occurrence of any of the following events:

- (a) the issuer of the outstanding Letter of Credit shall fail to maintain a Credit Rating of at least A- by S&P or Fitch or A3 by Moody's;
- (b) the issuer of such Letter of Credit becomes Bankrupt;
- (c) the issuer of the outstanding Letter of Credit shall fail to comply with or perform its obligations under such Letter of Credit and such failure shall be continuing after the lapse of any applicable grace period permitted under such Letter of Credit;
- (d) the issuer of the outstanding Letter of Credit shall fail to honor a properly documented request to draw on such Letter of Credit;
- (e) the issuer of the outstanding Letter of Credit shall disaffirm, disclaim, repudiate or reject, in whole or in part, or challenge the validity of, such Letter of Credit; or
- (f) such Letter of Credit fails or ceases to be in full force and effect at any time.

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

10.1.2 Additional Event of Default by Seller

With respect to Seller, the occurrence of any of the following also shall be an Event of Default:

10.1.2.1 The Project fails to achieve Commercial Operation of at least ninety five percent (95%) of the Contract Capacity on or prior to the Guaranteed Commercial Operation Date, as that date may be extended by Seller through an extension of the Scheduled COD in accordance with the terms and conditions of this Agreement, including Section 2.3.6;

10.1.2.2 If, after the Commercial Operation Date, Seller has not sold or delivered any Energy from the Project to Buyer for a period of three hundred and sixty-five (365) consecutive days;

10.1.2.3 Seller fails to obtain RPS Certification for the Project within six (6) months after COD, except if failure to obtain RPS Certification within this six (6) month

period is not due to Seller's action or inaction, in which case (i) Seller shall have a day-for-day delay right to obtain RPS Certification up to an additional six (6) months for a total of no more than twelve (12) months after COD as long as such day-for-day delay is not due to Seller's action or inaction, and (ii) Seller shall present to Buyer a reasonable plan of action laying out those steps that Seller shall take in order to obtain such RPS Certification as quickly as possible;

10.1.2.4 If, in any two consecutive Contract Years, the Adjusted AEP in each such Contract Year is less than eighty-five percent (85%) of the Adjusted MAEP for such Contract Year, which Adjusted MAEP shall include an annual degradation rate of one half of one percent (MAEP*.005) beginning on the first day of the second full Contract Year of this Agreement, and annually thereafter (as set forth in Exhibit C); and as adjusted for the Actual Annual Solar Insolation, subject to the following provisions:

- (a) Any Notice of termination for an Event of Default under this Section 10.1.2.4 shall be given in writing a minimum of sixty (60) calendar days prior to the effectiveness of such termination and within one hundred twenty (120) calendar days following the end of the second of the applicable two Contract Years that triggered such Event of Default; provided, however, that Buyer's ability to exercise such termination right in respect of any two consecutive Contract Years shall be deferred for up to one year (or deferred up to two years if caused by a Transformer Failure or Serial Defect) if Seller has demonstrated to Buyer, and is actively implementing in good faith, a "Cure Plan" for any such failure as described below;
- (b) A Cure Plan may include, but is not limited to, the addition of solar modules to the system at Seller's sole expense;
- (c) A Cure Plan that reasonably shows the Project's ability to achieve an Adjusted AEP of eighty-five percent (85%) of the Adjusted MAEP in the next two consecutive Contract Year period (i.e. the two Contract Years after the Contract Year in which the Cure Plan is implemented, or, if the Event of Default was caused by a Transformer Failure or Serial Defect, the two Contract Years after the two Contract Year period in which the Cure Plan is implemented) must be submitted to Buyer in writing within fifteen (15) calendar days of Seller's receipt of Buyer's Notice of Termination, and Buyer shall then have fifteen (15) calendar days after receipt of the Cure Plan to inform Seller in writing of any reasonable objections to the Cure Plan;
- (d) Buyer's non-objection to, or requested modifications to, Seller's Cure Plan does not waive Buyer's termination rights in the event that the Cure Plan is not ultimately effective to cause the Adjusted MAEP for the two

succeeding Contract Year period after the Contract Year in which the Cure Plan is implemented (or, if the Event of Default was caused by a Transformer Failure or Serial Defect, the two succeeding Contract Year period after the two Contract Year period in which the Cure Plan is implemented) to equal or exceed eighty-five percent (85%) of the applicable Adjusted MAEP (decreased as set forth in Section 10.1.2.4 above);

- (e) Any disagreements regarding the Cure Plan will be resolved in accordance with the dispute resolution provisions in Section 22 hereof; and
- (f) For avoidance of doubt, Buyer's termination rights under Section 10.1.2.4 relating to performance during the two consecutive Contract Year period are not waived during the period when the Cure Plan is being developed and implemented, and if Seller does not meet an Adjusted AEP of at least eighty-five percent (85%) of the Adjusted MAEP in the next two consecutive Contract Year period (i.e. the two Contract Years after the Contract Year in which the Cure Plan is implemented, or, if the Event of Default was caused by a Transformer Failure or Serial Defect, the two Contract Years after the two Contract Year period in which the Cure Plan is implemented), then Buyer may terminate this Agreement under Section 10.2 with no further Cure Plan period and no further deferment of time of termination;

10.1.2.5 Subject to Section 4.9, Seller's failure after the Commercial Operation Date to maintain RPS Certification for the Project, if such failure is not cured within thirty (30) Days after written notice from Buyer; provided that during any period where Seller has not maintained RPS Certification for the Project, whether before or after written notice, Buyer shall not be obligated to purchase any Energy or other Products from Seller hereunder, but Seller may sell such Energy and other Products to third parties; or

10.1.2.6 With respect to any Surety Bond provided for the benefit of Buyer, the failure by Seller to provide for the benefit of Buyer either (1) cash, (2) a replacement Surety Bond from a different Surety Bond Provider, or (3) a replacement Letter of Credit from an issuer meeting the criteria set forth in the definition of Qualified Issuer, in each case, in the amount required hereunder within ten (10) Business Days after Seller receives notice of the occurrence of any of the following events:

- (a) if any representation or warranty made by the Surety Bond Provider in connection with this Agreement is false or misleading in any material respect when made or when deemed made or repeated, and such default is not remedied within thirty (30) days after notice thereof;

- (b) the failure of the Surety Bond Provider to make any payment required in connection with this Agreement;
- (c) the Surety Bond Provider becomes Bankrupt;
- (d) the failure of the Surety Bond to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Seller hereunder; or
- (e) the Surety Bond Provider shall repudiate, disaffirm, disclaim, or reject, in whole or in part, or challenge the validity of any Surety Bond.

10.2 Declaration of an Event of Default

If an Event of Default has occurred and is continuing, the other Party (“Non-Defaulting Party”) shall have the right to: (a) send notice, designating a day, no earlier than five calendar days after such notice is deemed to be received and no later than twenty (20) calendar days after such notice is deemed to be received, as an early termination date of this Agreement (“Early Termination Date”) unless the Parties have agreed to resolve the circumstances giving rise to the Event of Default; (b) accelerate all amounts owing between the Parties; and (c) terminate this Agreement and end the Delivery Term effective as of the Early Termination Date. For all claims, causes of action and damages with respect to an Event of Default, in addition to the right to terminate this Agreement, the Non-Defaulting Party shall be entitled to recover actual damages allowed by law unless otherwise limited by this Agreement. Neither the enumeration of Events of Default in Section 10.1, nor the termination of this Agreement by a Non-Defaulting Party, shall limit the right of a Non-Defaulting Party to rights and remedies available at law, including claims for breach of contract or failure to perform by the other Party and for direct damages incurred by the Non-Defaulting Party as a result of the termination of this Agreement, subject in each case to any limitations in this Agreement.

10.3 Termination Payment Calculation

If an Event of Default occurs, ultimately resulting in termination of the Agreement, a “Termination Payment” shall be determined in accordance with this Section 10.3.

The “Termination Payment” payable by the Defaulting Party to the Non-Defaulting Party shall equal: (i) Non-Defaulting Party’s Loss as calculated under paragraph (a) below and discounted to present value as set forth under paragraph (b) below; plus (ii) Non-Defaulting Party’s Cost as calculated under paragraph (c) below; which will then be

aggregated with any amounts owed to the Non-Defaulting Party as of the Early Termination Date and any set-offs to which Defaulting Party is entitled as set forth under paragraph (d) below. Notwithstanding the foregoing, if the sum of the amounts calculated under paragraphs (a), (b), and (c) below would be less than zero (i.e., if the calculation of the Non-Defaulting Party's Loss plus its Costs yields a negative number under the calculation below), then the result of that calculation shall be deemed to be zero.

- (a) The Parties intend that Non-Defaulting Party's "Loss" shall be the economic loss (exclusive of Costs), if any, resulting from the termination of the Agreement, determined in a commercially reasonable manner as calculated in accordance with this Section 10.3. The Loss, if any, suffered by Non-Defaulting Party shall be determined by comparing the value of the remaining term, applying the Expected Annual Energy Production (EAEP) and the Contract Price for each year of the remaining term under the Agreement had it not been terminated to the equivalent quantity and each party obtaining, in good faith and from non-affiliated market participants in the relevant market, two quotes for prices of CA RPS PCC 1 bundled renewable energy and RECs for the affected period of a similar quality and quantity in the geographical location closest in proximity to the Delivery Point and averaging the four quotes. If either Party fails to provide two quotes then the average of the other Party's two quotes shall determine the replacement price. For clarity, if Buyer is the Non-Defaulting Party, the Non-Defaulting Party's Loss equals the amount by which the market price of replacement Energy and Environmental Attributes exceeds the Contract Price therefor, and if the Seller is the Non-Defaulting Party, the Non-Defaulting Party's Loss equals (A) the amount by which the Contract Price hereunder exceeds the market price of such Energy and Environmental Attributes, plus (B) the value of lost Production Tax Credits that Seller would have earned on such Energy and Environmental Attributes for the relevant years of the remaining term applying the Expected Annual Energy Production (EAEP) for each year of the remaining term, under Internal Revenue Code (Title 26 of the U.S. Code, Section 45 and Section 45Y), less any expenses saved by Seller due to Buyer's default, which includes, but is not limited to, any cost of production of the Energy and Environmental Attributes not incurred by Seller. To ascertain the market price of a replacement contract, Non-Defaulting Party may consider, among other valuations, quotations from leading dealers in ERR contracts, and other bona fide third party offers, all adjusted for the length of the remaining term and differences in transmission. It is expressly agreed that the Non-Defaulting Party shall not be required to enter into replacement transactions in order to determine the Termination Payment.

- (b) The Loss calculated under paragraph (a) above shall be discounted to present value using the Present Value Rate as of the time of termination (to take into account the period between the time notice of termination was effective and when such amount would have otherwise been due pursuant to this Agreement).
- (c) The Non-Defaulting Party's "Costs" shall be calculated as the sum of the brokerage fees, commissions and other similar transaction costs and expenses reasonably incurred in terminating and replacing the Agreement, including reasonable transmission costs associated with any replacement contract, and reasonable attorneys' fees, if any, incurred in connection with Non-Defaulting Party enforcing its rights with regard to the Agreement. Non-Defaulting shall use reasonable efforts to mitigate or eliminate Costs.
- (d) The Non-Defaulting Party shall add any amounts owed by the Defaulting Party to the Non-Defaulting Party as of the Early Termination Date to, and shall set-off any amounts owing by the Non-Defaulting Party as of the Early Termination Date, against the Termination Payment so that all such amounts are aggregated and/or netted to a single amount. The net amount due shall be paid within thirty (30) Business Days following the effective date of termination, or, if the Parties disagree regarding the calculation of the Termination Payment, the date that the Parties agree on the Termination Payment pursuant to Section 10.4 below.
- (e) In no event, however, shall the calculation of Loss or Costs include any penalties or similar charges imposed by the Non-Defaulting Party.
- (f) Notwithstanding any other provision of this Agreement, (i) Seller's aggregate liability under this Agreement prior to the Commercial Operation Date, including arising out of a termination of this Agreement, shall not exceed an amount equal to the Damage Payment, and (ii) if an Event of Default by Seller has occurred prior to the Commercial Operation Date, and Buyer has not provided any reply regarding such Event of Default within ninety (90) days after the occurrence of such Event of Default by Seller, then, provided such Event of Default is then continuing, Seller shall have the right to terminate this Agreement and pay the Damage Payment then owing hereunder to Buyer.
- (g) Payment by the Defaulting Party of the Damage Payment or Termination Payment, as applicable, shall constitute liquidated damages and the Non-Defaulting Party's sole and exclusive remedy for the Event of Default and declaration of an Early Termination Date related thereto, and *further provided*, promptly upon Buyer's receipt of the Damage Payment or Termination Payment, as applicable, Buyer shall return to Seller the Development Security or the Performance Security to the extent either of them, as applicable, did not comprise (i.e., was not used as) the Damage

Payment or the Termination Payment, as applicable, and neither Party shall have any further obligation or liability to the other Party hereunder.

10.4 Disputes

If the Defaulting Party reasonably disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, the calculation issue shall be resolved in accordance with Section 22 of this Agreement.

11. CREDITWORTHINESS

11.1 Project Development Security

Within ten (10) Business Days of execution of this Agreement by both Parties, Seller shall provide Buyer with one of the following: (a) cash (subject to an escrow agreement reasonably acceptable to each Party); (b) a letter of credit from a Qualified Issuer substantially in the form set forth in Exhibit K-1 ("Seller Letter of Credit") in each case in the amount of forty-five dollars (\$45) per kW of Contract Capacity (the "Project Development Security"), which shall be returned to Seller upon the COD. Seller shall have no obligation to replenish the Project Development Security after any draw thereon, no lien or other security shall be required, and Buyer's recourse against Seller shall be limited to the Project Development Security provided.

11.2 Delivery Term Security

Within ten (10) days following COD for (a) or (b) below, or within fifteen (15) days following COD for (c) below, Seller shall provide Buyer with one of the following: (a) cash ; (b) a Seller Letter of Credit; or (c) a Surety Bond from a Surety Bond Provider, in each case in the amount of seventy-five dollars (\$75) per kW of Contract Capacity, which amount shall be reduced after the tenth (10th) Contract Year (and for the remainder of the Delivery Term) to thirty-seven dollars and fifty cents (\$37.50) per kW of Contract Capacity (the "Delivery Term Security"). Upon receipt of the Delivery Term Security, Buyer shall return to Seller the Project Development Security provided pursuant to Section 11.1. Seller shall maintain the applicable Delivery Term Security for the duration of the Term; provided, however, that notwithstanding anything to the contrary in this Section 11.2 or elsewhere in this Agreement, Seller's replenishment obligation with respect to the Delivery Term Security shall be limited such that the total amount of any replenishments of the Delivery Term Security shall not exceed one (1) time the amount of the original Delivery Term Security. If Seller provides a Letter of

Credit, Seller shall renew or provide a new Letter of Credit or cash or a Surety Bond at least thirty (30) calendar days before the current Letter of Credit expiration date. A Letter of Credit must be in substantially the form set forth in Exhibit K-1 or any other form that is reasonably acceptable to Buyer.

No lien or other security shall be required and Buyer's recourse against Seller shall be limited to the Delivery Term Security provided.

"Qualified Issuer" means a major U.S. commercial bank or the U.S. branch of a foreign bank that, at the time of delivery of a Letter of Credit, (i) has assets of at least ten billion dollars (\$10,000,000,000), (ii) has a senior unsecured long-term credit rating of A- or better by Standard and Poor's and A3 or better by Moody's, and (iii) is reasonably acceptable to SMUD; provided, however, that (A) Buyer shall confirm or deny such acceptance within five (5) Business Days after receipt of Seller's notice regarding its proposed Qualified Issuer and if no response is received by Seller within such five (5) Business Day period, then Buyer shall be deemed to have accepted such Qualified Issuer, (B) notwithstanding anything to the contrary here, Seller shall have ten (10) Business Days from receipt of Buyer's acceptance or deemed acceptance of a Qualified Issuer to post the Seller Letter of Credit, (C) if Buyer denies acceptance of a proposed Qualified Issuer, then the timelines for Seller to provide a Seller Letter of Credit shall restart for all purposes hereunder, and (D) Buyer may not deny acceptance of a proposed Qualified Issuer more than two (2) times.

11.3 First Priority Security Interest in Cash or Cash Equivalent Collateral

To secure its obligations under this Agreement, and until released as provided herein, Seller hereby grants to Buyer a present and continuing first-priority security interest ("Security Interest") in, and lien on (and right to net against), and assignment of, as applicable, the Project Development Security and Delivery Term Security, to the extent provided in the form of cash, and any other cash collateral and cash equivalent collateral posted pursuant to Sections 11.1, 11.2, and 11.3, and any and all interest thereon or proceeds resulting therefrom or from the liquidation thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and Seller agrees to take all action as reasonably requires in order to perfect the Security Interest in, and lien on (and right to net against), such collateral and any and all proceeds resulting therefrom or from the liquidation thereof. Upon or any time after the occurrence and continuation of an Event of Default caused by Seller, an Early Termination Date resulting from an

Event of Default caused by Seller, or an occasion provided for in this Agreement where Buyer is authorized to retain all or a portion of the Project Development Security and, Delivery Term Security as applicable, Buyer may do any one or more of the following (in each case subject to the final sentence of this Section 11.3):

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

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

11.4 Letters of Credit

If the Project Development Security or Delivery Term Security is a Letter of Credit and the issuer of such Letter of Credit (a) fails to maintain the minimum Credit Rating set forth in the definition of Qualified Issuer, or (b) fails to honor the secured Party's properly documented request to draw on such Letter of Credit by such issuer, then the posting Party shall have ten (10) Business Days to either post cash or deliver a substitute Letter of Credit that meets the requirements set forth in the definition of Seller Letter of Credit or Buyer Letter of Credit, as applicable.

If the Seller or issuer of such Letter of Credit indicates its intent not to renew such Letter of Credit, and the Letter of Credit will expire prior to the end of the Term, the Seller will provide a replacement security prior to the expiration of such Letter of Credit.

12. FORCE MAJEURE

12.1 Effect of Force Majeure

A Party shall not be considered to be in default in the performance of any of its obligations under this Agreement (other than the obligations of a Party to make payment of amounts due under this Agreement) when and to the extent such Party's performance is prevented by a Force Majeure that, despite the exercise of due diligence, such Party is unable to prevent or mitigate; provided the Party has given a written detailed description of the full particulars of the Force Majeure that are then known to the other Party reasonably promptly after becoming aware thereof, or reasonably promptly after the date that such Party should have become aware of, the Force Majeure) (the "Force Majeure Notice"), which Force Majeure Notice shall include information with respect to the nature, cause and date and time of commencement of the Force Majeure, and the anticipated scope and duration of the delay. Failure of the claiming Party to provide written notice as required in the preceding sentence constitutes a waiver of a Force Majeure claim for all periods prior to other Party's receipt of such written notice. The Party providing the Force Majeure Notice shall be excused from fulfilling its obligations under this Agreement until such time as the Force Majeure has ceased to prevent performance or other remedial action is taken, at which time the Party shall promptly notify the other Party of the resumption of its obligations under this Agreement. In no event shall either Party be obligated to compensate the other Party or any other Person for any losses, expenses or liabilities that such other Party or such other Person may sustain as a consequence of any Force Majeure.

12.2 Meaning of Force Majeure

The term "Force Majeure" means any act or event, including any act of God or the elements, strike or labor disturbance, act of the public enemy or criminal activity, sabotage, war, terrorism, blockade, insurrection, riot, civil disturbance, fire, storm or flood, lightning, hurricane, tornado, ice storm, hail, earthquake, volcanic eruption, extreme or unusual weather events, explosion not caused by the affected Party, epidemic or pandemic and the efforts of any Governmental Authority to combat such events including quarantine, change in law or any order, restraint, directive, regulation or restriction imposed by Governmental Authority or any military or lawfully established civilian authorities, landslide, mudslide, New PV Trade Measure Event, WRO Restraint, a delay in the issuance of any permits needed for the Project, including any rights-of-way by the United States Department of the Interior, Bureau of Land Management for any Shared Facilities to be used by the Project, or any similar event or occurrence (i) which prevents one Party from performing any of its obligations under this Agreement or

delays such performance, (ii) which could not reasonably be anticipated (other than New PV Trade Measure Events and WRO Restraints) and/or avoided as of the date of this Agreement, (iii) which is not within the reasonable control of, or the result of negligence, willful misconduct, breach of contract, intentional act or omission or wrongdoing on the part of the affected Party (or any subcontractor or Affiliate of that Party, or any Person under the control of that Party or any of its subcontractors or Affiliates, or any Person for whose acts such Affiliate or subcontractor is responsible), and (iv) which by the exercise of due diligence the affected Party is unable to overcome or avoid or cause to be avoided; provided nothing in this clause (iv) shall be construed so as to require either Party to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations by reason of a Force Majeure shall exercise reasonable efforts to remove such inability with reasonable dispatch within a reasonable time period and mitigate the effects of the Force Majeure. The relief from performance shall be of no greater scope and of no longer duration than is required by the Force Majeure. Without limiting the generality of the foregoing, a Force Majeure does not include any of the following (each an "Unexcused Cause"): (1) any requirement to meet a renewable portfolio standard or any change (whether voluntary or mandatory) in any renewable portfolio standard that may affect the value of the Energy purchased hereunder; (2) events arising from the failure by Seller to construct, operate or maintain the Project in accordance with this Agreement, unless such failure was itself caused by an event of Force Majeure; (3) any increase of any kind in any cost, except to the extent associated with a New PV Trade Measure; (4) delays in or inability of a Party to obtain financing or other economic hardship of any kind; (5) Seller's ability to sell any Products at a price in excess of that provided in this Agreement or Buyer's ability to purchase any Products at a price less than that provided in this Agreement; (6) failure of third parties to provide goods and services essential to a Party's performance, unless such failure was itself caused by an event of Force Majeure; (7) Project or related equipment failure of any kind unless caused by a Force Majeure (8) any changes in the financial condition of Buyer, Seller, the Lender or any subcontractor or supplier affecting the affected Party's ability to perform its obligations under this Agreement; or (9) a determination by either Party's governing body.

12.3 Buyer Excuse

For purposes of this Agreement, a Force Majeure shall be deemed to excuse Buyer from receiving Energy at the Delivery Point if the Force Majeure is not related to the Project, is declared by Buyer, and prevents Buyer from receiving Energy from the Project.

12.4 Termination Due to Force Majeure Event

If based on a Force Majeure Notice provided by a Party (the “Claiming Party”), the other Party (the “Non-Claiming Party”) reasonably concludes that a Force Majeure or its impact on the Claiming Party affecting more than seventy-five percent (75%) of the Project will continue (i) for a period of three hundred and sixty-five (365) or more consecutive days, then the other Party (the “Non-Claiming Party”) shall have the right to terminate this Agreement effective upon notice to the Claiming Party provided, however, that if the Claiming Party provides documentation to the Non-Claiming Party reasonably demonstrating that the foregoing more than seventy-five percent (75%) for three hundred sixty-five (365) days or more consecutive days standard is satisfied, and if the Non-Claiming Party does not provide any response to the Claiming Party within ninety (90) days after receipt of such documentation, then the Claiming Party shall have the right to terminate this Agreement upon written notice to the Non-Claiming Party. Upon any termination pursuant to this Section 12.4, neither Party shall owe any damages, Damage Payment, or Termination Payment under this Agreement in respect of such termination or the Force Majeure, and Buyer shall return the Project Development Security or Delivery Term Security, as applicable, to Seller. Any termination of this Agreement in the circumstances described in this section shall be without prejudice to the rights and remedies of either Party for defaults occurring prior to such termination, if any.

13. INDEMNITY

13.1 Indemnity by Seller

Seller shall defend, release, indemnify and hold harmless Buyer, its directors, officers, employees, agents, and representatives against and from any and all losses, claims, demands, liabilities and expenses, actions or suits, including reasonable costs and attorney’s fees, resulting from, or arising out of or in any way connected with claims by third parties associated with the acts or omissions of Seller, its directors, officers, employees, agents and representatives relating to this Agreement; excepting only such

loss, claim, action or suit to the extent caused by the willful misconduct or gross negligence of Buyer, its agents, employees, directors or officers.

13.2 Indemnity by Buyer

Buyer shall defend, release, indemnify and hold harmless Seller, its directors, officers, employees, agents, and representatives against and from any and all losses, claims, demands, liabilities and expenses, actions or suits, including reasonable costs and attorney's fees resulting from, or arising out of or in any way connected with claims by third parties associated with acts or omissions of Buyer, its directors, officers, employees, agents, and representatives, relating to this Agreement; excepting only such loss, claim, action or suit to the extent caused by the willful misconduct or gross negligence of Seller, its agents, employees, directors or officers.

14. LIMITATION OF DAMAGES

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT THERE IS NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY AND ALL IMPLIED WARRANTIES ARE DISCLAIMED. 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 UNLESS EXPRESSLY HEREIN PROVIDED. EXCEPT WITH REGARD TO INDEMNIFICATION OF THIRD PARTY CLAIMS IN ACCORDANCE WITH SECTION 13, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, OR OTHERWISE (EXCEPT TO THE EXTENT PART OF AN EXPRESS REMEDY OR MEASURE OF DAMAGES HEREIN, OR INCLUDED IN A LIQUIDATED DAMAGES CALCULATION SPECIFIED HEREIN). THE AFTER-TAX VALUE OF ANY LOST TAX BENEFITS AND THE COSTS OF RECAPTURE OF ANY TAX BENEFITS OR CREDITS, IF ANY, ARE CONSIDERED DIRECT DAMAGES. UNLESS EXPRESSLY HEREIN PROVIDED, AND SUBJECT TO THE PROVISIONS OF SECTION 13 (INDEMNITY), IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE

NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

15. REPRESENTATION AND WARRANTIES; COVENANTS

15.1 Representations and Warranties

On the Effective Date, each Party represents and warrants to the other Party that:

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) The execution, delivery and (subject to potential management, board, or board committee approvals as and when required for the applicable performance obligations) performance of this Agreement is 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;
- (c) This Agreement 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;
- (d) It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its actual knowledge, threatened against it which would result in it being or becoming bankrupt;
- (e) There are not pending or to its actual knowledge threatened legal proceedings against it or any of its Affiliates that could materially adversely affect its ability to perform its obligations under this Agreement; and
- (f) It is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of, and understands and accepts, the terms, conditions and risks of this Agreement.

15.2 General Covenants

Each Party covenants that throughout the Term:

- (a) It shall continue to be duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

- (b) It shall maintain (or obtain from time to time as required, including through renewal, as applicable) all regulatory authorizations necessary for it to legally perform its obligations under this Agreement; and
- (c) It shall perform its obligations under this Agreement in a manner that does 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.

16. NOTICES

Notices shall, unless otherwise specified herein, be in writing and may be delivered by hand delivery, United States mail, overnight courier service, or electronic messaging (e-mail). Whenever this Agreement requires or permits delivery of a “notice” (or requires a Party to “notify”), the Party with such right or obligation shall provide a written communication in the manner specified below. A notice sent by email shall be recognized and shall be deemed received on the Business Day on which such notice was transmitted if received before 5 p.m. Pacific prevailing time (and if received after 5 p.m., on the next Business Day) and a notice by overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party unless it confirms a prior oral communication, in which case any such notice shall be deemed received on the day sent. A Party may change its addresses by providing notice of same in accordance with this provision. All written notices shall be directed as shown in Exhibit I. Either Party may request a change to Exhibit I as necessary to keep the Exhibit I information current.

17. SET OFF

Each Party shall be entitled to offset amounts owed to it by the other Party under this Agreement from the amounts owed by such Party to the other Party under the Agreement and vice versa.

18. MARKET-BASED RATE AUTHORIZATION AND EWG STATUS

At least five (5) calendar days before the date on which Seller first sells and delivers any electricity to Buyer, Seller shall have delivered to Buyer (a) a copy of the Seller’s notice of self-certification of Exempt Wholesale Generator status filed with FERC, and (b) final orders by FERC authorizing Seller to sell electricity at wholesale at market-based rates under the Federal Power Act (the “Market-Based Rate Authorization”). Seller shall

maintain and shall be in compliance with the Market-Based Rate Authorization for the term of this Agreement.

19. MOBILE-SIERRA

Notwithstanding any other provision of this Agreement, neither Party may seek to revise the rates, terms or conditions of service of this Agreement, prospectively or retroactively, through application or complaint to FERC under any of the Federal Power Act, absent written consent of the other Party. Nor, absent the prior written consent of the other Party, may a Party, directly or indirectly, support any third party seeking to revise the rates, terms or conditions of service of this Agreement under any provision of the Federal Power Act. Because the rates, terms and conditions of this Agreement are fixed for the duration of the Agreement and are the product of arms' length bargaining, absent prior agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party or the FERC acting *sua sponte* shall be the "public interest" application of the "just and reasonable" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 US 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 US 348 (1956).

20. ASSIGNMENT

20.1 No Assignment Without Consent

Except as specified below in this Article 20, neither Party shall assign this Agreement or its rights hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Each Party shall reimburse the other Party for its out-of-pocket costs and expenses, including reasonable attorneys' fees in excess of five thousand dollars (\$5,000), incurred in connection with any such assignment, or requested assignment, including in connection with obtaining required consents.

20.2 Permitted Assignments and Changes in Control

20.2.1 Permitted Assignments

20.2.1.1 Notwithstanding Section 20.1, consent shall not be required for:

- (a) Any transfer, sale, pledge, encumbrance, or assignment of this Agreement or the accounts, revenues, or proceeds hereof by Seller to Lenders.

- (b) Any assignment or transfer of this Agreement by Seller to an Affiliate of Seller, provided that such Affiliate's creditworthiness is equal to or better than that of Seller, as reasonably demonstrated by Seller in a written notice to Buyer notifying Buyer of such assignment or transfer and Buyer concurs and such concurrence shall not be unreasonably withheld;
- (c) Any assignment or transfer of this Agreement by Seller to a Person succeeding to all or substantially all of the assets of Seller, provided that such Person's creditworthiness is equal to or greater than that of Seller, as reasonably determined by Buyer; or
- (d) Any assignment or transfer of this Agreement by Seller to any assignee (including any Affiliate of Seller) that is a Permitted Transferee.

20.2.2 Change of Control

Any direct or indirect Change of Control of Seller (whether voluntary or by operation of law) is deemed an assignment and will require the prior written consent of Buyer, which consent shall not be unreasonably withheld; provided, however, that a Change of Control of Seller shall not require Buyer's consent if (i) the Seller after such Change of Control is Controlled by any Lender, (ii) the entity that is the Seller at the conclusion of the Change of Control is a Permitted Transferee, or (iii) such Change of Control is, or is a result of, a direct or indirect Change of Control of NEOP or NEP. For avoidance of doubt, a Change of Control shall not be deemed to have occurred as a result of a Permitted Transfer, and no consent is required under this Agreement with respect to a Permitted Transfer.

20.3 Buyer Limited Assignment

Buyer may request that Seller enter negotiations to permit Buyer's limited assignment in connection with a municipal prepayment transaction of all or a portion of Buyer's rights to receive certain Products (which shall not be for a retail sale, and which shall not include the right to schedule or dispatch the Project or any portion of the Product, or any right to act as Scheduling Coordinator for the Project or to offer any portion of the Product into the CAISO markets) and Buyer's obligations to make payments for such Product under this Agreement to J. Aron and Company, LLC ("J. Aron") or other third party at any time (together with J. Aron, each a "Limited Assignee") upon not less than thirty (30) days' notice by delivering a written request for such assignment. The limited assignment shall not introduce, or purport to convey or otherwise allege, any right of

Buyer or Limited Assignee to make any prepayment to Seller under the Agreement or to file or impose any lien on the Project, or otherwise modify any provision of this Agreement, and shall be expressly subject to the Limited Assignee's timely payment of amounts due under this Agreement with respect to the assigned Product. Buyer shall pay Seller for any payments not timely made by Limited Assignee, and Buyer shall remain obligated to perform all of its obligations under this Agreement notwithstanding the limited assignment, including any credit-related requirements, and payment for all amounts due and owing under this Agreement, including the total gross amount due to Seller under each invoice. Any failure by the Limited Assignee to make payments to Seller when due hereunder shall be a Buyer Event of Default if not cured within the applicable cure period specified in this Agreement. Subject to the foregoing, following any request by Buyer, (a) Seller, Buyer and the Limited Assignee shall negotiate in good faith the execution of a limited assignment agreement based on the form attached hereto as Exhibit O, (b) if requested by Seller, Seller and Buyer shall negotiate in good faith an indemnity and/or a legal opinion, to be provided by Buyer for the benefit of Seller, in form and substance satisfactory to Seller and its Lenders (if any), including that Seller shall not be required to agree to any terms or conditions which are reasonably expected to have an adverse effect on Seller or its Lenders, and (c) Limited Assignee shall provide such credit support or performance assurance for its obligations as Seller may reasonably require. Notwithstanding anything to the contrary in connection with such limited assignment, if (1) the assignment, transfer or conveyance of the assigned Product pursuant to such limited assignment, or (2) Seller's performance of any obligation under the assignment agreement, fails to meet any requirements of this Agreement, then Seller shall not be deemed to be in breach of any obligation in this Agreement, including without limitation any representation or warranty herein. Limited Assignee and Buyer shall comply with all reasonable requests received by Seller or any Lender in connection with such limited assignment, including providing any reasonably requested acknowledgments with respect to any Collateral Assignment Agreement.

20.4 Lender Accommodations

20.4.1 Consents and Estoppel Certificates

To facilitate Seller's efforts to obtain financing to construct and operate the Project, Buyer will, as soon as reasonably practicable after a reasonable request, cooperate reasonably with Seller and any Lender to provide such consents to

assignments, estoppels, certifications, representations, information or other documents as may be reasonably requested by Seller or such Lender in connection with any financing of the Project, including in connection with any pledge of the membership interests in Seller or its upstream Affiliates to a Lender as collateral for a financing involving the Project. Upon written request of Seller, Buyer agrees to execute a Consent to Collateral Assignment among Buyer, Seller, Seller's Affiliate, and any Lenders substantially in the form attached as Exhibit L, with such additional changes thereto as such assignee parties may reasonably request and as to which the Buyer shall not unreasonably withhold or delay its agreement. Buyer also agrees to execute customary estoppel certificates for the benefit of Seller and/or any Lenders as reasonably requested from time to time substantially in the form attached as Exhibit P, with such additional changes thereto as such Lender parties may reasonably request and as to which the Buyer shall not unreasonably withhold or delay its agreement.

20.4.2 Portfolio Financing

Seller may, without the prior written consent of Buyer, finance all or any portion of the Project, interconnection facilities, or Shared Facilities utilizing debt financing, equity financing (including tax equity), lease financing, or any other form of financing or any combination thereof, including pursuant to a portfolio financing of multiple energy generation, storage, and transmission facilities and other assets of Seller or Seller's Affiliates (which may include cross-collateralization or similar arrangements).

20.4.3 Lender Cure Rights

Buyer agrees that: (i) Buyer will provide the Lenders with notice of any Event of Default by Seller; (ii) for a period of thirty (30) days following the expiration of any cure period for a monetary Event of Default by Seller and ninety (90) days following the expiration of any cure period for a non-monetary Event of Default by Seller, such Lenders, or their designees, will have the right, but not the obligation, to perform any act required to be performed by Seller under this Agreement to prevent or cure the Event of Default and such act performed by the Lenders, or their designees will be as effective to prevent or cure an Event of Default as if done by Seller; and (iii) Buyer will not terminate this Agreement if any Lenders have provided notice to Buyer that they must foreclose on the

Facility prior to preventing or curing any Event of Default by Seller giving rise to such termination. In the event of a conflict between this Section 20.4.3 and an executed Consent to Collateral Assignment, the terms of the executed Consent to Collateral Assignment shall govern.

21. APPLICABLE LAW

THIS AGREEMENT AND THE RIGHTS AND DUTIES OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, ENFORCED AND PERFORMED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW.

22. DISPUTE RESOLUTION

22.1 Trial; Venue

The Parties agree that any suit, action or other legal proceeding by or against any party (or its affiliates or designees) with respect to or arising out of this Agreement shall be brought in the courts of the State of California sitting in the City and County of San Francisco, California.

22.2 Dispute Resolution

If the Parties are unable to resolve a dispute with respect to this Agreement, either Party shall send a notice to the other requesting a meeting at which senior officers or officials of the Parties shall attempt to resolve the dispute. If the Parties are unable to resolve the dispute within ten (10) calendar days after the meeting notice is received by the Party to whom it is directed, or such longer period as the Parties may agree, then either Party may elect to resolve such dispute in the courts of the State of California. The venue shall be the Superior Court in the City and County of San Francisco, California. Each Party shall pay and be responsible for their own attorney fees.

23. SEVERABILITY

If any provision in this Agreement is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Agreement and the Parties shall use commercially reasonable efforts to modify this Agreement to give effect to the original intention of the Parties.

24. 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. Delivery of an executed counterpart of this Agreement by facsimile or PDF transmission shall be deemed as effective as delivery of an originally executed counterpart.

25. GENERAL

No amendment to, modification of, or waiver under this Agreement shall be enforceable unless reduced to writing and executed by both Parties. This Agreement shall not impart any rights enforceable by any third party other than a permitted successor or assignee bound to this Agreement. Waiver by a Party of any default by the other Party shall not be construed as a waiver of any other default. The headings used herein are for convenience and reference purposes only. Seller and the agents and employees of Seller shall, in the performance of this Agreement, act in an independent capacity and not as officers or employees or agents of Buyer. Under this Agreement, Seller and Buyer intend to act as energy seller and energy purchaser, respectively, and do not intend to be treated as, and shall not act as, partners in, co-venturers in or lessor/lessee with respect to the Project or any business related to the Project. This Agreement shall not impart any rights enforceable by any third party (other than a permitted successor or assignee bound to this Agreement, and to the extent set forth herein, any Lender and/or indemnified party). This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

26. WAIVER OF SOVEREIGN IMMUNITY

SMUD will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement. SMUD warrants and covenants, to the extent of its legal authority, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to the enforcement of its obligations under this Agreement.

27. FURTHER ASSURANCES

Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than

those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

28. FORWARD CONTRACT; INAPPLICABILITY/WAIVER OF BANKRUPTCY CODE SECTION 366

Each Party acknowledges, intends, and to the extent applicable agrees that (i) this Agreement and the transactions contemplated by this Agreement constitute a “forward contract” and at least one of the Parties is a “forward contract merchant” within the meaning of the United States Bankruptcy Code; (ii) all payments made or to be made by a Party pursuant to this Agreement, including the application by a Party of Performance Security or Buyer Credit Support to any amounts due and owing to such Party, constitute “settlement payments” within the meaning of the United States Bankruptcy Code; and (iii) its rights under Section 11.2 of this Agreement constitute a “contractual right to liquidate, terminate or accelerate” or offset under a forward contract within the meaning of §§556, 561 of the Bankruptcy Code.

Each Party acknowledges and agrees that, upon a Party becoming Bankrupt, the other Party shall be entitled to exercise its rights and remedies under this Agreement in accordance with the safe harbor provisions of the Bankruptcy Code set forth in, inter alia, Sections 362(b)(6), 362(b)(17), 362(b)(27), 546(e), 548(d)(2), 556, and 561 thereof.

Each Party acknowledge and agrees that, for all purposes of this Agreement, that the provisions of 11 U.S.C. § 366 in any bankruptcy case or proceeding wherein such Party is a debtor are inapplicable, or if found to be applicable each Party waives and agrees not to assert the applicability of the provisions of 11 U.S.C. § 366 in any bankruptcy case or proceeding wherein such Party is a debtor. In any such bankruptcy case or proceeding, each Party further waives the right to assert that the other Party is a provider of last resort to the extent such term relates to 11 U.S.C. §366 or any other provision of 11 U.S.C. § 101-1532.

29. CHANGE IN ELECTRIC MARKET DESIGN

If a change in the CAISO Tariff renders this Agreement or any provisions hereof incapable of being performed or administered, then any Party may request that Buyer and Seller enter into negotiations to make the minimum changes to this Agreement necessary to make this Agreement capable of being performed and administered, while attempting to preserve to the maximum extent possible the benefits, burdens, and

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

30. CONFIDENTIAL INFORMATION

30.1 Definition of Confidential Information

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

30.2 Duty to Maintain Confidentiality

Confidential Information will retain its character as Confidential Information but may be disclosed by the recipient (the “Receiving Party”) if and to the extent such disclosure is required (a) to be made by any requirements of Law, (b) pursuant to an order of a court or (c) in order to enforce this Agreement. If the Receiving Party becomes legally compelled (by interrogatories, requests for information or documents, subpoenas, summons, civil investigative demands, or similar processes or otherwise in connection with any litigation or to comply with any applicable law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange, control area or independent system operator rule) to disclose any Confidential Information of

the disclosing Party (the “Disclosing Party”), Receiving Party shall provide Disclosing Party with prompt notice so that Disclosing Party, at its sole expense, may seek an appropriate protective order or other appropriate remedy. If the Disclosing Party takes no such action after receiving the foregoing notice from the Receiving Party, the Receiving Party is not required to defend against such request and shall be permitted to disclose such Confidential Information of the Disclosing Party, with no liability for any damages that arise from such disclosure. Each Party hereto acknowledges and agrees that information and documentation provided in connection with this Agreement may be subject to the California Public Records Act (Government Code Section 6250 et seq.)

30.3 Irreparable Injury; Remedies.

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

30.4 Disclosure to Lenders, Etc.

Notwithstanding anything to the contrary in this Section 30, Confidential Information may be disclosed by Seller to any actual or potential Lender or any of its Affiliates, and Seller’s actual or potential agents, consultants, contractors, or trustees, so long as the Person to whom Confidential Information is disclosed agrees in writing to be bound by the confidentiality provisions of this Section 30 to the same extent as if it were a Party.

30.5 Press Releases

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

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below.

SACRAMENTO MUNICIPAL

GRACE ORCHARD ENERGY
CENTER, LLC

UTILITY DISTRICT

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

31. EXHIBITS

Exhibit A – Description and Location of Project

Exhibit B – Contract Price

Exhibit C – Project Performance Benchmarks

Exhibit D – Average Annual Solar Irradiance by Month and Year

Exhibit E – Commercial Operation Date Confirmation Letter

Exhibit F – Capacity Attribute Reporting and Conveyance Procedure

Exhibit G – Outage Notification Procedure

Exhibit H – Environmental Attribute Reporting and Conveyance Procedure

Exhibit I – Notices

Exhibit J – Scheduling Procedures

Exhibit K-1 – Form of Seller Letter of Credit

Exhibit K-2 – Form of Surety Bond

Exhibit L – Form of Consent to Collateral Assignment

Exhibit M – Project Milestone Schedule

Exhibit N – Metering Diagram

Exhibit O – Form of Limited Assignment Agreement

Exhibit P – Form of Estoppel Certificate

Exhibit Q – SMUD Principles of Renewable Energy Development

Exhibit R – Form of Commercial Operation Date Certificate

Exhibit S – Form of Installed Capacity Certificate

Exhibit T – Performance Test

Exhibit A

DESCRIPTION AND LOCATION OF PROJECT

- A.1 The Project is a 70 MW portion of the second phase of the larger Grace Orchard Complex and will employ a ground-mounted solar tracking technology.
- A.2 The Project is located in Riverside County, California.
- A.3 The Project's primary fuel is solar.
- A.4 The Contract Capacity is 70 MWac at the Delivery Point.
- A.5 The Delivery Point is the point of interconnection of the Project with the CAISO grid at the Southern California Edison Company (SCE) Colorado River 230 kV Substation.

Upon mutual agreement of both Parties, a new Exhibit A may be issued. When updated, the Parties will insert a new effective date for this Exhibit A, which will replace the prior Exhibit A.

Effective Date

Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit B

CONTRACT PRICE

Contract Price for all Products:

\$ [REDACTED] /MWh flat for all Energy, with no escalator during the Delivery Term, for the Contract Quantity of 70 MWac at the Delivery Point.

Exhibit C
PROJECT PERFORMANCE BENCHMARKS

Not later than 365 days prior to the Commercial Operation Date, Seller may provide written notice to Buyer with updates to the Expected Annual Energy Production (EAEP) and Minimum Annual Energy Production (MAEP) values in the table below that reflect the final Project design. Upon delivery of such notice, this Exhibit C shall be deemed to have been amended to reflect such updated values and such updated values thereafter shall be included in this Exhibit C in lieu of the values set forth below. Additionally, no later than (a) three (3) months prior to the Commercial Operation Date, and (b) on or before July 1 for each calendar year thereafter for every subsequent Contract Year during the Delivery Term, Seller shall provide to SMUD a non-binding, illustrative schedule of the Project's hourly expected energy production for each day in each month of the following calendar year in a form reasonably acceptable to SMUD.

Contract Year	Expected Annual Energy Production (EAEP) MWh*	Minimum Annual Energy Production (MAEP) MWh*
1	205717	174860
2	204688	173985
3	203665	173116
4	202647	172250
5	201634	171388
6	200626	170531
7	199622	169679
8	198624	168830
9	197631	167986
10	196643	167146
11	195660	166310
12	194681	165479
13	193708	164653
14	192739	163828
15	191776	163010
16	190817	162194
17	189864	161384
18	188915	160577
19	187970	159774
20	187030	158976

* Both the Expected Annual Energy Production (EAEP) and Minimum Annual Energy Production (MAEP) include an annual degradation rate of 0.5%.

Exhibit D

**AVERAGE SOLAR IRRADIANCE BY MONTH AND YEAR
For Typical Weather Year Energy Calculation**

Month	Solar Irradiance (kWh/m2)
January	3.506
February	4.549
March	6.045
April	7.371
May	8.322
June	8.613
July	7.77
August	7.189
September	6.302
October	5.129
November	3.865
December	3.145
Annual Average (i.e., "Typical Annual Solar Insolation")	5.984

Data Source: Data Source: Vaisala Global Solar Dataset Typical GHI Year (Latitude: 33.610247, Longitude: -114.706133)

Exhibit E
COMMERCIAL OPERATION DATE CONFIRMATION LETTER

In accordance with the terms of that certain Power Purchase Agreement dated _____ (“Agreement”) by and between the Sacramento Municipal Utility District (“Buyer”) and Grace Orchard Energy Center, LLC (“Seller”), this letter serves to document the parties further agreement that the conditions precedent to the occurrence of the Commercial Operation Date have been satisfied, as of this ___ day of _____,

This letter shall confirm the Commercial Operation Date for the Project, as defined in the Agreement, as the date referenced in the preceding sentence.

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date of last signature provided below:

Grace Orchard Energy Center, LLC

Sacramento Municipal Utility District

By: _____

By: _____

Name:

Name: Jon Olson

Title:

Title: Director, Energy Trading &
Contracts

Date: _____

Date: _____

Exhibit F
CAPACITY ATTRIBUTE REPORTING AND CONVEYANCE PROCEDURE

F.1 Additional Definitions for the Conveyance of Capacity Attributes, if included in the Products pursuant to Section 2.1:

None.

F.2 Reporting of Capacity Attributes. If applicable, Buyer shall report the Capacity Attributes acquired herein in any regulatory filing that Buyer is required to make in order to declare the Capacity Attributes of the Project (or any portion thereof) as meeting Buyer's Capacity planning requirement (also known as Resource Adequacy).

F.3 If applicable, Seller shall complete any CAISO specific process for qualifying the Project as providing RA Capacity.

Changes in Capacity Attribute Conveyance Procedure. Subject to Section 5.3, the Parties shall revise this Exhibit F as appropriate, and issue a new Exhibit F, which shall then become part of the Agreement in the event that the method for reporting and conveying Capacity Attributes changes from the process described herein.

Exhibit G
OUTAGE NOTIFICATION PROCEDURE

G.1 Additional Definitions for the Outage Notification Procedure:

None.

G.2 Planned Outage Notifications. Seller shall notify Buyer at least 72 hours in advance of Planned Outages that result in a reduction in the effective output of the Project during period over which the Planned Outage is scheduled. Notification should be by email to the addresses shown in the Outages section of the Notices, Exhibit I.

G.3 Notification of PV Array Cleaning. If Seller has scheduled cleaning for PV arrays, Seller shall notify Buyer at least 72 hours in advance of scheduled cleaning, and should include details of the cleaning plan. Seller shall also follow-up with Buyer after cleaning of the Project in order to verify the actual cleaning dates and times. Notification should be made by email to the addresses shown in the Outages section of the Notices, Exhibit I.

G.4 Forced Outage Notifications. Within 24 hours of a Forced Outage of the Project that impacts the ability of the Project to produce Energy, Seller shall notify Buyer of the Forced Outage, including the Capacity of the Project that is impacted, and the expected duration of the Forced Outage. Within 24 hours of the return of the Project to service following the Forced Outage Seller shall notify Buyer of the return to service details. Notification shall be made by email to the addresses shown in the Outages section of the Notices, Exhibit I.

G.5 Changes in Outage Notification Procedure. Upon mutual consent of both Parties, Buyer shall revise this Exhibit G as appropriate, give written notice to Seller regarding the revision, and issue a new Exhibit G, which shall then become part of the Agreement to reflect changes in the Outage Notification Procedure.

G.6 Outage Communication to CAISO: Seller will be responsible for the communication to the CAISO and meeting all requirements and timelines for generation outage scheduling and reporting, per the CAISO Tariff and relevant CAISO Business Practice Manual (BPM), including submittal of outage and

derate tickets in the CAISO Outage Management System (OMS), or successor outage reporting methods as required under the CAISO Tariff and BPM.

Exhibit H
ENVIRONMENTAL ATTRIBUTE REPORTING AND CONVEYANCE PROCEDURE

H.1 Additional Definitions for the Conveyance of Environmental Attributes:

“Certificate Transfers” means the process, as described in the WREGIS Operating Rules whereby a WREGIS account holder may request that WREGIS Certificates from a specific generating unit be directly deposited into another WREGIS account.

H.2 Renewable Energy Credits. Environmental Attributes shall be conveyed by Seller to Buyer through RECs which shall be registered tracked and conveyed to Buyer using WREGIS.

H.3 WREGIS Registration. Seller shall register the Project in its WREGIS account. Seller shall be responsible for any costs associated with its WREGIS account and for issuance or creation of WREGIS Certificates for the Project.

H.4 Qualified Reporting Entity. Seller shall assume the responsibility for obtaining a Qualified Reporting Entity for Project, and shall be responsible for providing metered Project output data to WREGIS.

H.5 Transferring of Environmental Attributes. Seller shall transfer the WREGIS Certificates using Certificate Transfers from Seller’s WREGIS account to the WREGIS account of Buyer. Seller shall be responsible for any WREGIS certificate transfer fee out of Seller’s WREGIS account. Buyer shall receive the transferred Project WREGIS Certificates into its account, and shall be responsible for WREGIS transfer fees associated with the receipt of the WREGIS Certificates.

H.6 WREGIS Certificate

H.6.1 WREGIS Certificates for the Project shall be created on a calendar month basis in accordance with the certification procedure established by the WREGIS Operating Rules in an amount equal to the Energy generated by the Project and delivered to the Delivery Point in the same calendar month (subject, for the avoidance of doubt, to any reductions required by the CEC for Station Service

Load and applicable losses). Seller shall then transfer all WREGIS certificates associated with Energy sold to Buyer in that same calendar month.

H.6.2 WREGIS Certificates shall only be created for whole MWh amounts of energy generated. Any fractional MWh amounts (*i.e.*, kWh) shall be carried forward until sufficient generation is accumulated for the creation of a WREGIS Certificate and all such accumulated MWh of Environmental Attributes shall then be available to Buyer.

H.6.3 Should a WREGIS Certificate Modification be required to reflect any errors or omissions regarding the Environmental Attributes from the Project Seller shall manage the submission of the WREGIS Certificate Modification.

H.6.4 Due to the expected delay in the creation of WREGIS Certificates relative to the timing of invoice payments under Section 3.2, Buyer shall make an invoice payment for a given month in accordance with Section 3.2 before the WREGIS Certificates for such month shall be created in Seller's WREGIS account and transferred by Seller in to Buyer's WREGIS account. Notwithstanding this delay, Buyer shall have all right and title to all associated WREGIS Certificates upon payment to Seller in accordance with Section 3.2.

H.7 Changes in Environmental Attributes Reporting and Conveyance Procedure.

The Parties shall revise this Exhibit H as appropriate, and issue a new Exhibit H which shall then become part of the Agreement, in order to reflect changes necessary in the Environmental Attribute conveyance procedure for Buyer to be able to receive and report the Environmental Attributes purchased under this Agreement as belonging to Buyer.

**Exhibit I
NOTICES**

All notices shall be directed as follows:

I.1 For Contract Administration

To Buyer:

Sacramento Municipal Utility District
Power Contracts Administration

6301 S Street
Sacramento, CA 95817-1899

Or,

P.O. Box 15830
Sacramento, CA 95852-1830

Phone: (916) 732-6244
Email: PowerContractsAdmin@smud.org

To Seller:

All Notices:

Grace Orchard Energy Center, LLC

Street: 700 Universe Blvd.

City: Juno Beach, FL 33408

Attn: Business Management

Phone: 561-691-7723 (Office) 561-301-4685 (Mobile)

Email: DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com
and Emre.Ergas@nexteraenergy.com

I.2 For Billing and Settlements

To Buyer:

Energy Settlements

Phone: (916) 732-6751

Email: EnergySettlements@smud.org

To Seller:

Grace Orchard Energy Center, LLC

Attn: Business Management

Phone: 561-691-7723 (Office) 561-301-4685 (Mobile)

E-mail: NEER-REVENUE-TEAM.SharedMailbox@nexteraenergy.com

and DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com

I.3 For Scheduling

To Buyer:

Day Ahead Trading Desk

Phone: (916) 732-5669

Email: dayaheadtrading@smud.org

To Seller:

Grace Orchard Energy Center, LLC

Scheduling: Attn: Day-Ahead – Christin Neff; Real-Time – PMI RT desk

Phone: Day-Ahead - 561-304-6053; Real-Time – 561-625-7100

Email: dl-nepm-dayaheaddesk-wecc@nexteraenergy.com

and nepm.realtimedesk@nexteraenergy.com

I.4 For Planned Outages

To Buyer:

Day Ahead Trading Desk

Phone: (916) 732-5669

Email: rft1@smud.org, rft2@smud.org, dayaheadtrading@smud.org

To Seller:

Grace Orchard Energy Center, LLC

Street: 700 Universe Blvd.
City: Juno Beach, FL 33408
Attn: Business Management
Phone: 561-691-7723 (Office) 561-301-4685 (Mobile)
Email: DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com
and Emre.Ergas@nexteraenergy.com

I.5 For Forced Outages

To Buyer:

Real Time Scheduling Desks

Phone: (916) 732-5177

Email: rtt1@smud.org, rtt2@smud.org, dayaheadtrading@smud.org

To Seller:

Grace Orchard Energy Center, LLC

Street: 700 Universe Blvd.

City: Juno Beach, FL 33408

Attn: Business Management

Phone: 561-691-7723 (Office) 561-301-4685 (Mobile)

Email: DL-NEXTERA-WEST-INTERNATIONAL-REGION@nexteraenergy.com
and Emre.Ergas@nexteraenergy.com

Upon mutual agreement of both Parties, a new Exhibit I may be issued. When updated, the Parties will insert a new effective date for this Exhibit I, which will replace the prior Exhibit I.

Effective Date

Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit J SCHEDULING PROCEDURES

Background

The Project is a solar resource, where Seller or its designee will be the Scheduling Coordinator. The Project will be bid and scheduled into CAISO's markets in accordance with the Applicable Instructions. This document defines joint operating procedures for three distinct phases of operations.

SCID: [TBD]

Resource ID: [TBD]

Resource Type: Solar, Certified as VER (Variable Energy Resource) in CAISO

Pmax: 70 MW

Joint Procedures

Phase 1: Sync to Commercial Operation Date (estimated 30-60 days)

Seller will submit the outage ticket in WebOMS, in accordance with CAISO Procedure 5320: Resource Trial Operations and Test Energy Process and provide notification to SMUD (per Contact List below).

Seller will provide an hourly granularity generation forecast, based on the testing schedule, to SMUD in advance of day ahead scheduling, per the WECC scheduling calendar and will update if either unit capability or forecasted output deviates by more than 10 MW for rolling 7 calendar day period as a minimum, once per day.

Schedule will be provided by Seller via Secure File Transfer Protocol (SFTP) site and email (per Contact List below), using the Excel template provided by SMUD. File will include at least 5 calendar day rolling forecast.

As material changes arise, Seller will directly contact SMUD to update the generation schedule, per the Contact List below.

Seller will submit the Test Energy schedule outage through WebOMS per CAISO Procedure 5320: Resource Trial Operations and Test Energy Process and notify SMUD.

Seller will continue to submit outages per PPA Exhibit G: Outage Notification Procedure.

Seller's Scheduling Coordinator will not submit economic bids during this period.

Phase 2: Commercial Operation Date to visibility in CMRI (at least 30 days)

Seller will provide generation forecast in accordance with CAISO requirements for EIRs, based on site meteorologic data directly to CAISO.

Hourly granularity generation forecast will be provided to SMUD while VER is not available, as a minimum, once per day for a period of 7 calendar days equivalent to Seller submitted generation forecast to CAISO.

Seller's Scheduling Coordinator will submit a schedule as Scheduling Coordinator and no economic bids will be submitted during this period.

Seller will submit outages per PPA Exhibit G: Outage Notification Procedure.

Phase 3: Resource visible in CMRI, long term operations

Seller will use CAISO VER Forecast for scheduling and submission of Economic Bids in accordance with the Applicable Instructions developed pursuant to Section 9.1.2 of the Agreement. Seller's Scheduling Coordinator will submit Schedules and Economic Bids in accordance with such Applicable Instructions.

Seller will submit outages per PPA Exhibit G: Outage Notification Procedure.

Contact List

SMUD:

Day Ahead Trading Desk

Phone: (916) 732-5669

Email: dayaheadtrading@smud.org

Real Time Trading Desk

Phone: (916) 732-5177

Email: rtt1@smud.org, rtt2@smud.org

Resource Optimization

Email: ResourceOptimization@smud.org

Commodity Settlements

Email: EnergySettlements@smud.org

Joshua Gordon, Contract Administrator

Phone: 916-732-7252

Email: Joshua.gordon@smud.org

[Company name]:

[O&M Contact person][24 Hour Phone #][Company Phone][Contact Email]

Upon mutual agreement of both Parties, a new Exhibit J may be issued. When updated, the Parties will insert a new effective date for this Exhibit J, which will replace the prior Exhibit J.

Effective Date

Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit K-1
FORM OF SELLER LETTER OF CREDIT

[Issuing Bank Letterhead and Address]

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [XXXXXXXX]

Date:

Bank Ref.:

Amount: US\$[XXXXXXXXXX]

Expiry Date:

Beneficiary:

Attn: _____

Ladies and Gentlemen:

By the order of _____ (“Applicant”), we, [insert bank name and address] (“Issuer”) hereby issue our Irrevocable Standby Letter of Credit No. [XXXXXXXX] (the “Letter of Credit”) in favor of [SMUD], a California municipal utility district (“Beneficiary”), for an amount not to exceed the aggregate sum of U.S. \$[XXXXXXXX] (United States Dollars [XXXXXX] and 00/100), pursuant to that certain Power Purchase Agreement dated as of _____ and as amended (the “Agreement”) between Applicant and Beneficiary. This Letter of Credit shall become effective immediately and shall expire on [Insert Date] which is one year after the issue date of this Letter of Credit, or any expiration date extended in accordance with the terms hereof (the “Expiration Date”).

Funds under this Letter of Credit are available to Beneficiary by presentation on or before the Expiration Date of a dated statement purportedly signed by your duly authorized representative, in the form attached hereto as Exhibit A, containing one of the two alternative paragraphs set forth in paragraph 2 therein, referencing our Letter of Credit No. [XXXXXXXX] (“Drawing Certificate”).

The Drawing Certificate may be presented by (a) physical delivery, (b) as a PDF attachment to an e-mail to [*bank email address*] or (c) facsimile to [bank fax number [XXX-XXX-XXXX]] confirmed by [e-mail to [*bank email address*]] Transmittal by facsimile or email shall be deemed delivered when received.

The original of this Letter of Credit (and all amendments, if any) is not required to be presented in connection with any presentment of a Drawing Certificate by Beneficiary hereunder in order to receive payment.

We hereby agree with the Beneficiary that all documents presented under and in compliance with the terms of this Letter of Credit, that such drafts will be duly honored upon presentation to the Issuer on or before the Expiration Date. All payments made under this Letter of Credit shall be made with Issuer's own immediately available funds by means of wire transfer in immediately available United States dollars to Beneficiary's account as indicated by Beneficiary in its Drawing Certificate or in a communication accompanying its Drawing Certificate.

Partial and multiple draws are permitted under this Letter of Credit, and this Letter of Credit shall remain in full force and effect with respect to any continuing balance.

It is a condition of this Letter of Credit that the Expiration Date shall be deemed automatically extended without an amendment for a one year period beginning on the present Expiration Date hereof and upon each anniversary for such date, unless at least sixty (60) days prior to any such Expiration Date we have sent to you written notice by overnight courier service that we elect not to extend this Letter of Credit, in which case it will expire on the date specified in such notice. No presentation made under this Letter of Credit after such Expiration Date will be honored.

Irrevocable

Except as stated herein, this Letter of Credit is not subject to any condition or qualification and is our individual obligation which is in no way contingent upon reimbursement or any right of subrogation. We irrevocably waive any and all rights of subrogation, whether as provided by statute or otherwise, now or hereafter that might, but for such waiver, exist, in respect to this Letter of Credit or any payment we make under it, as to the Applicant, you, or the transaction between you and the Applicant. We further give irrevocable notice that we are not now and will not be the secondary obligor or co-obligator of Applicant's obligations and liabilities to you for any purpose. Our obligations to you under this Letter of Credit are our primary obligations and are strictly as stated herein. All charges associated with the Letter of Credit are for the account of Applicant.

Notwithstanding any reference in this Letter of Credit to any other documents, instruments or agreements, this Letter of Credit contains the entire agreement between Beneficiary and Issuer relating to the obligations of Issuer hereunder.

This Letter of Credit shall be governed by the International Standby Practices 1998, International Chamber of Commerce Publication No. 590 (the "ISP98"), except to the extent that the terms hereof are inconsistent with the provisions of the ISP98, in which case the terms of this Letter of Credit shall govern.

Notwithstanding Rule 5.01(a) of the ISP98, the Issuing Bank shall have a reasonable amount of time, not to exceed three (3) banking days following the date of its receipt of documents from the Beneficiary, to examine the documents and determine whether to take up or provide notice of dishonor and to inform the Beneficiary hereof accordingly.

Notwithstanding Rule 3.14(a) of the ISP98, if on the last business day for presentation, the place for presentation of this Letter of Credit is for any reason closed and presentation is not timely made because of that closure, then the expiry date of this Letter of Credit will be automatically extended without amendment to the thirtieth (30th) following day after the place for presentation reopens for business.

Please address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department at [insert bank address information], referring specifically to Issuer's Letter of Credit No. [XXXXXXXX]. For telephone assistance, please contact Issuer's Standby Letter of Credit Department at [XXX-XXX-XXXX] and have this Letter of Credit available. Matters not covered by the UCP shall be governed and construed in accordance with the laws of the State of New York.

[Bank Name]

[Insert officer name]

[Insert officer title]

Exhibit A

(DRAW REQUEST SHOULD BE ON BENEFICIARY'S LETTERHEAD)

Drawing Certificate

[Insert Bank Name and Address]

The undersigned, a duly authorized representative of [SMUD], a California municipal utility district, as beneficiary (the "Beneficiary") of the Irrevocable Letter of Credit No. [XXXXXXX] (the "Letter of Credit") issued by [insert bank name] (the "Bank") by order of _____ (the "Applicant"), hereby certifies to the Bank as follows:

1. Applicant and Beneficiary are party to that Renewable Power Purchase Agreement dated as of _____, 20__ (the "Agreement").
2. Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. \$_____ because a Seller Event of Default (as such term is defined in the Agreement) has occurred or other occasion provided for in the Agreement where Beneficiary is authorized to draw on the letter of credit has occurred.

OR

Beneficiary is making a drawing under this Letter of Credit in the amount of U.S. \$_____, which equals the full available amount under the Letter of Credit, because Applicant is required to maintain the Letter of Credit in force and effect beyond the expiration date of the Letter of Credit but has failed to provide Beneficiary with a replacement Letter of Credit or other acceptable instrument within thirty (30) days prior to such expiration date.

3. The undersigned is a duly authorized representative of Beneficiary and is authorized to execute and deliver this Drawing Certificate on behalf of Beneficiary.

You are hereby directed to make payment of the requested amount to Beneficiary by wire transfer in immediately available funds to the following account:

[Specify account information]

Name and Title of Authorized Representative

Date _____]

Exhibit K-2
FORM OF SURETY BOND

BOND NUMBER: _____

FINANCIAL AND PERFORMANCE GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS: That we, _____, a _____ limited liability company (hereinafter called the Principal), and _____ with its principal office at _____ located in the Continental United States, a corporation duly organized under the laws of the State of _____ (hereinafter called the Surety) as Surety, are held and firmly bound unto _____, a _____ (hereinafter called the Obligee), as Obligee, in the sum of _____ Dollars (\$_____) for the payment of which sum well and truly to be made, we the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

This Financial and Performance Guarantee Bond (the "Bond") is being issued in connection with a Power Purchase and Sale Agreement between Principal and Obligee dated _____ (referred to as the "Agreement").

Now therefore, the condition of this obligation is such that if the Principal shall well and truly keep all the terms and conditions as outlined in the Agreement, then this obligation shall be null and void; otherwise to remain in full force and effect, until terminated or expired as set forth below.

Provided, however, this Bond is executed by the Surety and accepted by the Obligee subject to the following conditions:

1. No assignment of this Bond shall be effective without the written consent of the Surety.
2. This Bond shall be effective for a period of one (1) year with an effective date of _____ and shall have an expiration date of _____, except that if the Surety has not provided written notice to the Obligee at least sixty (60) days prior to such expiration date that this Bond will terminate on such expiration date, this Bond shall automatically renew for an additional one-year period. Any notice by the Surety to the Obligor shall be sent by registered mail to the address below.

[insert address]

3. Such expiration shall not affect any liability incurred or accrued under this Bond prior to the effective date of such expiration. It is understood and agreed that the Obligee may recover the full amount of the Bond (less any previous amounts paid to the Obligee under the Bond) if Surety notifies Obligee that the Surety will not renew the Bond and, within thirty (30) days prior to the effective date of nonrenewal, the Obligee has not received replacement Performance Security (as defined in the Agreement).

4. Provided, however, it shall be a condition precedent to any right of recovery herein that, in the event of any breach of any payment or performance obligation of Principal under the Agreement, a written notice of such breach shall be given by the Obligee to the Surety and the

Surety will pay the amount set forth in the Obligees' notice within ten (10) Business Days (as defined below) after the Surety's receipt of such notice, subject to Section 7 below. "Business Days" means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday in California.

5. This Bond is a primary obligation of the Surety, and such obligation shall not be affected by:

- a. any modification, amplification, amendment, supplement, renewal or waiver of the Agreement or any of the terms or conditions of the Agreement;
- b. any postponement or extension of the date on which any payment must be made by the Obligees pursuant to the Agreement and mutually agreed to by the Obligees and the Principal or postponement or extension of the date on which any payment must be made, or act must be performed, by the Principal thereunder;
- c. any failure, omission, delay, waiver or refusal by the Obligees to exercise, in whole or in part, any right or remedy held by the Obligees with respect to the Agreement, except as to applicable statutes of limitation;
- d. any legal disability of the Principal or the Surety;
- e. any rights of subrogation, reimbursement, indemnity or contribution that the Surety or the Obligees may have against the Principal;
- f. any lack of knowledge by the Surety as to the condition (including financial) of the Principal, since the Surety shall be responsible for obtaining its own knowledge of such condition;
- g. any rights or defenses that are or may become available to the Surety by reason of Sections 2819 or 2845 of the California Civil Code; or
- h. any termination of or change in corporate existence, structure or ownership of the Principal or the Surety, or any insolvency, bankruptcy, reorganization or other similar proceeding affecting the Principal or its assets.

6. No action, suit or proceeding shall be had or maintained against the Surety on this unless the same be brought or instituted within six (6) months after the termination or expiration of this Bond.

7. Regardless of the number of years this Bond is in force, the aggregate liability of the Surety shall not be cumulative in amounts from period to period and shall in no event exceed the amount set forth above, or as amended by rider.

In witness whereof, said Principal and said Surety have caused this Bond to be duly signed and their seals affixed this ____ day of _____, ____.

Principal

BY: _____

Surety

BY: _____
Attorney-in-Fact

Exhibit L
FORM OF CONSENT TO COLLATERAL ASSIGNMENT

This **CONSENT TO COLLATERAL ASSIGNMENT AGREEMENT** (this “Consent”), dated as of _____, 20[], is executed by and among [NAME OF CONTRACTING PARTY], a [legal form of Contracting Party] organized under the laws of the State of [] (the “Contracting Party”), [], a [] (the “Project Owner”), and [], as collateral agent (in such capacity, together with its successors and permitted assigns, the “Collateral Agent”) for various financial institutions named from time to time as Lenders under the Credit Agreement (as defined below) and any other parties (or any of their agents) who hold any other secured indebtedness permitted to be incurred under the Credit Agreement (the Collateral Agent and all such parties collectively, the “Secured Parties”).

A. The Project Owner owns, operates and maintains [] (the “Project”).

B. The Contracting Party and the Project Owner have entered into the agreement specified in Schedule I hereto (as further amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the “Assigned Agreement”).

C. The Borrower, the Project Owner, the other affiliates of the Borrower as Guarantors, various financial institutions named therein from time to time as Lenders, [], as the Administrative Agent and Collateral Agent, have entered into a Credit Agreement, dated as of [] (as amended, modified or supplemented from time to time, the “Credit Agreement”), providing for the extension of the credit facilities described therein.

D. As security for the payment and performance by the Project Owner of its obligations under the Credit Agreement and the other Financing Documents (as defined below) and for other obligations owing to the Secured Parties, the Project Owner has assigned all of its right, title and interest in, to and under, and granted a security interest in, the Assigned Agreement to the Collateral Agent pursuant to the Assignment and Security Agreement, dated as of [] between the Project Owner and the Collateral Agent (as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof, the “Security Agreement”, and, together with the Credit Agreement and any other financing documents relating to the issuance of the Notes, the “Financing Documents”).

E. It is a requirement under the Credit Agreement that the Project Owner cause the Contracting Party to execute and deliver this Consent.

NOW, THEREFORE as an inducement for Lenders to make the Loans, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1. Consent to Assignment. The Contracting Party hereby acknowledges and consents to the pledge and assignment of all right, title and interest of the Project Owner in, to and under (but not its obligations, liabilities or duties with respect to) the Assigned Agreement by the Project Owner to the Collateral Agent pursuant to the Security Agreement.

2. Representations and Warranties. The Contracting Party represents and warrants as follows as of the date hereof:

(a) No Amendments. [Except as described in Schedule I hereto,] there are no amendments, modifications or supplements (whether by waiver, consent or otherwise) to the Assigned Agreement, either oral or written.

(b) No Previous Assignments. The Contracting Party affirms that it has no notice of any assignment relating to the right, title and interest of the Project Owner in, to and under the Assigned Agreement other than the pledge and assignment to the Collateral Agent referred to in Section 1 above.

(c) No Termination Event: No Disputes. After giving effect to the pledge and assignment referred to in Section 1, and after giving effect to the consent to such pledge and assignment by the Contracting Party, there exists no event or condition (a “Termination Event”) that would, either immediately or with the passage of time or giving of notice, or both, entitle either the Project Owner or the Contracting Party to terminate the Assigned Agreement or suspend the performance of its obligations under the Assigned Agreement. [Except as set forth on Schedule III hereto,] there are no unresolved disputes between the parties under the Assigned Agreement. All amounts due under the Assigned Agreement as of the date hereof have been paid in full [, except as set forth on Schedule III hereto].

3. Right to Cure.

(a) From and after the date hereof and unless and until the Contracting Party shall have received written notice from the Collateral Agent that the lien of the Security Agreement has been released in *full*, the Collateral Agent shall have the right, but not the obligation, following an Event of Default by the Project Owner under the Assigned Agreement, to pay all sums due under the Assigned Agreement by the Project Owner and to perform any other act, duty or obligation required of the Project Owner thereunder as described in Section 3(c) below; *provided*, that no such payment or performance shall be construed as an assumption by the Collateral Agent or any other Secured Party of any covenants, agreements or obligations of the Project Owner under or in respect of the Assigned Agreement.

(b) The Contracting Party agrees that it will not (i) terminate the Assigned Agreement or (ii) suspend the performance of any of its obligations under the Assigned Agreement without first giving the Collateral Agent notice and opportunity to cure as provided below. The Contracting Party further agrees that it will not assign any obligation under the Assigned Agreement without the prior consent of the Collateral Agent, which consent shall not be unreasonably withheld, delayed or conditioned, except to the extent the Contracting Party may subcontract such obligations to other parties.

(c) If a Termination Event shall occur, and the Contracting Party shall then be entitled to and shall desire to terminate the Assigned Agreement or suspend the performance of any of its obligations under the Assigned Agreement, the Contracting Party shall, prior to exercising such remedies or taking any other action with respect to such Termination Event, give written notice to the Collateral Agent of such Termination Event. Collateral Agent will have the right, but not the obligation, to cure a Termination Event on behalf of Project Owner, only if Collateral Agent sends a written notice to Contracting Party before the later of (i) the expiration of any cure period under this Agreement, and (ii) fifteen (15) Business Days after Collateral Agent's receipt of notice of such Termination Event from Contracting Party, indicating Collateral Agent's intention to cure. If the Collateral Agent elects to exercise its right to cure as herein provided, it shall have a period of thirty (30) days after receipt by it of notice from the Contracting Party referred to in the preceding sentence in which to cure the Termination Event specified in such notice if such Termination Event consists of a payment default, or if such Termination Event is an event other than a failure to pay amounts due and owing by the Project Owner (a "Non-monetary Event") the Collateral Agent shall have a period of sixty (60) days after receipt by it of notice from the Contracting Party referred to in the preceding sentence in which to cure the Termination Event so long as the Collateral Agent has commenced and is diligently pursuing appropriate action to cure such Termination Event (or such longer additional period if the Collateral Agent is unable to cure such Termination Event within such sixty (60) day period despite exercising commercially reasonable efforts, not to exceed a total of thirty (30) additional days); *provided, however*, that (i) if possession of the Project is necessary to cure such Non-monetary Event and the Collateral Agent has commenced foreclosure proceedings, the Collateral Agent will be allowed a reasonable time to complete such proceedings, and (ii) if the Collateral Agent is prohibited from curing any such Non-monetary Event by any process, stay or injunction issued by any governmental authority or pursuant to any bankruptcy or insolvency proceeding or other similar proceeding involving the Project Owner, then the time periods specified herein for curing a Termination Event shall be extended for the period of such prohibition; *provided, further*, that in the event of items (i) or (ii) above, such time period shall not exceed one hundred eighty (180) days. Any cure period for the Collateral Agent shall not commence until the later of (i) the end of the cure period of the Project Owner under the Assigned Agreement and (ii) written notice from the Contracting Party to the Collateral Agent of a Termination Event.

(d) Any curing of or attempt to cure any Termination Event shall not be construed as an assumption by the Collateral Agent or the other Secured Parties of any covenants, agreements or obligations of the Project Owner under or in respect of the Assigned Agreement.

(e) Following a Termination Event by the Project Entity under the Assigned Agreement, the Contracting Party may require the Collateral Agent, if the Collateral Agent has provided the notice set forth in subsection (c) above, to provide to Contracting Party a report concerning:

- (i) The status of efforts by Collateral Agent to develop a plan to cure the Termination Event;
- (ii) Impediments to the cure plan or its development;

(iii) If a cure plan has been developed, the status of the cure plan's implementation (including any modifications to the plan as well as the expected timeframe within which any cure is expected to be implemented); and

(iv) Any other information which Contracting Party may reasonably require related to the development, implementation and timetable of the cure plan.

Collateral Agent must provide the report to Contracting Party within fifteen (15) calendar days after Notice from Contracting Party requesting the report. Contracting Party will have no further right to require the report with respect to a particular Termination Event after that Termination Event has been cured.

4. REPLACEMENT AGREEMENTS. NOTWITHSTANDING ANY PROVISION IN THE ASSIGNED AGREEMENT TO THE CONTRARY, IN THE EVENT (I) THE ASSIGNED AGREEMENT IS REJECTED OR OTHERWISE TERMINATED AS A RESULT OF ANY BANKRUPTCY, INSOLVENCY, REORGANIZATION OR SIMILAR PROCEEDINGS AFFECTING THE PROJECT OWNER, AT THE COLLATERAL AGENT'S REQUEST, THE CONTRACTING PARTY, SUBJECT TO ITS BOARD OF DIRECTORS APPROVAL, WHICH CONTRACTING PARTY SHALL REQUEST AND PURSUE IN ACCORDANCE WITH CONTRACTING PARTY'S GENERALLY APPLICABLE CONTRACT APPROVAL PROCESS, WILL ENTER INTO A NEW AGREEMENT WITH THE COLLATERAL AGENT OR THE COLLATERAL AGENT'S DESIGNEE FOR THE REMAINDER OF THE ORIGINALLY SCHEDULED TERM OF THE ASSIGNED AGREEMENT, EFFECTIVE AS OF THE DATE OF SUCH REJECTION, WITH THE SAME COVENANTS, AGREEMENTS, TERMS, PROVISIONS AND LIMITATIONS AS ARE CONTAINED IN THE ASSIGNED AGREEMENT, OR (II) IF THE COLLATERAL AGENT OR ITS DESIGNEE, DIRECTLY OR INDIRECTLY, TAKES POSSESSION OF, OR TITLE TO, THE PROJECT (INCLUDING POSSESSION BY A RECEIVER OR TITLE BY FORECLOSURE OR DEED IN LIEU OF FORECLOSURE) AFTER ANY SUCH REJECTION OR TERMINATION OF THE ASSIGNED AGREEMENT, PROMPTLY AFTER THE CONTRACTING PARTY'S WRITTEN REQUEST, THE COLLATERAL AGENT MUST ITSELF OR MUST CAUSE ITS DESIGNEE TO PROMPTLY ENTER INTO A NEW AGREEMENT WITH THE CONTRACTING PARTY HAVING SUBSTANTIALLY THE SAME TERMS AS THE ASSIGNED AGREEMENT FOR THE REMAINING TERM THEREOF, PROVIDED THAT IN THE EVENT A DESIGNEE OF THE COLLATERAL AGENT, DIRECTLY OR INDIRECTLY, TAKES POSSESSION OF, OR TITLE TO, THE PROJECT (INCLUDING POSSESSION BY A RECEIVER OR TITLE BY FORECLOSURE OR DEED IN LIEU OF FORECLOSURE), SUCH DESIGNEE SHALL BE APPROVED BY THE CONTRACTING PARTY, NOT TO BE UNREASONABLY WITHHELD.

5. SUBSTITUTE OWNER. THE CONTRACTING PARTY ACKNOWLEDGES THAT IN CONNECTION WITH THE EXERCISE OF REMEDIES FOLLOWING A DEFAULT UNDER THE FINANCING DOCUMENTS, THE COLLATERAL AGENT MAY (BUT SHALL NOT BE OBLIGATED TO) ASSUME, OR CAUSE ANY PURCHASER AT ANY FORECLOSURE SALE OR ANY ASSIGNEE OR

TRANSFeree UNDER ANY INSTRUMENT OF ASSIGNMENT OR TRANSFER IN LIEU OF FORECLOSURE TO ASSUME, ALL OF THE INTERESTS, RIGHTS AND OBLIGATIONS OF THE PROJECT OWNER THEREAFTER ARISING UNDER THE ASSIGNED AGREEMENT. SUCH SALE OR TRANSFER MAY BE MADE ONLY TO AN ENTITY THAT (I) MEETS THE DEFINITION OF “PERMITTED TRANSFeree” AS DEFINED IN THE ASSIGNED AGREEMENT AND (II) IS AN ENTITY THAT THE CONTRACTING PARTY IS PERMITTED TO CONTRACT WITH UNDER APPLICABLE LAW. IF THE INTEREST OF THE PROJECT OWNER IN THE ASSIGNED AGREEMENT SHALL BE ASSUMED, SOLD OR TRANSFERRED AS PROVIDED ABOVE, THE ASSUMING PARTY SHALL AGREE IN WRITING TO BE BOUND BY AND TO ASSUME THE TERMS AND CONDITIONS OF THE ASSIGNED AGREEMENT AND ANY AND ALL OBLIGATIONS TO THE CONTRACTING PARTY ARISING OR ACCRUING THEREUNDER FROM AND AFTER THE DATE OF SUCH ASSUMPTION, AND THE CONTRACTING PARTY SHALL CONTINUE TO PERFORM ITS OBLIGATIONS UNDER THE ASSIGNED AGREEMENT IN FAVOR OF THE ASSUMING PARTY AS IF SUCH PARTY HAD THEREAFTER BEEN NAMED AS THE “CUSTOMER” UNDER THE ASSIGNED AGREEMENT; PROVIDED THAT IF THE COLLATERAL AGENT OR ITS DESIGNEE (OR ANY ENTITY ACTING ON BEHALF OF THE COLLATERAL AGENT, THE COLLATERAL AGENT’S DESIGNEE OR ANY OF THE OTHER SECURED PARTIES) ASSUMES THE ASSIGNED AGREEMENT AS PROVIDED ABOVE, IT SHALL BE PERSONALLY LIABLE FOR THE PERFORMANCE OF THE OBLIGATIONS THEREUNDER SOLELY TO THE EXTENT OF ALL OF ITS RIGHT, TITLE AND INTEREST IN AND TO THE PROJECT.

6. PAYMENTS. COMMENCING ON THE EFFECTIVE DATE OF THIS CONSENT, THE CONTRACTING PARTY SHALL MAKE ALL PAYMENTS DUE TO THE PROJECT OWNER UNDER THE ASSIGNED AGREEMENT DIRECTLY INTO THE ACCOUNT SPECIFIED ON SCHEDULE II HERETO, OR TO SUCH OTHER PERSON OR ACCOUNT AS SHALL BE SPECIFIED FROM TIME TO TIME BY THE COLLATERAL AGENT TO THE CONTRACTING PARTY IN WRITING. ALL PARTIES HERETO AGREE THAT EACH PAYMENT BY THE CONTRACTING PARTY AS SPECIFIED IN THE PRECEDING SENTENCE OF AMOUNTS DUE TO THE PROJECT OWNER FROM THE CONTRACTING PARTY UNDER THE ASSIGNED AGREEMENT SHALL SATISFY THE CONTRACTING PARTY’S CORRESPONDING PAYMENT OBLIGATION UNDER THE ASSIGNED AGREEMENT.

7. NO AMENDMENTS. THE CONTRACTING PARTY ACKNOWLEDGES THAT THE FINANCING DOCUMENTS RESTRICT THE RIGHT OF THE PROJECT OWNER TO AMEND OR MODIFY THE ASSIGNED AGREEMENT, OR TO WAIVE OR PROVIDE CONSENTS WITH RESPECT TO CERTAIN PROVISIONS OF THE ASSIGNED AGREEMENT, UNLESS CERTAIN CONDITIONS SPECIFIED IN THE FINANCING DOCUMENTS ARE MET. THE CONTRACTING PARTY SHALL NOT, WITHOUT THE PRIOR WRITTEN CONSENT OF THE COLLATERAL AGENT, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD, DELAYED OR CONDITIONED, AMEND OR

MODIFY THE ASSIGNED AGREEMENT IN ANY MATERIAL RESPECT, OR ACCEPT ANY WAIVER OR CONSENT WITH RESPECT TO A MATERIAL PROVISION OF THE ASSIGNED AGREEMENT, UNLESS THE CONTRACTING PARTY HAS RECEIVED FROM THE BORROWER OR PROJECT OWNER (AS APPLICABLE UNDER THE FINANCING DOCUMENTS) A COPY OF A CERTIFICATE DELIVERED BY THE PROJECT OWNER TO THE COLLATERAL AGENT TO THE EFFECT THAT SUCH AMENDMENT, MODIFICATION, WAIVER, OR CONSENT IS BEING MADE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE FINANCING DOCUMENTS, WHICH MAY IN CERTAIN CIRCUMSTANCES REQUIRE THE BORROWER OR PROJECT OWNER (AS APPLICABLE UNDER THE FINANCING DOCUMENTS) TO HAVE OBTAINED THE PRIOR WRITTEN CONSENT OF THE COLLATERAL AGENT, LENDERS, OR OTHER PARTIES THERETO.

8. ADDITIONAL PROVISIONS. [TO BE SPECIFIED IF NECESSARY TO CLARIFY THE ASSIGNED AGREEMENT.]

9. NOTICES. NOTICE TO ANY PARTY HERETO SHALL BE IN WRITING AND SHALL BE DEEMED TO BE DELIVERED ON THE EARLIER OF: (A) THE DATE OF PERSONAL DELIVERY, (B) POSTAGE PREPAID, REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR SENT BY EXPRESS COURIER, IN EACH CASE ADDRESSED TO SUCH PARTY AT THE ADDRESS INDICATED BELOW (OR AT SUCH OTHER ADDRESS AS SUCH PARTY MAY HAVE THERETOFORE SPECIFIED BY WRITTEN NOTICE DELIVERED IN ACCORDANCE HEREWITH), UPON DELIVERY OR REFUSAL TO ACCEPT DELIVERY, OR (C) IF TRANSMITTED BY FACSIMILE, THE DATE WHEN SENT AND FACSIMILE CONFIRMATION IS RECEIVED; PROVIDED THAT ANY FACSIMILE COMMUNICATION SHALL BE FOLLOWED PROMPTLY BY A HARD COPY ORIGINAL THEREOF BY EXPRESS COURIER:

The Collateral Agent: [_____]
[_____]
Attn: [_____]
Telephone No.: [_____]
Facsimile No.: [_____]

The Project Owner: _____

The Contracting Party: _____

10. SUCCESSORS AND ASSIGNS. THIS CONSENT SHALL BE BINDING UPON AND SHALL INURE TO THE BENEFIT OF THE SUCCESSORS AND ASSIGNS OF THE CONTRACTING PARTY, AND SHALL INURE TO THE BENEFIT OF THE COLLATERAL AGENT, THE OTHER SECURED PARTIES, THE PROJECT OWNER AND THEIR RESPECTIVE SUCCESSORS, TRANSFEREES AND ASSIGNS.

11. COUNTERPARTS. THIS CONSENT MAY BE EXECUTED IN ONE OR MORE COUNTERPARTS WITH THE SAME EFFECT AS IF THE SIGNATURES THERETO AND HERETO WERE UPON THE SAME INSTRUMENT.

12. GOVERNING LAW. THIS CONSENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF CALIFORNIA.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Consent as of the date first written above.

[NAME OF CONTRACTING PARTY]

By: _____
Name:
Title:

[_____] as Collateral Agent

By: _____
Name:
Title:

Acknowledged and Agreed:

[_____]

By: _____
Name:
Title:

Assigned Agreement

Payment Instructions
(Section 6)

All payments due to the Project Owner pursuant to the Assigned Agreement shall be made to [INSERT REVENUE ACCOUNT INFORMATION].

[Schedule III]

[Amounts Due and Unpaid under the Assigned Agreement
(Section 2(c))]

Exhibit M
PROJECT MILESTONE SCHEDULE

Below is a list of key project milestones and the targeted completion date for each.

Milestone	Expected Completion Date
Secure site control	10/8/2025
Complete Environmental Review (CEQA/NEPA)	2/28/2026
Obtain federal and state discretionary permits	3/17/2026
Execute Large Generator Interconnection Agreement	Completed
Start major equipment procurement	Completed
Start construction	5/1/2026
Energization (start of Test Energy)	6/15/2027
Scheduled COD	12/1/2027
Guaranteed COD	6/1/2028

Upon mutual agreement of both Parties, a new Exhibit M may be issued. When updated, the Parties will insert a new effective date for this Exhibit M, which will replace the prior Exhibit M.

Effective Date

Month, Day, Year _____

Signature of Seller

Signature of SMUD

Exhibit N
PRELIMINARY METERING DIAGRAM

A preliminary Metering Diagram appears on the following page. To the extent there are revisions to the preliminary Metering Diagram, Seller shall provide to Buyer a revised Metering Diagram at least 60 days prior to the Commercial Operation Date.

Preliminary Metering Diagram appears on the following page

Exhibit O
FORM OF LIMITED ASSIGNMENT AGREEMENT

This Limited Assignment Agreement (this “**Assignment Agreement**” or “**Agreement**”) is entered into as of [____], 20__ (the “**Limited Assignment Agreement Effective Date**”) by and among [____], a [____] (“**PPA Seller**”), [____], a [____] (“**PPA Buyer**”), and [____], a [____] (“**Limited Assignee**”), and relates to that certain **PPA** defined in Appendix 1 hereto. Unless the context otherwise specifies or requires, capitalized terms used but not defined in this Agreement have the meanings set forth in the PPA.

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

1. Limited Assignment and Delegation.

- a. PPA Buyer hereby assigns, transfers and conveys to Limited Assignee all right, title and interest in and to the rights of PPA Buyer under the PPA to receive delivery of, or have made available to it, the products described in Appendix 1 (collectively, and subject to the exclusions specified in Appendix 1, the “**Assigned Product**”) during the Assignment Period (as defined in Appendix 1), as such rights may be limited or further described in the “Further Information” section in Appendix 1 (the “**Assigned Product Rights**”). All other rights of PPA Buyer under the PPA are expressly reserved for PPA Buyer.
- b. PPA Buyer hereby delegates to Limited Assignee the obligation to pay for all Assigned Product that is actually delivered or made available to Limited Assignee pursuant to the Assigned Product Rights during the Assignment Period (the “**Delivered Product Payment Obligation**” and together with the Assigned Product Rights, collectively the “**Assigned Rights and Obligations**”). All other obligations of PPA Buyer under the PPA are expressly retained by PPA Buyer, including without limitation payment for any Product which is not included in the Assigned Product and any other amounts (including without limitation for Deemed Delivered Energy) owed under the PPA. To the extent Limited Assignee fails to pay for any Assigned Product by the due date for payment set forth in the PPA, PPA Buyer remains responsible for such payment, and it will be a Buyer Event of Default pursuant to PPA Section 10.1.1.1 if PPA Buyer does not make such payment within five (5) Business Days of receiving notice of such non-payment from PPA Seller.
- c. Limited Assignee hereby accepts and agrees, and PPA Seller hereby consents, to the assignment, transfer, conveyance and delegation described in clauses (a) and (b) above.

- d. All scheduling of Assigned Product and other communications related to the PPA shall take place between PPA Buyer and PPA Seller pursuant to the terms of the PPA; provided that during the Assignment Period (i) title to Assigned Product will pass from PPA Seller to Limited Assignee upon delivery or making available by PPA Seller of Assigned Product in accordance with the PPA; (ii) PPA Buyer is hereby authorized by Limited Assignee to and shall act as Limited Assignee's agent with regard to scheduling Assigned Product; (iii) PPA Buyer will provide copies to Limited Assignee of any Notice (as defined in the PPA) of a Force Majeure Event or Event of Default or default, breach or other occurrence that, if not cured within the applicable grace period, could result in an Event of Default contemporaneously upon delivery thereof to PPA Seller and promptly after receipt thereof from PPA Seller; (iv) PPA Buyer will forward copies to Limited Assignee of all invoices provided to PPA Buyer, provided that any payment adjustments or subsequent reconciliations occurring after the date that is 10 days prior to the payment due date for a monthly invoice will be resolved solely between PPA Buyer and PPA Seller and therefore PPA Seller will not be obligated to deliver copies of any communications relating thereto to Limited Assignee. PPA Buyer shall promptly reimburse PPA Seller for any additional costs or expenses reasonably and actually incurred by PPA Seller as a result of this subsection (d).
- e. PPA Seller acknowledges that (i) PPA Buyer and Limited Assignee have advised PPA Seller that Limited Assignee intends to immediately transfer title to any Assigned Product received from PPA Seller through one or more intermediaries such that all Assigned Product will be re-delivered to PPA Buyer, and (ii) Limited Assignee has the right to purchase receivables due from PPA Buyer for any such Assigned Product. To the extent Limited Assignee purchases any such receivables due from PPA Buyer, Limited Assignee may transfer such receivables to PPA Seller and apply the face amount thereof as a reduction to any Delivered Product Payment Obligation; provided, however, that (A) at no time shall PPA Seller be required to pay Limited Assignee for any amounts by which any such receivables exceed any Delivered Product Payment Obligation, (B) any such application by Limited Assignee shall not affect any amounts due and owing under the PPA by PPA Buyer (which, for clarity purposes, includes any amount of Delivered Product Payment Obligation not paid by Limited Assignee as a result of any such application by Limited Assignee under this Section 1(e)), including under any invoice, and (C) at all times, PPA Buyer remains liable to PPA Seller for all amounts due and owing under the PPA, including the total gross amount due to PPA Seller under each invoice.
- f. At least three (3) Business Days before the commencement of the Assignment Period, The Goldman Sachs Group, Inc. (the "**Guarantor**") will issue, in favor of PPA Seller, a guaranty of Limited Assignee's payment obligations under this Assignment Agreement substantially in the form of Appendix 2 attached hereto (the "**Guaranty**"). PPA Seller may draw upon, apply, or make demand under

the Guaranty to recover any unpaid amounts due from Limited Assignee and not timely paid as set forth herein; provided, however, that PPA Seller's rights under the Guaranty and this subsection (f) shall not reduce or affect PPA Buyer's obligation to render payments when due under the PPA or extend any deadlines in the PPA.

- g. Except as set forth in Section 1(h) of this Assignment Agreement, and except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the Product delivery obligations, nothing in this Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA, including with respect to CAISO revenues and costs; provided that, for avoidance of doubt, nothing set forth in this Assignment Agreement affects PPA Buyer's liabilities and obligations to PPA Seller under the PPA, including if Limited Assignee fails to perform.
- h. Notwithstanding anything to the contrary in this Assignment Agreement including without limitation the immediately preceding Section 1(g) (with respect to the phrase "nothing in this Agreement modifies or amends any rights or obligations of PPA Buyer and PPA Seller under the PPA") and Section 6(i) hereof, the Parties hereby agree that if (1) the assignment, transfer or conveyance of the Assigned Product pursuant to this Assignment Agreement, or (2) PPA Seller's performance of any obligation under this Assignment Agreement, including without limitation if PPA Seller makes any change to the recipient of the WREGIS Certificates as directed by Limited Assignee and PPA Buyer pursuant to Appendix 1 hereof, fails to meet any requirements of the PPA, then PPA Seller shall not be deemed to be in breach of any obligation in the PPA, including without limitation any representation or warranty therein.

2. Assignment Early Termination.

- a. The Assignment Period may be terminated early upon the occurrence of any of the following:
 - i) delivery of a written notice of termination by either Limited Assignee or PPA Buyer to each of the other Parties hereto;
 - ii) delivery of a written notice of termination by PPA Seller to each of Limited Assignee and PPA Buyer following Limited Assignee's failure to pay when due any amounts owed to PPA Seller in respect of any Delivered Product Payment Obligation and such payment is not made by Limited Assignee within three (3) Business Days following receipt by Limited Assignee and PPA Buyer of written notice thereof;
 - iii) delivery of a written notice by PPA Seller if any of the events described in the definition of Bankrupt in the PPA occurs with respect to Limited Assignee;

- iv) delivery of a written notice by Limited Assignee if any of the events described in the definition of Bankrupt in the PPA occurs with respect to PPA Seller;
 - v) failure of the Guaranty provided by the Guarantor to PPA Seller hereunder to be in full force and effect (other than in accordance with its terms) prior to the indefeasible satisfaction of all obligations of Limited Assignee hereunder or if the Guarantor provides notice of termination of the Guaranty or otherwise repudiates, disaffirms, disclaims, or rejects, in whole or in part, or challenges the validity of the Guaranty; or
 - vi) neither Limited Assignee nor the Guarantor maintains a Credit Rating equal to or greater than Baa3 from Moody's and BBB- from S&P, and if ratings by S&P and Moody's are not equivalent, the lower rating shall apply (a "**Required Credit Rating**").
- b. The Assignment Period will end at the end of the last delivery hour on the date specified in the termination notice provided pursuant to Section 2(a), which date shall not be earlier than the end of the last day of the calendar month in which such notice is delivered if termination is pursuant to clauses (a)(i) or (a)(ii) above. All Assigned Rights and Obligations shall revert from Limited Assignee to PPA Buyer upon the expiration or early termination of the Assignment Period, provided that (i) Limited Assignee shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered or made available to Limited Assignee prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.
- c. The Assignment Period will automatically terminate upon the expiration or early termination of the PPA. All Assigned Rights and Obligations shall revert from Limited Assignee to PPA Buyer upon the expiration of or early termination of the PPA, provided that (i) Limited Assignee shall remain responsible for the Delivered Product Payment Obligation with respect to any Assigned Product delivered or made available to Limited Assignee prior to the end of the Assignment Period, and (ii) any legal restrictions on the effectiveness of such reversion (whether arising under bankruptcy law or otherwise) shall not affect the expiration or early termination of the Assignment Period.
3. **Representations and Warranties.** The PPA Seller and the PPA Buyer represent and warrant, each with respect to itself only, to Limited Assignee, as of the Limited Assignment Agreement Effective Date, that (a) the PPA is in full force and effect; and (b) no event or circumstance exists (or would exist with the passage of time or the giving of notice) that would give either of them the right to terminate the PPA or suspend performance thereunder. Limited Assignee represents and warrants to PPA

Seller, as of the Limited Assignment Agreement Effective Date, that the Guarantor has a Required Credit Rating.

4. **Notices.** Any notice, demand, or request required or authorized by this Assignment Agreement to be given by one Party to another Party shall be delivered in accordance with Article 16 of the PPA and to the addresses of each of PPA Seller and PPA Buyer specified in the PPA. PPA Buyer agrees to notify Limited Assignee of any updates to such notice information, including any updates provided by PPA Seller to PPA Buyer. Notices to Limited Assignee shall be provided to the following address, as such address may be updated by Limited Assignee from time to time by notice to the other Parties:

J. Aron & Company LLC
200 West Street
New York, New York 10282-2198
Email: gs-prepay-notices@gs.com

5. **Costs and Expenses.** Each of PPA Buyer and J. Aron will each pay its own costs and expenses (including legal fees) incurred in connection with this Assignment Agreement and as a result of the negotiation, preparation, and execution of this Assignment Agreement. PPA Buyer shall reimburse PPA Seller for its out-of-pocket costs and expenses, including reasonable attorneys' fees, incurred in connection with this Assignment Agreement, including in connection with obtaining required consents from its lenders or other financing parties, as well as reimburse PPA Seller as set forth above in Section 1(d) of this Assignment Agreement.
6. **Miscellaneous.** Section 15.1 with respect to Buyer (i.e., Buyer's Representations and Warranties), and Sections 23 (Severability), 24 (Counterparts), 25 (General), 19 (Mobile-Sierra), 30 (Confidentiality), and 28 (Forward Contract, etc.) of the PPA are incorporated by reference into this Agreement, *mutatis mutandis*, as if fully set forth herein. For avoidance of doubt, and notwithstanding anything to the contrary in this Assignment Agreement: (i) except as expressly set forth in Section 1(h) of this Assignment Agreement, and except as expressly set forth in Section 1(a) of this Assignment Agreement with respect to the Product delivery obligations, nothing in this Assignment Agreement shall modify any provision of the PPA; (ii) PPA Buyer remains obligated to perform all its obligations under the PPA notwithstanding the limited assignment under this Assignment Agreement (including without limitation any such obligations not timely performed by Limited Assignee under this Assignment Agreement), and any failure by Limited Assignee to make payments to PPA Seller as provided in this Assignment Agreement when due under the PPA shall be a Buyer Event of Default under the PPA if not cured within the applicable cure period specified in Section 10.1.1.1 of the PPA; (iii) this Assignment Agreement shall not purport to convey or otherwise allege any right of PPA Buyer or Limited Assignee to make any prepayment to Seller under the PPA or to file or impose any lien on the Facility; (iv) Limited Assignee and PPA Buyer shall comply with all reasonable requests from any Lender in connection with this Assignment Agreement, including in connection with

any Consent to Collateral Agreement; and (v) neither Limited Assignee nor PPA Buyer shall make any assignment of its rights or delegation of its obligations under this Assignment Agreement without the prior written consent of PPA Seller, which it may withhold in its sole discretion.

7. **U.S. Resolution Stay Provisions.** If each of the Parties hereto have not adhered to the ISDA 2018 U.S. Resolution Stay Protocol, as published by the International Swaps and Derivatives Association, Inc. as of July 31, 2018 (the “**ISDA U.S. QFC Protocol**”), the terms of the ISDA U.S. QFC Protocol shall be incorporated into and form a part of this Assignment Agreement. For purposes of incorporating the ISDA U.S. QFC Protocol, each Party shall be deemed to have the same status as “Regulated Entity” and/or “Adhering Party” (as such terms are defined therein) applicable to it under the ISDA U.S. QFC Protocol and this Assignment Agreement shall be deemed to be a “Protocol Covered Agreement” (as defined therein).

8. **Governing Law, Jurisdiction**

- a) **Governing Law.** This Assignment Agreement and the rights and duties of the Parties under this Assignment Agreement will be governed by and construed, enforced and performed in accordance with the laws of the State of California, without regard to principles of conflicts of law provisions that would direct the application of another jurisdiction’s laws.
- b) **Jurisdiction.** Each Party submits to the exclusive jurisdiction of the federal courts of the United States, or the courts of the State of California, sitting in the City and County of San Francisco, California.

[Remainder of Page Intentionally Blank]

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

PPA SELLER:

[_____] ,

a Delaware limited liability company

By: _____

Name: _____

Title: _____

PPA Buyer:

[_____]

By: _____

Name: _____

Title: _____

Limited Assignee:

J. ARON & COMPANY LLC

By: _____

Name: _____

Title: _____

Appendix 1 Assigned Rights and Obligations

“**PPA**” means that certain Power Purchase Agreement dated [____], by and between [____], and [____], a Delaware limited liability company, as amended from time to time.

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

Assigned Product: (1) [Energy] and (2) [green attributes (PCC1 RECs)] that are required to be sold to PPA Buyer under the PPA, provided that [replacement Energy and Replacement Green Attributes, each if any under the PPA] shall be excluded from the Assigned Products.

Further Information: PPA Seller shall transfer the WREGIS Certificates associated with all Renewable Energy Credits corresponding to all [Energy] pursuant to [Section 4.2 and Exhibit H of] the PPA, provided that the transferee of such WREGIS Certificates may be changed from time to time in accordance with the written instructions of both Limited Assignee and PPA Buyer upon twenty (20) Business Days’ notice, which change shall be effective as of the first day of the next calendar month after such notice period has expired, unless otherwise agreed. All Assigned Product delivered by PPA Seller to Limited Assignee shall be a sale made at wholesale, with Limited Assignee reselling all such Assigned Product.

Appendix 2
Form of Guaranty

[], 2023

NAME
ADDRESS

Attention:

Ladies and Gentlemen:

For value received, The Goldman Sachs Group, Inc. (the “Guarantor”), a corporation duly organized under the laws of the State of Delaware, hereby unconditionally guarantees the prompt and complete payment when due, whether by acceleration or otherwise, of all obligations and liabilities, whether now in existence or hereafter arising, of J. Aron & Company, LLC, a subsidiary of the Guarantor and limited liability company duly organized under the laws of the State of New York (the “Company”), to **COUNTERPARTY NAME** (the “Counterparty”) arising out of or under the Limited Assignment Agreement among the Company, the Counterparty and [PPA Buyer] dated as of [___], 2024. This Guaranty is one of payment and not of collection.

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

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

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

The Guarantor further agrees that this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of any of the guaranteed obligations, or interest thereon is rescinded or must otherwise be restored or returned by the Counterparty upon the bankruptcy, insolvency, dissolution or reorganization of the Company. No failure on the part of the Counterparty to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Counterparty of any right, remedy or power hereunder preclude any other or future exercise of any right, remedy or power.

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

The Guarantor hereby represents as follows:

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

This Guaranty constitutes the legal, valid, and binding obligation of the Guarantor, enforceable against the Guarantor in accordance with all of its terms and conditions (subject to the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally). The enforceability of the Guarantor's obligations is also subject to the effect of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

The Guarantor may not assign its rights nor delegate its obligations under this Guaranty, in whole or in part, without prior written consent of the Counterparty, and any purported assignment or delegation absent such consent is void, except for (i) an assignment and delegation of all of the Guarantor's rights and obligations hereunder in whatever form the Guarantor determines may be appropriate to a partnership, corporation, trust or other

organization in whatever form that succeeds to all or substantially all of the Guarantor's assets and business and that assumes such obligations by contract, operation of law or otherwise, and (ii) the Guarantor may transfer this Guaranty or any interest or obligation of the Guarantor in or under this Guaranty, or any property securing this Guaranty, to another entity as transferee as part of the resolution, restructuring or reorganization of the Guarantor upon or following the Guarantor becoming subject to a receivership, insolvency, liquidation, resolution or similar proceeding. Upon any such delegation and assumption or transfer of obligations, the Guarantor shall be relieved of and fully discharged from all obligations hereunder, whether such obligations arose before or after such delegation and assumption or transfer.

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

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

Very truly yours,

The Goldman Sachs Group, Inc.

By: _____
Authorized Officer

Exhibit P
FORM OF ESTOPPEL CERTIFICATE

ESTOPPEL CERTIFICATE
(Power Purchase Agreement)

This ESTOPPEL CERTIFICATE (this "Estoppel Certificate"), dated as of _____, 202_, is provided by _____, a _____ ("Buyer").

RECITALS

A. Buyer and _____, a Delaware limited liability company (the "Project Company") are parties to that certain Power Purchase Agreement, dated as of _____, 202_ (the "Power Purchase Agreement"), in connection with the _____ solar project ("Solar Project").

B. Pursuant to that certain [describe Lender financing agreement].

C. Pursuant to Section [__] of the [Lender financing agreement], the [Lenders] have required that this Estoppel Certificate be delivered as a condition precedent to the consummation of the transactions described therein.

NOW, THEREFORE, in consideration of the foregoing recitals, Buyer hereby certifies, agrees and acknowledges as follows:

1. No default or event of default with respect to Buyer, nor, to the knowledge of Buyer, any other party has occurred under the Power Purchase Agreement, and there are no defaults or unsatisfied conditions presently existing (or which would exist after the passage of time and/or giving of notice) that would allow the Project Company or Buyer to terminate the Power Purchase Agreement.
2. There exists no event or condition that would, either immediately or with the passage of time or giving of notice, or both, entitle either the Project Company or Buyer to suspend the performance of its obligations under the Power Purchase Agreement.
3. Each representation or warranty made or given by Buyer in Section [__] of the Power Purchase Agreement is complete, true and correct.

4. As of the date hereof, (i) the Power Purchase Agreement is in full force and effect and has not been assigned, amended, supplemented or modified, (ii) there are no pending or threatened disputes or legal proceedings between Buyer and the Project Company, (iii) there is no pending or, to the knowledge of Buyer, threatened action or proceeding involving or relating to Buyer before any court, tribunal, governmental authority or arbitrator which purports to affect the legality, validity or enforceability of the Power Purchase Agreement, (iv) Buyer is not aware of any event, act, circumstance or condition constituting an event of force majeure under the Power Purchase Agreement, and (v) the Project Company owes no indemnity payments or other amounts to Buyer under the Power Purchase Agreement.
5. The execution, delivery and performance by Buyer of this Estoppel Certificate have been duly authorized by all necessary action on the part of Buyer and do not require any approval or consent of any other person or entity and do not violate any provision of any law, regulation, order, judgment, injunction or similar matters or breach any agreement presently in effect with respect to or binding on Buyer.
6. Buyer agrees that any notices required to be delivered to Seller under Section [] of the Power Purchase Agreement, including notices of an [Event of Default], shall be delivered by Buyer to each of the [Lenders] at their respective notice addresses set forth on Exhibit A hereto, and Buyer agrees that the [Lenders] shall have the right (but not the obligation) to cure the defaults listed in any notice of default in accordance with Section [] of the Power Purchase Agreement within a cure period that is the same length as the cure period afforded to Seller under the Power Purchase Agreement with respect to such event (but in no event less than 90 days), and which starts on the later of (i) the same date that the Seller's cure period expires under the Power Purchase Agreement or (ii) the date that the [Lenders] receive such notice that lists the default or defaults of the Seller under the Power Purchase Agreement.
7. [Additional provisions to be included if necessary to clarify the Power Purchase Agreement.]
8. This Estoppel Certificate shall be governed by the laws of the State of New York, without regard to principles of conflict of law.

[Signature page follows]

IN WITNESS WHEREOF, Buyer has caused this Estoppel Certificate to be executed by its undersigned authorized officer as of the date first set forth above.

By: _____
Name:

Exhibit Q

PRINCIPLES OF RENEWABLE ENERGY DEVELOPMENT

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

Key objectives:

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

6. Zero Carbon Workforce Development: SMUD seeks to galvanize and prepare the region for an inclusive, diverse, creative, and empowered future workforce. Leverage SMUD's existing workforce development agreements, programs, and partnerships throughout the Project to support the development of a clean energy labor force. The Project Team will work with SMUD to engage various elements of the labor supply chain via pre-apprentice and apprenticeship programs, internships, informational sessions, and mentorship opportunities.

7. Sustainable Materials & Equipment: Sourcing materials and equipment from companies that have a human rights policy and statement of supply chain ethics commitment that expresses the corporation's commitment to meet the responsibility to respect human rights and uphold ethical business practices in their operations and value chains.

EXHIBIT R

FORM OF COMMERCIAL OPERATION DATE CERTIFICATE

This certification (“**Certification**”) of Commercial Operation is delivered by _____ [*licensed professional engineer*] (“**Engineer**”) to Sacramento Municipal Utility District (“**Buyer**”) in accordance with the terms of that certain Power Purchase Agreement dated _____ (“**Agreement**”) by and between Grace Orchard Energy Center, LLC and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

As of [DATE], Engineer hereby certifies and represents to Buyer the following:

1. The Project is operational, interconnected, and synchronized with the CAISO-controlled transmission system.
2. Seller has installed equipment for the Project with a nameplate capacity of no less than ninety-five percent (95%) of the Contract Capacity.
3. The Project’s testing included a performance test, substantially in the form of Exhibit T to the Agreement, demonstrating peak electrical output of no less than ninety-five percent (95%) of the Contract Capacity for the Project at the Delivery Point, adjusted for ambient conditions on the date of the Project testing, and such peak electrical output, as adjusted, was [*peak output in MW*].
4. The Transmission Provider has provided documentation supporting release for Commercial Operation on [DATE].
5. The CAISO has provided notification supporting Commercial Operation, in accordance with the CAISO Tariff on [DATE].

EXECUTED by [LICENSED PROFESSIONAL ENGINEER]
this _____ day of _____, 20__.

[LICENSED PROFESSIONAL ENGINEER]
By: _____
Its: _____
Date: _____

EXHIBIT S
FORM OF INSTALLED CAPACITY CERTIFICATE

This certification (“**Certification**”) of Installed Capacity (as defined herein) is delivered by [licensed professional engineer] (“**Engineer**”) to Sacramento Municipal Utility District (“**Buyer**”) in accordance with the terms of that certain Power Purchase Agreement dated _____ (“**Agreement**”) by and between Grace Orchard Energy Center, LLC and Buyer. All capitalized terms used in this Certification but not otherwise defined herein shall have the respective meanings assigned to such terms in the Agreement.

I hereby certify the following:

The performance test, substantially in the form of Exhibit T to the Agreement, for the Project demonstrated peak electrical output of __ MW AC at the Delivery Point, as adjusted for ambient conditions on the date of the performance test (“**Installed Capacity**”).

[LICENSED PROFESSIONAL ENGINEER]
By: _____
Its: _____
Date: _____

EXHIBIT T
PERFORMANCE TEST

Solar Energy Center PV

Capacity Test Procedure

Prepared by NextEra Energy Resources

xx/xx/2022

Procedure preparer to edit blue text to make specific for the project.

Revision History

Revision Number	Description of Change	Date
A	Draft	xx/xx/2021
0	Execution Version	xx/xx/2022

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List of Acronyms

Acronym	Description
AC	Alternating Current
DAS	Data Acquisition System
DC	Direct Current
MET	Meteorology (MET Station)
MST	Module Surface Temperature (aka T_{BOM})
MW	Megawatt
NEER	NextEra Energy Resources "NextEra"
PF	Power Factor
POA	Plane of Array
PPA	Power Purchase Agreement
PPC	Power Plant Controller
RM	Reference Module
RTD	Resistive Temperature Device
SCADA	Supervisory Control and Data Acquisition
STC	Standard Test Conditions
W	Watt

1 Scope & Purpose

This document defines the Capacity Test procedure for xxxxxx Solar. It is intended to serve as a guide for performing the Capacity Test and may be subject to change.

The purpose of the Capacity Test is to determine the Tested Capacity of the PV Array at Standard Test Conditions (STC) as measured at the Revenue-Quality Meter at the Solar Collection Substation. The test is performed for a minimum of **3** consecutive days and is considered complete when at least **300** Valid Data Points have been obtained and at least 3 days have passed. Depending on weather conditions more than 3 days may be needed.

The test is deemed successful if the Tested Capacity is equal to or greater than the Guaranteed Capacity shown in **Table 1** below.

Guaranteed Capacity
xxx MW _{AC}

Table 1 – Array Capacity Value Per PPA

Note 1: A day is defined as continuous hours between Sunrise and Sunset.

2 Equipment

Table 2 describes the location and quantity of the Measurement Devices used for the test. NextEra will submit the calibration certificates with the Capacity Test Report. Please refer to the calibration certificates for details regarding an instrument’s range and accuracy/uncertainty.

Table 2 - Test Measurement Devices

Test Measurement Devices			
Measurement	Manufacturer/Model	Qty	Location
POA Irradiance	POA Pyranometer Hukseflux SR30	3	Tracker @ MET #1 (INVxxxxx) Tracker @ MET #2 (INVxxxxx) Tracker @ MET #3 (INVxxxxx)
POA Irradiance	POA Reference Cells Atonometrics RC18	3	Tracker @ MET #1 (INVxxxxx) Tracker @ MET #2 (INVxxxxx) Tracker @ MET #3 (INVxxxxx)
MST (Met Stations) “Back-Of-Module Temperature”	RTD (PT1000 Class A PRT) Campbell Scientific CS240	6	Tracker @ MET #1 (INVxxxxx) Tracker @ MET #2 (INVxxxxx) Tracker @ MET #3 (INVxxxxx)
POA Irradiance	POA Reference Cell IMT Solar Si-RS485 TC	13	(Qty 1 per 13 Array Locations) INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx, INVxxxxx

RPOA Irradiance (Reflected for Bifacial Modules)	RPOA Reference Cell IMT Solar Si-RS485 TC	13	(Qty 1 per 13 Array Locations) INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx, INVxxxxx
MST (Array) "Back-Of-Module Temperature"	RTD (PT1000 Class A PRT) Omega SA1-RTD	39	(Qty 3 per 13 Array Locations) INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx INVxxxxx, INVxxxxx, INVxxxxx
AC Power	Schneider Electric Power Logic, ION8650 Revenue-Grade Meter (M-161-1)	1	NEER Solar Collection Substation

3 Pre-Test Meeting, Notifications & Check

3.1 Pre-Test Meeting

Notification will be provided **10 days** prior to testing and a pre-test meeting may be held between relevant representatives from NextEra and Off-Taker Entities. If a meeting occurs, notes of the meeting will be taken by NextEra and submitted to the attendees.

3.2 Pre-functional checks

Pre-functional checks will be performed for all equipment and the corresponding functional check sheets will be reviewed by NextEra prior to the start of Performance Testing. Any functional issues that occur during Capacity Testing will be entered into the Commissioning Log by a NextEra representative and will be referenced in the Capacity Test Report. Capacity Testing will be performed when the following conditions are satisfied:

- Weather conditions required to support collection of appropriate range and quantity of test data
- Utility grid voltage is stable and within $\pm 5\%$ of design voltage
- There is grid connectivity at each inverter such that a Capacity Test can be accomplished under load
- The site is substantially complete and the systems are in automatic operation.

3.3 Data Acquisition

Prior to the start of the Capacity Test, NextEra will ensure that data points are being recorded by the historian in, at a minimum, 1 minute samples.

4 Calculation Method

The method to calculate capacity is described as follows. This method will be used to determine both daily capacity (an estimate of the Tested Capacity) as well as the overall Tested Capacity of the Plant.

1. At a minimum, the PV plant AC power output, Reference Module irradiance levels, and module surface temperature measurements are collected and recorded.
2. Reference Module irradiance measurements are then averaged; module surface temperature measurements are also averaged.
3. Ideally the plant will operate at power factor of 1.0 during the test however the Transmission Owner or the System Operator may require otherwise for grid support. The Plant AC power output measurement, P_M , is corrected to a power factor of 1.0 according to the following equation:

$$P_{1PF} = P_M \times \frac{PF_{STC}}{PF_M}$$

P_{1PF} = AC Power corrected to power factor of 1.0

P_M = measured AC power output at the Revenue Meter

PF_M = measured power factor at the Revenue Meter

PF_{STC} = power factor at standard test conditions (1.0pf)

4. Power factor-corrected AC power output, P_{1PF} , is corrected to 25 °C according to the following equation:

$$P_{STC} = \frac{P_{1PF}}{1 + C_t(T_M - 25^\circ\text{C})}$$

P_{1PF} = AC Power corrected to 1.0pf

P_{STC} = AC Power corrected to 25°C

C_t = module power temperature coefficient (**-0.xxx% /°C, Weighted Average**)
 T_M = mean module surface temperature (°C)

5. A plot of P_{STC} vs. mean Reference Module irradiance is created as shown in **Figure 1**.
6. A linear fit is then performed for all Valid Data Points (shown in **BLUE**) while all other data points (shown in **RED**) are excluded from the regression. These **RED** data points represent discrete times in the data set where one or more event is present as defined in Section 5 **Table 3** of this procedure. The coefficient of determination (R^2) for the capacity regression shall be at least **0.92**. The linear fit yields an equation of the following form:

$$y = N * x + b$$

y = P_{STC} power (temperature corrected)
 N = slope of the line
 x = mean Reference Module irradiance (W/m^2)
 b = y intercept

Note: A Valid Data Point is defined as an instantaneous, 1-minute sample of plant data which has not been excluded according the guidelines in Section 5.

7. The Tested Capacity is determined by evaluating the equation at $1,000 W/m^2$:

$$\text{Tested Capacity} = y(1000)$$

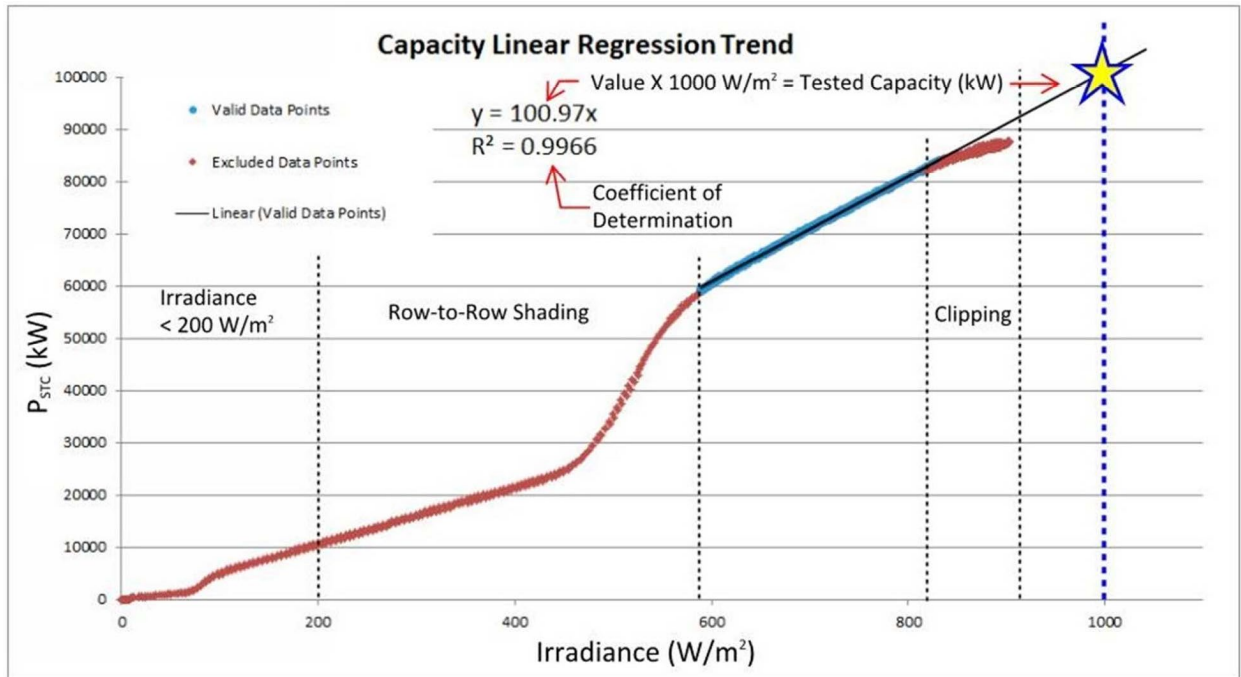


Figure 1 – Example linear fit to Temperature-Corrected Power vs. POA Irradiance

5 Data Exclusions

Data will be excluded from the linear fit if and when any of the following events in **Table 3** occur. Any point not excluded is considered to be a Valid Data Point.

Table 3 - Data Exclusion Events

Event	Definition
Low Irradiance	Mean Reference Module irradiance is less than 200 W/m ²
High Irradiance	Mean Reference Module irradiance is greater than 1200 W/m ²
Inverter(s) Offline	At least one inverter is offline or otherwise producing minimal power relative to the other inverters such that inverter generation is unable to reach nameplate capacity for site.
Grid Interruption	The Fault State of one or more inverters indicates a Grid Failure, or the Utility grid voltage is more than 5% different from the design voltage. The previous five minutes of data will be excluded the event of a Grid Interruption.
Negative Power Flow	The power meter records a net negative power output (power is flowing to the Plant)
Inverter Clipping	At least one inverter has reached the AC power set point OR at least one inverter is commanded to less than 100% output by the PPC.
Row-to-Row Shading	Direct beam row-to-row shading as confirmed by visual inspection
Erratic Irradiance	Erratic irradiance is observed
Snow or Frost	From visual inspection, there is snow or frost on the modules or critical sensors
Irradiance Sensor Failure	There are less than X Reference Modules reading correctly (50% of installed quantity and round up)
MST Sensor Failure	There are less than XX module surface temperature sensors reading correctly (50% of installed quantity and round up)
SCADA/DAS Failure	There is a system-wide failure to collect critical data, including: irradiance, MST and energy meter AC power. The previous five minutes of data will be excluded the event of a Grid Interruption.

6 Capacity Test Execution

6.1 Daily Capacity Test

A capacity value for each calendar day of the Capacity Test period will be calculated according to the procedure outlined in Section 4, using data points subjected to the exclusions described in Section 5.

For each calendar day of the test, the NextEra Test Manager will do the following:

- Confirm all inverters start up at approximately the same time
- Ensure that data is recorded in 1 minute intervals
- Review the Daily Alarm Log and other non-conformance items and ensure that they do not affect the test results

6.2 Tested Capacity

The Tested Capacity of the PV Power Plant will be determined using all Valid Data Points collected over the Capacity Test period. The Tested Capacity value will be calculated according to the procedure outlined in Section 4, using data points subjected to the exclusions described in Section 5. This value will be compared to Guaranteed Capacity shown in Section 1, **Table 1** to determine pass/fail.

6.3 Site Specific Test Configuration (Optional)

Site Pre-Test Assumptions:

1. Xxx
2. Xxx
3. Xxx

Site Testing Configuration:

1. Xxx
2. Xxx

7 Capacity Test Report

Following the conclusion of the Capacity Test, NextEra will issue a Capacity Test Report within **five (5)** business days of the successful completion of the Capacity Test to all relevant parties. The report will include the following:

- Executive summary of testing (e.g., Tested Capacity value, R² value, Daily Capacity Values)
- Instrument calibration certificates

-
- Test data
 - Field notes including non-conformance events (See “Daily Log”)
 - Capacity calculations
 - Conclusions

NextEra will provide the raw test data (consisting of both Valid Data Points and excluded values) and instrument calibration certificates to relevant parties as a separate attachment. This procedure will be appended to the submitted report.

8 Reference Documents

- SCADA Design Drawings – [XXXXXXXXXXXXXXXXXXXXX](#)
- Substation Functional Single Line Diagram – [XXXXXXXXXXXXXXXXXXXXX](#)

RESOLUTION NO. _____

WHEREAS, in August 2023, SMUD received a competitive offer from **NextEra Energy Resources, LLC (NextEra)** for the **Grace Orchard Energy Center Solar Project (Grace Solar Project)** for 70 MW of solar photovoltaic power (Solar PV); and

WHEREAS, SMUD performed an evaluation of the market and determined that the **Grace Solar Project** provided superior value versus the available alternatives; and

WHEREAS, SMUD and **Grace Orchard Energy Center, LLC** (parent company is **NextEra**) negotiated a mutually beneficial **Power Purchase Agreement (PPA)** under which SMUD will purchase 70 MW of energy and environmental attributes, including Portfolio Content Category 1 Renewable Energy Credits (PCC1 RECs), for a term of 20 years, at an annual approximate cost of \$11 million; and

WHEREAS, the **Grace Solar Project** scheduled commercial operation date is December 1, 2027, and the Point of Interconnection is with the **California Independent System Operator Corporation (CAISO)** grid at the **Southern California Edison (SCE) Colorado River 230kV Substation** located in Riverside County; and

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

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

Section 1. The Chief Executive Officer and General Manager, or his delegate, is authorized to negotiate and execute the **Grace Orchard Energy Center**

Solar Project (Grace Solar Project) Power Purchase Agreement (PPA) for a 20-year term, substantially in the form of **Attachment ____**, and all other agreements necessary to facilitate the **Grace Solar Project** for 70 MW of solar photovoltaic power (Solar PV).

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