

**REGULAR MEETING of the Board of Directors of the
Clean Power Alliance of Southern California
Wednesday, May 2, 2018
2:00 p.m.**

Los Angeles County Hall of Administration
Room 743
500 West Temple Street
Los Angeles, California 90012

*Calabasas City Hall – Council Conference Room
100 Civic Center Way, Calabasas, CA 91301*

*Ventura County Hall of Administration – 4th Floor Channel Island Conference Room
800 South Victoria Avenue, Ventura, CA 93009*

*City of Whittier – Admin. Committee Room
13230 Penn Street, Whittier, CA 90602*

I. WELCOME AND ROLL CALL

II. PUBLIC COMMENT

This item is reserved for persons wishing to address the Board on any Clean Power Alliance-related matters not on today's agenda. Public comments on matters on today's agenda shall be heard at the time the matter is called.

As with all public comment, members of the public who wish to address the Board are requested to complete a speaker's slip and provide it to Clean Power Alliance staff. Speakers are customarily limited to two minutes, but an extension can be provided at the discretion of the Board Chair.

Clean Power Alliance Board Meeting Agenda
May 2, 2018

III. CONSENT AGENDA

1. Approve Minutes from April 5, 2018 Board of Directors Meeting
2. Approve Consulting Agreement with BD Carnahan Management Services, Inc. for Bill Carnahan to serve as Special Assistant to the Executive Director
3. Approve Budget Increase in the Amount of \$75,000 for Troutman Sanders LLC to provide Specialized Legal Services for Energy Contracting
4. Approve Board Director Expense Reimbursement Policy

IV. REGULAR AGENDA

- 5 Adopt Resolution 18-007 Authorizing Execution of a Credit Agreement with River City Bank
6. Approve Fiscal Year 2017-18 Budget Adjustment
7. Approve Policy to use an RFQ process to Establish a list of Pre-Qualified Providers to Provide Goods and Services
8. Approve Formation of Community Advisory Committee and Authorize Staff to Open Application Process for Committee Membership

V. LEGISLATIVE AND REGULATORY UPDATE

VI. EXECUTIVE DIRECTOR REPORT

VII. BOARD MEMBER COMMENTS

VIII. REPORT FROM THE CHAIR

IX. ADJOURN – TO JUNE 7, 2018

Clean Power Alliance Board Meeting Agenda
May 2, 2018

Public records that relate to any item on the open session agenda for a regular board meeting are available for public inspection. Those records that are distributed less than 72 hours prior to the meeting are available for public inspection at the same time they are distributed to all members, or a majority of, the members of the Board. The Board has designated the County of Los Angeles, Chief Sustainability Office, Kenneth Hahn Hall of Administration, Room 493, 500 West Temple Street, Los Angeles, CA 90012, for making those public records available for inspection. The documents are also available on our internet website at cleanpoweralliance.org.



REGULAR MEETING of the Board of Directors of the
 Los Angeles Community Choice Energy Authority (dba Clean Power Alliance of
 Southern California)

Thursday, April 5, 2018, 2:00pm
 Los Angeles County Hall of Administration
 Room 140
 500 West Temple Street, Los Angeles, CA 90012

ACTION MINUTES

I. WELCOME AND ROLL CALL

Due to absence of Chair Mahmud, Vice Chair Kuehl served as Acting Chair.

Acting Chair Kuehl called the meeting to order at 2:03 pm. Secretary Gomez conducted roll call.

| Roll Call | | | | |
|-----------|---------------------------|---------------------|-----------|---------|
| 1 | Agoura Hills | Harry Schwarz | Director | Present |
| 2 | Alhambra | Martin Ray | Alternate | Present |
| 3 | Arcadia | Sho Tay | Director | Present |
| 4 | Beverly Hills | Julian Gold | Director | Present |
| 5 | Calabasas | John Bingham | Alternate | Present |
| 6 | Camarillo | Kevin Kildee | Alternate | Present |
| 7 | Carson | Reata Kulcsar | Alternate | Present |
| 8 | Claremont | Corey Calaycay | Director | Present |
| 9 | Culver City | Meghan Sahli-Wells | Director | Present |
| 10 | Downey | Sean Ashton | Alternate | Present |
| 11 | Hawaiian Gardens | Myra Maravilla | Director | Absent |
| 12 | Hawthorne | Angie Reyes English | Director | Present |
| 13 | Los Angeles County | Sheila Kuehl | Director | Present |
| 14 | Malibu | Craig George | Alternate | Present |
| 15 | Manhattan Beach | Amy Howorth | Director | Present |

| | | | | |
|----|------------------------------|-------------------------|-----------|---------|
| 16 | Moorpark | Janice Parvin | Director | Present |
| 17 | Ojai | Michelle Ellison | Alternate | Present |
| 18 | Oxnard | Carmen Ramirez | Director | Present |
| 19 | Paramount | Tom Hansen | Director | Absent |
| 20 | Redondo Beach | Christian Horvath | Director | Present |
| 21 | Rolling Hills Estates | Steve Zuckerman | Director | Present |
| 22 | Santa Monica | Kevin McKeown | Director | Present |
| 23 | Sierra Madre | James Carlson | Alternate | Present |
| 24 | Simi Valley | Mike Judge | Director | Absent |
| 25 | South Pasadena | Kim Hughes | Alternate | Present |
| 26 | Temple City | Nanette Fish | Director | Present |
| 27 | Thousand Oaks | Claudia Bill-de la Peña | Director | Present |
| 28 | Ventura City | Neal Andrews | Director | Present |
| 29 | Ventura County | Linda Parks | Director | Present |
| 30 | West Hollywood | Lindsey Horvath | Director | Present |
| 31 | Whittier | Fernando Dutra | Director | Present |

A quorum was established.

II. PUBLIC COMMENT

No requests for public comment. Acting Chair Kuehl asked if there were any members of the public either in person or at remote meeting locations wishing to address the Board. There were none.

III. CONSENT AGENDA

1. Approve Minutes from March 1, 2018 Board of Directors meeting
2. Approve Minutes from March 6, 2018 Board of Directors meeting
3. Approve Minutes from March 21, 2018 Board of Directors meeting

4. Designation of Jacquelyn Betha as Board Secretary Effective April 6, 2018
5. Approve Amendment #2 to the Joint Powers Authority Agreement
6. Approve Employee Benefits Policy
7. Adopt Resolution No. 18-004 Declaring the Initial Participants of the CPA Program

Director Horvath (West Hollywood) requested to pull Items 2 & 3 for a minor correction to the minutes. She wished to make the correction that Alternate Director Robyn Eason was representing West Hollywood at both the March 6 and March 21 Special Meetings of the Board.

Director Calaycay (Claremont) motioned to approve the amended consent agenda items. Seconded by Acting Chair Kuehl (Los Angeles County). The motion was approved by a unanimous roll call vote.

IV. REGULAR AGENDA

8. Election of At-Large Representatives to the Executive Committee

Ballots for at-large representatives to the Executive Committee were opened and counted, and it was announced that the following Board members were elected to at-large seats:

Ventura County: Director Linda Parks (Unincorporated Ventura County)
Los Angeles County: Director Steve Zuckerman (Rolling Hills Estates) and Director Angie Reyes English (Hawthorne)

Director Calaycay (Claremont) moved to approve the election results. Director Fish (Temple City) seconded. The motion was approved by a unanimous roll call vote.

9. Adopt Resolution No. 18-005 to Provide Delegation of Authority to the Executive Director to Enter into Contract for Energy Procurement

Director Gold (Beverly Hills) motioned to approve the item. Director McKeown (Santa Monica) seconded, and the motion was approved by unanimous roll call vote.

10. Adopt Resolution No. 18-006 to Approve Rates for Phase 2

Alternate Director Hughes (South Pasadena) moved to approve the Phase 2 Rates as presented. Seconded by Director Zuckerman (Rolling Hills Estates). The motion was approved by a unanimous roll call vote.

V. LEGISLATIVE AND REGULATORY REPORT

Director Horvath, Chair of Legislative & Regulatory Committee, reported on recent meetings with legislators.

VI. EXECUTIVE DIRECTOR REPORT

Executive Director Ted Bardacke gave remarks and updates.

VII. CHAIR ANNOUNCEMENTS

Acting Chair Kuehl gave announcements.

VIII. BOARD MEMBER COMMENTS

IX. ADJOURN – TO MAY 2, 2018

Director Gold (Beverly Hills) moved to adjourn. Director McKeown (Santa Monica) seconded the motion. Meeting adjourned at 4:08 pm.



Staff Report – Agenda Item 2

To: Clean Power Alliance (CPA) Board of Directors

From: CPA Staff

Subject: Approve Consulting Agreement with BD Carnahan Management Services, Inc. for Bill Carnahan to Serve as Senior Advisor to the Executive Director

Date: May 2, 2018

RECOMMENDATION

Staff recommends that the Board approve a Consulting Contract with BD Carnahan Management Services, Inc (Bill Carnahan) to provide service as a Senior Advisor to the CPA Executive Director for an amount not to exceed \$160,000. The contract expiration date is December 31, 2018, with the ability of CPA to extend the term for a period of one year or to terminate at any time. All other terms and provisions are the same as the currently expiring contract with Mr. Carnahan.

DISCUSSION

Mr. Carnahan provided expert contract services to the Los Angeles Community Choice Energy (LACCE) Authority since April 2017 under a contract with the County of Los Angeles that was assigned to the LACCE Authority in August 2017. From August 2017 until February 2018, Mr. Carnahan served as the LACCE Interim Executive Director where he helped establish the organization, including recruiting member agencies, overseeing program development and operations, and successfully launching electric service delivery in February 2018.

Mr. Carnahan has many years of experience in public power as the head of several municipal electric utilities and for the last 17 years as the head of the Southern California Public Power Authority, a joint powers authority consisting of public power utilities in

Southern California. With the hiring of Ted Bardacke as the new CPA Executive Director, Mr. Carnahan has been serving as a Senior Advisor.

Mr. Carnahan's existing contract – which is a Los Angeles County contract that was assigned to the LACCE Authority – is expiring and staff believes there is need for Mr. Carnahan's further service as a Senior Advisor. Rather than extend the existing County contract with LACCE, staff are recommending the approval of a new contract with the Clean Power Alliance. The contract term is through the end of 2018 with authority to extend for one additional year and the total contract amount is not to exceed \$160,000. All work will be assigned by the Executive Director. The contract may also be terminated at any time by CPA without cause.

Mr. Carnahan's key duties under the contract will be to provide expert strategic support and guidance to the CPA Executive Director in the areas of soliciting and selecting expert contractors, recruiting and hiring of CPA staff, conducting education and outreach to large commercial and industrial customers to minimize "opt outs", and other such duties as the Executive Director may assign.

As CPA now transitions from its start-up phase to its initial operational phase, staff believes Mr. Carnahan's experience and skills will be very beneficial in assisting with that transition and recommends approval of this contract.

Attachment: Consulting Agreement with BD Carnahan Management Services, Inc.

CONSULTING AGREEMENT

This Consulting Agreement (this "Agreement") dated and effective as of May 2, 2018, (the "Effective Date"), is made by and between:

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA,
555 W 5th Street, 35th Floor, Los Angeles, CA, 90012 ("CPA") and,

BD CARNAHAN MANAGEMENT SERVICES, INC.
Bill D. Carnahan, President
1775 Paseo Verano, San Dimas, CA, 91773 ("Consultant").

CPA and Consultant are sometimes collectively referred to herein as the "Parties" and each individually as a "Party." In consideration of the terms of this Agreement, and for other good and valuable consideration, the Parties make the following acknowledgments and agreements:

RECITALS

WHEREAS, CPA desires to engage Consultant's services and Consultant desires to provide CPA consulting services.

WHEREAS, Bill Carnahan has many years of experience in successfully managing public power utilities and a joint powers authority – the Southern California Public Power Authority – as well as having served as the Interim Executive Director of Los Angeles Community Choice Energy (LACCE) makes him uniquely qualified to provide the services described herein.

WHEREAS, the purpose of this Agreement is to set forth the terms and conditions upon which Consultant shall provide consulting services, as an independent contractor, to CPA.

NOW, THEREFORE, for and in consideration of the Agreement made, and the payments to be made by Consultant, the Parties agree to the following:

AGREEMENT

1. **Scope of Work.** Consultant will provide expert services to the CPA Executive Director in the areas of strategic support and guidance, assistance with the solicitation and selection of expert contractors, assistance with the recruitment and selection of CPA staff, education and outreach to large commercial and industrial customers to minimize "opt outs", and other such duties as the Executive Director may assign.
2. **Compensation.** Consultant's compensation. CPA agrees to compensate consultant as follows:
 - 2.1 \$190 per hour. Total costs shall not exceed \$160,000.

- 2.2 Payment of Compensation. Consultant shall submit its invoice on the first day of each month for services rendered the previous month.

3. Term

- 3.1 The Agreement shall commence upon execution of the CPA's Executive Director, and shall terminate on December 31, 2018. Certificate(s) of Insurance, if required must be current on day Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Consultant. The final invoice must be submitted within 30 days of completion of the stated scope of services.
- 3.2 The term of this Agreement may extended, in the sole discretion of the Executive Director, for up to an additional year.

4. Confidential Information

- 4.1 Consultant agrees that Consultant will hold all Confidential Information in confidence, and will not divulge, disclose, or directly or indirectly use, copy, digest, or summarize, any Confidential Information, except to the extent necessary to carry out Consultant's responsibilities as directed or authorized by CPA.
- 4.2 Confidential Information shall not include: (1) information that is generally available to the public or in the public domain at the time of disclosure; (2) information that becomes publicly known other than through any breach of this Agreement by Consultant or its Representatives; (3) information which is subsequently lawfully and in good faith obtained by Consultant or its Representatives from a third party, as shown by documentation sufficient to establish the third party as the source of the Confidential Information; provided that the disclosure of such information by such third party is not known by Consultant or its Representatives to be in breach of a confidentiality agreement or other similar obligation of confidentiality; (4) information that Consultant or its Representatives develop independently without use of or reference to Confidential Information provided by CPA; or (5) information that is approved for release in writing by CPA.

5. Insurance

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

Nothing herein shall be construed as a limitation on Consultant's obligation under paragraph 6 of this Agreement to indemnify, defend, and hold CPA harmless from any and all liabilities arising from the Consultant's negligence, recklessness or willful misconduct in the performance of this Agreement. CPA agrees to timely notify the Consultant of any negligence claim.

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

5.1 General Liability

The Consultant shall maintain a commercial general liability insurance policy in an amount of no less than one million (\$1,000,000) with a two million dollar (\$2,000,000) aggregate limit. CPA shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page.

5.2 Auto Liability

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

5.3 Workers' Compensation

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

5.4 Professional Liability Insurance

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

general insurance reserves are adequate to provide the necessary coverage and CPA may conclusively rely thereon.

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

6. Indemnification

Consultant agrees to indemnify and hold harmless CPA, its employees, officers, and agents, from and against, and shall assume full responsibility for payment of all wages, state or federal payroll, social security, income or self-employment taxes, with respect to Consultant's performance of this Agreement. Consultant further agrees to indemnify, and save harmless Company from and against any and all third-party claims, liabilities, penalties, forfeitures, suits, costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorney's fees), which Company may hereafter incur, become responsible for, or pay out, as a result of death or bodily injuries to any person, destruction or physical damage to tangible property, or any violation of governmental laws, regulations or orders, to the extent caused by Consultant's negligent acts, errors or omissions, or the negligent acts, errors or omissions of Consultant's employees, agents, or subcontractors while in the performance of the terms and conditions of the Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of CPA, elected and appointed officers, employees, agents and volunteers.

7. Independent Contractor

7.1 The parties acknowledge and agree that in the performance of Services to be rendered under this Agreement, Consultant shall at all times be acting and performing as an independent contractor. Consultant shall not be subject to the supervision of Company in Consultant's day-to-day performance of Services and is solely responsible for the methods and means used to perform the Services. Consultant shall supply at Consultant's sole expense, all equipment, tools, materials and/or supplies to accomplish the Services agreed to be performed unless specified in writing.

7.2 As an independent contractor, Consultant acknowledges that Consultant will not be deemed to be an employee of CPA for any purpose whatsoever, including, but not limited to: (i) eligibility for inclusion in any retirement or pension plan that may be provided to employees of CPA; (ii) sick pay; (iii) paid non-working holidays; (iv) paid vacations or personal leave days; (v) participation in any plan or program offering life, accident, or health insurance for employees of CPA; (vi) participation in any medical reimbursement plan; or (vii) any other fringe benefit plan that may be provided for employees of CPA.

7.3 Consultant declares that Consultant will comply with all federal, state, and local laws regarding registrations, authorizations, reports, business permits, and licenses that may be required to carry out the work to be performed under this Agreement.

Consultant agrees to provide CPA with copies of any registrations or filings made in connection with the work to be performed under this Agreement.

8. No Recourse Against Constituent Members of CPA

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

9. Compliance With Applicable Laws

The Consultant shall comply with any and all applicable federal, state and local laws and resolutions affecting services covered by this Agreement.

10. Nondiscriminatory Employment

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

11. Work Product

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

12. Assignment

Neither this Agreement nor any of the Parties' rights or obligations hereunder may be transferred or assigned without the prior written consent of the other Party. Subject to the preceding sentence, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

13. Subcontracting

Consultant may not subcontract Services to be performed under this Agreement without the prior written consent of CPA. If the CPA's written consent to a subcontract is not obtained, Consultant

acknowledges and agrees that CPA will not be responsible for any fees or expenses claimed by such subcontractor.

14. Retention Of Records And Audit Provision

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

15. Conflict Of Interest

15.1 No CPA employee whose position with the CPA enables such employee to influence the award of this Agreement or any competing Agreement, and no spouse or economic dependent of such employee, shall be employed in any capacity by the contractor or have any other direct or indirect financial interest in this Agreement. No officer or employee of the Consultant who may financially benefit from the performance of work hereunder shall in any way participate in the CPA's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence the CPA's approval or ongoing evaluation of such work.

15.2 The Consultant shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this Agreement. The Consultant warrants that it is not now aware of any facts that create a conflict of interest. If the Consultant hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to CPA. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this paragraph shall be a material breach of this Agreement.

16. Governing Law, Jurisdiction, And Venue

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. The Consultant agrees and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agrees and consents that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

17. Termination.

- 17.1 If the Consultant fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, CPA may terminate this Agreement by giving five (5) business days' written notice to the party involved.
- 17.2 The Consultant shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Consultant has no control.
- 17.3 In the event of termination not the fault of the Consultant, the Consultant shall be paid for services performed to the date of termination in accordance with the terms of the Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s).
- 17.4 CPA may terminate this Agreement if funding for this Agreement is reduced or eliminated by a third-party funding source.

18. Amendments

None of the terms and conditions of this Agreement may be changed, waived, modified or varied in any manner whatsoever unless in writing duly signed by the Parties.

19. Severability

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

20. Complete Agreement

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

21. 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.

[Signatures on the following page]

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

By: Bill D. Carnahan, President
BD Carnahan Management Services, Inc

By: Ted Bardacke, Executive Director
Clean Power Alliance of Southern California

Date: _____

Date: _____



Staff Report – Agenda Item 3

To: CPA Board of Directors

From: CPA Staff

Subject: Approve Budget Increase in the Amount of \$75,000 for Troutman Sanders LLC to provide Specialized Legal Services for Energy Contracting

Date: May 2, 2018

RECOMMENDATION

Staff recommends that the CPA Board of Directors increase the budget for Troutman Sanders LLP by \$75,000 for a total contract amount not to exceed \$125,000 for services provided regarding the development and execution of banking services agreements to support the purchase of power for the CPA program.

BACKGROUND

An integral part of becoming a fully functioning energy provider to the residents and businesses within the CPA service area is the establishment of banking services agreements by and among multiple parties, including between CPA and its financial institution (River City Bank), between CPA and its energy suppliers, and between River City Bank and CPA's energy suppliers. Such agreements are highly specialized and complex, requiring special legal counsel to ensure they are properly developed and executed to allow for the necessary financial flows that render the CPA program operational.

On March 19, 2018, Executive Director Bardacke entered into a contract under his delegated authority with Troutman Sanders to obtain the services of Stephen Hall, a firm partner who is recognized as one of the preeminent attorneys in the specialized field of community choice aggregator energy procurement. However, the services under that contract are now approaching the Executive Director's \$50,000 expenditure limit and so

Board approval is required to authorize an additional \$75,000 for this contract as there remains much work to be done to complete initial CPA energy procurement.

The termination of the contract is not a defined calendar date but instead is when the services contemplated in the agreement are completed (except the contract can be terminated at any time by CPA). Future legal services for power procurement will depend on the types of procurement that CPA intends to undertake and in consultation with the future CPA General Counsel.

Under the current agreement, Mr. Hall is assisting in the development of the following agreements:

- Master Power Purchase and Sale Agreement, between the individual energy suppliers and CPA for the purchase of identified resources and terms and conditions for those transactions;
- Confirmation documentation between CPA and energy suppliers to provide legal confirmation of a particular power supply transaction;
- Security Agreement, between CPA and River City Bank to establish a “lock box” for the receipt of funds collected by SCE and disbursement by the bank to the suppliers and CPA;
- Inter-creditor and Collateral Agency Agreement between an individual energy supplier and River City Bank agreeing to the lock box arrangement between CPA and River City Bank; and
- Account Control Agreement, between River City Bank and CPA establishing the legal role that River City Bank plays in the lock box arrangement as being separate from the other banking services.

These agreements are in various stages of drafting, negotiation and execution but the work is not complete and thus additional budgeted funds are being recommended to complete all of these important tasks, as well as any other additional contracts and agreements as may be necessary to ensure the energy procurement and related financial activity are legal and proper, allowing CPA to operate.

A copy of the original Profession Legal Services Agreement for Troutman Sanders, LLC is attached.

AGREEMENT FOR

PROFESSIONAL LEGAL SERVICES

BY AND BETWEEN

THE LOS ANGELES COMMUNITY CHOICE ENERGY AUTHORITY

("LACCE")

AND

TROUTMAN SANDERS LLP

("FIRM")

March 19, 2018

(Date of Agreement)

Firm Address: 100 SW Main St., Suite 1000 Portland, OR 97204

Firm Tax ID No.: 58-0946915

Firm Telephone: (503) 290-2336

Firm Facsimile: (503) 290-2405

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AGREEMENT FOR PROFESSIONAL LEGAL SERVICES

("AGREEMENT")

RECITALS

WHEREAS, LACCE desires to contract for professional legal services; and

WHEREAS, FIRM has the legal competence and expertise to provide professional legal services;

WHEREAS, LACCE desires to retain FIRM's services;

NOW, THEREFORE, LACCE and FIRM agree as follows:

I. **Term and Termination:**

A. **Period of Performance:**

This AGREEMENT shall begin on the date set forth on the cover page hereto and shall continue indefinitely and at least until the completion of the case(s) or matter(s) assigned by LACCE to FIRM hereunder, unless earlier terminated as set forth herein.

B. **Termination and/or Suspension:**

1. **Termination and/or Suspension for LACCE'S Convenience:**

- a) Services performed under this AGREEMENT may be terminated or suspended in whole or in part by LACCE at any time, when LACCE, in its sole discretion, deems such termination or suspension to be in the LACCE'S best interest. LACCE shall terminate or suspend services by delivering to FIRM a written notice specifying the extent to which services are terminated or suspended and the effective date of the termination or suspension.
- b) After receiving a Notice of Termination or Suspension, unless otherwise directed by LACCE, FIRM shall:
 - 1) Stop services on the date and to the extent specified in the Suspension or Termination Notice.
 - 2) Complete services not terminated or suspended by the Notice.
 - 3) Submit a Closing Report to LACCE as set forth below.

- 4) Submit, no later than thirty (30) calendar days after the date of suspension or termination is effective, a final electronic (e-bill) for all services performed prior to suspension or termination. If FIRM fails to submit a final e-billing within the time allowed, LACCE may determine, on the basis of information available, the amount, if any, to be paid to FIRM. LACCE's determination shall be final.

2. Termination For FIRM's Default:

- a) Services performed under this AGREEMENT may be terminated in whole or in part by LACCE when FIRM:
 - 1) Fails to perform the service(s) within the time specified or any LACCE approved extension, or
 - 2) Fails to perform any of the AGREEMENT's other provisions or fails to make progress and endangers the performance of AGREEMENT's terms.
- b) LACCE shall give written notice to FIRM of FIRM's default. LACCE, in its sole discretion, shall decide whether the default is of such a nature that the FIRM should be given a period to cure the default, and, if so, the cure period shall be specified in the notice.
- c) If LACCE wholly or partially terminates services under this AGREEMENT, replacement services may be obtained from another law firm or any other source with terms and in a manner LACCE deems appropriate. FIRM shall be liable to LACCE for any excess costs for these required services.

3. Termination for Professional Conflict of Interest:

If either FIRM or LACCE determines a matter of professional conflict has arisen during FIRM's engagement which should not or cannot be postponed until the conclusion of FIRM's representation of LACCE, FIRM or LACCE may immediately give written notice to terminate this AGREEMENT. FIRM shall continue to provide high quality, professional legal representation until the appropriate substitutions can be made.

4. Closing Report Upon Termination or Suspension:

- a) Immediately upon the termination or suspension of this AGREEMENT for any reason, FIRM shall deliver a Closing Report to LACCE. The Closing Report shall include, for each case or matter assigned to FIRM which in whole or in part is terminated or suspended, the following:

- 1) A brief description of the facts and current status,
 - 2) A discussion of the applicable law, and
 - 3) A list and description of all future scheduled court appearances, and applicable deadlines.
- b) Immediately upon any termination or suspension, FIRM shall, at its own cost, deliver to LACCE all evidence, files and attorney work product for each case or matter for which work under this AGREEMENT has been terminated or suspended. This includes any computerized indices, programs and document retrieval systems created or used for the case or matter. If FIRM's services include pending litigation, FIRM shall file the appropriate substitution of counsel with the court when instructed by LACCE.

II. FIRM's Services and Responsibilities:

A. Supervising Attorney:

1. FIRM shall appoint a Supervising Attorney for work performed under this AGREEMENT. The person designated as FIRM's Supervising Attorney, and any changes in this designation, shall be promptly communicated in writing to LACCE.
2. FIRM's Supervising Attorney shall have full authority to act for FIRM on all daily operational matters under this AGREEMENT and shall serve as or designate lead counsel for all law and motion appearances, pretrial and trial proceeding(s), settlement conference(s) or meetings of counsel for parties, depositions, document productions, and all court and other proceedings in which substantive rights of the parties may be determined. Designation of Lead Counsel shall be subject to approval by LACCE.

B. Legal Representation:

1. FIRM recognizes that the LACCE Counsel is the authorized legal representative for the LACCE of Los Angeles and its officers and employees. Subject to the direction and control of LACCE Counsel, FIRM shall provide LACCE with high quality legal advice and representation consistent with this AGREEMENT, the Rules of Professional Conduct, and all applicable laws and court rules.
2. FIRM shall provide representation with fully qualified staff at the least costly billing category. Consistent with this requirement, FIRM may use its discretion in determining which of FIRM's attorneys or paralegals will be assigned to work on LACCE matters, except that FIRM will not utilize any attorney or paralegal on any LACCE matter where the LACCE has requested that the attorney or paralegal not be used.

3. FIRM shall keep LACCE informed of all significant developments in each case or matter assigned to FIRM and shall provide LACCE with copies of all significant documents.
4. FIRM acknowledges that nothing in this AGREEMENT is intended, nor will be construed, as creating any exclusive arrangement between LACCE and FIRM. Nothing in this AGREEMENT will restrict LACCE from obtaining similar services from other firms or sources.

III. LACCE's Duties and Responsibilities:

A. Supervising Attorney:

1. LACCE shall appoint a Supervising Attorney for each case or matter assigned to FIRM.
2. LACCE's Supervising Attorney shall have full authority to act for LACCE on all daily operational matters under this AGREEMENT and shall review and approve all FIRM's reports, whether written or oral, and any change in FIRM's Supervising Attorney.

B. Duties and Responsibilities:

1. LACCE shall make available to FIRM all documents and other information possessed by LACCE which are relevant to any case or other matter assigned to FIRM under this AGREEMENT.
2. LACCE shall assist FIRM in obtaining LACCE records and/or information necessary to respond to discovery and to help familiarize the FIRM with LACCE operations and policies.
3. LACCE shall review and approve as appropriate:
 - a) All reports, requests, and other services provided by FIRM under this AGREEMENT.
 - b) Any proposed tactical maneuver or trial strategy.
 - c) All recommended settlement proposals. Approval of proposed settlement recommendations is subject to LACCE's settlement approval procedures.
 - d) All billing statements in accordance with procedures referenced in this AGREEMENT.
4. LACCE may review all correspondence and judicial, administrative and other documents.

5. LACCE will evaluate FIRM's performance under this AGREEMENT and may report this evaluation to LACCE's Board of Supervisors. LACCE reserves the right to conduct an audit of any and all aspects of FIRM's compliance with this AGREEMENT. Any such audit may be conducted by LACCE staff or a contract auditor, in LACCE's sole discretion.

IV. Compensation:

A. LACCE Counsel Billing Requirements:

All charges by FIRM, whether for fees or attorney work, or for reimbursement for expenses incurred shall be in accordance with the LACCE Counsel Billing Requirements. Said Billing Requirements will be made available to FIRM and may be amended by LACCE at any time. LACCE shall provide FIRM with any amended Billing Requirements promptly after they are promulgated.

B. Fees:

1. FIRM shall provide legal services at the hourly billing rates for attorneys and paralegals set forth in Exhibit A to this AGREEMENT.
2. The billing rates set forth in Exhibit A may be subject to periodic review and adjustment as agreed between LACCE and FIRM. Any billing rate change shall be in writing and be executed as an amendment to Exhibit A.

C. Expenses:

1. Non-Reimbursable Expenses: Certain expenses incurred by FIRM in providing services under this AGREEMENT shall be considered FIRM overhead which shall not be reimbursed by LACCE, but which shall be borne by FIRM as expenses included within the hourly billing rates set forth in Exhibit A. Expenses which will not be reimbursed and which should not be billed are the following:
 - a) Postage.
 - b) Telephone charges (both local and long distance).
 - c) Facsimile/Telecopier charges.
 - d) Mileage/Parking within the counties of Los Angeles, Orange, Riverside, San Bernardino and Ventura.
 - e) On-line subscription, connection or other costs for computerized research. (Attorney and paralegal time incurred conducting such research may be billed.)
 - f) Document reproduction. (See below for large volume exception.)

- g) Staff time or overtime for performing secretarial, clerical, or word processing functions.
 - h) Time spent complying with LACCE audits or billing inquiries.
 - i) Charges for services or expenses incurred which have not been authorized by LACCE.
2. Reimbursable Ordinary Expenses: LACCE shall reimburse FIRM for its actual out-of-pocket expenses, but without any additional costs for having advanced the funds, for the following:
- a) Deposition costs (other than video taping unless approved as set forth below).
 - b) Transcript fees.
 - c) Filing fees for which the LACCE is not exempt.
 - d) Messenger service if specifically requested by the LACCE's Supervising Attorney, if required because of an emergency over which the FIRM has no control, or if necessary to ensure the safekeeping of sensitive documents or materials.
 - e) Process service fees.
3. Reimbursable Extraordinary Expenses: LACCE shall reimburse FIRM for its actual out-of-pocket expenses, but without any additional costs for having advanced the funds, for the following, but only if FIRM has obtained prior approval from LACCE:
- a) Outside vendor document reproductions which, because of the volume or format requirements, are impractical to complete in-house.
 - b) Consultants.
 - c) Experts.
 - d) Investigative services.
 - e) Expenses for travel outside the Counties of Los Angeles, Orange, Riverside, San Bernardino and Ventura. Reimbursement for such travel expenses will be limited to the amount LACCE's employees may claim for such travel. Information on such limits will be made available to FIRM upon request at the time FIRM seeks permission for such travel.

- f) Videotaping of depositions.
- g) Extraordinary computerized research requirements meeting the criteria set forth in the LACCE Counsel Billing Requirements.
- h) Other extraordinary expenses for which FIRM has obtained prior approval from LACCE.

V. Invoices and Payments to FIRM:

A. Billing (E-Billing):

The FIRM shall submit all invoices for attorney fees and reimbursable expenses to LACCE.

B. E-Bills:

1. FIRM shall submit invoices for services and for reimbursable expenses monthly in arrears, or quarterly in arrears if approved by LACCE.
2. Each e-bill must also include a signed dated declaration of FIRM's Supervising Attorney with the following statement:

"I have personally examined this e-bill. All entries are in accordance with the AGREEMENT for Professional Legal Services, are correct and reasonable for the services performed and the cost incurred, and no item on this statement has been previously billed to LACCE."
3. Each e-bill shall be itemized to include:
 - a) Staffing level(s), hourly rates and specific activities for each attorney and/or paralegal.
 - 1) Each activity shall be coded using the appropriate Universal Task Based Management System (UTBMS) legal fees and expense code for electronic billing.
 - 2) Each billing entry shall include a detailed description of specific activities for each attorney and/or paralegal.
 - 3) All receipts for expenses shall be scanned and attached to the e-bill.
 - 4) No attorney or paralegal may be utilized on a matter until an hourly billing rate for that person has been approved by the LACCE. All time must be billed at the approved hourly rate.

4. FIRM shall maintain in a form subject to audit, and in accordance with generally accepted accounting principles, backup documentation to support all entries included in the monthly billing statement. Such documentation shall be available to LACCE upon request.

C. Payments

1. LACCE shall make payment(s) for services rendered under this AGREEMENT monthly (quarterly if approved by LACCE) in arrears based on the itemized billing statement(s) FIRM submits to LACCE.
2. LACCE's legal and accounting staff shall review all billing statements for reasonableness of the time billed as well as full compliance with this AGREEMENT and all LACCE Counsel Billing Requirements.
3. LACCE shall make its best effort to process payments promptly after receiving FIRM's e-bill. However, LACCE shall not pay interest or finance charges on any outstanding balance(s).
4. Payments to FIRM are conditioned upon FIRM's compliance with all provisions of this AGREEMENT, including but not limited to, Paragraphs II(C) and VIII(B).

VI. Notices:

All notices and required reports shall be written and hand-delivered or mailed by first class, postage prepaid, addressed to LACCE or FIRM at the addresses below, or at any other address LACCE or FIRM shall provide in writing to each other:

A. If to FIRM:

Troutman Sanders LLP
Attn: Stephen C. Hall
100 SW Main Street, Suite 1000
Portland, OR 97204
stephen.hall@troutmansanders.com

B. If to LACCE:

Los Angeles Community Choice Energy Authority
Attn: Theodore Bardacke
555 West 5th Street, 35th Floor
Los Angeles, California 90013

With a copy to:

Office of the Los Angeles County Counsel
350 S. Figueroa St., Suite 700
Los Angeles, California 90071
Attention: Behnaz Tashakorian [btashakorian@counsel.lacounty.gov]

VII. Assignment:

- A. No part of this AGREEMENT or any right or obligation arising from it is assignable without LACCE's written consent.
- B. Any attempt by FIRM to assign or subcontract services relating to this AGREEMENT without LACCE'S consent shall constitute a material breach of this AGREEMENT.

VIII. Standard Terms and Conditions:

The following standard LACCE contract terms and conditions are included herein as part of this AGREEMENT and are fully binding on the parties hereto:

A. Indemnification:

FIRM shall indemnify, defend and save harmless LACCE, its agents, officers and employees from and against any and all liability expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or property damage (including FIRM'S property), in connection with FIRM'S operations or its services, including any workers' compensation suits, liability or expense, arising from or connected with services performed under this AGREEMENT. Notwithstanding any provision to the contrary, FIRM'S indemnification obligations under this AGREEMENT are expressly subject to the terms and limits of Firm's insurance obligation set forth below.

B. Insurance:

Without limiting FIRM'S indemnification of LACCE and its officers, agents and employees, FIRM shall provide and maintain at its own expense the following programs of insurance covering FIRM's operations during the term of this AGREEMENT. FIRM shall use insurers satisfactory to LACCE' Risk Manager and shall deliver evidence of a satisfactory insurance to LACCE on or before the effective date of this AGREEMENT. Evidence shall specifically identify this AGREEMENT and shall contain express conditions that LACCE is to be given written notice by registered mail at least thirty (30) days in advance of any modification or termination of any program insurance.

- 1. **Liability:** Such insurance shall be primary to and not contributing with any other insurance maintained by LACCE, shall name the LACCE of Los Angeles as an additional insured, and shall include, but not be limited to:

- a) Comprehensive General Liability insurance endorsed for Premises-Operations, Products/Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury with a combined single limit of not less than \$1,000,000 per occurrence.

If the above insurance is written on a Claims Made Form, the insurance shall be endorsed to provide an extended reporting period of not less than five years following termination of this AGREEMENT.

- b) Professional liability insurance with a liability limit of at least \$1,000,000 per claim. In lieu of naming LACCE as an additional insured, the policy may be endorsed as follows:

"Insurance afforded by this policy shall also apply to the liability assumed by the insured under the agreement with the LACCE of Los Angeles for legal services, provided such liability results from an error, omission, or negligent act of the insured, its officers, employees, agents, or subcontractors. All other provisions of this policy remain unchanged."

- c) Comprehensive Auto Liability endorsed for all owned, non-owned, and hired vehicles with a combined single limit of at least \$300,000 per occurrence.

2. **Workers' Compensation:** A program of Workers' Compensation insurance in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employers Liability with a \$1,000,000 limit, covering all persons providing services on behalf of FIRM and all risks to such persons under this AGREEMENT.
3. **Failure to Procure Insurance:** Failure on the part of FIRM to procure or maintain required insurance shall constitute a material breach for which LACCE may immediately terminate or suspend this AGREEMENT.

C. Independent Contractor Status:

1. This AGREEMENT is not intended, and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association, as between LACCE and FIRM.
2. FIRM understands and agrees that all FIRM personnel furnishing services to LACCE under this AGREEMENT are employees solely of FIRM and not of LACCE for purposes of workers' compensation liability.
3. FIRM shall bear the sole responsibility and liability for furnishing workers' compensation benefits to any FIRM personnel for injuries arising from services performed under this AGREEMENT.

D. Warranty Against Contingent Fees:

1. FIRM warrants that no person or selling agency has been employed or retained to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage or contingent fee.
2. For breach or violation of this warranty, LACCE shall have the right to terminate this AGREEMENT, and in its sole discretion, to deduct from the AGREEMENT price or consideration, or otherwise recover, the full amount of any such commission, percentage, brokerage or contingent fee.

E. Governing Laws:

This AGREEMENT shall be governed by and construed in accordance with the laws of the State of California and any action brought by either party on this AGREEMENT shall be brought in Los Angeles County.

F. Compliance with Applicable Law:

1. FIRM shall comply with all applicable Federal, State, and local laws, rules, regulations and ordinances, and all provisions required thereby to be included in this AGREEMENT are hereby incorporated herein.
2. FIRM shall indemnify and hold harmless the LACCE, and its officers, agents, and employees, from and against any and all liability, damages, costs, and expenses, including, but not limited to, defense costs and attorneys' fees, arising from or related to any violation on the part of FIRM or its employees, agents, or subcontractors of any such laws, rules, regulations, ordinances, or directives.

G. Record Retention and Inspection:

Within ten (10) days of LACCE'S written request, FIRM shall allow LACCE or authorized State or Federal agencies or any duly authorized representative to have the right to access, examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time cards or other records relating to this AGREEMENT. FIRM shall keep such material, including all pertinent cost accounting, financial records and proprietary data for a period of four (4) years after termination or completion of this AGREEMENT unless LACCE'S written permission is given to dispose of material prior to the end of such period or until such time as all audits are complete, whichever is later. In the event that records are located outside the LACCE of Los Angeles, FIRM shall pay LACCE for travel and per diem costs when an inspection or audit is required.

H. Confidentiality:

1. FIRM shall maintain the confidentiality of all information which it may acquire arising out of or connected with activities under this AGREEMENT in accordance with all applicable Federal, State and LACCE laws, regulations, ordinances and directives relating to confidentiality, including the Code of Professional Responsibility. FIRM shall inform all of its principals, employees and agents providing services hereunder of the confidentiality provisions of this AGREEMENT.
2. FIRM shall ensure that all attorneys, paralegals, and secretarial and clerical personnel having access to information relevant to FIRM's provision of services under this AGREEMENT, are aware of and acknowledge the confidentiality requirements set forth in paragraph 1, above.
3. These confidentiality obligations shall survive this AGREEMENT's termination or expiration.

I. Communications With LACCE:

FIRM recognizes that its communications with LACCE and its agents and employees, officers and/or representatives are subject to the attorney-client privilege. FIRM warrants that it shall not disclose, or use in any manner other than in the furtherance of FIRM's representation of LACCE, any privileged information obtained from LACCE or its officers, agents, or employees. FIRM understands that the LACCE Counsel is the legally empowered legal representative of the LACCE and its officers and employees and FIRM shall not without specific direction from LACCE Counsel communicate with, advise or represent the LACCE's Board of Supervisors or other LACCE officers or employees.

J. Conflict of Interest:

1. No LACCE employee whose position with LACCE enables such employee to influence the award of this AGREEMENT or any competing AGREEMENT, and no spouse or economic dependent of such employee, shall be employed in any capacity by FIRM or have any other direct or indirect financial interest in this AGREEMENT. No officer or employee of FIRM who may financially benefit from the performance of work hereunder shall in any way participate in the LACCE's approval, or ongoing evaluation, of such work, or in any way attempt to unlawfully influence LACCE's approval or ongoing evaluation of such work.
2. FIRM shall comply with all conflict of interest laws, ordinances, and regulations now in effect or hereafter to be enacted during the term of this AGREEMENT. FIRM warrants that it is not now aware of any facts that create a conflict of interest. If FIRM hereafter becomes aware of any facts

that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to LACCE. Full written disclosure shall include, but is not limited to, identification of all persons implicated and a complete description of all relevant circumstances. Failure to comply with the provisions of this Paragraph shall be a material breach of this AGREEMENT.

K. Authorization Warranty:

FIRM represents and warrants that the signatory to this AGREEMENT is fully authorized to obligate FIRM and that all corporate acts necessary to the execution of this AGREEMENT have been accomplished.

L. Changes and Amendments of Terms:

LACCE reserves the right to change any portion of the work required under this AGREEMENT, or amend its terms and conditions as may become necessary.

M. Validity:

The invalidity in whole or in part of any provision of this AGREEMENT shall not void or affect the validity of any other provision.

N. Waiver:

No waiver of a breach of any provision of this AGREEMENT by either party shall constitute a waiver of any other breach of the provision or any other provision of this AGREEMENT. Failure of either party to enforce any provision of this AGREEMENT at any time shall not be construed as a waiver of that provision. LACCE's remedies as described in this AGREEMENT shall be cumulative and additional to any other remedies in law or equity.

O. Remedies Reserved to LACCE:

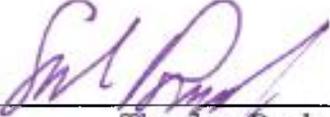
The remedies reserved to LACCE shall be cumulative and additional to any other remedies provided in law or equity.

P. Complete Agreement and Interpretation:

This AGREEMENT supersedes all prior communications and all previous written and oral agreements, and shall constitute the complete and exclusive statement of understanding between LACCE and FIRM relating to the subject matter of this AGREEMENT. No provision of this AGREEMENT is to be interpreted for or against either party because that party's legal representative drafted such provision.

Executed as of the date set forth on the cover page to this AGREEMENT:

LOS ANGELES COMMUNITY CHOICE ENERGY AUTHORITY:

By: 

Theodore Bardacke
Executive Director

Approved as to Form:



Behnaz Tashakorian
Senior Deputy County Counsel
Office of the County Counsel

FIRM: TROUTMAN SANDERS LLP

Print Name of Firm
By: 

Stephen C. Hall

EXHIBIT A
HOURLY BILLING RATES

Troutman Sanders LLP

Energy Procurement Counsel. Contemplated services include negotiating the following documentation with LACCE's selected energy suppliers and marketers (i) EEI Master Agreements to enable transactions with counterparties, (ii) Confirmations for transactions for energy, renewable energy, carbon free energy and resource adequacy products using confirmations under the EEI Master Agreement and WSPP Agreements, (iii) agreements to establish a "Lockbox" structure to provide collateralization for transactions with LACCE's selected suppliers, (iv) ancillary documentation required or provided by energy suppliers and marketers (e.g., NDAs, letters of credit, parent guarantees, legal opinions, authority documents and board resolutions); and (v) providing ongoing legal counsel, as requested, related to energy procurement. These legal services are collectively referred to below as the "Engagement."

The total amount of fees for the Engagement shall not exceed fifty thousand dollars (\$50,000.00) (the "Initial Authorized Budget") without written authorization from LACCE. LACCE will not be responsible for any fees incurred in excess of the Initial Authorized Budget unless expressly authorized by LACCE in writing. LACCE and the FIRM acknowledge that the Initial Authorized Budget is not an estimate of the total costs required to complete the Engagement.

Staff Title

Stephen Hall (Partner): \$595/hr

Associate/Of Counsel attorney rates: \$375-\$540/hr.



Staff Report – Item 4

To: Clean Power Alliance Board of Directors
From: CPA Staff
Subject: Approve Board Director Expense Reimbursement Policy
Date: May 2, 2018

RECOMENDATION

It is recommended that the CPA Board adopt the attached policy for reimbursement of Board director expenses related to the Clean Power Alliance.

DISCUSSION

Board directors may incur expenses as a result of their service on the CPA Board of Directors and it is necessary for the organization to have a fair and consistent policy for the reimbursement of those costs. In general, costs are associated with: 1) attendance in Board and committee meetings and at community events and 2) representing CPA at conferences, legislative and regulatory proceedings, and related meetings. Each of these are discussed below. While we anticipate these issues will ultimately be addressed in CPA Bylaws or operating procedures, it is important to establish a policy now to address current and planned travel. For all reimbursements, staff will develop a Reimbursement Claim Form for Directors to submit when seeking reimbursement.

Board and Committee Meetings and Community Events

The primary costs associated with participation in board and committee meetings and community events are mileage or transit expenses and parking. Consistent with other government bodies, each of these costs should be reimbursed upon request and at cost. For mileage, it is recommended that CPA reimburse these costs at the standard

U.S. General Services Administration rate¹ which is currently set at \$0.545 per mile and which is adjusted annually. Receipts for parking are required for reimbursement, but not for the use of transit as receipts are generally not available for such travel.

Conferences, Legislative and Regulatory Proceedings, and Related Meetings

From time to time, Board Directors may travel outside of Southern California to represent the Clean Power Alliance at a conference, at a legislative or regulatory proceeding, or at a meeting (e.g., at the California Community Choice Association, etc.). All such travel must first be approved by the Chair of the Board in consultation with the Executive Director. The cost of travel to conferences, including conference registration costs, will be reimbursed if the Director is a speaker on behalf of CPA. However, if a Director is attending a conference simply as an attendee of the conference such costs will not be reimbursed. In general, Directors are expected to keep such travel costs to a minimum by booking coach class airfare or train fare well in advance and avoiding overnight stays whenever possible.

Consistent with the majority of government agencies, per diem costs for accommodations, meals, and incidentals will be reimbursed at U.S. General Services Administration² rates which are city specific, vary by travel season, and adjusted annually. Higher rates than those provided by GSA are permissible for accommodations when attending a conference and staying at the conference hotel. Further, the Chair may approve a higher reimbursement amounts on a case by case basis as may be requested in advance.

¹ See GSA website at <https://www.gsa.gov/travel/plan-book/transportation-airfare-rates-pov-rates-etc/privately-owned-vehicle-pov-mileage-reimbursement-rates>

² Accommodation and meals & incidentals reimbursement rates are available here: <https://www.gsa.gov/travel/plan-book/per-diem-rates>



Staff Report – Agenda Item 5

To: Clean Power Alliance Board of Directors

From: CPA Staff

Subject: Adopt Resolution 18-007 Authorizing Execution of a Credit Agreement with River City Bank

Date: May 2, 2018

RECOMMENDATION

Staff recommends that the Board of Directors adopt Resolution No. 18-007 (Attachment 1) authorizing the CPA Executive Director or the Board Chair to execute a revolving credit agreement, as shown in Attachment 2, with River City Bank for an initial amount \$20 million for Phase 2 launch with an option to increase the amount to \$31 million prior to Phase 3 launch.

BACKGROUND

On March 1, 2018, the CPA Board approved the selection of River City Bank to provide banking and credit services for CPA. River City Bank is the leading lender to CCAs throughout California. The banking services portion of the River City agreement has now been implemented, with both operational and lockbox accounts established and a full suite of cash management solutions available to CPA.

The amount of credit offered by River City was dependent on CPA's phase-in strategy. In the aftermath of the E-4907 decision which forced CPA to extend its phase-in timeline further into 2019, staff negotiated a term sheet with River City to account for the financial impact of the new phase-in timeline. Those terms were approved by River City's loan committee and full documentation of the agreement is now presented as an attachment to the Resolution authorizing execution of the revolving credit line.

On April 25, 2018, the Finance Committee reviewed the term sheet and was given an update on how it related to CPA's cash flow needs during its start-up phase.

DISCUSSION

In order to successfully launch, CPA needs short-term working capital to finance power purchases in advance of revenue being paid by customers. Of the loan from Los Angeles County, \$8 million has been allocated to finance these power purchases. However, some of that loan has been expended to finance Phase 1 launch and the size of CPA's Phase 2 launch requires more working capital to be in place during the month of May.

Major terms of the agreement are as follows:

- **Loan Type:** Revolving Line of Credit with option to convert outstanding advances to an amortizing Term Loan at Expiration.
- **Purpose:** Provide capital to fund the following:
 - Power purchases and lockbox reserve fund obligations in support of power purchase agreements.
 - General working capital
 - Repayment of LA County start-up loan
- **Maturity:** One year from the execution of the loan documentation, with an optional 6-month extension available. Any outstanding balance at maturity can be converted to an amortizing term loan which matures in up to 5 years from the conversion date.
- **Interest Rate:** Variable at the 1 Month LIBOR (currently 1.9%) plus 1.75%
- **Pre-payment Premium:** None

The loan agreement also contains quarterly financial covenants that CPA staff and our financial consultants have agreed upon with River City Bank that are conservative and allow for a number of contingencies.

Upon authorization of the Board, the CPA Executive Director intends to execute the loan agreement prior to Phase 2 launch in late June in order to finance the energy purchases necessary to transition the Phase 2 customers above and beyond the financing needs provided by the LA County loan which is being provided at a 0% interest rate. The inclusion of the Board Chair as an authorized signatory is to provide coverage in the event that the Executive Director is absent and an authorization needs to be processed in a timely manner.

RESOLUTION NO. 18-007

RESOLUTION OF THE BOARD OF DIRECTORS OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA AUTHORIZING AND APPROVING ENTRY INTO A REVOLVING CREDIT AGREEMENT AND RELATED AGREEMENTS WITH RIVER CITY BANK, AND DELEGATING AUTHORITY TO THE EXECUTIVE DIRECTOR TO EXECUTE AND DELIVER THE SAME.

THE BOARD OF DIRECTORS OF CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, Clean Power Alliance of Southern California (formerly known as Los Angeles Community Choice Energy Authority) ("Clean Power Alliance") was formed on June 27, 2017 under the provisions of the Joint Exercise Powers Act of the State of California, Government Code section 6500 *et seq.*;

WHEREAS, Clean Power Alliance is duly organized, validly existing, and in good standing under and by virtue of the laws of the State of California, is duly authorized to transact business, having obtained all necessary filings, governmental licenses and approvals in the State of California, and has the full power and authority to own its properties and to transact the business in which it is presently engaged or presently proposes to engage;

WHEREAS, in addition to its loan from the County of Los Angeles, Clean Power Alliance needs to borrow additional funds for working capital to procure energy and for other business purposes;

WHEREAS, River City Bank ("Lender") has been selected to provide such working capital pursuant to the terms of a revolving credit agreement and certain ancillary agreements; and

WHEREAS, the Board wishes to authorize and approve entry into such agreements by Clean Power Alliance and to authorize the Executive Director to execute and deliver such agreements on behalf of Clean Power Alliance in substantially the forms presented to this Board, with such modifications as the Executive Director shall approve as in the best interest of Clean Power Alliance.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that Clean Power Alliance is authorized to borrow funds and authorize advances, letters of credit and other lending accommodations from time to time from Lender, on such terms as may be agreed upon between Clean Power Alliance and Lender, such sum or sums of money as in its judgment should be borrowed, in an aggregate amount outstanding at any one time not to exceed \$31,000,000. Without limiting the generality of the foregoing, the Credit Agreement with the Lender in substantially the form presented to this meeting (the

**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA
RESOLUTION NO. 18-007**

“Credit Agreement”) is hereby approved and each of the Executive Director and the Chair of the Board (the “Authorized Officers”), acting alone, is hereby authorized and directed to enter into, execute and deliver, in the name and on behalf of Clean Power Alliance, the Credit Agreement with such modifications thereto as the Authorized Officer shall approve as in the best interest of Clean Power Alliance, such approval to be conclusively evidenced by the Authorized Officer’s execution and delivery thereof;

IT IS HEREBY FURTHER DETERMINED AND ORDERED that in connection with the Credit Agreement, each Authorized Officer is authorized to execute and deliver to Lender any loan agreement, promissory note or notes, letter of credit applications, requests, or other evidence of Clean Power Alliance’s credit accommodations, in form and substance acceptable to Lender, at such rates of interest, not to exceed the maximum rate allowed by law, and on such terms as may be agreed upon, evidencing the sums of money so borrowed or any of Clean Power Alliance’s indebtedness to Lender, and also to execute and deliver to Lender one or more renewals, extensions, modifications, refinancings, consolidations, or substitutions for one or more of the notes, any portion of the notes, or any other evidence of credit accommodations. Without limiting the generality of the foregoing, each of the Authorized Officers, acting alone, is authorized and directed to execute and deliver, in the name and on behalf of Clean Power Alliance, Promissory Notes to the Lender in substantially the forms attached as exhibits to the Credit Agreement presented to this meeting (the “Promissory Notes”), with such modifications thereto as the Authorized Officer shall approve as in the best interest of Clean Power Alliance, such approval to be conclusively evidenced by the Authorized Officer’s execution and delivery thereof;

IT IS HEREBY FURTHER DETERMINED AND ORDERED that in connection with the Credit Agreement and the Promissory Notes, Clean Power Alliance is authorized to pledge, transfer, endorse, hypothecate, or otherwise encumber and deliver to Lender property now or hereafter belonging to Clean Power Alliance or in which Clean Power Alliance now or hereafter may have an interest, including without limitation all of Clean Power Alliance’s personal property (tangible or intangible), as security for the payment of any loans or credit accommodations so obtained, any promissory notes so executed (including any amendments to or modifications, renewals, and extensions of such promissory notes), or any other or further indebtedness of Clean Power Alliance to Lender at any time owing, however the same may be evidenced. Such property may be pledged, transferred, endorsed, hypothecated or encumbered at the time such loans are obtained or such indebtedness is incurred, or at any other time or times, and may be either in addition to or in lieu of any property theretofore mortgaged, pledged, transferred, endorsed, hypothecated or encumbered;

IT IS HEREBY FURTHER DETERMINED AND ORDERED that in connection with the Credit Agreement and the Promissory Notes, Clean Power Alliance is authorized to execute and deliver to Lender any assignment agreements, pledge agreements,

**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA
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mortgages, deeds of trust, security agreements, financing statements and other documents which Lender may require and which shall evidence the terms and conditions under and pursuant to which such liens and encumbrances, or any of them, are given; and also to execute and deliver to Lender any other written instruments, any chattel paper, or any other collateral, of any kind or nature, which Lender may deem necessary or proper in connection with or pertaining to the giving of the liens and encumbrances. Without limiting the generality of the foregoing, each of the Authorized Officers, acting alone, is authorized and directed to execute and deliver, in the name and on behalf of Clean Power Alliance, an Assignment of Deposit Accounts to the Lender in substantially the form attached as an exhibit to the Credit Agreement presented to this meeting, with such modifications thereto as the Authorized Officer shall approve as in the best interest of Clean Power Alliance, such approval to be conclusively evidenced by the Authorized Officer's execution and delivery thereof;

IT IS HEREBY FURTHER DETERMINED AND ORDERED that in connection with the Credit Agreement and the Promissory Notes, each of the Authorized Officers, acting alone, is authorized to draw, endorse, and discount with Lender all drafts, trade acceptances, promissory notes, or other evidences of indebtedness payable to or belonging to Clean Power Alliance or in which Clean Power Alliance may have an interest, and either to receive cash for the same or to cause such proceeds to be credited to Clean Power Alliance's account with Lender, or to cause such other disposition of the proceeds derived therefrom as it may deem advisable;

IT IS HEREBY FURTHER DETERMINED AND ORDERED that in connection with the Credit Agreement and the Promissory Notes, each of the Authorized Officers, acting alone, is authorized in the case of lines of credit to designate additional or alternate individuals as being authorized to request advances under such lines, and in all cases, to do and perform such other acts and things, to pay any and all fees and costs, and to execute and deliver such other documents and agreements as any Authorized Representative may in his or her discretion deem reasonably necessary or proper in order to carry into effect the provisions of this Resolution;

IT IS HEREBY FURTHER DETERMINED AND ORDERED that any and all acts authorized pursuant to this Resolution and performed prior to the passage of this Resolution are hereby ratified and approved. This Resolution shall be continuing, shall remain in full force and effect and Lender may rely on it until written notice of its revocation shall have been delivered to and received by Lender. Any such notice shall not affect any of Clean Power Alliance's agreements or commitments in effect at the time notice is given; and

**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA
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IT IS HEREBY FURTHER DETERMINED AND ORDERED that this Resolution shall take effect upon its passage.

ADOPTED AND APPROVED this ____ day of _____ 2018.

Chair

ATTEST:

Secretary

CREDIT AGREEMENT

Dated as of April ___, 2018

by and between

**CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA,
as Borrower**

and

**RIVER CITY BANK,
as Lender**

CREDIT AGREEMENT

This CREDIT AGREEMENT (this “*Agreement*”) is entered into as of April ___, 2018, by and between **CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA**, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et. seq. (“*Borrower*”), and **RIVER CITY BANK**, a California corporation (“*Lender*”).

W I T N E S S E T H:

WHEREAS, Borrower has requested, and Lender has agreed to make available to Borrower, a credit facility which includes a revolving line of credit upon and subject to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties agree as follows:

SECTION 1. DEFINITIONS AND INTERPRETATION.

Section 1.1. Definitions. All capitalized terms used in this Agreement and not otherwise defined have the meanings ascribed to them on **Exhibit A**.

Section 1.2. Other Interpretive Provisions.

(a) **Defined Terms.** Unless otherwise specified herein or therein, all terms defined in this Agreement will have the same defined meanings when used in any certificate or other document made or delivered pursuant hereto. The meaning of defined terms is equally applicable to the singular and plural forms of the defined terms.

(b) **References.** The words “hereof”, “herein”, “hereunder” and words of similar import when used in this Agreement will refer to this Agreement as a whole and not to any particular provision of this Agreement; and subsection, section, schedule and exhibit references are to this Agreement unless otherwise specified.

(c) **Certain Common Terms.** The term “documents” includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced. The term “including” is not limiting and means “including without limitation.”

(d) **Performance; Time.** Whenever any performance obligation hereunder is stated to be due or required to be satisfied on a day other than a Business Day, such performance may be made or satisfied on the next succeeding Business Day. In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including”; the words “to” and “until” each mean “to but excluding”, and the word “through” means “to and including.” If any provision of this Agreement refers to any action taken or to be taken by any Person, or which such Person is prohibited from taking, such provision will be interpreted to encompass any and all means, direct or indirect, of taking, or not taking, such action.

(e) Contracts. Unless otherwise expressly provided herein, references to agreements and other contractual instruments, including this Agreement and the other Loan Documents, will be deemed to include all subsequent amendments thereto, restatements thereof and other modifications and supplements thereto which are in effect from time to time, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document.

(f) Laws. References to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

(g) Dollars and \$. All references to “dollars” or “\$” refer to United States dollars.

Section 1.3. Accounting Principles.

(a) Unless the context otherwise clearly requires, all accounting terms not expressly defined herein will be construed, and all financial computations required under this Agreement will be made, in accordance with GAAP, consistently applied.

(b) References herein to “fiscal year”, “fiscal quarter” and “fiscal month” refer to such fiscal periods of Borrower.

(c) If any change in GAAP results in a change in the calculation of the financial covenants or interpretation of related provisions of this Agreement or any other Loan Document, then Borrower and Lender agree to amend such provisions of this Agreement so as to equitably reflect such changes in GAAP with the desired result that the criteria for evaluating Borrower’s financial condition will be the same after such change in GAAP as if such change had not been made.

SECTION 2. THE REVOLVING LINE OF CREDIT.

Section 2.1. Revolving Credit. Subject to the terms and conditions hereof, Lender agrees to make a revolving credit facility (the “*Revolving Credit*”) available to Borrower for the sole purpose of providing working capital to fund (a) power purchases, (b) reserves as needed to support Power Purchase Agreements, (c) repayment of a startup loan from Los Angeles County of approximately Eight Million Dollars (\$8,000,000) (“*LA Loan*”), (d) general and administrative expenses, and (e) to support the issuance of Letters of Credit (each, a “*Letter of Credit Advance*” and, collectively, the “*Letter of Credit Advances*”) in accordance with Section 4, such Revolving Credit to be in an aggregate principal amount not to exceed, at any one time, the Revolving Credit Commitment at any time prior to the Revolving Credit Termination Date. The Revolving Credit will be disbursed in one or more advances (each, an “*Advance*” and, collectively, the “*Advances*”), provided that the conditions precedent to Advances specified in Section 9 are satisfied. Subject to the Revolving Credit Commitment and the other terms and conditions of this Agreement, Borrower may periodically request Advances;

provided, however, that Lender will have no obligation to make Advances on or after the Revolving Credit Termination Date.

Section 2.2. Advances. Advances under this Agreement may be requested in writing by Borrower or any Authorized Representative appointed by Borrower. Borrower agrees that Lender may rely upon any written notice given by any person Lender in good faith believes is an Authorized Representative without the necessity of independent investigation.

Section 2.3. Promissory Notes. The Revolving Credit will be evidenced by a **Revolving Credit Promissory Note** (the “*Promissory Note*”) made, executed and delivered by Borrower and payable to the order of Lender in the form (with appropriate insertions) attached hereto as **Exhibit B**.

For each Letter of Credit requested by Borrower and issued in accordance with Section 4, Borrower will execute and deliver to Lender a promissory note in the form (with appropriate insertions) attached hereto as **Exhibit C** (a “*Letter of Credit Note*”) in the stated principal amount equal to the face amount of such Letter of Credit. Each Letter of Credit Note will be deemed an Advance in the full stated principal amount thereof for purposes of determining the Revolving Credit Commitment. However, each Letter of Credit Note will evidence Borrower’s obligation to repay the lesser of the stated principal amount thereof or the unreimbursed amount (the “*Unreimbursed Amount*”) of any drawing actually paid by Lender to a beneficiary under a Letter of Credit, in accordance with Section 4.3. All references to “Advances” in Sections 2.4 and 3 shall, with respect to a Letter of Credit Advance, refer solely to the outstanding Unreimbursed Amount(s) evidenced by the corresponding Letter of Credit Note.

Section 2.4. Repayment.

(a) *Revolving Credit Termination Date.* All Advances (including all outstanding principal and accrued but unpaid interest) under the Revolving Credit shall be due and payable in full on the Revolving Credit Termination Date. Until the Revolving Credit Termination Date, Borrower shall repay the Advances with interest as provided herein and in the applicable Promissory Note. This is a revolving credit and any Advances repaid may be re-borrowed prior to the Revolving Credit Termination Date. Provided no Default or Event of Default has occurred or is occurring, Borrower may request a one-time extension of the Revolving Credit Termination Date for a period of six (6) months by providing a written request to Lender no later than thirty (30) days prior to the Revolving Credit Termination Date. The extension request may be approved or rejected by Lender in its sole discretion. If approved, Lender shall notify Borrower in writing of the extended Revolving Credit Termination Date not later than ten (10) days prior to the initial Revolving Credit Termination Date. Provided no Default or Event of Default has occurred or is occurring, Borrower may also exercise a one-time option to convert the outstanding Advances under the Revolving Credit to a term loan as provided below.

(b) *Conversion of Revolving Advances to a Term Loan.* No later than thirty (30) days prior to the Revolving Credit Termination Date (as may be extended pursuant to Section 2.4(a)) and provided that the LA Loan has either been paid in full or subordinated to all Advances under this Agreement, Borrower may notify Lender of its intent to exercise its option to convert, as of a

date not later than the Revolving Credit Termination Date, the outstanding Advances under the Revolving Credit to a term loan (the “*Term Loan*”) payable in installments of up to sixty (60) equal monthly principal payments plus interest payable monthly in arrears at the Term Loan Rate. The Term Loan shall be governed by the terms and conditions of this Agreement and evidenced by a single promissory note (the “*Term Note*”) made, executed and delivered by Borrower in the form (with appropriate insertions) attached hereto as **Exhibit D**.

(c) *Conversion of LA Loan to a Term Loan.* Borrower shall either (i) repay the LA Loan by June 30, 2019 or (ii) provide to Lender on or before June 30, 2019 a Subordination Agreement for the LA Loan in the form of **Exhibit H** attached. No later than thirty (30) days prior to the Revolving Credit Termination Date (as may be extended pursuant to Section 2.4(a)), Borrower may notify Lender of its intent to convert, as of a date not later than the Revolving Credit Termination Date, the LA Loan Advance to a Term Loan from Lender (the “*LA Term Loan*”) payable in installments of up to sixty (60) equal monthly principal payments plus interest payable monthly in arrears at the Term Loan Rate. The LA Term Loan shall be governed by the terms and conditions of this Agreement and evidenced by a single promissory note (the “*LA Term Note*”) made, executed and delivered by Borrower in the form (with appropriate insertions) attached hereto as **Exhibit D**.

SECTION 3. INTEREST, LATE FEES, PREPAYMENTS AND APPLICATIONS.

Section 3.1. Interest Payments.

(a) Advances. The outstanding principal balance of Advances will bear interest (which Borrower hereby promises to pay at the rates and at the times set forth therein) prior to maturity (whether by lapse of time, acceleration or otherwise) at the Applicable Rate and after maturity (whether by lapse of time, acceleration or otherwise), whether before or after judgment, at the Default Rate, until paid in full. The determination of the Applicable Rate by Lender shall be conclusive and binding on Borrower in the absence of demonstrable error.

(b) Interest Payment Dates. Borrower will pay regular monthly payments of all accrued but unpaid interest on the Advances as of each Payment Date beginning with the first Payment Date immediately following the initial Advance with all subsequent interest payments due and payable on each Payment Date thereafter. Interest on the Advances will be payable monthly in arrears on each Payment Date. Interest on any installment of principal will be due on a Payment Date provided however, that any principal amount that is not paid when due (whether by lapse of time, acceleration or otherwise) will be due and payable on demand. Borrower will make all payments at the address specified in Section 3.4.

(c) Late Fees. If Borrower fails to make any payment of principal or interest under any of the Notes or any other sum payable hereunder or under any other Loan Document within five (5) calendar days after its due date, Lender will be entitled at its option to impose a late charge in an amount equal to six percent (6.00%) of the amount of such past due payment, which charge, if imposed by Lender, shall be due and payable by Borrower immediately upon receipt of written notice thereof.

Section 3.2. Computation of Interest; Minimum and Maximum Interest Rates. All interest on the Advances will be calculated on the basis of a year of 360 days for the actual number of days elapsed. In no event shall the applicable interest rate exceed the maximum rate allowed by law (including Government Code Section 53854).

Section 3.3. Prepayments.

(a) Voluntary Prepayment. Borrower may voluntarily prepay Advances, in whole or in part, at any time without any penalty or fee. In connection with such prepayment, Borrower may prepay the principal amount of any Note, in whole or in part, together with interest accrued on the principal amount prepaid, at its option and without premium, prior to the applicable Maturity Date or the Termination Date, as the case may be.

(b) Mandatory Prepayment. Borrower will, upon demand, prepay Advances at any time and to the extent that the outstanding principal amount of all Advances exceeds the Revolving Credit Commitment.

(c) Application of Prepayments. All prepayments shall be applied in accordance with Section 3.4.

Section 3.4. Place and Application of Payments and Collections. All payments of principal, interest, fees and all other Obligations payable hereunder will be made to Lender at the following address no later than 2:00 p.m. (Pacific Standard Time) on the date any such payment is due and payable:

River City Bank
 Loan Center
 2485 Natomas Park Drive, Suite 400
 Sacramento, CA 95833

So long as any Event of Default has occurred and is continuing, Borrower agrees that Lender, in its sole and absolute discretion, may apply any payments or collections received by Lender from Borrower in respect of the Revolving Credit to any of the Obligations in any manner or order as Lender desires. Lender's receipt and application of payments or collections shall not constitute a waiver or cure of any Default.

Section 3.5. Notations. All Advances made and evidenced by a Note and the rates of interest applicable thereto will be recorded by Lender on its books and records or, at its option in any instance, endorsed on a schedule to such Note, and the unpaid principal balance and interest rates so recorded or endorsed by Lender will be *prima facie* evidence in any court or other proceeding brought to enforce such Note of the principal amount remaining unpaid, the status of the Advances evidenced by such Note and the applicable interest rates; provided, however, that the failure of Lender to record any of the foregoing will not limit or otherwise affect the obligation of Borrower to repay the principal amount of such Note together with accrued interest thereon. Prior to any negotiation of any Note, Lender will record on a schedule thereto the status of all amounts evidenced by such Note and the rates of interest applicable thereto.

SECTION 4. LETTERS OF CREDIT.

Section 4.1. Letter of Credit Commitment.

(a) Subject to the terms and conditions of this Agreement, Lender agrees, in reliance upon the agreements of Borrower, (1) to issue Letters of Credit in Dollars for the account of Borrower, and (2) to honor drawings under the Letters of Credit; provided that after giving effect to any Letter of Credit Advance, the aggregate principal amount of all Advances shall not exceed the Revolving Credit Commitment. Each request by Borrower for the issuance of a Letter of Credit shall be deemed to be a representation by Borrower that the Letter of Credit Advance so requested complies with the conditions set forth in the proviso to the preceding sentence and the other terms and conditions of this Agreement.

(b) Lender shall have no obligation to issue any Letter of Credit if:

(i) The expiry date of the requested Letter of Credit would occur more than twelve months after the date of issuance;

(ii) The initial expiry date of the requested Letter of Credit would occur more than 11 months after the Revolving Credit Termination Date;

(iii) The expiry date of the requested Letter of Credit, after giving effect to any auto-renewal feature, would occur more than seven (7) years after the date of issuance;

(iv) The requested Letter of Credit requires Lender to provide a notice of non-renewal, if any, earlier than 120 days before the expiration of the Letter of Credit;

(v) The requested Letter of Credit contains terms and conditions required by the beneficiary that are deemed unacceptable to Lender;

(vi) Any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin Lender from issuing such Letter of Credit, or any law applicable to Lender or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over Lender shall prohibit, or request that Lender refrain from, the issuance of letters of credit generally, or such Letter of Credit in particular or shall impose upon Lender with respect to such Letter of Credit any restriction, reserve or capital requirement (for which Lender is not otherwise compensated hereunder) not in effect on the date of this Agreement, or shall impose upon Lender any unreimbursed loss, cost or expense which was not applicable as of the date of this Agreement and which Lender in good faith deems material to it;

(vii) The issuance of such Letter of Credit would violate one or more policies of Lender generally applicable to the issuance of letters of credit;

(viii) The Letter of Credit is to be denominated in a currency other than Dollars;

(ix) The Letter of Credit provides for automatic reinstatement or renewal of

the stated amount after any drawing thereunder; or

(x) The issuance of the Letter of Credit would cause the aggregate principal amount of all Advances to exceed the Revolving Credit Commitment at the time of issuance.

Section 4.2. Issuance of Letters of Credit.

(a) Each Letter of Credit shall be issued upon the request of Borrower delivered to Lender in the form of a Letter of Credit Application substantially in the form of **Exhibit G**, completed to the satisfaction of Lender and signed by an Authorized Representative of Borrower. Such Letter of Credit Application may be sent via electronic image or other electronic format, by US mail, overnight courier, or by any other means acceptable to Lender and must be received by Lender not later than five (5) Business Days (or such later date as Lender may agree in its sole discretion) before the proposed issuance date. Such Letter of Credit Application shall specify in form and detail satisfactory to Lender: (i) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (ii) the amount thereof; (iii) the expiry date thereof; (iv) the name and address of the beneficiary thereof; (v) the documents to be presented by such beneficiary in the case of any drawing thereunder; (vi) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (vii) the purpose and nature of the requested Letter of Credit, which shall be to pay for power purchases; and (viii) such other matters as Lender may require. Additionally, Borrower will furnish to Lender such other documents and information pertaining to such requested Letter of Credit issuance as Lender may request.

(b) Subject to the terms and conditions hereof, Lender shall, on the requested date, issue a Letter of Credit for the account of Borrower in such form as may be approved from time to time by Lender and in accordance with Lender's usual and customary business practices.

(c) Promptly after its delivery of any Letter of Credit to the beneficiary thereof, Lender will also deliver to Borrower a true and complete copy of such Letter of Credit.

Section 4.3. Drawings and Reimbursements of Letters of Credit. Upon the presentment of any notice of drawing under any Letter of Credit by the beneficiary thereof which Lender determines to be in compliance with the conditions for payment thereunder, Lender will notify Borrower of the intended date of honor of such drawing. Not later than 5:00 p.m. (Pacific Standard Time) on the date (the "*Reimbursement Date*") that is three (3) calendar days after any payment by Lender under a Letter of Credit (each such date, an "*Honor Date*"), Borrower shall reimburse Lender by making payment to Lender in an amount equal to the amount of such payment. Borrower's failure to so reimburse Lender on or before the Reimbursement Date shall constitute an Event of Default under this Agreement.

Section 4.4. Unexpired Letters of Credit. Borrower agrees that, if (i) any Letter of Credit has been issued by Lender or its correspondent and remains unexpired on the Revolving Credit Termination Date or (ii) the amount of all Letter of Credit Advances exceeds the Revolving Credit Commitment, Borrower shall immediately provide cash collateral to Lender with a value of not less than 110% of (i) the aggregate principal amount of all Letter of Credit Advances with

respect to unexpired Letters of Credit or (ii) the amount by which the amount of all Letter of Credit Advances exceeds the Revolving Credit Commitment, as applicable.

Section 4.5. Obligations Absolute.

(a) The obligation of Borrower to reimburse Lender for each drawing under each Letter of Credit shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

- (i) any lack of validity or enforceability of such Letter of Credit, this Agreement or any other Loan Document;
- (ii) the existence of any claim, counterclaim, setoff, defense or other right that Borrower may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;
- (iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;
- (iv) any waiver by Lender of any requirement that exists for Lender's protection and not the protection of Borrower or any waiver by Lender that does not in fact materially prejudice Borrower;
- (v) any honor of a demand for payment presented electronically, even if such Letter of Credit requires that demand be in the form of a draft;
- (vi) any payment made by Lender in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC, the International Standby Practices ("ISP") or the Uniform Customs and Practice for Documentary Credits ("UCP"), as applicable;
- (vii) any payment by Lender under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by Lender under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or
- (viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or discharge of, any party to the Loan Documents.

(b) Borrower shall promptly examine a copy of each Letter of Credit that is delivered to it, and, in the event of any claim of noncompliance with Borrower's instructions or other irregularity, Borrower will immediately notify Lender of such claim in writing. Borrower shall be conclusively deemed to have waived any such claim it would have against Lender and its correspondents unless such notice is given.

Section 4.6. Role of Lender as L/C Issuer. Borrower agrees that, in paying any drawing under a Letter of Credit, Lender or its correspondent shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by such Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering such document. None of Lender, any of its Related Parties nor any correspondent, participant or assignee of Lender shall be liable to Borrower for (i) any action taken or omitted in connection herewith at the request of Borrower; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit. Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude Borrower from pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. Neither Lender, nor any correspondent, participant or assignee of Lender shall be liable or responsible for any of the matters described in Section 4.2; provided, however, that anything in such clauses to the contrary notwithstanding, Borrower may have a claim against the Lender to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by Borrower which Borrower proves were caused by Lender's willful misconduct or gross negligence or Lender's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) complying with the terms and conditions of such Letter of Credit. In furtherance and not in limitation of the foregoing, Lender may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and Lender shall not be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunications ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

Section 4.7. Applicability of ISP, Limitation of Liability. Unless otherwise expressly agreed by Lender and Borrower when a Letter of Credit is issued, the rules of the ISP shall apply to each Letter of Credit. Notwithstanding the foregoing, Lender shall not be responsible to Borrower for, and Lender's rights and remedies against Borrower shall not be impaired by, any action or inaction of Lender required or permitted under any law, order or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the law of any jurisdiction where Lender or the beneficiary is located, the practice stated in the ISP or UCP, as applicable, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade – International Finance Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

Section 4.8. Letter of Credit Fees. Borrower shall pay to Lender (i) fees upon the issuance of each Letter of Credit in an amount equal to the greater of two percent (2.00%) per annum of the face amount thereof over the anticipated expiration period the (“*Issuance Fee*”) or Four Hundred and 00/100 Dollars (\$400.00) (the “*Flat Fee*”), (ii) a documentation fee in connection with the issuance of each Standby Letter of Credit in an amount equal to Two Hundred Fifty and 00/100 Dollars (\$250.00), and (iii) fees upon the occurrence of any other activity with respect to any Standby Letter of Credit (including without limitation, the transfer, amendment or cancellation of any Standby Letter of Credit) in an amount equal to the greater of the Issuance Fee or the Flat Fee. All Letter of Credit Fees, other than the Issuance Fee will be due and payable in full upon request by Lender.

Section 4.9. Billing and Payment of the Issuance Fee. The Issuance Fee will be calculated by Lender and due and payable no less frequently than fifteen (15) days after the end of each calendar quarter. Lender will calculate the Issuance Fee by taking the outstanding face amount of the Letter of Credit, multiplying by .002, and dividing by 360 to arrive at a daily per diem. The daily per diem will be multiplied by the number of days lapsed in the billing period to arrive at the Issuance Fee. The Issuance Fee may be subject to change based on increases, decreases, or early termination of the Letter of Credit.

SECTION 5. FEES.

Section 5.1. Upon execution of this Agreement, Borrower shall pay to Lender fees for this Agreement as follows:

(a) Loan Fee. A Loan Fee in an amount equal to .25% of the Revolving Credit Commitment (\$50,000.00).

(b) Documentation Fee. A Documentation Fee in an amount equal to \$2,500.00 for the Revolving Credit Commitment.

(c) Other Costs and Fees. Borrower shall be subject to and agrees to pay any and all other costs and fees incurred by Lender associated with the origination and documentation of this Agreement including the reasonable fees and expenses of legal counsel retained by Lender.

SECTION 6. CONVERSION OF REVOLVING CREDIT ADVANCES TO TERM NOTE.

Section 6.1. Term Loan. Provided no Default or Event of Default has occurred or is continuing, Borrower shall have an option to convert outstanding Advances under the Revolving Credit to a Term Loan as provided in Section 2.4(b) herein. The Term Loan will accrue interest at the Applicable Rate from and including the date on which the outstanding Advances are converted to a Term Loan and will be evidenced by the Term Note. Borrower’s right to convert outstanding Advances under the Revolving Credit to a Term Loan shall be subject to the terms and conditions of this Agreement and the execution and delivery of such additional documentation from Borrower and any subordinated creditors as Lender may reasonably require. Notwithstanding the foregoing, Letter of Credit Advances may not be converted to a Term Loan.

Section 6.2. LA Term Loan. Provided no Default or Event of Default has occurred and is continuing, Borrower shall have an option to convert the LA Loan to the LA Term Loan as provided in Section 2.4(c) herein. The LA Term Loan will accrue interest at the Applicable Rate from and including the date on which the outstanding LA Loan Advance is converted to the LA Term Loan and will be evidenced by the LA Term Note. Borrower's right to convert the LA Loan Advance to the LA Term Loan shall be subject to the terms and conditions of this Agreement and the execution and delivery of such additional documentation from Borrower and any subordinated creditors as Lender may reasonably require.

SECTION 7. COLLATERAL – REVOLVING CREDIT COMMITMENT.

Section 7.1. Debt Service Reserve Account. As a condition to Lender's obligation to make any Advances under the Revolving Credit Commitment, Borrower will open and establish a restricted deposit account, which may be interest bearing, with Lender (the "*Debt Service Reserve Account*"), with a balance of not less than \$2,000,000.00 at any time. The Debt Service Reserve Account will be held in the name of Borrower and will serve as collateral for the Obligations. Borrower will pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of the Debt Service Reserve Account.

Section 7.2. Assignment of Accounts. As security for the prompt payment and performance by Borrower of all Obligations, Borrower hereby unconditionally and irrevocably assigns, conveys, pledges, transfers, delivers, and confirms unto Lender, and hereby grants to Lender a continuing security interest in the Debt Service Reserve Account and all other deposit accounts Borrower has with Lender (the "*Other RCB Accounts*") and (i) all replacements, substitutions or proceeds thereof, (ii) all instruments and documents now or hereafter evidencing the Debt Service Reserve Account and/or the Other RCB Accounts, (iii) all powers, options, rights, privileges and immunities pertaining to the Debt Service Reserve Account and/or the Other RCB Accounts, including the right to make withdrawals therefrom, and (iv) all interest, income, profits and proceeds of the foregoing. Borrower hereby acknowledges and agrees that Lender shall have exclusive control over the Debt Service Reserve Account, and Borrower shall have no right to withdraw funds from the Debt Service Reserve Account; provided, however, that Borrower may withdraw funds from the Debt Service Reserve Account from time to time if (1) the balance of the Debt Service Reserve Account will not be less than \$2,000,000.00 after giving effect to such withdrawal, (2) no Default or Event of Default has occurred and is continuing, and (3) no Event of Default would occur as a result of such withdrawal. If an Event of Default shall occur hereunder or under any of the Obligations, then Lender may, without notice or demand on Borrower, at its option: (A) withdraw any or all of the funds (including without limitation, interest) then remaining in the Debt Service Reserve Account and/or, subject to the limitations in Section 12.6, the Other RCB Accounts and apply the same, after deducting all costs and expenses of safekeeping, collection and delivery, and all reasonable attorneys' fees, costs and expenses incurred by Lender in connection with the Event of Default, to any amounts due and unpaid under this Agreement, any Note or any other Obligations in such manner and order as Lender shall deem appropriate in its sole discretion, (B) exercise any and all rights and remedies of a secured party under any applicable Uniform Commercial Code, and/or (C) exercise any other remedies available at law or in equity. All rights and remedies of Lender hereunder

and under that certain Assignment of Deposit Accounts in the form of **Exhibit E** attached entered into as of the date hereof between Borrower and Lender shall be cumulative.

Section 7.3. Transfers from Lockbox Account. All revenues from Borrower's customers shall be deposited into the Lockbox Account. On the 10th day of each month, funds due to Borrower's energy suppliers shall be wired out after a dual authentication process by Lender. All amounts then remaining in the Lockbox Account (other than reserve amounts determined in accordance with the agreements governing the Lockbox Account) shall be transferred to Borrower's operating and/or savings account with Lender and shall be subject to the assignment and security interest described in Section 7.2, free and clear of any liens in favor of anyone other than Lender.

SECTION 8. REPRESENTATIONS AND WARRANTIES.

Borrower represents and warrants to Lender as follows:

Section 8.1. Organization and Qualification; Authority; Consents. Borrower (a) is a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) that is qualified to be a community choice aggregator pursuant to California Public Utilities Code Section 366.2 and (b) has full and adequate power to own its Property and conduct its business as now conducted, and is duly licensed or qualified in each jurisdiction in which the nature of the business conducted by it or the nature of the Property owned or leased by it requires such licensing or qualifying unless the failure to be so licensed or qualified would not have a material adverse effect on its business, operations or assets. Borrower has the agency power to enter into this Agreement and the other Loan Documents to which it is a party, to request the Advances and incur the Obligations provided for herein, to execute the Notes in evidence thereof, to pledge and encumber assets as security therefor, and to perform each and all of the promises herein and therein. This Agreement and the other Loan Documents to which Borrower is a party do not, nor does the performance or observance by Borrower of any of the matters or things herein or therein provided for, contravene any provision of law or the Joint Powers Agreement or any covenant, indenture or agreement of or affecting Borrower or any of its Properties, including any Power Purchase Agreements. The execution, delivery, performance and observance by Borrower of this Agreement and the other Loan Documents do not and, at the time of delivery hereof, will not require any consent or approval of any other Person, other than such consents and approvals that have been given or obtained.

Section 8.2. Legal Effect. This Agreement and the other Loan Documents to which Borrower is a party constitute legal, valid and binding agreements of Borrower, enforceable in accordance with their respective terms, subject to laws relating to bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and the application of equitable remedies if equitable remedies are sought.

Section 8.3. Subsidiaries. Borrower has no Subsidiaries.

Section 8.4. Use of Proceeds. Borrower will use the proceeds of the Advances as provided herein and solely for purposes consistent with the purpose of Borrower as set forth in the Joint Powers Agreement, including for purposes consistent with the community choice aggregation program established by Borrower pursuant to California Public Utilities Code Section 366.2.

Section 8.5. Financial Reports. Effective with the delivery to Lender of the financial statements required by Section 10.2, the statements of financial condition of Borrower as at the date of such statements delivered to Lender, and the related statements of income, retained earnings and cash flows of Borrower for the fiscal year then ended and accompanying notes thereto, which financial statements are to be reviewed by an independent public accountant, and the unaudited interim statements of financial condition of Borrower as at the date of such statements delivered to Lender and the related statements of income and cash flows of Borrower for the period then ended, fairly present the financial condition of Borrower as at said dates and the results of its operations and cash flows for the periods then ended in conformity with GAAP applied on a consistent basis, subject (in the case of unaudited statements) year-end audit adjustments. Borrower has no contingent liabilities which are material to it other than, with respect to any financial statements delivered to Lender, as indicated on said financial statements.

Section 8.6. Full Disclosure. The statements and other information furnished to Lender in connection with the negotiation of this Agreement and the other Loan Documents and the commitment by Lender to provide the financing contemplated hereby do not contain any untrue statements of a material fact or omit a material fact necessary to make the material statements contained herein or therein not misleading; provided that Lender acknowledges that, as to any projections furnished to Lender, Borrower only represents that the same were prepared on the basis of information and estimates Borrower believed to be reasonable at the time such information was prepared.

Section 8.7. Litigation. There is no litigation or governmental proceeding pending, nor to the knowledge of Borrower threatened in writing, against Borrower which if adversely determined would result in any material adverse change in the financial condition, Properties, business or operations of Borrower.

Section 8.8. Good Title. Borrower has good and defensible title to its Properties as reflected on the most recent balance sheet of Borrower furnished to Lender, subject to no Liens other than Permitted Liens or as otherwise limited by applicable law.

Section 8.9. Members. Borrower is not a party to any contract or agreement with any of its members on terms and conditions which are less favorable to Borrower than would be usual and customary in similar contracts or agreements between Persons not affiliated with each other.

Section 8.10. Compliance with Laws. Borrower is in compliance with the requirements of all federal, state and local laws, rules and regulations applicable to or pertaining to its Properties or business operations (including, without limitation, laws and regulations establishing quality criteria and standards for air, water, land and toxic or hazardous wastes and substances), non-compliance with which could have a material adverse effect on the financial condition, Properties, business or operations of Borrower. Borrower has not received notice to the effect that its operations are not in

compliance with any of the requirements of applicable federal, state or local environmental, health and safety statutes and regulations or are the subject of any governmental investigation evaluating whether any remedial action is needed to respond to a release of any toxic or hazardous waste or substance into the environment, which non-compliance or remedial action could have a material adverse effect on the financial condition, Properties, business or operations of Borrower.

Section 8.11. Other Agreements. Borrower is not in default under the terms of any covenant, indenture or agreement of or affecting Borrower or any of its Properties, which default if uncured would have a material adverse effect on the financial condition, Properties, business or operations of Borrower.

Section 8.12. No Default. No Default or Event of Default has occurred or is continuing.

SECTION 9. CONDITIONS PRECEDENT.

The obligation of Lender to make any Advance is subject to the following conditions precedent:

Section 9.1. All Advances. As of the time of the making of each Advance (including the initial Advance unless otherwise specified):

(a) each of the representations and warranties set forth in Section 8 hereof and in the other Loan Documents shall be true and correct as of said time, except that the representations and warranties made under Section 8.5 (except for the initial Advance) shall be deemed to refer to the most recent financial statements furnished to Lender pursuant to Section 10.2 hereof; and

(b) Borrower shall be in full compliance with all of the material terms and conditions of this Agreement, the Notes, the Assignment of Deposit Account and all other Loan Documents, and no Default or Event of Default shall have occurred or be continuing.

Section 9.2. Initial Advances under the Revolving Credit .

(a) At or prior to the making of the first Advance under the Revolving Credit Commitment, the following conditions precedent must also be satisfied:

- (1) Lender shall have received properly completed and executed originals of the following in form and substance satisfactory to Lender:
 - (i) this Agreement;
 - (ii) a favorable written legal opinion from Borrower's counsel;
 - (iii) the Request for Advance in the form of **Exhibit F**;
 - (iv) the resolutions adopted by the Board of Directors of Borrower with respect to this Agreement and the other Loan Documents, certified by an Authorized Representative;
 - (v) an incumbency certificate containing the name, title and genuine signatures of each of Borrower's Authorized Representatives;

- (vi) evidence of Borrower's good standing in the state of California;
 - (vii) payment by Borrower of the Loan Fee and all other amounts required to be paid by Borrower pursuant to Sections 5.1 and 12.4(a) of this Agreement;
 - (viii) a schedule, substantially in the form of Schedule 1 listing all of Borrower's outstanding Indebtedness for Borrowed Money;
 - (ix) copies (executed and certified, as may be appropriate) of the organizational documents of Borrower and all legal documents or proceedings (including minutes of board meetings) taken in connection with the execution and delivery of this Agreement to the extent Lender or its counsel may reasonably request;
 - (x) copies of evidence of the LA Loan;
 - (xi) subordination agreements in the form attached as Exhibit H executed by each JPA Member that has advanced funds to Borrower other than pursuant to the LA Loan;
 - (xii) evidence of operating approval from the CPUC and CAL ISO;
 - (xiii) fully executed copies of the Power Purchase Agreements;
 - (xiv) customer verification information for officers of Borrower and signers of the Loan Documents as Lender may require; and
 - (xv) evidence of Liability Insurance in form and substance satisfactory to Lender;
- (2) Borrower is operational and the Phase 1 rollout to municipal customers is in place;
 - (3) the Debt Service Reserve Account shall have been established and funded with Lender;
 - (4) the Advance is either a) the Debt Service Reserve Advance, b) a PPA Advance, c) a Working Capital Advance, d) a LA Loan Advance as provided in Section 9.2(b) below, or e) a Letter of Credit Advance provided in Section 4; and
 - (5) any legal matters incident to the execution and delivery of this Agreement and the other Loan Documents and to the transactions contemplated hereby and thereby shall be reasonably satisfactory to Lender and its counsel.

9.2 (b) *Permitted Revolving Credit Advances*. In addition to the above-listed conditions precedent, the following terms shall apply to the Advances under the Revolving Credit:

- (1) Debt Service Reserve Advance. The Debt Service Reserve Advance shall be in an amount equal to Two Million and no/100 Dollars (\$2,000,000) and will be the first Advance under the Revolving Credit. The proceeds from the Debt Service Reserve Advance shall be deposited into the Debt Service Reserve Account.

- (2) PPA Advance. PPA Advances may be requested for the sole purpose of funding reserves in connection with a Power Purchase Agreement. Each PPA Advance shall be requested in substantially the form of **Exhibit F**.
- (3) Working Capital Advance. Working Capital Advances may be requested for the purpose of (i) bridging seasonal gaps between payment obligations due under the Power Purchase Agreements and reductions in cash flow due to lower billings in winter months and (ii) paying general and administrative expenses of Borrower. Each Working Capital Advance shall be requested in substantially the form of **Exhibit F**.
- (4) LA Loan Advance. The LA Loan Advance may be requested for the sole purpose of repaying the LA Loan. The LA Loan Advance shall be requested in substantially the form of **Exhibit F** with proceeds wired by Lender directly to Los Angeles County.

SECTION 10. COVENANTS.

Borrower agrees that, so long as any credit is available to or in use by Borrower hereunder, except to the extent compliance in any case or cases is waived in writing by Lender:

Section 10.1. Maintenance of Business. Borrower shall preserve and maintain its existence. Borrower shall preserve and keep in force and effect all licenses, permits and franchises necessary to the proper conduct of its business and shall conduct its business affairs in a reasonable and prudent manner. Borrower shall maintain executive and management personnel with substantially the same qualifications and experience as the present executive and management personnel, and shall provide Lender with written notice of any change in executive and management personnel.

Section 10.2. Financial Reports. Borrower shall maintain a standard system of accounting in accordance with GAAP and shall furnish to Lender and its duly authorized representatives such information respecting the business and financial condition of Borrower as Lender may reasonably request; and without any request, Borrower shall furnish to Lender:

(a) as soon as available, and in any event within forty-five (45) days after the close of each month, an unaudited balance sheet of Borrower as of the last day of the period then ended and the statements of income, retained earnings and cash flows of Borrower for the period then ended, prepared in accordance with GAAP and in a form acceptable to Lender;

(b) as soon as available, and in any event no later than one hundred eighty (180) days after each Fiscal Year End, a CPA-audited balance sheet of Borrower as of the last day of the Fiscal Year End and CPA-audited statements of income, retained earnings and cash flows of Borrower for the period then ended, and accompanying notes thereto, each in reasonable detail showing in comparative form the figures for the previous fiscal year, accompanied by an unqualified opinion thereon of Borrower's independent public accountants, to the effect that the financial statements have been prepared in accordance with GAAP and present fairly in accordance with GAAP the financial condition of Borrower as of the close of such fiscal year and the results of its operations

and cash flows for the fiscal year then ended and that an examination of such accounts in connection with such financial statements has been made in accordance with generally accepted auditing standards and, accordingly, such examination included such tests of the accounting records and such other review procedures as were considered necessary in the circumstances;

(c) promptly after receipt thereof, any additional written reports, management letters or other detailed information contained in writing concerning significant aspects of Borrower's operations and financial affairs given to it by its independent public accountants;

(d) promptly after knowledge thereof shall have come to the attention of any responsible officer of Borrower, written notice of any litigation threatened in writing or any pending litigation or governmental proceeding or labor controversy against Borrower which, if adversely determined, would materially adversely affect the financial condition, Properties, business or operations of Borrower or result in the occurrence of any Default or Event of Default hereunder; and

(e) promptly upon request, all such other information as Lender may reasonably request.

Each of the financial statements furnished to Lender pursuant to this Section 10.2 shall be accompanied by a written certificate signed by the Chief Financial Officer of Borrower to the effect that to the best of such officer's knowledge and belief no Default or Event of Default has occurred during the period covered by such statements or, if any such Default or Event of Default has occurred during such period, setting forth a description of such Default or Event of Default and specifying the action, if any, taken by Borrower to remedy the same.

Section 10.3. Maintenance of Debt Service Reserve Account. Borrower shall ensure that the Debt Service Reserve Account and the Other RCB Accounts remain pledged and assigned to Lender as collateral for the Obligations in accordance with Section 7.

Section 10.4. Exclusive Depository Relationship. Borrower shall maintain an exclusive business banking deposit account relationship with Lender for so long as any amounts under this Agreement or any Note remain outstanding. In the event that this condition is not satisfied, as determined by Lender, the Applicable Rate (or the Default Rate, if applicable) and any commissions charge on any outstanding Note will immediately increase by an additional 2.00 percentage points.

Section 10.5. Debt Service Coverage Ratio. If the Revolving Credit and/or the LA Loan Advance is converted to a Term Loan or the LA Term Loan, respectively, Borrower shall maintain a minimum Debt Service Coverage Ratio ("DSCR") not at any time less than 1.25:1.00, measured annually as of each Fiscal Year End beginning with the first June 30 following conversion to the Term Loan. DSCR is calculated as EBIDA divided by Debt Service.

"EBIDA" is hereby defined as earnings before depreciation, amortization and interest expense, for the twelve (12) month period ending the most recent fiscal year end.

"Debt Service" is hereby defined as interest expense during the calculated period plus current maturities of long term debt reported at the beginning of the calculated period.

Section 10.6. Unrestricted Tangible Net Assets. Borrower shall maintain minimum Unrestricted Tangible Net Assets not at any time less than Eight Million and 00/100 Dollars (\$8,000,000), measured annually as of June 30, 2019.

“*Unrestricted Tangible Net Assets*” is defined as total assets less temporarily and permanently restricted assets, less any intangible assets, less total liabilities.

Section 10.7. Minimum EBIDA. Borrower will maintain a minimum EBIDA as follows:

| Reporting Period | Cumulative Projections Through | Minimum EBIDA Requirement |
|-------------------------|--------------------------------|---------------------------|
| 04/01/2018 – 06/30/2018 | 6/30/2018 (FYE) | (\$1,700,000) |
| 07/01/2018 – 09/30/2018 | 9/30/2018 | \$13,600,000 |
| 07/01/2018 – 12/31/2018 | 12/31/2018 | \$12,700,000 |
| 07/01/2018 – 03/31/2019 | 3/31/2019 | \$20,000,000 |
| 07/01/2018 – 06/30/2019 | 6/30/2019 (FYE) | \$31,100,000 |
| 07/01/2019 – 09/30/2019 | 9/30/2019 | \$77,000,000 |
| 07/01/2019 – 12/31/2019 | 12/31/2019 | \$86,700,000 |

Section 10.8. Inspection. Borrower shall permit Lender and its duly authorized representatives and agents, at such times and intervals as Lender may designate, but in any event, no more than six (6) times during any twelve (12) month period if no Default or Event of Default has occurred and is continuing: (i) to visit and inspect any of the Properties, books and financial records of Borrower and to examine and make copies of the books of accounts and other financial records of Borrower, and (ii) to discuss the affairs, finances and accounts of Borrower with, and to be advised as to the same by, the executive officers of Borrower and other officers, employees and independent public accountants of Borrower (and by this provision Borrower authorizes such accountants to discuss with Lender or its agents and representatives the finances and affairs of Borrower). Without limiting the generality of the foregoing, Borrower shall promptly provide all information and access requested by Lender as Lender determines is necessary or required in connection with the preparation of its own financial statements.

Section 10.9. Liens. Borrower shall not create, incur or permit to exist any Lien of any kind on any Property owned by Borrower; provided, however, that the foregoing shall not apply to nor operate to prevent:

(a) Liens arising by statute in connection with worker’s compensation, unemployment insurance, old age benefits, social security obligations, taxes, assessments, statutory obligations or other similar charges, good faith cash deposits in connection with tenders, contracts or leases to which Borrower is a party or other cash deposits required to be made in the ordinary course of business, provided in each case that the obligation is not Indebtedness for Borrowed Money and that the obligation secured is not overdue or, if overdue, is being contested in good faith by appropriate

proceedings which prevent enforcement of the matter under contest and adequate reserves have been established therefor;

(b) mechanics', workmen's, materialmen's, landlords', carriers', or other similar Liens arising in the ordinary course of business with respect to obligations which are not due or which are being contested in good faith by appropriate proceedings which prevent enforcement of the matter under contest;

(c) the pledge of assets for the purpose of securing an appeal, stay or discharge in the course of any legal proceeding, provided that the aggregate amount of liabilities of Borrower secured by a pledge of assets permitted under this subsection, including interest and penalties thereon, if any, shall not be in excess of \$200,000 at any one time outstanding;

(d) the Liens identified on **Schedule 1** hereto;

(e) the Liens pursuant to an approved Power Purchase Agreement; and

(f) the Liens established by the Loan Documents or otherwise in favor of Lender.

The Liens described in clauses (a) through (f) of this Section 10.9 are collectively referred to in this Agreement as the "*Permitted Liens*."

Section 10.10. Investments, Acquisitions, Loans, Advances and Guaranties. Borrower shall not directly or indirectly, make, retain or have outstanding any investments (whether through purchase of stock or obligations or otherwise) in, or loans or advances (other than for travel advances and other similar cash advances made to employees in the ordinary course of business) to, any other Person, or acquire all or any substantial part of the assets or business of any other Person or division thereof, or be or become liable as endorser, guarantor, surety or otherwise for any debt, obligation or undertaking of any other Person, or otherwise agree to provide funds for payment of the obligations of another, or supply funds thereto or invest therein or otherwise assure a creditor of another against loss, or apply for or become liable to the issuer of a letter of credit which supports an obligation of another, or subordinate any claim or demand it may have to the claim or demand of any other Person.

Section 10.11. Compliance with Laws. Borrower shall comply in all respects with the requirements of all laws, rules, regulations, ordinances and orders applicable to or pertaining to its Properties or business operations, non-compliance with which could have a material adverse effect on the financial condition, Properties, business or operations of Borrower or could result in a Lien upon any of its Property.

Section 10.12. Contracts With Members. Borrower shall not enter into any contract, agreement or business arrangement with any of its members on terms and conditions which are less favorable to Borrower than would be usual and customary in similar contracts, agreements or business arrangements between Persons not affiliated with each other.

Section 10.13. Notices of Claims and Litigation. Borrower shall promptly inform Lender in writing of (a) all material adverse changes in Borrower’s financial condition and/or (b) all existing or written threats of litigation, claims, investigations, administrative proceedings or similar actions affecting Borrower which could materially affect the financial condition of Borrower.

Section 10.14. Other Agreements. Borrower shall comply with all terms and conditions of all other agreements, whether now or hereafter existing, between Borrower and any other party, non-compliance with which could have a material adverse effect on the financial condition, Properties, business or operations of Borrower, and notify Lender immediately in writing of any default in connection with any other such agreements.

Section 10.15. Performance. Borrower shall timely perform and comply with all terms, conditions, and provisions set forth in this Agreement, the Notes and in all other instruments and agreements between Borrower and Lender. Borrower shall notify Lender promptly in writing of any Default in connection with any Loan Document.

Section 10.16. Compliance Certificates. Borrower shall, unless waived in writing by Lender, provide Lender, at least annually, with a certificate executed by Borrower’s chief financial officer, or other officer or person acceptable to Lender, certifying that the representations and warranties set forth in this Agreement are true and correct as of the date of the certificate and further certifying that, as of the date of the certificate, no Event of Default exists under this Agreement.

Section 10.17. Fiscal Year. Borrower shall not change its fiscal year without the prior written consent of Lender.

Section 10.18. Indebtedness for Borrowed Money. As of the date hereof, Borrower has no outstanding Indebtedness for Borrowed Money, except as set forth on **Schedule 1**. Except as disclosed on **Schedule 1**, Borrower shall not issue, incur, assume, create or have outstanding any Indebtedness for Borrowed Money; provided, however, that the foregoing shall not restrict nor operate to prevent the Obligations of Borrower owing to Lender hereunder.

Section 10.19. No Payments on Subordinated Amounts. So long as any Obligations remain outstanding, Borrower shall not, without the prior written consent of Lender, make any payment on or any distribution with respect to Indebtedness for Borrowed Money to any JPA Member other than on account of the LA Loan.

SECTION 11. EVENTS OF DEFAULT AND REMEDIES.

Section 11.1. Events of Default. Any one or more of the following will constitute an “Event of Default” hereunder:

- (a) any default in the payment when due (whether by lapse of time, acceleration or otherwise) of (i) any payment of principal or interest under any Note, or (ii) any other Obligation, within five (5) days after payment or performance is due from Borrower; or

(b) any representation or warranty made by Borrower herein or in any other Loan Document, or in any statement or certificate furnished by it pursuant hereto or thereto, or in connection with any Advance made hereunder, is inaccurate or untrue in any material respect as of the date of the issuance or making thereof; or

(c) any event occurs or condition exists (other than those described in clauses (a) through (b) above) which is specified as an event of default under any of the other Loan Documents, or any of the Loan Documents for any reason ceases to be in full force and effect, or any of the Loan Documents is declared to be null and void, or Borrower takes any action for the purpose of repudiating or rescinding any Loan Document executed by it; or

(d) any judgment, order, writ of attachment, writ of execution, writ of possession or any similar legal process seeking an amount in excess of One Million Dollars (\$1,000,000) is entered or filed against Borrower or any of Borrower's Properties and remains unvacated, unbonded and unstayed for a period of ten (10) or more calendar days; or

(e) Borrower defaults under any loan, extension of credit, security agreement, purchase or sales agreement, or any other agreement in favor of any other creditor or Person that may materially affect any of Borrower's Properties, Borrower's ability to repay the Revolving Credit or Borrower's ability to perform its Obligations under this Agreement or any of the other Loan Documents; or

(f) a material adverse change occurs in Borrower's financial condition, or Lender believes, in its reasonable discretion, the prospect of payment or performance of Borrower's obligations under this Agreement is materially impaired; or

(g) Borrower (i) takes any steps to effect a Winding-Up, or (ii) fails to pay, or admits in writing its inability to pay, its debts generally as they become due; or

(h) Borrower has failed to successfully complete enrollment of Phase 2 to municipal, commercial and industrial customers for the Initial Members by July 25, 2018; or

(i) Borrower has failed to successfully complete enrollment of Phase 3 to all residential customers for the Initial Members plus the New Members by March 31, 2019; or

(j) Borrower has failed to successfully complete enrollment of Phase 4 to all municipal, commercial and industrial customers for the New Members by April 30, 2019; or

(k) any custodian, receiver, administrative receiver, administrator, trustee, examiner, liquidator or similar official is appointed over Borrower or any substantial part of any of its Properties, whether by court order, by operation of law or otherwise, or a Winding-Up proceeding is instituted against Borrower, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of thirty (30) or more days, or Borrower becomes unable to pay or admits in writing its inability to pay its debts as they become due.

Section 11.2. Non-Insolvency Default Remedies. Upon the occurrence of any Event of Default described in clauses (a) through (j) of Section 11.1, Lender or any permitted holder of any of the Notes may, by notice to Borrower, take any of the following actions:

- (a) terminate any obligation to extend any further credit hereunder (including but not limited to Advances) on the date (which may be the date thereof) stated in such notice;
- (b) declare all Advances and all indebtedness under the Notes then outstanding (including all outstanding principal and all accrued but unpaid interest), and all other Obligations of Borrower to Lender, to be immediately due and payable without further demand, presentment, protest or notice of any kind; and
- (c) exercise and enforce any and all rights and remedies contained in any other Loan Document or otherwise available to Lender at law or in equity.

Section 11.3. Insolvency Default Remedies. Upon the occurrence of any Event of Default described in Section 11.1(k), all Advances and all indebtedness under any Note then outstanding (including all outstanding principal and all accrued but unpaid interest), and all other Obligations of Borrower to Lender, will immediately become due and payable without presentment, demand, protest or notice of any kind, and Lender shall have no obligation to extend any further credit hereunder (including but not limited to Advances).

SECTION 12. MISCELLANEOUS.

Section 12.1. Holidays. If any payment hereunder becomes due and payable on a day which is not a Business Day, the due date of such payment will be extended to the next succeeding Business Day on which date such payment will be due and payable. In the case of any principal falling due on a day which is not a Business Day, interest on such principal amount will continue to accrue during such extension at the Applicable Rate, which accrued amount will be due and payable on the next scheduled date for the payment of interest.

Section 12.2. No Waiver, Cumulative Remedies. No delay or failure on the part of Lender or on the part of the holder of any Note in the exercise of any power or right will operate as a waiver thereof or as an acquiescence in any Default, nor will any single or partial exercise of any power or right preclude any other or further exercise thereof, or the exercise of any other power or right. All rights and remedies of Lender and the holder of any Note are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have. Borrower agrees that in the event of any breach or threatened breach by Borrower of any covenant, obligation or other provision contained in this Agreement, Lender shall be entitled (in addition to any other remedy that may be available to Lender) to: (i) a decree or order of specific performance or mandamus to enforce the observance and performance of such covenant, obligation or other provision; and (ii) an injunction restraining such breach or threatened breach. Borrower further agrees that neither Lender nor any other person or entity shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any remedy referred to in this Section 12, and Borrower irrevocably waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument.

Section 12.3. Amendments, Etc. No amendment, modification, termination or waiver of any provision of this Agreement or any other Loan Document nor consent to any departure by Borrower therefrom, will in any event be effective unless the same is in writing and signed by Lender. No notice to or demand on Borrower in any case will entitle Borrower to any other or further notice or demand in similar or other circumstances.

Section 12.4. Costs and Expenses.

(a) Borrower shall pay all reasonable out-of-pocket expenses incurred by Lender in connection with the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated) including, without limitation, the fees specified in Section 5.1.

(b) Borrower agrees to pay on demand all reasonable costs and expenses (including attorneys' fees and expert witness fees), if any, incurred by Lender or any other holder of the Obligations in connection with any Event of Default or the enforcement of this Agreement, any other Loan Document or any other instrument or document to be delivered hereunder, including without limitation any action, suit or proceeding brought against Lender by any Person which arises out of the transactions contemplated hereby or out of any action or inaction by Lender hereunder or thereunder.

Section 12.5. Indemnity. Whether or not the transactions contemplated hereby shall be consummated, Borrower shall indemnify, defend and hold harmless Lender and its officers, directors, employees, counsel, agents and attorneys-in-fact (each, an "*Indemnified Person*") from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, charges, expenses or disbursements (including attorneys' costs and expert witnesses' fees), of any kind or nature whatsoever, that (a) arise from or relate in any way to the execution, delivery, enforcement, performance and administration of this Agreement and any other Loan Document, or the transactions contemplated hereby and thereby, and with respect to any investigation, litigation or proceeding (including any Winding-Up or appellate proceeding) related to this Agreement or the Advances or the use of the proceeds thereof, whether or not any Indemnified Person is a party thereto, and/or (b) may be incurred by or asserted against such Indemnified Person in connection with or arising out of any pending or threatened investigation, litigation or proceeding, or any action taken by any Person, arising out of or related to any Property of Borrower (all the foregoing, collectively, the "*Indemnified Liabilities*"); provided that Borrower shall have no obligation hereunder to any Indemnified Person with respect to Indemnified Liabilities to the extent arising from the gross negligence or willful misconduct of such Indemnified Person.

No action taken by legal counsel chosen by Lender in defending against any investigation, litigation or proceeding or requested remedial, removal or response action vitiates or in any way impairs Borrower's obligation and duty hereunder to indemnify and hold harmless Lender unless such action involved gross negligence or willful misconduct. Neither Borrower nor any other Person is entitled to rely on any inspection, observation, or audit by Lender or its

representatives or agents. Lender owes no duty of care to protect Borrower or any other Person against, or to inform Borrower or any other Person of, any adverse condition affecting any site or Property. Lender is not obligated to disclose to Borrower or any other Person any report or findings made as a result of, or in connection with, any inspection, observation or audit by Lender or its representatives or agents.

The obligations of Borrower in this Section 12.5 shall survive the payment and performance of all other Obligations. At the election of any Indemnified Person, Borrower shall defend such Indemnified Person using legal counsel satisfactory to such Indemnified Person in such Indemnified Person's sole discretion, at the sole cost and expense of Borrower. All amounts owing under this Section 12.5 shall be paid within thirty (30) days after demand.

Section 12.6. Right of Set Off. To the extent permitted by applicable law, Lender reserves a right of setoff in all of Borrower's accounts with Lender (whether checking, savings, or some other account) other than the Lockbox Account. This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Except as limited by the preceding sentence, Borrower authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums due and owing from Borrower against any and all such accounts.

Section 12.7. Survival of Representations. All representations and warranties made herein or in certificates given pursuant hereto will survive the execution and delivery of this Agreement and the other Loan Documents, and will continue in full force and effect with respect to the date as of which they were made as long as any credit is in use or available hereunder.

Section 12.8. Notices. Except as otherwise specified herein, all notices hereunder will be in writing (including by hand, post, courier, email or telecopy) and will be given to the relevant party at its address, email address or telecopier number set forth below, or such other address or telecopier number as such party may hereafter specify by notice to the other given by certified or registered mail, by Federal Express or DHL, by telecopy or by other telecommunication device (including electronic mail) capable of creating a written record of such notice and its receipt. Notices hereunder will be addressed:

To Borrower at:

Clean Power Alliance of Southern California
500 West Temple, Suite 493
Los Angeles, CA 90012
Attention: Chair

To Lender at:

River City Bank
2485 Natomas Park Drive, Suite 400
Sacramento, CA 95833
Telephone: (916) 567-2700
Telecopy: (916) 567-2780
Attention: Alice Harris
Loan Center

Each such notice, request or other communication will be effective (i) if given by telecopier, when such telecopy or email is transmitted to the telecopier number or email address specified in this Section and a confirmation of such telecopy or email has been received by the sender, (ii) if given by mail, three (3) days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid or (iii) if given by any other means, when delivered at the addresses specified in this Section 12.8; *provided that* any notice given pursuant to Section 2.2 or Section 4.2 hereof will be effective only upon receipt.

For notice purposes, Borrower agrees to keep Lender informed at all times of Borrower's current address.

Section 12.9. Headings. Section headings used in this Agreement are for convenience of reference only and are not a part of this Agreement for any other purpose.

Section 12.10. Severability of Provisions. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

Section 12.11. Counterparts. This Agreement may be executed in any number of counterparts, and by different parties hereto on separate counterparts, and all such counterparts taken together will be deemed to constitute one and the same instrument.

Section 12.12. Assignments, Binding Nature, Governing Law, Etc. This Agreement will be binding upon Borrower and its permitted successors and assigns, and will inure to the benefit of Lender and the benefit of its permitted successors and assigns, including any permitted subsequent holder of any Note. This Agreement and the rights and duties of the parties hereto will be construed and determined in accordance with the internal laws of the State of California without regard to principles of conflicts of laws. This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby. Borrower may not assign its rights hereunder without the written consent of Lender. Lender may assign its rights hereunder without the consent of Borrower, but only if after any such assignment Lender acts as the lead agent or administrative agent with respect to this Agreement.

Section 12.13. Submission to Jurisdiction; Waiver of Jury Trial. Borrower hereby submits to the nonexclusive jurisdiction of the United States District Court for the Eastern District of California and of any California State court sitting in the County of Sacramento for purposes of all legal proceedings arising out of or relating to this Agreement, the other Loan Documents or the transactions contemplated hereby or thereby. Borrower irrevocably waives, to the extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court has been brought in an inconvenient forum. Borrower hereby irrevocably waives, to the extent permitted by law, any and all right to trial by jury in any legal proceeding arising out of or relating to any Loan Document or in the transactions contemplated thereby.

Section 12.14. Time is of the Essence. Time is of the essence in the performance and enforcement of this Agreement and the other Loan Documents.

Section 12.15. Consent to Loan Participation. Borrower agrees and consents to Lender's sale or transfer, whether now or later, of one or more participation interests in the Revolving Credit, the Term Loan or the LA Term Loan to one or more purchasers, whether related or unrelated to Lender, provided that at all times Lender manages the Revolving Credit, the Term Loan and the LA Term Loan such that Borrower may communicate exclusively with Lender. Lender may provide, without any limitation whatsoever, to any one or more purchasers or potential purchasers, any information or knowledge Lender may have about Borrower or about any other matter relating to this Agreement, and Borrower hereby waives any rights to privacy Borrower may have with respect to such matters. Borrower additionally waives any and all notices of sale of participation interests, as well as all notices of any repurchase of such participation interests. Borrower also agrees that the purchasers of any such participation interests will be considered as the absolute owners of such interest in the Notes and will have all the rights granted under the participation agreement or agreements governing the same of such participation interests. Borrower further waives all rights of offset or counterclaim that it may have now or later against Lender or against any purchaser of such a participation interest and unconditionally agrees that either Lender or such purchaser may enforce Borrower's obligations under this Agreement irrespective of the failure or insolvency of any holder of any interest in the Notes. Borrower further agrees that the purchaser of any such participation interests may enforce the interests irrespective of any personal claims or defenses that Borrower may have against Lender.

Section 12.16. No Recourse Against Constituent Members of Borrower. Borrower is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. Borrower shall be solely responsible for all debts, obligations and liabilities accruing and arising out of this Agreement and the Notes. Lender shall not make any claims, take any actions or assert any remedies against any of Borrower's constituent members in connection with any payment default by Borrower under this Agreement or any other Loan Document.

[remainder of page intentionally left blank]

Upon your acceptance hereof in the manner hereinafter set forth, this Agreement will constitute a contract between us for the uses and purposes hereinabove set forth.

Executed and delivered in Sacramento, California, as of the first date written above.

Clean Power Alliance of Southern California

By: _____
Name: _____
Its: _____

RIVER CITY BANK

By: _____
Name: _____
Its: _____

SCHEDULE 1

Indebtedness for Borrowed Money

EXHIBIT A

Definitions

“*Advance*” and “*Advances*” is defined in Section 2.1.

“*Agreement*” means this Credit Agreement, as the same may be amended, modified or restated from time to time in accordance with the terms hereof.

“*Applicable Rate*” means (i) for the Revolving Credit, a variable rate of interest equal to the One-Month LIBOR plus 1.75% per annum, subject to a floor of 1.75% per annum and (ii) for the Term Loan and/or the LA Term Loan, a variable rate of interest equal to the One-Month LIBOR plus 1.75% per annum. The Applicable Rate is subject to increase as provided in Section 10.4.

“*Authorized Representative*” means those persons shown on the list of officers provided by Borrower pursuant to Section 9.2(a)(v), or on any update of any such list provided by Borrower to Lender, or any further or different officer of Borrower so named by any Authorized Representative of Borrower in a written notice to Lender.

“*Borrower*” is defined in the introductory paragraph.

“*Business Day*” means a day (other than a Saturday or Sunday) on which banks are not authorized or required to be closed in Sacramento, California.

“*CPUC*” means the California Public Utilities Commission.

“*CAL ISO*” means California ISO, the independent grid operator.

“*Capital Lease*” means at any date any lease of Property which in accordance with GAAP is required to be capitalized on the balance sheet of the lessee.

“*Capitalized Lease Obligation*” means the amount of liability as shown on the balance sheet of any Person in respect of a Capital Lease as determined at any date in accordance with GAAP.

“*Debt Service*” is defined in Section 10.5.

“*Debt Service Reserve Account*” is defined in Section 7.1.

“*Debtor Relief Laws*” means the United States Bankruptcy Code and all other liquidation, conservatorship, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“*Default*” means any event or condition the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

“*Default Rate*” means the Applicable Rate plus five percent (5.0%).

“*Dollars and \$*” mean lawful money of the United States.

“*EBIDA*” is defined in Section 10.5.

“*Event of Default*” is defined in Section 11.1.

“*Fiscal Year End*” means June 30.

“*Flat Fee*” is defined in Section 4.8.

“*GAAP*” means generally accepted accounting principles as established and interpreted by the Governmental Accounting Standards Board (GASB) and as applied by Borrower.

“*Governmental Authority*” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank, or other entity exercising executive, legislative, judicial taxing, regulatory or administrative powers or functions of or pertaining to government.

“*Honor Date*” is defined in Section 4.3.

“*Indebtedness for Borrowed Money*” means, for any Person (without duplication), (i) all indebtedness created, assumed or incurred in any manner by such Person representing money borrowed (including by the issuance of debt securities), (ii) all indebtedness for the deferred purchase price of property or services (other than trade accounts payable arising in the ordinary course of business not more than 120 days past due), (iii) all indebtedness secured by any Lien upon Property of such Person, whether or not such Person has assumed or become liable for the payment of such indebtedness, (iv) all Capitalized Lease Obligations of such Person, and (v) all obligations of such Person on or with respect to letters of credit, banker’s acceptances and other evidences of indebtedness representing extensions of credit whether or not representing obligations for borrowed money.

“*Indemnified Liabilities*” is defined in Section 12.5.

“*Indemnified Person*” is defined in Section 12.5.

“*Initial Members*” means Rolling Hills Estates, South Pasadena and Unincorporated Los Angeles County.

“*Initial Rate Set Date*” means the date of issuance of the Promissory Note at which time Lender will determine the One-Month LIBOR which shall be in effect until the next Rate Change Date.

“*ISP*” is defined in Section 4.5(a)(vi).

“*Issuance Fee*” is defined in Section 4.8.

“*JPA Members*” mean the Initial Members, all (not just at least 17) of the New Members, and any other cities or counties that join the JPA from time to time.

“*Joint Powers Agreement*” means the Joint Powers Agreement of Borrower effective as of June 27, 2017, and as amended from time to time.

“*LA Loan*” is defined in Section 2.1.

“*LA Term Loan*” is defined in Section 2.4(c).

“*LA Term Note*” is defined in Section 2.4(c).

“*Lender*” is defined in the introductory paragraph.

“*Letter of Credit*” means any letter of credit issued hereunder.

“*Letter of Credit Advance*” and “*Letter of Credit Advances*” are defined in Section 2.1.

“*Letter of Credit Note*” is defined in Section 2.3.

“*Lien*” means any mortgage, lien, security interest, pledge, charge or encumbrance of any kind in respect of any Property, including the interests of a vendor or lessor under any conditional sale, Capital Lease or other title retention arrangement.

“*Loan Documents*” means this Agreement, the Notes, the Assignment of Debt Service Reserve Account, the Subordination Agreement and all other documents, certificates, instruments and agreements relating to the foregoing or otherwise executed by Borrower in connection with the Revolving Credit.

“*Lockbox Account*” means the lockbox agreement and lockbox account established with Lender, as custodian into which all revenues generated by Borrower must be deposited.

“*Loan Fee*” means one-quarter of one percent (0.25%) of the Revolving Credit Commitment.

“*Maintenance and Operation Costs*” shall be determined in accordance with the accrual basis of accounting in accordance with GAAP and shall mean the reasonable and necessary costs paid or incurred by Borrower for maintaining and operating the System, including costs of electric energy and power generated or purchased, costs of

transmission and fuel supply, and including all reasonable expenses of management and repair and other expenses necessary to maintain and preserve the System in good repair and working order, and including all administrative costs of Borrower that are charged directly or apportioned to the maintenance and operation of the System, such as salaries and wages of employees, overhead, insurance, taxes (if any) and insurance premiums, and including all other reasonable and necessary costs of Borrower such as fees and expenses of an independent certified public accountant and a consulting engineer, and including Borrower's share of the foregoing types of costs of any electric properties co-owned with others, excluding in all cases depreciation, replacement and obsolescence charges or reserves therefore and amortization of intangibles and extraordinary items computed in accordance with GAAP or other bookkeeping entries of a similar nature. Maintenance and Operation Costs shall include all amounts required to be paid by Borrower under take or pay contracts.

"Maturity Date" means, for any Note, the date so specified in such Note as the Maturity Date.

"New Members" means at least 17 of the following 21 cities of Agoura Hills, Alhambra, Arcadia, Beverly Hills, Calabasas, Carson, Claremont, Culver City, Downey, Hawaiian Gardens, Hawthorne, Malibu, Manhattan Beach, Ojai, Paramount, Santa Monica, Sierra Madre, Temple City, Thousand Oaks, and West Hollywood and the County of Ventura.

"Notes" refers collectively to the Promissory Note and, if applicable, the Term Note, the Letter of Credit Note and/or the LA Term Note.

"Obligations" means and includes all loans, advances, debts, liabilities and obligations of Borrower to Lender, of every kind and description (whether or not evidenced by any note or instrument and whether or not for the payment of money), direct or indirect, absolute or contingent, due or to become due, now existing or hereafter owed by Borrower to Lender, whether in connection with the Loan Documents or otherwise, including without limitation all interest, fees, charges, expenses, attorneys' fees and accountants' fees chargeable to Borrower or payable by Borrower thereunder.

"One-Month LIBOR" means, as of each Rate Change Date or the Initial Rate Set Date, the rate determined by Lender to be the One-Month LIBOR rate as posted on Bankrate.com (or, if such rate becomes unavailable to Lender, a substitute rate based on an index selected by Lender in its sole discretion) as in effect from time to time, which rate is not necessarily the lowest rate charged by Lender on its loans and is set by Lender in its sole discretion.

"Other RCB Accounts" is defined in Section 7.2.

"Payment Date" means, other than the Termination Date or any Maturity Date, the first day of each calendar month.

"Permitted Liens" is defined in Section 10.9.

“*Person*” means an individual, partnership, corporation, company, limited liability company, association, trust, unincorporated organization or any other entity or organization, including a government or agency or political subdivision thereof.

“*Property*” means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

“*Power Purchase Agreement*” means (i) those certain Master Power Purchase and Sale Agreements, to be entered into by Borrower with power suppliers, including, without limitation, one or more of the following: _____, _____, _____ and _____, and (ii) any related agreements (including any security and collateral account agreements) and any amendments, modifications, and restatements of the foregoing.

“*Promissory Note*” is defined in Section 2.3.

“*Rate Change Date*” means the first calendar day of each calendar month.

“*Reimbursement Date*” is defined in Section 4.3.

“*Related Parties*” means, with respect to any Person, such Person’s affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s affiliates.

“*Responsible Officer*” means the Chief Executive Officer.

“*Revolving Credit*” is defined in Section 2.1.

“*Revolving Credit Commitment*” means, at any time of determination, an amount equal to \$20,000,000.00 less the aggregate principal amount of Advances made by Lender under the Revolving Credit.

“*Revolving Credit Termination Date*” means the date that is twelve (12) months from the date of this Agreement, subject to one six-month extension as provided in Section 2.4(a).

“*Subordination Agreement*” means a subordination agreement substantially in the form of Exhibit F executed by each member of the Joint Power Authority (“*JPA*”) which has loaned or otherwise advanced Borrower money affirming the subordination of such loan between such JPA Members and Borrower.

“*SWIFT*” is defined in Section 4.6.

“*System*” means (i) all facilities, works, properties, structures and contractual rights to distribution, metering and billing services, electric power, scheduling and coordination, transmission capacity, and fuel supply of Borrower for the generation, transmission and distribution of electric power, (ii) all general plant facilities, works, properties and structures of Borrower, and (iii) all other facilities, properties and

structures of Borrower, wherever located, reasonably required to carry out any lawful purpose of Borrower. The term shall include all such contractual rights, facilities, works, properties and structures now owned or hereafter acquired by Borrower.

“*Term Loan*” means the conversion of outstanding Revolving Line of Credit Advances as provided in Section 2.4(b).

“*Term Note*” is defined in Section 2.4(b).

“*UCC*” means the Uniform Commercial Code as enacted in the State of California.

“*UCP*” is defined in Section 4.5(a)(vi).

“*Unreimbursed Amount*” is defined in Section 2.3.

“*Unrestricted Tangible Net Assets*” is defined in Section 10.6.

“*Winding-Up*” means, in relation to a Person, a voluntary or involuntary case or other proceeding or petition seeking dissolution, liquidation, reorganization, administration, assignment for the benefit of creditors or other relief under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect, or seeking the appointment of a custodian, trustee, receiver, liquidator or other similar official over that Person or any substantial part of that Person’s Properties.

EXHIBIT B

REVOLVING CREDIT PROMISSORY NOTE

\$20,000,000.00

Date: _____

FOR VALUE RECEIVED, **CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA**, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et seq. ("*Borrower*"), promises to pay to the order of **RIVER CITY BANK** ("*Lender*") the principal sum of TWENTY MILLION and /100 DOLLARS (\$20,000,000.00), pursuant to the terms of that certain Credit Agreement (the "*Credit Agreement*") dated as of April __, 2018, between Borrower and Lender, together with interest thereon as provided herein and therein. All payments under this Revolving Credit Promissory Note (this "*Note*") shall be made to Lender at its address specified in the Credit Agreement, or at such other place as the holder of this Note may from time to time designate in writing, in accordance with the terms of this Note and the Credit Agreement. Capitalized terms used but not defined in this Note shall have the definitions provided in the Credit Agreement.

Payment Terms. Borrower agrees to pay monthly payments of interest only on the unpaid principal balance of this Note as of each Payment Date beginning on the latter of (a) the first Payment Date after the date of each Advance, or (b) _____, 2018, with all subsequent payments due and payable on each Payment Date thereafter as provided in Section 3 of the Credit Agreement. Interest will accrue prior to maturity (whether by lapse of time, acceleration or otherwise) at the Applicable Rate and after maturity (whether by lapse of time, acceleration or otherwise), whether before or after judgment, at the Default Rate, until paid in full.

Maturity Date. The outstanding principal balance of this Note and all accrued but unpaid interest thereon shall be due and payable in full on the Revolving Credit Termination Date. Under Section 2.4(b) of the Credit Agreement and subject to the conditions set forth therein, no later than 30 days prior to the Revolving Credit Termination Date, Borrower may request that any Advances outstanding under this Note be converted into a Term Loan evidenced by a Term Note.

Default and Acceleration. Upon the occurrence of any Event of Default described in Section 11.1 of the Credit Agreement, Lender or any permitted holder of this Note may exercise any or all of the rights and remedies set forth therein, including the exercise of Lender's option to accelerate this Note and declare all Advances and all indebtedness under this Note then outstanding to be immediately due and payable, with or without notice to Borrower, as applicable.

Miscellaneous. This Note and the holder hereof are entitled to all of the rights benefits provided for in the Credit Agreement. All of the terms, covenants and conditions contained in the Credit Agreement are hereby made part of this Note to the same extent and with the same force as if they were fully set forth herein. In the event of a conflict or inconsistency between the

terms of this Note and the Credit Agreement, the terms and provisions of the Credit Agreement shall control.

This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

This Note will be construed in accordance with, and governed by, the internal laws of the State of California.

Borrower promises to pay all costs and expenses (including reasonable attorneys' fees and expert witnesses' fees) suffered or incurred by Lender or subsequent holder of this Note in the collection of this Note or the enforcement Lender's rights and remedies under the Credit Agreement.

Borrower hereby waives presentment for payment and demand. If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forego enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive any applicable statute of limitations, presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) the obligations evidenced by this Note or release any party or guarantor or collateral, or impair, fail to realize upon or perfect Lender's security interest in the collateral, if any; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify the terms of this Note without the consent of or notice to anyone other than the party with whom the modification is made.

Prior to signing this Note, Borrower read and understood all the provisions of this Note and the Credit Agreement, including the variable interest rate provisions in the Credit Agreement. Borrower agrees to the terms of this Note and the Credit Agreement. Borrower acknowledges receipt of complete copies of this Note and the Credit Agreement.

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

By: _____
Name: _____
Its: _____

EXHIBIT C

LETTER OF CREDIT NOTE

\$ _____

Date: _____

FOR VALUE RECEIVED, **CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA**, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et. seq. (“*Borrower*”), promises to pay to the order of **RIVER CITY BANK** (“*Lender*”) the principal sum of _____ (\$_____,000.00) pursuant to the terms of that certain Credit Agreement (the “*Credit Agreement*”) dated as of April __, 2018, between Borrower and Lender, together with interest thereon as provided herein and therein. All payments under this Letter of Credit Note (this “*Note*”) shall be made to Lender at its address specified in the Credit Agreement or at such other place as the holder of this Note may from time to time designate in writing, in accordance with the terms of this Note and the Credit Agreement. Capitalized terms used but not defined in this Note shall have the definitions provided in the Credit Agreement.

Letter of Credit. This Note is executed in connection with a Letter of Credit issued by _____ (“*Issuing Bank*”), dated _____, in the face amount of \$_____, in favor of _____ (as Beneficiary) and identified as number: _____ (the “*Letter of Credit*”).

Draw or Demand under the Letter of Credit. Borrower directs and authorizes Lender to immediately advance funds under this Note to repay in full any demand or draw request form Beneficiary under the Letter of Credit (the “*Disbursement*”).

Payment Terms. Borrower agrees to pay any Disbursement immediately upon demand from Lender and in no event less than 3 calendar days from the date of the Disbursement (the “*Demand Date*”). From the date of the Disbursement to the Demand Date, Borrower shall pay interest only on the unpaid principal balance of this Note (whether by lapse of time, acceleration or otherwise) at the Applicable Rate and after the Demand Date (whether by lapse of time, acceleration or otherwise), whether before or after judgment, at the Default Rate, until paid in full.

Maturity Date. The repayment obligations from Borrower to Lender under this Note shall remain in full force and effect until the original Letter of Credit including any and all amendments is surrendered to Issuing Bank undrawn and cancelled to the satisfaction of Issuing Bank.

Credit Agreement and Cash Collateral. If (i) the Letter of Credit has been issued and remains unexpired on the Revolving Credit Termination Date, or (ii) the Revolving Credit Commitment terminates or is unavailable to Borrower for any reason prior to the surrender of the Letter of Credit as provided above, or (iii) the amount of all Letter of Credit Advances exceeds the Revolving Credit Commitment, upon request by Lender, Borrower shall immediately provide cash collateral to Lender with a value of not less than 110% of the stated principal amount of this

Note or the amount by which the amount of all Letter of Credit Advances exceeds the Revolving Credit Commitment, as applicable.

Default and Acceleration. Upon the occurrence of any Event of Default described in Section 11.1 of the Credit Agreement, Lender or any permitted holder of this Note may exercise any or all of the rights and remedies set forth therein, including the exercise of Lender's option to accelerate this Note and declare all Advances and all indebtedness under this Note then outstanding to be immediately due and payable, with or without notice to Borrower, as applicable.

Miscellaneous. This Note and the holder hereof are entitled to all of the rights and benefits provided for in the Credit Agreement. All of the terms, covenants and conditions contained in the Credit Agreement are hereby made part of this Note to the same extent and with the same force as if they were fully set forth herein. In the event of a conflict or inconsistency between the terms of this Note and the Credit Agreement, the terms and provisions of the Credit Agreement shall control.

This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

This Note will be construed in accordance with, and governed by, the internal laws of the State of California.

Borrower promises to pay all costs and expenses (including reasonable attorneys' fees and expert witnesses' fees) suffered or incurred by Lender or subsequent holder of this Note in the collection of this Note or the enforcement Lender's rights and remedies under the Credit Agreement.

Borrower hereby waives presentment for payment and demand. If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forego enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs or endorses this Note, to the extent allowed by law, waive any applicable statute of limitations, presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) the obligations evidenced by this Note or release any party or collateral, or impair, fail to realize upon or perfect Lender's security interest in the collateral, if any; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify the terms of this Note without the consent of or notice to anyone other than the party with whom the modification is made.

Prior to signing this Note, Borrower read and understood all the provisions of this Note and the Credit Agreement, including the variable interest rate provisions in the Credit

**Agreement. Borrower agrees to the terms of this Note and the Credit Agreement.
Borrower acknowledges receipt of complete copies of this Note and the Credit Agreement.**

CLEAN POWER ALLIANCE OF SOUTHERN
CALIFORNIA

By: _____
Name: _____
Title: _____

EXHIBIT D

TERM NOTE

\$ _____

Date: _____

FOR VALUE RECEIVED, **CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA**, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et seq. (“*Borrower*”), promises to pay to the order of **RIVER CITY BANK** (“*Lender*”) the principal sum of _____/100 DOLLARS (\$ _____), pursuant to the terms of that certain Credit Agreement (the “*Credit Agreement*”) dated as of April __, 2018, between Borrower and Lender, together with interest thereon as provided herein and therein. All payments under this Term Note (this “*Note*”) shall be made to Lender at its address specified in the Credit Agreement, or at such other place as the holder of this Note may from time to time designate in writing, in accordance with the terms of this Note and the Credit Agreement. Capitalized terms used but not defined in this Note shall have the definitions provided in the Credit Agreement.

Payment Terms. Under Section 2.4(b) of the Credit Agreement and subject to the conditions set forth therein, Borrower may request that unpaid Advances under the Revolving Credit be converted to a Term Loan. This Note evidences a Term Loan made to Borrower as of _____[date] in the original principal amount of \$ _____, and will bear interest from the date hereof. Borrower agrees to repay this Note by making sixty (60) equal monthly payments of principal hereunder in the amount of \$ _____ each, plus all accrued but unpaid interest on the unpaid principal balance of this Note as of each Payment Date, beginning on the first Payment Date after the date of this Note, with all subsequent payments due and payable on each Payment Date thereafter as provided in the Credit Agreement. Interest will accrue prior to maturity (whether by lapse of time, acceleration or otherwise) at the Applicable Rate and after maturity (whether by lapse of time, acceleration or otherwise), whether before or after judgment, at the Default Rate, until paid in full.

Maturity Date. The outstanding principal balance of this Note and all accrued but unpaid interest thereon shall be due and payable in full on _____[date – not to exceed 60 months].

Default and Acceleration. Upon the occurrence of any Event of Default described in Section 10.1 of the Credit Agreement, Lender or any permitted holder of this Note may exercise any or all of the rights and remedies set forth therein, including the exercise of Lender’s option to accelerate this Note and declare all indebtedness under this Note then outstanding to be immediately due and payable, with or without notice to Borrower, as applicable.

Miscellaneous. This Note and the holder hereof are entitled to all of the rights benefits provided for in the Credit Agreement. All of the terms, covenants and conditions contained in the Credit Agreement are hereby made part of this Note to the same extent and with the same force as if they were fully set forth herein. In the event of a conflict or inconsistency between the terms of this Note and the Credit Agreement, the terms and provisions of the Credit Agreement shall control.

This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

This Note will be construed in accordance with, and governed by, the internal laws of the State of California.

Borrower promises to pay all costs and expenses (including reasonable attorneys' fees and expert witnesses' fees) suffered or incurred by Lender or subsequent holder of this Note in the collection of this Note or the enforcement any rights of Lender under the Credit Agreement.

Borrower hereby waives presentment for payment and demand. If any part of this Note cannot be enforced, this fact will not affect the rest of the Note. Lender may delay or forego enforcing any of its rights or remedies under this Note without losing them. Borrower and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive any applicable statute of limitations, presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) the obligations evidenced by this Note or release any party or guarantor or collateral, or impair, fail to realize upon or perfect Lender's security interest in the collateral, if any; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify the terms of this Note without the consent of or notice to anyone other than the party with whom the modification is made.

Prior to signing this Note, Borrower read and understood all the provisions of this Note and the Credit Agreement, including the variable interest rate provisions in the Credit Agreement. Borrower agrees to the terms of this Note and the Credit Agreement. Borrower acknowledges receipt of complete copies of this Note and the Credit Agreement.

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

By: _____

Name: _____

Its: _____

EXHIBIT E

ASSIGNMENT OF DEPOSIT ACCOUNTS

Grantor: Clean Power Alliance of Southern California
500 West Temple, Suite 493
Los Angeles, CA 90012

Lender: RIVER CITY BANK
Business Banking Group
2485 Natomas Park Drive
Sacramento, CA 95833

THIS ASSIGNMENT OF DEPOSIT ACCOUNTS dated April __, 2018 is made and executed among Clean Power Alliance of Southern California ("Grantor") and RIVER CITY BANK ("Lender").

ASSIGNMENT. For valuable consideration, Grantor assigns and grants to Lender a security interest in the Collateral, including without limitation the deposit account(s) described below, to secure the Indebtedness and agrees that Lender shall have the rights stated in this Agreement with respect to the Collateral, in addition to all other rights which Lender may have by law.

COLLATERAL DESCRIPTION. The word "Collateral" means the following described deposit account(s) ("Accounts"):

- (i) **A deposit account from Grantor with Lender with reference number _____, and all amendments, extensions, renewals, replacements of the accounts (all called the "Debt Service Reserve Account"), and all existing and future amounts in the Account, and all existing and future interest and other earnings on the Debt Service Reserve Account, and all proceeds. The Debt Service Reserve Account will at all times maintain the following minimum account balance:**

Minimum Required Balance: \$2,000,000.00; and

- (ii) **All other deposit accounts Grantor maintains with Lender.**

together with (A) all interest, whether now accrued or hereafter accruing; (B) all additional deposits hereafter made to the Accounts; (C) any and all proceeds from the Accounts; and (D) all renewals, replacements and substitutions for any of the foregoing.

RIGHT OF SETOFF. To the extent permitted by applicable law, Lender reserves a right of setoff in all Grantor's accounts with Lender (whether checking, savings, or some other account) other than the Lockbox Account (as defined in the Credit Agreement). This includes all accounts Grantor holds jointly with someone else and all accounts Grantor may open in the future. However, this does not include any IRA or Keogh accounts, or any trust accounts for which setoff would be prohibited by law. Grantor authorizes Lender, to the extent permitted by applicable law, to charge or setoff all sums owing on the Indebtedness against any and all such accounts.

GRANTOR'S REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE COLLATERAL. With respect to the Collateral, Grantor represents and promises to Lender that:

Ownership. Grantor is the lawful owner of the Collateral free and clear of all loans, liens, encumbrances, and claims except as disclosed to and accepted by Lender in writing.

Right to Grant Security Interest. Grantor has the full right, power, and authority to enter into this Agreement and to assign the Collateral to Lender.

No Prior Assignment. Grantor has not previously granted a security interest in the Collateral to any other creditor.

No Further Transfer. Grantor shall not sell, assign, encumber, or otherwise dispose of any of Grantor's rights in the Collateral except as provided in this Agreement.

No Defaults. There are no defaults relating to the Collateral, and there are no offsets or counterclaims to the same. Grantor will strictly and promptly do everything required of Grantor under the terms, conditions, promises, and agreements contained in or relating to the Collateral.

Proceeds. Any and all replacement or renewal certificates, instruments, or other benefits or proceeds related to the Collateral that are received by Grantor shall be held by Grantor in trust for Lender and immediately shall be delivered by Grantor to Lender to be held as part of the Collateral.

Validity; Binding Effect. This Agreement is binding upon Grantor and Grantor's successors and assigns and is legally enforceable in accordance with its terms.

Financing Statements. Grantor authorizes Lender to file a UCC financing statement, or alternatively, a copy of this Agreement to perfect Lender's security interest. At Lender's request, Grantor additionally agrees to sign all other documents that are necessary to perfect, protect, and continue Lender's security interest in the Collateral. Grantor will pay all filing fees, title transfer fees, and other fees and costs involved unless prohibited by law or unless Lender is required by law to pay such fees and costs. Grantor irrevocably appoints Lender to execute documents necessary to transfer title if there is a default. Lender may file a copy of this Agreement as a financing statement. Grantor will promptly notify Lender of any change to Grantor's name or its jurisdiction of organization.

LENDER'S RIGHTS AND OBLIGATIONS WITH RESPECT TO THE COLLATERAL. While this Agreement is in effect, Lender may retain the rights to possession of the Collateral, together with any and all evidence of the Collateral, such as certificates or passbooks. This Agreement will remain in effect until (a) there is no longer any Indebtedness owing to Lender; (b) all other obligations secured by this Agreement have been fulfilled; and (c) Grantor, in writing, has requested from Lender a release of this Agreement.

LENDER'S EXPENDITURES. If any action or proceeding is commenced that would materially affect Lender's interest in the Collateral or if Grantor fails to comply with any provision of this Agreement or any Related Documents, including but not limited to Grantor's failure to discharge or pay when due any amounts Grantor is required to discharge or pay under this Agreement or any Related Documents, Lender on Grantor's behalf may (but shall not be obligated to) take any action that Lender deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Collateral and paying all costs for insuring, maintaining and preserving the Collateral. All such expenditures incurred or paid by Lender for such purposes will then bear interest at the applicable rate charged under the Note (as selected by Lender in its sole discretion) from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of such Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. This Agreement also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Lender may be entitled upon Default.

LIMITATIONS ON OBLIGATIONS OF LENDER. Lender shall use ordinary reasonable care in the physical preservation and custody of any certificate or passbook for the Collateral but shall have no other obligation to protect the Collateral or its value. In particular, but without limitation, Lender shall have no responsibility (A) for the collection or protection of any income on the Collateral; (B) for the preservation of rights against issuers of the Collateral or against third persons; (C) for ascertaining any maturities, conversions, exchanges, offers, tenders, or similar matters relating to the Collateral; nor (D) for informing Grantor about any of the above, whether or not Lender has or is deemed to have knowledge of such matters.

DEFAULT. Any Default or Event of Default under the Credit Agreement shall constitute an Event of Default under this Agreement.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of an Event of Default, or at any time thereafter, Lender may exercise any one or more of the following rights and remedies, in addition to any rights or remedies that may be available at law, in equity, or otherwise:

Accelerate Indebtedness. Lender may declare all Indebtedness of Borrower to Lender immediately due and payable, without notice of any kind to Borrower or Grantor.

Application of Account Proceeds. Lender may take directly all funds in any of the Accounts and apply them to the Indebtedness. If an Account is subject to an early withdrawal penalty, that penalty shall be deducted from such Account before its application to the Indebtedness, whether the Account is with Lender or some other institution. Any excess funds remaining after application of the Account proceeds to the Indebtedness will be paid to Borrower or Grantor as the interests of Borrower or Grantor may appear. Borrower agrees, to the extent

permitted by law, to pay any deficiency after application of the proceeds of the Accounts to the Indebtedness. Lender also shall have all the rights of a secured party under the California Uniform Commercial Code ("Code"), even if the Accounts are not otherwise subject to the Code concerning security interests, and the parties to this Agreement agree that the provisions of the Code giving rights to a secured party shall nonetheless be a part of this Agreement.

Transfer Title. Lender may effect transfer of title upon sale of all or part of the Collateral. For this purpose, Grantor irrevocably appoints Lender as Grantor's attorney-in-fact to execute endorsements, assignments and instruments in the name of Grantor and each of them (if more than one) as shall be necessary or reasonable.

Other Rights and Remedies. Lender shall have and may exercise any or all of the rights and remedies of a secured creditor under the provisions of the Code, at law, in equity, or otherwise.

Deficiency Judgment. If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this Agreement.

Remedies Cumulative. Except as may be prohibited by applicable law, all of Lender's rights and remedies, whether evidenced by this Agreement or by any other writing, shall be cumulative and may be exercised singularly or concurrently. Election by Lender to pursue any remedy shall not exclude pursuit of any other remedy, and any election by Lender to make expenditures or to take action to perform an obligation of Grantor under this Agreement, after Grantor's failure to perform, shall not affect Lender's right to declare a default and exercise its remedies.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Agreement:

Amendments. This Agreement, together with any Related Documents, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Attorneys' Fees; Expenses. Grantor agrees to pay upon demand all of Lender's costs and expenses, including Lender's attorneys' fees and Lender's legal expenses, incurred in connection with the enforcement of this Agreement. Lender may hire or pay someone else to help enforce this Agreement, and Grantor shall pay the costs and expenses of such enforcement. Costs and expenses include Lender's attorneys' fees and legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Grantor also shall pay all court costs and such additional fees as may be directed by the court.

Caption Headings. Caption headings in this Agreement are for convenience purposes only and are not to be used to interpret or define the provisions of this Agreement.

Governing Law. **This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of California without regard to its conflicts of law provisions. This Agreement has been accepted by Lender in the State of California.**

Choice of Venue. If there is a lawsuit, Grantor agrees upon Lender's request to submit to the jurisdiction of the courts of Sacramento County, State of California.

Joint and Several Liability. All obligations of Borrower and Grantor, if they are different, under this Agreement shall be joint and several, and all references to Grantor shall mean each and every Grantor, and all references to Borrower shall mean each and every Borrower. This means that each Borrower and Grantor signing below is responsible for all obligations in this Agreement.

Preference Payments. Any monies Lender pays because of an asserted preference claim in Borrower's or Grantor's bankruptcy will become a part of the Indebtedness and, at Lender's option, shall be payable by Borrower and Grantor as provided in this Agreement.

No Waiver by Lender. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender. No delay or omission on the part of Lender in exercising any right shall operate as a waiver of such right or any other right. A waiver by Lender of a provision of this Agreement shall not prejudice or constitute a waiver of Lender's right otherwise to demand strict compliance

with that provision or any other provision of this Agreement. No prior waiver by Lender, nor any course of dealing between Lender and Grantor, shall constitute a waiver of any of Lender's rights or of any of Grantor's obligations as to any future transactions. Whenever the consent of Lender is required under this Agreement, the granting of such consent by Lender in any instance shall not constitute continuing consent to subsequent instances where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of Lender.

Notices. Any notice required to be given under this Agreement shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Agreement. Any party may change its address for notices under this Agreement by giving formal written notice to the other party, specifying that the purpose of the notice is to change the party's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors.

Power of Attorney. Grantor hereby appoints Lender as its true and lawful attorney-in-fact, irrevocably, with full power of substitution to do the following: (1) to demand, collect, receive, receipt for, sue and recover all sums of money or other property which may now or hereafter become due, owing or payable from the Collateral; (2) to execute, sign and endorse any and all claims, instruments, receipts, checks, drafts or warrants issued in payment for the Collateral; (3) to settle or compromise any and all claims arising under the Collateral, and in the place and stead of Grantor, to execute and deliver its release and settlement for the claim; and (4) to file any claim or claims or to take any action or institute or take part in any proceedings, either in its own name or in the name of Grantor, or otherwise, which in the discretion of Lender may seem to be necessary or advisable. This power is given as security for the Indebtedness, and the authority hereby conferred is and shall be irrevocable and shall remain in full force and effect until renounced by Lender.

Waiver of Co-Obligor's Rights. If more than one person is obligated for the Indebtedness, Grantor irrevocably waives, disclaims and relinquishes all claims against such other person which Grantor has or would otherwise have by virtue of payment of the Indebtedness or any part thereof, specifically including but not limited to all rights of indemnity, contribution or exoneration.

Severability. If a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable as to any person or circumstance, that finding shall not make the offending provision illegal, invalid, or unenforceable as to any other person or circumstance. If feasible, the offending provision shall be considered modified so that it becomes legal, valid and enforceable. If the offending provision cannot be so modified, it shall be considered deleted from this Agreement. Unless otherwise required by law, the illegality, invalidity, or unenforceability of any provision of this Agreement shall not affect the legality, validity or enforceability of any other provision of this Agreement.

Successors and Assigns. Subject to any limitations stated in this Agreement on transfer of Grantor's interest, this Agreement shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Collateral becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Agreement and the Indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Agreement or liability under the Indebtedness.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Grantor in this Agreement shall survive the execution and delivery of this Agreement, shall be continuing in nature, and shall remain in full force and effect until such time as Borrower's Indebtedness shall be paid in full.

Time is of the Essence. Time is of the essence in the performance of this Agreement.

DEFINITIONS. The following capitalized words and terms shall have the following meanings when used in this Agreement. Unless specifically stated to the contrary, all references to dollar amounts shall mean amounts in lawful money of the United States of America. Words and terms used in the singular shall include the plural, and the plural shall include the singular, as the context may require. Words and terms not otherwise defined in this Agreement shall have the meanings attributed to such terms in the Code:

Accounts. The word "Accounts" means the deposit account(s) described in the "Collateral Description" section.

Agreement. The word "Agreement" means this Assignment of Deposit Accounts, as this Assignment of Deposit Accounts may be amended or modified from time to time, together with all exhibits and schedules attached to this Assignment of Deposit Accounts from time to time.

Borrower. The word "Borrower" means Clean Power Alliance of Southern California and includes all co-signers and co-makers signing the Note and all their successors and assigns.

Collateral. The word "Collateral" means all of Grantor's right, title and interest in and to all the Collateral as described in the Collateral Description section of this Agreement.

Credit Agreement. The words "Credit Agreement" mean the Credit Agreement dated as of April __, 2018 between Borrower and Lender, as amended or modified from time to time.

Default. The word "Default" means the Default set forth in this Agreement in the section titled "Default".

Event of Default. The words "Event of Default" mean any of the events of default set forth in this Agreement in the default section of this Agreement.

Grantor. The word "Grantor" means Clean Power Alliance of Southern California.

Indebtedness. The word "Indebtedness" means all indebtedness of Borrower under the Credit Agreement, the Note or any of the Related Documents, including all principal and interest together with all other indebtedness and costs and expenses for which Borrower is responsible under this Agreement or any of the Related Documents.

Lender. The word "Lender" means RIVER CITY BANK, its successors and assigns.

Note. The word "Note" means any and all Notes (as defined in the Credit Agreement) executed by Borrower in connection with a Revolving Credit, a Letter of Credit, the Term Loan or the LA Term Loan (as defined in the Credit Agreement), together with all renewals, extensions, modifications, consolidations and replacements of such Notes.

Related Documents. The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness.

GRANTOR HAS READ AND UNDERSTANDS ALL THE PROVISIONS OF THIS ASSIGNMENT OF DEPOSIT ACCOUNT AND AGREES TO ITS TERMS. THIS AGREEMENT IS DATED APRIL __, 2018.

GRANTOR:

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

By: _____

Its _____

EXHIBIT F

REQUEST FOR ADVANCE

\$20,000,000 REVOLVING CREDIT

BORROWER: CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA, HEREBY REQUESTS AN ADVANCE UNDER THE \$20,000,000 REVOLVING CREDIT NOTE IN ACCORDANCE WITH THE CREDIT AGREEMENT.

ADVANCE DATE: _____

AMOUNT OF REQUESTED ADVANCE: \$ _____

PURPOSE OF ADVANCE:

- ___ - **THIS ADVANCE WILL BE USED TO FUND RESERVES IN ACCORDANCE WITH THE POWER PURCHASE AGREEMENT.**
- ___ - **THIS IS A WORKING CAPITAL ADVANCE TO COVER THE POWER PURCHASE PAYMENT FOR THE MONTH ENDING _____, 201__ . YOU ARE AUTHORIZED TO DEPOSIT LOAN PROCEEDS INTO CHECKING ACCOUNT: _____.**
- ___ - **ATTACHED IS THE INVOICE FOR SUCH POWER PURCHASE PAYMENT.**
- ___ - **THIS IS A WORKING CAPITAL ADVANCE TO COVER GENERAL AND ADMINISTRATIVE EXPENSES. YOU ARE AUTHORIZED TO DEPOSIT LOAN PROCEEDS INTO CHECKING ACCOUNT: _____.**
- ___ - **THIS IS AN ADVANCE TO PAY OFF THE LA LOAN.**
- ___ - **YOU ARE AUTHORIZED TO REMIT THIS PAYMENT DIRECTLY TO THE POWER SUPPLIER AS FOLLOWS:**

COMPANY NAME: _____ -
WIRE INSTRUCTIONS:
BANK NAME: _____
ADDRESS: _____

ROUTING NUMBER: _____
ACCOUNT NUMBER: _____
OTHER REFERENCE: _____

BORROWER CERTIFICATION:

BORROWER HEREBY CERTIFIES THAT:

- (I) AFTER MAKING THE ADVANCE REQUESTED ON THE ADVANCE DATE ABOVE, THE SUM OF ALL ADVANCES SHALL NOT EXCEED THE REVOLVING COMMITMENTS THEN IN EFFECT;
- (II) AS OF THE ADVANCE DATE, THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THE CREDIT AGREEMENT ARE TRUE AND CORRECT IN ALL MATERIAL RESPECTS ON AND AS OF SUCH ADVANCE DATE TO THE SAME EXTENT AS THOUGH MADE ON AND AS OF SUCH DATE, EXCEPT TO THE EXTENT SUCH REPRESENTATIONS AND WARRANTIES SPECIFICALLY RELATE TO AN EARLIER DATE, IN WHICH CASE SUCH REPRESENTATIONS AND WARRANTIES ARE TRUE AND CORRECT IN ALL MATERIAL RESPECTS ON AND AS OF SUCH EARLIER DATE; PROVIDED THAT, IN EACH CASE, SUCH MATERIALITY QUALIFIER SHALL NOT BE APPLICABLE TO ANY REPRESENTATIONS AND WARRANTIES THAT ALREADY ARE QUALIFIED OR MODIFIED BY MATERIALITY IN THE TEXT THEREOF; AND
- (III) AS OF THE ADVANCE DATE, NO EVENT HAS OCCURRED AND IS CONTINUING OR WOULD RESULT FROM THE CONSUMMATION OF THE BORROWING CONTEMPLATED HEREBY THAT WOULD CONSTITUTE AN EVENT OF DEFAULT OR A DEFAULT.
- (IV) THIS ADVANCE IS BEING USED FOR THE PURPOSE INTENDED AS PROVIDED IN THE CREDIT AGREEMENT AND NO PORTION OF THIS ADVANCE IS BEING USED TO FUND OPERATING LOSSES.

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA

BY: _____

NAME: _____

ITS: _____

EXHIBIT G

LETTER OF CREDIT APPLICATION



APPLICATION AND AGREEMENT FOR IRREVOCABLE STANDBY LETTER OF CREDIT

PLEASE CHECK AND COMPLETE APPLICABLE BOXES BELOW.

CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA ("Applicant") requests the Issuing Bank ("Bank") to issue an irrevocable standby credit ("Credit") with the following terms and conditions for delivery to the beneficiary named below ("Beneficiary") by Courier:

| | |
|--|--|
| Issuing Bank: River City Bank | |
| Amount in US\$ | \$ |
| Applicant | CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA |
| Beneficiary | (Enter complete name and address of energy company) |
| Expiration Date | |
| Other LC Conditions | <input checked="" type="checkbox"/> Partial Drawing Allowed <input checked="" type="checkbox"/> Partial Drawings NOT Allowed |
| Credit Available by Payment: | Against presentation of the documents detailed therein. |
| Documents Required: (Provide an attachment from energy contract which provides language required from Beneficiary) | A dated statement purportedly signed by an authorized officer or representative of Beneficiary stating: *The undersigned being a duly authorized officer or representative of [Beneficiary Name] hereby represents and warrants that the amount of the accompanying draft represents and covers: [insert text as required] |
| Special Conditions | <input checked="" type="checkbox"/> Automatic Renewal Clause for [12 months] with [120] days prior Notification of non-renewal <input checked="" type="checkbox"/> Other |
| Final Expiration Date (if applicable) | (not to exceed 7 years from issuance) |
| IMPORTANT NOTICE | (A) Applicant understands that the risk is greater if Applicant requests a standby letter of credit which requires only a simple demand without any supporting documentation. Typically, standby letters of credit require the beneficiary to provide some written statement in order to obtain payment. However, a beneficiary that can obtain a standby letter of credit available only against presentation of a simple demand, relieves itself of any documentary requirements. (B) Applicant understands that the final form of Credit may be subject to such revision and changes as are deemed necessary or appropriate by Bank and Applicant hereby consents to such revisions and changes. |
| The opening of the Credit is subject to the terms and conditions appearing on this page and on the subsequent page(s) hereof and on the terms and conditions of the Credit Agreement, as may be amended from time to time, between Applicant and Bank. | |
| Applicant agrees to be bound by the terms and conditions set forth or referred to above and certifies to Bank that Applicant has duly and validly executed and entered into the below Authorization and Agreement. | |

| AUTHORIZATION AND AGREEMENT BY APPLICANT | |
|---|---------------------|
| <p>The undersigned Applicant hereby requests Bank to issue the Credit, and, in consideration of issuance by Bank, irrevocably agrees: (i) to all terms and conditions of this Application and Agreement and the Credit; (ii) that Bank is issuing the Credit for Applicant based solely on Applicant's credit with Applicant having sole right to give instructions and make agreements or amendments with respect to this Application and Agreement and the Credit, and any presentation made under the Credit.</p> | |
| <p>CLEAN POWER ALLIANCE OF SOUTHERN CALIFORNIA</p> | |
| <p>Authorized Signature</p> | <p>Date:</p> |
| <p>In consideration of River City Bank ("Bank") issuing an irrevocable standby letter of credit (as amended or modified from time to time, the "Credit") as provided on the previous pages) of this Application and Agreement for Irrevocable Standby Letter of Credit (the "Agreement") for the account of the party or parties executing such previous pages as applicant (individually and collectively, "Applicant" or "you"), you hereby agree with Bank as follows:</p> | |
| <p>1. That you shall:</p> <ul style="list-style-type: none"> (a) Pay Bank, on demand, such amounts as are required to pay or reimburse Bank for all disbursements ("Disbursements") made or to be made by Bank or Bank's correspondents in connection with the Credit. (b) Pay Bank, on demand, all commissions, fees and other charges ("Charges") arising out of or in connection with the Credit (including without limitation those for the account of the person or entity in whose favor the Credit is issued (the "Beneficiary") if the Beneficiary fails to pay on first demand). (c) Pay Bank, on demand, all expenses ("Expenses") which Bank or Bank's correspondents may sustain or incur in connection with the Credit. (d) Make each such payment in immediately available funds in the currency of the applicable Disbursement, Charge or Expense; provided, however, if such payment is to be in a currency other than U.S. Dollars, Bank may, at its option, require such amount to be paid in an equivalent amount of U.S. Dollars converted at Bank's then current rate of exchange. <p>You agree that Bank may make demand for payment in writing or by telephone, facsimile, SWIFT, telex, Bank's Global Trade Services web product or other method of telecommunication (collectively, "Telecommunications"), and expressly authorize Bank to debit any of your accounts maintained with Bank or any of Bank's affiliates or subsidiaries for any or all of your obligations hereunder as and when the same become due.</p> | |
| <p>2. In addition to all other amounts required to be paid hereunder, you agree to pay Bank, on demand: (a) all charges, costs and expenses (including without limitation the allocated costs of Bank's business staff and reasonable attorneys' fees and costs of all kinds, including the allocated costs of Bank's in-house legal counsel and staff) incurred by Bank in connection with (i) any amendments or negotiations in respect of any documents evidencing your obligations hereunder; (ii) any legal advice sought by Bank in connection with Bank's rights, remedies, legal position or obligations; (iii) enforcing your obligations hereunder; and (iv) any proceeding for declaratory relief, injunction, restraining order or similar relief or any counterclaim or appeal to any such proceeding brought by or against Bank; (b) all taxes levied or imposed by any government agency in connection with this Agreement or the Credit; and (c) interest on any amount owed hereunder which is not paid when due as provided under the Revolving Credit Agreement, and if the Revolving Credit Agreement is not in effect, then at a per annum rate (computed for actual days elapsed on the basis of a 360-day year) equal to (i) 5% in excess of the Reference Rate in the case of amounts due in U.S. Dollars; or (ii) 5% in excess of the rate Bank determines to be its cost of funding the relevant loan or advance (the "Funding Rate") in the case of amounts due in a currency other than U.S. Dollars. Each of these rates shall change from time to time, as and when the Reference Rate or the applicable Funding Rate, as the case may be, changes. As used herein, "Reference Rate" means the rate announced by Bank from time to time at its corporate headquarters as its Reference Rate. The Reference Rate is an index rate determined by Bank from time to time as a means of pricing certain extensions of credit and is neither directly tied to any external rate or index, nor necessarily the lowest rate of interest charged by Bank at any given time. No provision of this Agreement shall require the payment or permit the collection of interest in excess of the maximum rate permitted by applicable law.</p> | |
| <p>3. In connection with the Credit, you acknowledge and agree:</p> <ul style="list-style-type: none"> (a) That the Credit may be issued by any branch of Bank. (b) That Bank and Bank's correspondents shall be entitled to make payments or to accept or negotiate drafts drawn under the Credit if the documents presented thereunder appear on their face to be in compliance with the terms and conditions of the Credit. In addition, neither Bank nor Bank's correspondents shall have any liability or responsibility for the form, sufficiency, accuracy, genuineness, falsification or legal effect of the documents presented under the Credit, for the authority of any persons signing such documents, for the description, quantity, quality, weight, condition, packing, delivery, value or existence of the goods represented by such documents, for the acts, omissions, good faith, solvency, performance or capacity of the Beneficiary of the Credit, the consignees, carriers, forwarders, consignees or insurers of the goods described therein, or any other persons, for the performance of any contracts which you enter into with the Beneficiary of the Credit, or for the consequences arising out of any delay or loss in transit of any messages, letters or documents, any delay, interruption, mutilation or other error in the transmission of any communications by any method of Telecommunications or any error in the translation or interpretation of any technical terms or any messages or documents relating to the Credit. (c) Except in the case where the Credit expressly provides otherwise, the Credit shall be subject to, and performance by Bank, Bank's correspondents and the Beneficiary under the Credit shall be governed by, the Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICC Publication No. 500, or such subsequent revision thereof, adopted by the International Chamber of Commerce, as is in effect on the date the Credit is issued. (d) If the Credit is expressed to be governed by the laws of any jurisdiction other than the laws of the State of California, or any other state that has adopted into law a law in the same form as Section 5113 of the California Commercial Code as in effect on the date the Credit is issued, and the Credit expressly provides that it shall be available to successors in interest (or parties similar in nature) to the named Beneficiary, that Bank shall regard any person or entity purporting to be such a successor as such a successor, without any responsibility for verifying the facts of such purported succession, all on your complete responsibility, even if the wrong party is paid. (e) If you, or some other person or entity acting on your behalf, grant Bank a security interest in any real or personal property as collateral for your obligations arising in connection with the Credit, that Bank, at its discretion, may continue to hold such collateral even after the expiration date of the Credit until the Credit is returned to Bank undrawn, and that in no event shall any release of the collateral be construed to be a release or discharge of your obligations relating to the Credit. (f) That you irrevocably waive and surrender, and agree not to exercise, any rights that would otherwise accrue to you through Bank or Bank's making payment under the Credit, whether by operation of law, equity or contract and whether under the doctrine of subrogation or otherwise, and that you agree that you will pursue only such remedies as you may have or such obligations as you may be owed in respect of such payments solely and directly on the basis of the contract(s) you have with, or the tort liability of, the Beneficiary or transferee of the Credit, the assignee of the proceeds of the Credit, or other persons or entities, as applicable. (g) If the Credit is the subject of an "extend or pay" request received by Bank from the Beneficiary and provided by Bank to you, that you will continue to be liable to Bank for the Credit even though an expiry or reduction in amount thereof might otherwise appear to occur after Bank's receipt, until the matter has been resolved to Bank's satisfaction. You understand that Bank retains every right to decline to amend or extend the Credit. (h) If the Beneficiary of the Credit is a bank or other financial institution (other than Bank) which, in reliance upon the Credit, is asked to issue its own guaranty or other form of undertaking (including a letter of credit) on your behalf (a "Local Bank") and, in fact, issues such guaranty or other form of undertaking on your behalf, that Bank shall have no responsibility to you for the wording of such guaranty or other form of undertaking, or its legal effect, whether under foreign law or otherwise, and that you will have complete, continuing liability to the Local Bank and to Bank for any and all claims made under such guaranty or other form of undertaking until it terminates, whether or not the Credit has expired. (i) If any commercial type documents (such as invoices or bills of lading, but not a default or claim statement) are required to be presented under the Credit, that Bank shall have no responsibility whatsoever for examining any such documents under any standard under any circumstances. | |

4. The occurrence of any one or more of the following shall constitute a Default ("Default") hereunder: (a) your failure to make any payment required hereunder when due, or to perform or observe any other covenant, obligation or agreement contained herein; (b) any breach, misrepresentation or other default by you, any guarantor or any person or entity other than you providing security for your obligations hereunder (each, including you, an "Obligor") under any security agreement, guaranty or other agreement between Bank and any Obligor; (c) the insolvency of any Obligor or the failure of any Obligor generally to pay such Obligor's debts as such debts become due; (d) the commencement as to any Obligor of any voluntary or involuntary proceeding under any laws relating to bankruptcy, insolvency, reorganization, arrangement, debt adjustment or debtor relief; (e) the assignment by any Obligor for the benefit of such Obligor's creditors; (f) the appointment or commencement of any proceeding for the appointment of a receiver, trustee, custodian or similar official for all or substantially all of any Obligor's property; (g) the commencement of any proceeding for the dissolution or liquidation of any Obligor; (h) the termination of existence or death (if an individual) of any Obligor; (i) the revocation of any guaranty or subordination agreement given in connection with your obligations hereunder; (j) the failure of any Obligor to comply with any order, judgment, injunction, decree, writ or demand of any court or other public authority; (k) the filing or recording against any Obligor or the property of any Obligor of any notice of levy, notice to withhold or other legal process for taxes other than property taxes; (l) the default by any Obligor who or which is personally liable for your obligations hereunder on any other obligation concerning the borrowing of money; (m) the issuance against any Obligor or the property of any Obligor of any writ of attachment, execution or other judicial lien; or (n) the deterioration of the financial condition of any Obligor which results in Bank deeming itself, in good faith, insecure.

Immediately and without notice upon the occurrence of a Default specified in clauses (c), (d), (e) or (f) of this Section 4, or at the option and upon the declaration of Bank, upon the occurrence of any other Default, your obligations hereunder shall immediately become due and payable, without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived, and Bank may immediately, and without the expiration of any period of grace, enforce payment of such obligations and exercise any and all other rights and remedies granted to it hereunder or by law. If at the time of any such Default and acceleration of your obligations hereunder, Bank remains liable under the Credit for any reason, then you will provide Bank, on demand, with sufficient funds ("Contingent Security") from which to pay all amounts which Bank may thereafter be called upon to pay in respect of the Credit. All amounts constituting Contingent Security shall be deposited in an account to be maintained with Bank and are hereby pledged to Bank by you as security for your obligations hereunder.

5. This Agreement may not be amended, modified or waived except by a written instrument signed by the party or parties against whom enforcement thereof is sought. No failure or delay on Bank's part in exercising any right hereunder shall operate as a waiver of any right, nor shall any partial exercise of any such right preclude any other further exercise thereof or the exercise of any other right. Each waiver or consent under any provision hereof shall be effective only in the specific instance and for the specific purpose for which given. If this Agreement is executed by more than one person or entity, the obligations of each of you hereunder shall be joint and several, and each of you agree that any one of you, acting alone, shall have full right and authority, binding on all of you, to request or consent to amendments, renewals, extensions, waivers or modifications of the Credit. You hereby acknowledge and agree that Bank is authorized, at any time and from time to time, without notice to you (any such notice being expressly waived), and to the fullest extent permitted by law, to set off and apply any and all deposits (whether general or special, time or demand, or provisional or final) at any time held, and all other indebtedness at any time owing by Bank to or for your credit, against any and all of your obligations hereunder.

6. You shall indemnify and hold Bank and each of Bank's employees, officers, shareholders, affiliates, correspondents, agents and representatives and, as to each entity, each of its respective employees, officers, shareholders, affiliates, correspondents, agents and representatives (each, a "Bank-related Person") harmless from and against any and all claims, demands, actions, causes of action, liabilities, damages, losses, costs and expenses (including without limitation the allocated costs of Bank's business staff and reasonable attorneys' fees and costs of all kinds, including the allocated costs of Bank's in-house legal counsel and staff) incurred by Bank and each Bank-related Person arising from (a) the matters contemplated by this Agreement or the Credit; (b) any contention that you have failed to comply with any law, rule, regulation, order or directive applicable to your sales, leases or performance of services to your customers; or (c) any dispute with the Beneficiary or a transferee of the Credit, an assignee of the proceeds of the Credit or any third party relating to the Credit (including without limitation actions brought by you to enjoin payment or drawings under the Credit); provided, however, that this indemnity shall not apply to any of the foregoing incurred solely as a result of the gross negligence or willful misconduct of Bank or any Bank-related Person. The obligation to indemnify set forth in this section shall survive the payment and satisfaction of all of your obligations and liabilities to Bank.

7. Any written notice or other written communication to be given by Bank under this Agreement will be addressed to you at the address specified on the previous page(s) of this Agreement, or at such other address as you may specify in writing. Unless Bank advises you otherwise, all written communications to Bank should be sent to your office of account. Notices are effective upon receipt; provided, however, that notices received after 3:00 p.m., California time, on a Business Day, or on a day other than a Business Day, shall be deemed received as of the next Business Day. As used herein, "Business Day" means a day (other than a Saturday or Sunday) on which banks are open for business in California. Bank shall be protected in acting on any oral or written request or instruction, whether received in writing, by telephone or other form of Telecommunication, which Bank in good faith believes to be genuine and to have been made by you or your authorized agents.

8. This Agreement shall be binding upon and inure to the benefit of Bank, Applicant and each of our respective successors and permitted assigns (and the heirs and personal representatives of Applicant if Applicant is an individual); provided, however, that Applicant may not assign its rights or delegate its duties without the prior written consent of Bank. If, at the request of Applicant, the amount of the Credit is increased, the maturity of the Credit or the time for presentation of drafts or acceptance of documents thereunder is extended or the terms of the Credit are otherwise modified, this Agreement shall continue to be binding on Applicant with regard to the Credit as so increased, extended or otherwise modified, to the drafts and documents covered thereby, and to any actions taken by Bank or Bank's correspondents in accordance with such increase, extension or other modification.

9. This Agreement hereby incorporates any alternative dispute resolution agreement previously, concurrently or hereafter executed between Bank and Applicant. In the event of any challenge to the legality or enforceability of any provision of this Agreement, the prevailing party shall be entitled to recover its costs and expenses, including reasonable attorneys' fees and the allocated costs of Bank's in-house legal counsel and staff, incurred in connection therewith. This Agreement will control in the event of any conflict between it and any other document or agreement entered into between Bank and Applicant. This Agreement shall be governed by and construed in accordance with the laws of the State of California, and Applicant hereby consents to service of process by any means authorized by California law. Applicant hereby waives notice of acceptance by Bank of this Agreement.

EXHIBIT H

Form of Subordination Agreement**SUBORDINATION AGREEMENT**

River City Bank (the “*Lender*”) and the other parties signatories hereto (each, a “*Subordinated Creditor*” and collectively, the “*Subordinated Creditors*”), agree, effective April ___, 2018, as follows:

Section 1. Background and Purpose.

1.1 The Lender is making a loan to Clean Power Alliance of Southern California, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et. seq. (the “*Obligor*”), pursuant to that certain Credit Agreement dated as of the date hereof (as modified, amended, restated or replaced from time to time, the “*Senior Loan Agreement*”). The loan is evidenced by a Revolving Credit Promissory Note in the original principal balance of \$20,000,000, which may be converted to a term loan evidenced by a Term Note and/or a LA Term Note, and may be evidenced by a Letter of Credit Note (such notes are referred to herein individually and collectively as the “*Senior Note*”), as provided in the Senior Loan Agreement. The Obligor is currently indebted to the Subordinated Creditors as set forth on Schedule 1 attached hereto and incorporated herein (as the same may be amended, modified or refinanced, “*Subordinated Debt*”). The Lender and the Subordinated Creditors desire to enter into this Agreement to effectuate the subordination of the Subordinated Debt to the Senior Debt (as defined below). Capitalized terms used, but not otherwise defined, in this Subordination Agreement shall have the meanings ascribed to them in the Senior Loan Agreement.

Section 2. Subordination.

2.1 Each Subordinated Creditor hereby irrevocably subordinates, in accordance with the terms hereof, the payment and performance of the Subordinated Debt by the Obligor to it, to the prior payment and performance in full of all of the obligations specified in the Senior Loan Agreement and the Senior Note (collectively, the “*Senior Debt*”). Each Subordinated Creditor acknowledges that it has been represented by counsel in connection with the transactions that are the subject of this Subordination Agreement. This Subordination Agreement shall be effective as to a Subordinated Creditor when such Subordinated Creditor signs this Subordination Agreement and execution by all Subordinated Creditors is not a condition to such effectiveness.

2.2 Under no circumstances will the Senior Debt be deemed to have been paid in full unless and until such time as, and when used in this Subordination Agreement with respect to the Senior Debt, the words “paid in full,” “payment in full,” and similar phrases shall mean that, the Lender has received payment, in immediately available funds, of 100% of all

outstanding Senior Debt, and all of the Lender's obligations to extend credit under the Senior Loan Agreement have terminated.

2.3 The Subordinated Debt is subordinated in right of payment to the Senior Debt in accordance with this Agreement. Each Subordinated Creditor agrees to make appropriate entries in its books and records and stamp all Subordinated Debt documents evidencing the Subordinated Debt with the following legend:

“The indebtedness evidenced by this instrument is subordinated to the prior payment in full of the Senior Debt (as defined in the Subordination Agreement hereinafter referred to) pursuant to, and to the extent provided in, the Subordination Agreement effective as of April ____, 2018 by the maker hereof and payee named herein in favor of River City Bank.”

Section 3. Payments.

3.1 Until the payment in full of the Senior Debt, without the prior written consent of the Lender (which consent the Lender may refuse to give for any or no reason), under no circumstances will any Subordinated Creditor, directly or indirectly, take any action to enforce payment of or to collect the whole or any part of the Subordinated Debt or enforce any of the rights and remedies available to the Subordinated Creditor, other than in the manner and to the extent permitted by Section 4 hereof, or ask, demand, take or receive any collateral, mortgages or other security from the Obligor in respect of the Subordinated Debt. Any amounts paid by the Obligor to a Subordinated Creditor in violation of the terms of this Subordination Agreement shall be held by such Subordinated Creditor in trust and promptly paid over to the Lender for application to the Senior Debt in accordance with the Senior Loan Agreement.

3.2 Notwithstanding anything to the contrary contained in this Subordination Agreement, each Subordinated Creditor agrees that it will not, without the Lender's prior written consent (which the Lender may refuse to give for any or no reason), directly or indirectly permit the modification or amendment of any of the terms or provisions, as they exist on the date hereof, of the note reflecting the Subordinated Debt (“*Subordinated Note*”), to the extent that any such modification or amendment would (a) result in any increase in the amount of the Subordinated Debt, (b) increase the amount, or accelerate the due date, of any payment or distribution in respect of the Subordinated Debt.

Section 4. Allowable Payments.

4.1 Subject to other applicable provisions of this Subordination Agreement, including, without limitation, those contained in Section 5 hereof, without the Lender's prior written consent, the Obligor may not make, and a Subordinated Creditor may not accept from the Obligor, any payment in respect of the Subordinated Debt.

4.2 Notwithstanding anything to the contrary in this Subordination Agreement, the Obligor may set-off against amounts payable in respect of Subordinated Debt under the circumstances set forth or referenced in any documentation of such Subordinated Debt.

Section 5. Readjustment. Each Subordinated Creditor further agrees that, upon any distribution of the assets or readjustment of the indebtedness of the Obligor, whether by reason of liquidation, composition, bankruptcy, arrangement, receivership, assignment for the benefit of creditors, or any other action or proceeding involving the readjustment of all or any of the Subordinated Debt, or the application of the property of the Obligor to the payment or liquidation thereof, the Lender, in any such instance, shall be entitled to receive payment in full of the Senior Debt prior to the payment of all or any part of the Subordinated Debt.

Section 6. Bankruptcy Issues. To the extent that the Obligor makes a payment to the Lender, which payment(s) (or any part thereof) subsequently are voided, invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid to a trustee, receiver, or any other person or entity pursuant to Chapter 11 of Title 11 of the United States Code (11 U.S.C. § 101 *et seq.*) (the “*Bankruptcy Code*”), any other bankruptcy act, state or federal law, common law or equitable cause (“*Insolvency Law*”), then, to the extent any such payment(s) or proceeds are repaid by the Lender, the Senior Debt (or the part that was intended to be satisfied) will be revived for all purposes of this Subordination Agreement and will continue in full force and effect, as if such payment or proceeds had not been received by the Lender.

Section 7. Waivers. Each Subordinated Creditor hereby waives until the Senior Debt is paid in full any and all rights at law or in equity to subrogation, reimbursement or set off or any other rights which such Subordinated Creditor may have or hereafter acquire against the Obligor in connection with or as a result of such Subordinated Creditor’s execution, delivery and/or performance of this Subordination Agreement.

Section 8. Attorney-In-Fact. Each Subordinated Creditor irrevocably appoints the Lender as its attorney-in-fact, with full power of substitution, in either the Lender’s name or such Subordinated Creditor’s name, to do the following (but the Lender shall have no obligation to do so): (a) endorse and collect all checks, drafts, other payment orders and instruments representing or included in, any payment, dividend or distribution relating to, the Subordinated Debt or any Collateral securing the Subordinated Debt; (b) take any action to enforce, collect or compromise any of the Subordinated Debt; (c) exercise any other right, remedy, privilege or option of such Subordinated Creditor pertaining to any Subordinated Debt or Subordinated Debt documents; (d) take any actions or institute any proceedings that the Lender determines to be necessary or appropriate to collect or preserve the Subordinated Debt or any Collateral for the Subordinated Debt; (e) execute in the name of or otherwise authenticate on behalf of such Subordinated Creditor any record reasonably believed necessary or appropriate by the Lender for compliance with laws, rules or regulations applicable to any Subordinated Debt or any Collateral for the Subordinated Debt, or in connection with exercising the Lender’s rights under this Agreement; and (f) execute and file claims, proofs of claim or other documents, and to take any other action regarding all or any part of the Subordinated Debt necessary or appropriate to insure payment to and receipt by the Lender of all payments, dividends and other distributions on account of the Subordinated Debt, instruments evidencing the Subordinated Debt, or any Collateral for the Subordinated Debt. This appointment is irrevocable and coupled with an interest and shall survive the dissolution or disability of such Subordinated Creditor. Notwithstanding the foregoing, the Lender shall not be liable to any Subordinated Creditor for any failure (i) to prove the existence, amount, or circumstances of the Subordinated Debt; (ii) to exercise any right

related to the Subordinated Debt; or (iii) to collect any sums payable on or distributions attributable to, the Subordinated Debt.

Section 9. Representations and Warranties. Each Subordinated Creditor represents and warrants to the Lender as follows: (a) the execution, delivery and performance of this Agreement and each of the Subordinated Debt documents now outstanding (true and complete copies of which have been furnished to the Lender) have been duly authorized by all necessary action, are within the power and authority of the Subordinated Creditor and do not and will not (i) contravene the articles, charter, bylaws, partnership agreement, operating agreement, regulations or other organic documents, if any, establishing or governing such Subordinated Creditor, any applicable law or governmental regulation or any contractual restriction binding on or affecting such Subordinated Creditor or any of their respective properties, (ii) result in or require the creation of any lien upon or with respect to any of such Subordinated Creditor's properties or (iii) violate the rights of any person or entity; (b) this Agreement and each of the Subordinated Debt documents are legal, valid and binding obligations of such Subordinated Creditor, enforceable against such Subordinated Creditor in accordance with their respective terms except as limited by bankruptcy, insolvency or other laws of general application relating to the enforcement of creditors' rights and by general equitable principles; (c) there exists no default, event of default, or event which with the passage of time, the giving of notice or both may result in a default or event of default under the Subordinated Debt or any Subordinated Debt documents or any event or occurrence that gives a Subordinated Creditor the right to terminate a commitment, refuse to make an advance, accelerate a maturity with or without notice or the passage of time; and (d) if such Subordinated Creditor is an entity, that entity is and will remain duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation and in good standing in the jurisdictions in which it is doing business. Each Subordinated Creditor further represents and warrants to the Lender as follows: (A) such Subordinated Creditor owns and holds the Subordinated Debt now outstanding free and clear of any lien that has not been disclosed in writing by such Subordinated Creditor to the Lender; (B) such Subordinated Creditor is now solvent, the execution, delivery and performance of this Agreement will benefit such Subordinated Creditor directly or indirectly and such Subordinated Creditor has and will receive fair and reasonably equivalent value for the obligations undertaken in this Agreement; (C) such Subordinated Creditor has (1) without reliance on the Lender or any information received from the Lender and based upon the documents and information such Subordinated Creditor deems appropriate, made an independent investigation of the transactions contemplated by this Agreement and the Borrower, the Borrower's business, assets, operations, prospects and condition, financial or otherwise, and any circumstances that may bear upon those transactions, the Borrower or the obligations and risks undertaken in this Agreement with respect to the Senior Debt; (2) adequate means to obtain from the Borrower on a continuing basis information concerning the Senior Debt and the Lender has no duty to provide to such Subordinated Creditor any information; (3) full and complete access by and through the Borrower to the Lender's loan documents; (4) not relied and will not rely upon any representations or warranties of the Lender not embodied in this Agreement or any acts taken by the Lender (including but not limited to any review by the Lender of the affairs of the Borrower) prior to or after the date of this Agreement; (D) such Subordinated Creditor is the sole holder of the Subordinated Debt with full power to make the subordinations set forth in this Agreement; and (E) such Subordinated Creditor has not made or permitted any assignment or transfer, as security or otherwise, of the Subordinated Debt, any Subordinated Debt documents or

of any of the Collateral securing the Subordinated Debt, and such Subordinated Creditor shall not do so except in favor of the Lender as long as this Agreement remains in effect.

Section 10. Successors and Assigns. This Subordination Agreement immediately shall be binding on each Subordinated Creditor and on its heirs, representatives and assigns, and shall inure to the benefit of the Lender and its successors and assigns. Whenever reference is made in this Subordination Agreement to the Obligor, such term shall include any successor or assign of the Obligor, including, without limitation, a receiver, trustee, or debtor or debtor-in-possession under the Bankruptcy Code.

Section 11. Notices. Any notice required or permitted hereunder shall be given in writing by personal delivery, by overnight delivery through a recognized courier service, by certified U.S. mail, or by telecopier (fax) (i) as to a Subordinated Creditor, by giving such notice to such Subordinated Creditor at the address set forth below such Subordinated Creditor's signature hereon, and (ii) as to the Lender, by giving such notice to the Lender at the address set forth below its signature hereon. All such notices shall be deemed to have been received on the date given, except that any such notice given by overnight delivery will be deemed to have been received on the next business day after such notice was delivered to such a carrier for delivery, and any such notice given by certified U.S. mail will be deemed to have been received three days after such notice was deposited in the U.S. mails, postage prepaid.

Section 12. Governing Law. THIS SUBORDINATION AGREEMENT SHALL BE GOVERNED BY CALIFORNIA LAW (WITHOUT REGARD TO ANY JURISDICTION'S CONFLICT OF LAWS PRINCIPLES). EACH SUBORDINATED CREDITOR AND THE LENDER EACH WAIVES TRIAL BY JURY WITH RESPECT TO ANY ACTION, CLAIM, SUIT OR PROCEEDING IN RESPECT OF OR ARISING OUT OF THIS SUBORDINATION AGREEMENT. This is a "Subordination Agreement" within the meaning of Section 510(a) of the Bankruptcy Code and shall be interpreted and construed accordingly in any proceeding under the Bankruptcy Code.

Section 13. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if the parties had all signed the same document. All counterparts shall be construed together and shall constitute one agreement.

[Remainder of this Page Intentionally Left Blank]

IN WITNESS WHEREOF, the undersigned has caused this Subordination Agreement to be executed as of the Effective Date.

By: _____

Name: _____

Title: _____

Address for notice and service of process:

By: _____

Name: _____

Title: _____

Address for notice and service of process:

By: _____

Name: _____

Title: _____

Address for notice and service of process:

(Signature Blocks Continue on Following Page)

RIVER CITY BANK, as Lender

By: _____

Name: _____

Title: _____

Address for notice and service of process:

River City Bank
2485 Natomas Park Drive, Suite 100
Sacramento, CA 95833

Attention: _____

Fax: (916) _____

Schedule 1
Subordinated Funding Costs

| <u>JPA Member</u> | <u>Amount</u> |
|-------------------|-----------------|
| _____ | \$ _____ |
| _____ | \$ _____ |
| _____ | <u>\$ _____</u> |
| Total | \$ _____ |

ACKNOWLEDGMENT

Clean Power Alliance of Southern California, a public agency formed under the provisions of the Joint Exercise of Powers Act of the State of California, Government Code Section 6500 et. seq. (the “*Company*”), acknowledges receipt of a copy of the Subordination Agreement by and between River City Bank (the “*Lender*”), and the cities, towns and counties parties thereto (each a “*Subordinated Creditor*”), dated as of April __, 2018 (as amended from time to time, the “*Subordination Agreement*”), and agrees that: (a) it will not: (i) except to the extent permitted by the Subordination Agreement, pay any of the Subordinated Debt until the payment in full of the Senior Debt, (ii) provide any security or collateral for any of Subordinated Debt until the payment in full of the Senior Debt, or (iii) take or omit from taking any action that would cause a breach of the Subordination Agreement; (b) neither the Company nor any of its successors or assignees, by operation of law or otherwise, is a party to the Subordination Agreement, and neither the Company nor any of its successors or assignees will have: (i) any right in, or to enforcement of, the Subordination Agreement as against the Lender or a Subordinated Creditor, (ii) any claim of damage if the Lender or a Subordinated Creditor defaults under the Subordination Agreement, or (iii) any right to object to any amendment, modification, or supplement to, or any restatement or replacement of, the Subordination Agreement that is agreed upon by a Subordinated Creditor and the Lender; and (c) none of the provisions of the Subordination Agreement limit or impair the Lender’s rights against the Company or its successors and assigns or any of their respective obligations, indebtedness, or liabilities to the Lender under the Senior Loan Agreement, any related documents, or otherwise.

All capitalized terms used in this Acknowledgment that are defined in the Subordination Agreement and not otherwise defined in this Acknowledgment have the meanings specified in the Subordination Agreement.

IN WITNESS WHEREOF, the Company has executed and delivered this Acknowledgement to the Lender as of the Effective Date.

Clean Power Alliance of Southern California

By: _____

Name: _____

Title: _____

EXHIBIT I

DOCUMENT SUMMARY AND NOTICE OF FINAL AGREEMENT

Borrower has been provided with the following documents issued in connection with the loan evidenced by a Revolving Credit Promissory Note in the original principal balance of \$20,000,000 (the "Note"):

Credit Agreement with Exhibits

A – Definitions

B – Form of Revolving Note

C – Form of Letter of Credit Note

D – Form of Term Note

E – Form of Assignment of Deposit Accounts

F – Form of Request for Advance (RLOC)

G – Letter of Credit Application

H – Form of Subordination Agreement

I – Form of Document Summary and Notice of Final Agreement

And Schedules

1 – Indebtedness for Borrowed Money

Assignment of Deposit Account Agreement

Disbursement Request and Authorization

BORROWER REPRESENTS AND WARRANTIES:

1) IT HAS READ, UNDERSTOOD AND AGREES WITH THE TERMS OF EACH DOCUMENT LISTED ABOVE AND THIS AGREEMENT;

2) IT CONFIRMS THAT THERE ARE NO CONFLICTS BETWEEN THE TERMS OF THE DOCUMENTS AND ITS UNDERSTANDING OF THE TRANSACTION;

3) THE WRITTEN DOCUMENTS ISSUED IN CONNECTION WITH THE LOAN REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

4) THE WRITTEN DOCUMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR UNDERSTANDINGS OF THE PARTIES.

5) IT HAS HAD AN OPPORTUNITY TO DISCUSS THE LOAN TRANSACTION WITH ITS COUNSEL.

BORROWER:

Clean Power Alliance of Southern California

By: _____

Name: _____

Its: _____

Borrower: Clean Power Alliance of Southern California
500 West Temple, Suite 493
Los Angeles, CA 90012

Lender: RIVER CITY BANK
2485 Natomas Park Drive
Sacramento, CA 95833

DISBURSEMENT REQUEST AND AUTHORIZATION

SPECIFIC PURPOSE. The specific purpose of this loan is to provide working capital and power purchases during times of regular and seasonal cash flow differences.

DISBURSEMENT INSTRUCTIONS. Borrower understands that no loan proceeds will be disbursed until all of Lender's conditions for making the loan have been satisfied. Please disburse the loan proceeds of \$20,000,000.00 as follows:

Other Disbursements:

\$2,000,000 initial advance to
fund Debt Service Reserve
Account

\$18,000,000 amounts available
for use in accordance with the
Credit Agreement

CHARGES PAID IN CASH. Borrower has paid or will pay in cash as agreed the following charges: \$60,200 in fees and estimated and expenses described below:

- \$50,000.00 Loan Fee
- \$2,500.00 Documentation Fee
- \$7,500.00 Estimated Legal Fees
- \$200.00 Estimated Secretary of State and UCC Search Fees

AUTOMATIC PAYMENTS. Borrower authorizes Lender to make payments due and payable under the Loan through automatic debit from Borrower's checking account with Lender with the following account number: _____

BORROWER:
Clean Power Alliance of Southern California

By: _____
Name: _____
Its: _____



Staff Report – Item 6

To: Clean Power Alliance Board of Directors
From: CPA Staff
Subject: Approve Fiscal Year 2017-18 Budget Adjustment
Date: May 2, 2018

RECOMMENDATION

Staff recommends that the Board approve a budget adjustment for the Clean Power Alliance Fiscal Year 2017-18 (FY18) budget.

BACKGROUND AND DISCUSSION

Staff has recently compiled all the necessary accounting information to provide the Clean Power Alliance Board with an accurate budget update that reflects expenditures to date, its current implementation schedule and anticipated load size, and operating needs prior to Phase 2 launch. Staff are anticipating a net reduction in revenues of \$7.9 million and net increased expenditures of approximately \$147,000 relative to the Mid-Year Budget that was adopted in January 2018. These changes were reviewed by the Finance Committee on April 25, 2018. The key changes from the adopted budget include:

Revenue Changes

- LA County Loan: The approved budget had only anticipated the need for \$6 million of the County's \$10 million loan and this adjustment increases the loan amount to \$9.1 million which is the total cash portion of the County's commitment. The remaining \$900,000 of the County loan is provided in the form of in-kind staff and County-contracted consulting services. The Los Angeles County Board of Supervisors approved deferring repayment of the no-interest loan until June 2019.

- Phase 2 & 3 Loan: The approved budget anticipated a private \$31 million loan to fund power procurement for phases 2 and 3 of the program. While a \$31 million loan has been secured for phases 2 and 3, its delivery will be staged with \$20 million being provided in FY17-18 and the remaining \$11 million in the first half of FY18-19 in line with CPA's post E-4907 phase-in schedule.

Expenditure Changes

- Personnel Costs: The approved budget did not include funds for permanent staff beyond an Executive Director and an Assistant. Moving from consultants to internal staff is an organizational need and the Executive Director has hired a Chief Operating Officer, a Director of Power Procurement and Planning, a Director of Technology Integration and Data Analytics, and a Head of Local Government Affairs. The adjusted budget includes \$250,000 for salaries and an additional \$75,000 for benefits through the remainder of the fiscal year.
- Contract Services: The costs for the Alliance's power procurement consultant are \$80,000 higher than was previously budgeted as staff have relied more on consultants to support program development during permanent staff recruitment.
- Internal Systems and Protection: The approved budget did not include costs associated with implementing cyber security and IT services and implementation of an accounting system. The adjusted budget includes \$110,000 for this purpose. Additionally, staff have analyzed the Alliance's current insurance coverages and is recommending increasing Cyber, Directors and Officers (D&O), and the Errors and Omissions (E&O) limits. The existing policy was paid from contingency funds but the adjusted budget now includes a line item for this purpose budgeted at \$100,000.
- Fees and Bonds: Because the Phase 2 implementation is limited to the unincorporated LA County, Rolling Hills Estates, and South Pasadena – instead of the 24 jurisdictions that had been originally anticipated – costs to SCE are significantly lower this fiscal year. The adjusted budget reduces this cost by \$460,000.

Attachment: Revised FY17-18 Budget

Clean Power Alliance
FY 2017-2018 Budget
 For Board Consideration - May 2, 2018
(New Line Items Shown in Italics)

| | Adopted FY17-2018 Budget | Adjusted FY17-2018 Budget | Variance | Comments |
|--|---|--|--------------------|---|
| REVENUES | | | | |
| LA County Loan | 6,000,000 | 9,110,000 | 3,110,000 | Full cash portion of County loan now budgeted; remainder is County in-kind staff and consulting services. |
| Program Revenues (rates) | 1,737,534 | 1,737,534 | - | |
| Phase 2/3 Loan | 31,000,000 | 20,000,000 | (11,000,000) | \$20m of \$31m loan expected this FY with remainder next FY. |
| Interest Income | - | 294 | 294 | |
| TOTAL REVENUES | 38,737,534 | 30,847,828 | (7,889,706) | |
| EXPENDITURES | | | | |
| Personnel | | | | |
| Executive Director | 150,000 | 150,000 | - | |
| Assistant | 50,000 | 50,000 | - | |
| Temporary Staff | 150,000 | 150,000 | - | |
| <i>Permanent Staff</i> | - | 250,000 | 250,000 | No funds previously budgeted for new staffing beyond the Executive Director. |
| <i>Benefits</i> | - | 75,000 | 75,000 | Based on new permanent staff |
| | | | - | |
| Contract Services | | | | |
| Executive Support (BD Management) | 180,000 | 200,000 | 20,000 | Slightly higher costs than anticipated. |
| Data Manager Consultant | 3,000 | - | (3,000) | |
| Technical and Regulatory Support | 250,000 | 250,000 | - | |
| Legal Services | 200,000 | 200,000 | - | |
| Communications and Outreach | 150,000 | 150,000 | - | |
| Power Procurement Consultant | 150,000 | 230,000 | 80,000 | Consultants used more than anticipated while internal staff are recruited and hired. |
| | | | | |
| Office Expenses | | | | |
| Office Space and Equipment | 150,000 | 100,000 | (50,000) | Occupying shared workspace rather than dedicated office. |
| <i>Accounting/Payroll Systems</i> | - | 100,000 | 100,000 | Purchase Software and Implement Accounting/Payroll Systems |
| <i>Information Technology</i> | - | 10,000 | 10,000 | Cyber security and IT systems |
| <i>Insurance</i> | - | 100,000 | 100,000 | Cyber insurance policy plus additional D&O and E&O coverage |
| | | | | |
| Memberships and Travel | | | | |
| Memberships | 75,000 | 100,000 | 25,000 | Extra CalCCA costs for PCIA testimony |
| Board and Staff Travel | 6,000 | 6,000 | - | |
| | | | | |
| Power Procurement | | | | |
| Power Procurement | 3,250,273 | 3,250,273 | - | |
| | | | | |
| Fees and Bonds | | | | |
| Utility Fees SCE Billing and Back Office | 509,124 | 109,124 | (400,000) | Fees were calculated based on 24 city launch; adjusted to reflect LA County, RHE, and So. Pasadena only. |
| CPUC Bond | 100,000 | 100,000 | - | |
| SCE Bond | 260,000 | 200,000 | (60,000) | Bond requirement lower than budgeted. |
| | | | | |
| Contingency | 50,000 | 50,000 | - | |
| | | | | |
| TOTAL EXPENDITURES | 5,683,397 | 5,830,397 | 147,000 | |
| | | | | |
| Net Surplus/(Deficit) | 33,054,137 | 25,017,431 | | |



Staff Report – Agenda Item 7

To: CPA Board of Directors

From: CPA Staff

Subject: Approval of a Request for Qualifications (RFQ) Process to Establish a Pre-Qualified Provider List and Issuance of a Request for Qualifications

Date: May 2, 2018

RECOMMENDATION

Staff recommends that the Board of Directors approve the development of a Request for Qualifications (RFQ) process to establish a Pre-Qualified Providers (PQP) list for goods and services. Staff also recommends that the Board of Directors approve the issuance of the attached Request-for-Qualifications.

PURPOSE

Establishing a list of Pre-Qualified Providers (PQP) for goods and services for Clean Power Alliance will allow the Alliance to more efficiently match its consulting and non-energy procurement needs with those individuals or firms most qualified to provide those services. Firms will be selected for the PQP List through the issuance of a Request for Qualifications with specific work awarded through specific Task Orders. Task Orders with a not-to-exceed amount above the Executive Director's contracting authority will be presented to the Board for approval.

BACKGROUND

As the Alliance transitions from its start-up phase to a more regular operational phase, it is quickly adding staff to bring more work in-house. However, the Alliance will still rely on a bench of outside consultants to perform many specialized tasks, particularly in the areas of engineering, regulatory compliance, finance, and information technology/cyber-security.

PROPOSED PROCESS

Staff is recommending using an RFQ process to develop a list of pre-qualified providers to perform needed program services, including in some cases multiple providers for the same services from which the Alliance can solicit proposals and select a vendor. This will allow the Alliance to more efficiently bid and award consulting services rather than doing a full Request-For-Proposals each time a need arises.

Once the list has been established and the Alliance identifies a need to engage an outside firm, pre-qualified vendors will be engaged through a Task Order that contains the scope of work, estimated time to completion and cost (either a total cost or a budget based on time and materials with a not-to-exceed amount). If the Task Order cost is above the Executive Director's authorized contracting authority limit, the engagement will be presented to the Board for approval. If the cost is within the Executive Director's authorized contracting authority, the Task Order will be reported to the Alliance Board at its next regular Board meeting.

It is anticipated that the initial list of Tasks will be in the following areas:

- Engineering Services
- Regulatory Compliance Services
- Financial Services
- Forecasting and Rate Design Services
- Customer Outreach
- Information Technology and Cybersecurity Services
- General Staff Support

To be inclusive and open to new potential vendors, particularly small and women/minority-owned businesses and Southern California-based firms who are just learning about the Alliance, staff is proposing that the RFQ remain open until superseded by a subsequent RFQ.

The joint powers authority (JPA) agreement provides that the Alliance must comply with Los Angeles County procurement rules until such time as it has adopted its own. The above described process is in compliance with such rules.



Request for Qualifications Related to Various Goods and Services

I. Introduction

The Clean Power Alliance of Southern California (Alliance), is hereby requesting information regarding the capabilities and qualifications of Respondents to this Request for Qualifications (RFQ) to provide a variety of services and goods listed below. Successful Respondents will be identified as a Pre-Qualified Provider (PPQP) eligible to perform services or provide goods to the Alliance through the issuance of Task Orders in one or more of the following areas;

- Engineering Services
- Regulatory Compliance Services
- Financial Services
- Forecasting and Rate Design Services
- Customer Outreach
- Information Technology and Cybersecurity Services
- General Staff Support

This Request for Qualifications shall remain open until an updated RFQ is issued; i.e. firms wishing to become a Pre-Qualified Provider (PPQP) may submit qualifications, in accordance with the provisions of this RFQ at any time. After review, if Respondent meets the necessary qualifications they will be added to the PPQP list.

Note that decisions on a firm's ability to make the PQP list is weighted more in favor of a firm's qualifications than pricing. Pricing will be more of a factor during the bid and award process of specific Task Orders.

II. Background

Clean Power Alliance is new Joint Powers Authority/ Community Choice Aggregation program in Southern California. It currently has 31 member agencies – 29 municipalities and the unincorporated parts of Los Angeles and Ventura Counties (See list below). Community Choice Aggregation (CCA), authorized in California under AB 117 (2002) and SB 790 (2011), allows local governments, including counties and cities, to purchase electricity in the wholesale power market and sell it to their residents and businesses as an alternative to electricity provided by an Investor Owned Utility.

III. Potential Task Orders

It is anticipated that Alliance will require services, through the issuance of Task Orders, in the areas listed below. It is not necessary that Respondents be qualified in all areas. Firms responding to this RFQ should clearly indicate which areas the firm wishes to be considered for. As an example: Project Management

in the Engineering Services area would be referenced as A.1.a. It is possible that the Alliance will chose more than one Respondent to be on the PQP list and/or perform the tasks listed. From time to time, CPA may provide more details regarding the services requested to give prospective providers a better understanding of the Tasks being sought.

A. Engineering Services

1. Operations Assistance
 - a. Project management and project scheduling
 - b. Implementation management
 - c. Preparation of staff reports for Alliance Board and Committees
2. Project Analysis
 - a. Perform cost/benefit analysis for new power generation projects to include solar, wind, geothermal, Distributed Energy Resources and batteries
 - b. Issue registered professional engineer’s opinion letter stating that these renewable projects are capable of producing the stated output, are operationally sound and have competitive capital/operating costs
 - c. Assist in discussions with various financial institutions on the prudence of acquiring these resources
3. Resource Planning Support
 - a. Manage historic load data for all Alliance’s member cities
 - b. Update load forecasts with new data, phasing decisions and policy inputs
 - c. Power price forecasting
 - d. Integrated Resource Plan development
 - e. CCA Program analysis including DER, EE and DR, etc.

B. Regulatory Compliance and Analysis

1. Preparation of Implementation Plans, Implementation Plan Addenda, and Feasibility Analyses
2. Resource Adequacy Load Forecasts and Historical Data Submissions for both the month-ahead and year-ahead process
3. Regulatory and legislative issue tracking, research and written updates for Alliance staff and Board of Directors
4. Guidance on Alliance’s position in regulatory and legislative advocacy as well as contribution to Alliance’s submissions to regulatory proceedings such as comments, responses, expert testimony, and motions to the CPUC and CEC
5. Negotiation assistance during interactions with SCE, CPUC and others

C. Financial Services

1. Financial Advisory Services
 - a. Assist Alliance in obtaining a credit rating
 - b. Assist with bank negotiations for services
 - c. Provide financial market advice
 - d. Provide services associated with being the Financial Advisor

2. Financial Analysis
 - a. Financial forecast pro forma development and updates
 - b. Energy procurement and collateral term
3. Rate and Program Design Services
 - a. Rate development and cost of service for offerings
 - b. Net energy metering (NEM) rate development
 - c. Electric vehicle rate evaluation
 - d. Time-of-Use (TOU) rate evaluation
 - e. DER, EE and DR programs and rates

D. IT and Cybersecurity

1. Data Management
2. IT Hardware and Software Procurement and Support
3. Cybersecurity Services and Audits

E. General Staff Support

1. Payroll Services.
2. Human Resource Administration
 - a. Retirement
 - b. Sick Leave
 - c. Vacation
 - d. Compliance
3. Recruitment of Alliance Member Cities
 - a. Acquisition and analysis of load data for potential member cities
 - b. Support in preparation of presentations
 - c. Attendance at city recruitment meetings

IV. Timeline/Schedule

1. To be inclusive and open to new potential vendors, particularly small and women/minority-owned businesses and Southern California-based firms who are just learning about the Alliance, the RFQ remain open until superseded by a new RFQ.
2. Alliance is desirous of engaging certain services on a timely basis. It is not a requirement but Respondents in the areas of ENGINEERING, RATE AND REGULATORY are encouraged to respond by May 25.

V. Information Submission Required Elements

1. **Transmittal Letter Content:**

- a. A brief statement of the Respondent's understanding of the services being requested and considered, as well as any physical or legal limitations or constraints that may exist in allowing the Respondent to provide such service and/or product.
- b. Legal name of Individual or Firm (Respondent) with physical street address, telephone and FAX numbers with the name(s), respective position(s)/title(s) and e-mail address(es) of all individuals authorized to represent Respondent.

2. Information Statement to describe your firm's qualifications and experience

- a. Experience in working with CCAs
- b. Experience in working with Electric Utilities
- c. Experience in performing or providing the services and products described in the Task Order section and as may be applicable to this RFQ
- d. Organizational structure, management information, and other service or product related information, including number of years firm or individual has been in the related business
- e. List or table of key employees including a description of their information, experience and duties related to the services and/or products referenced in the RFQ
- f. List of office locations where work will be performed, if different than physical address referenced above
- g. Identify names of subcontractors relied on or used to perform services referenced within this RFQ; and
- h. Describe whether the Respondent has, with the last five years, rendered any service to any of Alliance's members, either as a contractor or subcontractor, either under the name presented in the Transmittal letter or any other name or organization. If so, please provide details (status as prime or subcontractor, brief description of the contract, contract start and end dates, the contract administrator's name and total actual contract expenditures
- i. Respondent should provide as many as five references to similar or related work performed within the last three years with the requested details described above including the counterparty for which the services were provided
- j. Respondent shall indicate any and all pending litigation that could affect the viability of Respondent's submittal, continuance of existing contracts, operation or financial stability

VI. Information Submission Deliver Requirements

One (1) electronic copy of the submittal should be emailed to jbetha@cleanpoweralliance.org with Subject/Title as:

[Respondent Name] Engineering Services RFQ Submittal

No contact should be made with the Board of Directors, any committee representative or Alliance Member concerning this RFQ.

All information received by Alliance in response to this RFQ is subject to the California Public Records Act and may be subject to the California Brown Act. All submissions may be subject to review in the event of an audit.

VII. Submittal Terms and Conditions

Clean Power Alliance:

1. Reserves the right to cancel this RFQ at any time, reject any and all submittals and to waive irregularities.
2. Shall determine at its sole discretion the value of any and/or all submittals.
3. At its sole discretion may sub-divide or combine submittals.
4. Shall perform an initial screening and evaluation to identify and eliminate any submittals that are not responsive to the request for qualifications, do not meet the minimum requirements set for in the request for qualifications or are otherwise deemed, at Alliance's sole discretion, unable to provide dependable and reliable services.
5. Reserves the right to submit supplementary follow-up questions or inquiries to request clarification of information submitted and to request additional information from any one or more of the Respondents.
6. Reserves the right, without qualification and in its sole discretion, to accept or reject any or all submittals for any reason without explanation to the Respondent, or to subsequently make an award to one or more Respondent(s), who, in the opinion of Alliance, will provide valued service and/or products to Alliance and its Members
7. May decline to enter into any potential engagement agreement, contract or Task Order with any Respondent, terminate negotiations with any Respondent, or to abandon the RFQ process in its entirety.
8. Requires those Respondents who provide Qualification submittals agree to do so without legal recourse against Alliance, its Members, their directors, officers, employees and agents for rejection of their submittal(s) or for failure to execute or act on their submittal for any reason.
9. Shall not be liable to any Respondent or party in law or equity for any reason whatsoever for any acts or omissions arising out of or in conjunction with this request for submittals.
10. Shall not be liable for any costs incurred by any Respondent in preparing any information for this Submission in connection with this RFQ process or any and all costs resulting for responding to the RFQ. Any and all such costs whatsoever shall remain the sole responsibility of the Respondent.
11. May require certain performance assurances from Respondents prior to entering into negotiations for a proposed Task Order. Such assurances may potentially include a requirement that Respondents provide some form of performance security.
12. Understands that the submission of a submittal constitutes acknowledgement that the Respondent has read and agrees to be bound by the terms and specifications of the RFQ and any addenda subsequently issued prior to the due date of the submittal.
13. States that the information in the RFQ is accurate to the best of Alliance's knowledge but is not guaranteed to be correct. Respondents are expected to complete all of their due diligence activities prior to entering into any final contract negotiations with Alliance.

14. Reserves the right to reject any submittal for any reason without cause. Alliance reserves the right to enter into relationships with more than one Respondent, can choose not to proceed with any Respondent with respect to one or more identified Tasks, and can choose to suspend this RFQ or issue a new RFQ that would supersede and replace this RFQ.

VIII. Additional Considerations for Submittal

- A. Response Preparations:** Submittals should be prepared simply and economically, without the inclusion of unnecessary promotional materials.
- B. Insurance, Licensing and other Certification:** If selected subsequently to provide Tasks related to this RFQ, the Respondent and each of its known subcontractors will be required to maintain sufficient insurance, licenses, or other required certifications for the type of work being performed. Alliance may require specific insurance coverage to be established and maintained during the course of work and as a condition of award or continuation of contract.
- C. Alliance-Furnished Property** – Alliance or Member’s utility drawings, specifications, and other media furnished for the Respondent’s use shall not be furnished to others without written authorization from Alliance or applicable Member(s).
- D. Contractor-Furnished Property** – Upon completion of all work under any Task Order developed as a result of this RFQ, ownership and title to reports, documents, drawings, specifications, estimates, and any other document produced as a result of the agreement shall automatically be vested to Alliance and no further agreement will be necessary for the transfer of ownership to Alliance. Alliance has the sole right to distribute, reproduce, publish, license, or grant permission to us all or a portion of the deliverable documentation, work product or presentations as it determines in its sole discretion.
- E. Additional Requirements** – Alliance may place additional requirements on specific Task Orders, when issued such as:
 - Local Preference
 - Disabled, Minority, Veteran and/or Women-owned Business
 - Workforce Education and Development Practices
 - Sustainable Business Practices, Reporting, and Certifications
 - Supplier and Subcontractor Diversity Outreach and Reporting

Clean Power Alliance Members

Counties:

Los Angeles

Ventura

Cities:

Agoura Hills

Hawaiian Gardens

Santa Monica

Alhambra

Hawthorne

Sierra Madre

Arcadia

Malibu

Simi Valley

Beverly Hills

Manhattan Beach

South Pasadena

Calabasas

Moorpark

Temple City

Camarillo

Ojai

Thousand Oaks

Carson

Oxnard

Ventura

Claremont

Paramount

West Hollywood

Culver City

Redondo Beach

Whittier

Downey

Rolling Hills Estates



Staff Report – Agenda Item 8

To: CPA Board of Directors

From: CPA Staff

Subject: Approve Formation of a Community Advisory Committee and Authorize Staff to Open an Application Process for Committee Membership

Date: May 2, 2018

RECOMMENDATION

Approve formation of Community Advisory Committee as recommended by the Ad Hoc Committee and authorize staff to open application process for committee membership.

BACKGROUND

At the January 17, 2018 regular meeting of the Board of Directors, staff presented a Community Advisory Committee (CAC) proposal for Board consideration. In discussion, Board members provided comments and suggestions on the CAC's size, structure, selection, and function and formed an Ad Hoc Committee to develop final recommendations to the Board regarding the CAC formation, and to oversee the committee selection process.

Staff generated new proposed options for CAC structure, composition, and size based on the Board's feedback and after conducting additional research that was considered by the Ad Hoc Committee. The Ad Hoc Committee identified its preferred approach and further refined the proposal after having received additional input from outside stakeholders.

The Ad Hoc Committee, which was comprised of representatives from Hawthorne and Manhattan Beach, met throughout March and April and, in consultation with additional

Board members from County of Ventura, Rolling Hills Estates, Carson, and West Hollywood, produced the proposed recommendations summarized below.

PROPOSAL FOR CAC FORMATION

Structure and Size

As CPA territory is large and geographically diverse, the CAC structure will formalize and prioritize regional representation on the CAC. This entails dividing CPA territory into geographic regions and appointing representatives that live in each region, resulting in a geographic breakdown as follows:

- **West/Unincorporated Ventura County (2 representatives)**
(Oxnard, Ventura, Ojai, Unincorporated Ventura County)

- **East Ventura/West LA County (3 representatives)**
(Camarillo, Moorpark, Simi Valley, Thousand Oaks, Agoura Hills, Calabasas)

- **Westside (2 representatives)**
(Beverly Hills, West Hollywood, Santa Monica, Culver City, Malibu)

- **South Bay (2 representatives)**
(Redondo Beach, Rolling Hills Estates, Manhattan Beach, Hawthorne, Carson)

- **Gateway Cities (2 representatives)**
(Hawaiian Gardens, Downey, Paramount, Whittier)

- **San Gabriel Valley (2 representatives)**
(Claremont, South Pasadena, Sierra Madre, Alhambra, Arcadia, Temple City)

- **Unincorporated LA County (2 representatives)**
(Unincorporated Los Angeles County)

This structure will result in a committee size of 15 at the current time and as new members are added to the Alliance, the CAC can be expanded to accommodate the additional communities in the program.

Composition

The Community Advisory Committee will be composed of, but not limited to, any individuals that may have experience with or knowledge of environmental, social justice, economic development, business, labor, faith, youth, educational, or other community organizations. For consideration, members must reside in the CPA territory they represent, as well as be a customer of CPA, so that each member of the CAC is represented as a residential ratepayer.

Additionally, the CAC's membership will also attempt to incorporate individuals with diverse experience in the field of renewable energy, the environment, and policy that promotes local renewable energy with a vision for a greener and more sustainable California.

Selection/Appointment

Committee selection will be conducted through an open application process managed through the Clean Power Alliance website. CPA staff and designated Board members will collect and review applications, and a selection panel of 3-5 Board members and staff will conduct interviews and make final recommendations for appointment by the Board. Potential conflicts of interest will be vetted in the application/selection process.

It is important to note that CAC size and composition may ultimately depend on the quantity of qualified applications received. Outreach by the Board, staff, The Energy Coalition and other stakeholders will be essential to solicit a strong, diverse applicant pool. The Ad Hoc Committee therefore will additionally recommend that each CPA Director use their respective city's communications such as public billboards, TV, city

council meetings, chambers of commerce, etc., to garner community interest in CAC committee participation.

Terms & Removal

The members of the CAC will serve 2-year terms, with the possibility of unlimited additional terms if approved for reappointment by the Board. The CAC will serve at the pleasure of the Board, and provisions for removal will be determined.

Meeting Logistics:

The CAC will meet on a regular basis, either monthly or bi-monthly as determined by the CAC itself. Additionally, the CAC should consider a monthly meeting time that will allow for maximum community and stakeholder participation. CAC members will be strongly encouraged to attend all meetings in person to ensure the committee regularly maintains a quorum, develops good working relationships, and functions with consistency. To-be-determined meeting locations will be rotated between Ventura and Los Angeles counties.

The City Clerk's office of the meeting location city will assist with posting the 72-hour meeting notice of the CAC agenda, as required by the Brown Act.

Governance

The CPA's head of Local Government Affairs, and later the Community Development Manager, will oversee and staff the CAC, work with the CAC to define the duties and election of the CAC's members and officers, and report to the CPA Board of Directors accordingly.

Function & Scope

While the CAC's function will be advisory in nature, the Ad Hoc Committee considered two distinct approaches to function: one approach that is outwardly focused on community engagement, and one approach that is more inwardly focused on reviewing

CPA policy documents. The Ad Hoc Committee ultimately decided that the CAC should advise the Board in a combination of internal and external capacities.

The CAC will:

- be a venue to discuss Board accountability to the community
- review key Board policy and planning documents and provide feedback
- to the extent possible, provide expert knowledge of relevant subject matter to support the Board and staff
- act as service advocates, gathering input and providing feedback from community to the Board
- consider and provide comment on proposed customer programs and services as well as communicating information about programs back to the community
- engage in community events and special projects as appropriate
- work to promote CPA's goals in each member's own region as well as throughout the entire CPA territory

Other Considerations:

- While every effort will be made to give the CAC an opportunity to review and provide input on key Board documents in a timely fashion, there may be instances in which the CAC may not have the ability to review time-sensitive documents
- The future CPA Community Development Manager will be active in helping to set the agenda for the Committee. Additionally, while the CAC will not be able to place items on the Board's agenda, the Community Development Manager will be a liaison for requests and recommendations from the CAC to the Board.

Attachment: Community Advisory Committee Application Form

**Clean Power Alliance
Community Advisory Committee Application Form**

Clean Power Alliance (CPA) is seeking qualified applicants for its inaugural volunteer Community Advisory Committee (CAC). The CAC will be composed of 15 residents from seven diverse geographic regions within CPA territory. It will advise the Clean Power Alliance Board of Directors on certain policy and planning matters as well as help to ensure that the organization is meeting its goals and maximizing the benefits of Community Choice Aggregation for the communities it serves. The CAC is a public body and will be subject to all applicable Brown Act provisions. You can locate more information about CPA and the Community Advisory Committee at cleanpoweralliance.org.

CPA asks that anyone wishing to apply submit the following form no later than June XX, 2018. A selection panel will review applications and you may be contacted for an interview. Finalists will be appointed by the CPA Board of Directors.

Please note:

- Membership is open to any residential customer of CPA
- Applicants must reside in CPA service territory. To see a list of areas in CPA territory, visit cleanpoweralliance.org.
- Applicants may submit optional relevant supplemental materials, such as resumes or letters of recommendation (up to 2 attachments).
- Committee members will represent themselves personally on the Community Advisory Committee and will not represent any organization while serving on the committee.
- This application is considered a public document and may be made available for review upon request.
- This is a volunteer committee. Committee members will receive no financial compensation for their participation.

Section 1: Personal Contact Information

Please select the region in which you reside:

West/Unincorporated Ventura County

(Oxnard, Ventura, Ojai, Unincorporated Ventura County)

East Ventura/West LA County

(Camarillo, Moorpark, Simi Valley, Thousand Oaks, Agoura Hills, Calabasas)

Westside

(Beverly Hills, West Hollywood, Santa Monica, Culver City, Malibu)

South Bay

(Redondo Beach, Rolling Hills Estates, Manhattan Beach, Hawthorne, Carson)

Gateway Cities

(Hawaiian Gardens, Downey, Paramount, Whittier)

San Gabriel Valley

(Claremont, South Pasadena, Sierra Madre, Alhambra, Arcadia, Temple City)

Unincorporated Los Angeles County

Name:

Email:

Primary Phone:

Alternate Phone:

Home Street Address:

City, State, Zip:

Occupation:

Employer:

Work Phone:

Work Street Address:

City, State, Zip:

Section 2: Qualifications

CPA is seeking committee applicants with experience in the following areas. This can be experience gained through previous employment or volunteer activities. (If you have no experience in one of these areas, please respond N/A in that section.)

Please describe any prior experience you may have serving on an advisory committees, public commission, or other similar bodies.

Please briefly describe your experience with outreach or community leadership in the CPA service area. This may include experience in local neighborhood, business, environmental, social justice, faith, education, economic development, or other community organizations. Please also note if you have had experience working specifically with disadvantaged communities.

Please briefly describe your experience or expertise in the energy field. This may include experience with electrical utilities, distributed energy resources (DER), energy efficiency, demand reduction, energy markets, renewable energy, California Grid Operation (CAISO), utility finance, technology, policy, or environmental impacts.

Please describe any other skills, knowledge, or experience you may bring to the CAC.

Section 3: Additional Information

Please describe why you are interested in serving on the CPA Community Advisory Committee, and what you would like to achieve while serving.

Please list all affiliations, councils, or committees of which you are currently a member.

Please note any languages you speak other than English, or other abilities you might have to support non-English speaking communities in CPA territories.

Please note any potential conflicts of interest you may have in serving on this committee.

Please note anything else you would like CPA to know about your ability or desire to serve on this committee.

Section 4: Commitment

Clean Power Alliance requests that members of the Community Advisory Committee make a personal commitment of time and energy to attend regular meetings of this committee, and to help the organization meet its mission and stated goals. The CAC will meet on a regular basis, either monthly or bi-monthly as determined by the CAC itself. CAC members will commit to serving a two-year term, with the possibility to serve unlimited additional terms if approved for reappointment by the Board.

CAC members are strongly encouraged to attend all meetings to ensure the committee regularly maintains a quorum, develops good working relationships, and functions with

consistency. To-be-determined meeting locations will be rotated between Ventura and Los Angeles counties.

Please describe your ability to make the commitment described above.

Please return the completed application to:

Clean Power Alliance
555 W. 5th Street, 35th Floor
Los Angeles, CA 90013

****Completion of this application does not ensure committee membership. Applications are reviewed by Clean Power Alliance Board and staff, and membership is pending CPA Board of Directors approval and appointment. ****



Item IV – Staff Report

To: Clean Power Alliance Board of Directors
From: CPA Staff
Subject: Legislative and Regulatory Update
Date: May 2, 2018

Regulatory Issues

1. PCIA Review – R.17-06-026

The CPUC is conducting a proceeding (R.17-06-026) to review and revise the Power Charge Indifference Adjustment (PCIA) methodology. The PCIA is used to calculate exit fees owed by CCAs to their incumbent Investor-Owned Utility (IOU). These fees are intended to cover the costs of power contracts that were stranded by CCA departure from bundled IOU service.

Testimony for this proceeding was due on April 2, 2018 and ten parties filed. The three IOUs, PG&E, SCE, and SDG&E, filed joint testimony proposing a slight variation on their previously proposed Portfolio Allocation Mechanism (PAM). Like the PAM, the IOUs' most recent proposal would liquidate all IOU resources on the short-term power market and allocate costs and attributes such as RPS compliance to both the IOUs and other load-serving entities. CCAs argue this strategy fails to capture the full value of the stranded assets and reduces CCA procurement independence.

The other nine parties, which include the California Community Choice Association (CalCCA) proposed a range of alternatives to the PCIA. Two of the most promising concepts include securitization and an improved auction mechanism. Securitization would mean establishing a bond-type mechanism for recouping stranded assets, similar to the Department of Water Resources bond established in 2001. The alternative auction mechanism proposed would seek to ensure that all stranded resources could be sold on the market in a manner that more

fully captures each resources value. This proposal would likely be complementary to the securitization approach, rather than exclusive.

On April 23, 2018 rebuttal testimony was filed by 10 parties providing comments on other parties' proposals. The securitization proposal by CalCCA has many supporters, including TURN, although it will take time to implement and would require new legislation. Evidentiary hearings will begin May 7, 2018 and the Administrative Law Judge is currently scheduled to issue a proposed decision in late July 2018.

2. CCA Surety Bond – R.03-10-003

The CPUC is also conducting a proceeding (R.03-10-003) to revise the Financial Security Requirement (FSR), also known as the surety bond, that CCAs must post prior to serving customers. At present, all California CCAs are required to submit \$100,000 to the CPUC prior to launching service as collateral in the event that the CCA fails and its customers are involuntarily returned to IOU service. The \$100,000 was set as an interim amount by a previous CPUC decision pending further CPUC action.

After many months of delay, the CPUC finally issued a Proposed Decision (PD) on April 6, 2018. The PD argues that the FSR should cover both the administrative costs of CCA reentry to bundled (IOU) service as well as the power procurement costs paid by the IOUs to meet those customers' additional load. The PD would set the administrative costs at the IOU's current individual customer re-entry fee (which is \$0.50/customer for SCE territory).

The procurement cost would be required to cover 6 months of service, and would be likely be calculated as the market price less the IOU's system average generation cost multiplied by load. The PD also contemplates the scenario in which the procurement costs could be negative (as would be likely under current market conditions) and allows that these negative costs could offset administrative costs, but that the net FSR cannot go below zero. Finally, the PD would have the FSR held by a third party (no longer the CPUC, nor the IOU) and that its amount would be updated twice a year if it varies by more than 10%.

The CPUC will likely vote on whether to adopt or amend the PD at the May 10, 2018 CPUC Business Meeting.

Legislative Issues

3. AB 2208, Aguiar-Curry: Baseload Renewable Energy

This bill would require load-serving entities, including CCAs, to have a percentage of their Renewable Portfolio Standard (RPS) energy come from “baseload” renewable resources (which is non-intermittent energy such as geothermal, biogas, or biomass energy resources). These resources are typically more expensive than intermittent renewable resources such as solar and wind. While the motive behind this bill is commendable and consistent with CPA’s goals, it would disproportionately impact CCAs relative to IOUs as it is currently proposed because many CCAs, and particularly new CCAs, will be procuring a greater percentage of their total portfolio after this bill would be passed and as a result end up bearing a disproportionate share of the state’s burden to introduce baseload renewable resources. As such, CCAs have begun organizing to argue for changes in the implementation of this goal.



Item VI – Executive Director Report

To: Clean Power Alliance Board of Directors
From: Ted Bardacke, Executive Director
Subject: Monthly Update
Date: May 2, 2018

Phase 1 Operations

Overview

CPA began serving Los Angeles County municipal accounts in February 2018. CPA received its first revenues on 4/3/2018 and as of 4/24/2018 had received \$429,241 in total revenues. CPA's data manager reports revenue on a daily basis, which is reconciled with CPA's bank account weekly.

Invoice Errors

As described in last month's ED Report, an error in SCE's billing system excluded CPA's generation charges from customers' bills during the period from 3/1/2018 to 3/21/2018. That issue was resolved on 3/21/2018 and customers have been receiving CPA charges since that time. CPA charges that were missed during that period are now being included in customers' April bills.

Phase 2 Launch – Power Procurement

CPA has acquired most of its power needs for 2018 and begun purchases for 2019 and 2020 load. See attached presentation for details.

Phase 2 Launch – Customer Engagement

CPA's Phase 2 customer enrollments will extend service to non-residential accounts in unincorporated Los Angeles County as well as the Cities of Rolling Hills Estates and South Pasadena. Approximately 30,000 customers will be offered service. Customer

enrollments will begin on June 25th, 2018 and are expected to take one month to complete.

Key activities include:

- **Customer Noticing:** The first of four required customer notices were mailed on April 30th. Notices are in English and Spanish and other languages are available on the CPA website. Notice language is dominated by legally required terms and conditions; communications consultant TEC is working with individual member agencies to inform customers more broadly about their choices.
- **Customer Service Resources:** A new CPA website and Customer Service Center went live on April 30 to coincide with the notice mailing. Visit www.cleanpoweralliance.org The call center number is 888-585-3788. The website is a work in progress with additional features to be added over the summer, along with the migration of the administrative content and functionality from the old website to the new one.
- **Large and Key Customer Outreach:** Sustento, Bill Carnahan, The Energy Coalition and Tyler Aguirre and have been coordinating messaging to large customers. The group has completed a list of the top 100 customers, prioritized to reflect the following:
 - Total Load
 - Likelihood of Support Due to Corporate Sustainability Goals
 - Existing Relationships
 - Potential Savings (current rates versus projected CPA rates)

Individual customer contact will begin early this month to coincide with the mailing of opt-out notices. This direct contact will include in-person meetings and specialized webinars.

2019 Operational Planning

Staff has begun discussions with operational executives at Southern California Edison about the expected transition of nearly one million customers throughout the first half of 2019, the largest customer transition ever attempted in California. These discussions cover a range of topics including enrollment, billing, revenue exchange, dispute resolution and the transition of SEC's own billing and data management system that is expected to go live in 2020.

Two key operational issues being discussed. First is SCE's pending request to the CPUC to change the hours of their commercial Time of Use (TOU) rates to later in the day in response load patterns. If approved, these new hours would be implemented in March, the same month when CPA is tentatively scheduled to the roll in most of its commercial customers. Both steps require a number of customer interactions and we are looking at how to mitigate customer confusion at that time.

Second is billing issues for "date-certain" customers, primarily CARE and other low-income customers. Problems with bills for these customers has been observed in during the transition in Lancaster. With approximately 300,000 customers on these types of plans in CPA's service territory, we need to work diligently to protect these vulnerable customers to ensure that their bills are correct and consistent on a monthly basis.

Integrated Resources Plan

This will be the focus of the Energy Committee over the next few months in order to meet the CPUC compliance deadline of August 1. See attached presentation and draft workplan.

Staffing/Hiring

Monique Edwards has joined CPA as Director of Technology Integration and Data Analytics. Monique comes to us from the City of Lancaster, where she was IT and Customer Care director and managed the customer transition and billing tasks associated with the launch of Lancaster Choice Energy. Monique will oversee CPA's daily interaction

with its data management contractor and SCE, as well as develop new ways for CPA to use customer and other meter data to make better power procurement and portfolio management decisions. Monique started April 23.

Jennifer Ward has joined CPA as Head of Local Government Affairs. Jennifer comes to us from the Western Riverside Council of Governments where she was Director of Government Relations and was a core member of the WRCOG team working to launch a new CCA in that territory. Jennifer will assist the Executive Director in managing relations with CPA member agencies, oversee the launch of CPA's Community Advisory Committee, build relationships with key community groups, and help execute a Board-defined expansion strategy. Jennifer started April 30.

Matt Langer will be joining CPA as Chief Operating Officer. Matt joins us from SCE, where he has held a variety of positions related to power procurement, corporate strategy, contract management, and transmission and distribution, as well as helping to launch a new start-up venture within the corporate parent Edison International. Matt will be in charge of managing CPA's overall energy portfolio, devising both short and long term energy procurement strategy, and coordinating with other parts of the organization, particularly finance and data to ensure internal alignment towards key goals. Matt starts May 14.

Natasha Keefer will be joining CPA as Director of Power Planning and Procurement. Natasha joins us from Renewables Resources Group, a private equity firm active in renewable energy development and asset management. She has also worked in renewable energy procurement, development and long-term strategic planning for Berkshire Hathaway Energy and SCE. Natasha will be in charge of both long-term energy procurement and long-term resource planning, with a particular focus on integrating local resource development into CPA's Integrated Resources Plan and procurement activities. Natasha starts May 14.

CPA's current organizational chart is attached. It remains a living document as the team identifies priorities and responds to customer needs.

Contracts Executed Under Executive Director Delegated Authority

Neutrino Networks was contracted to provide cybersecurity and IT management support. This one-year contract includes a not-to-exceed amount of \$3,000 for setting up a secure environment, \$16.95/month per user for cyber protection, and \$135/hour for on-call support services. Neutrino's work is being supplemented by setting up enhanced controls with CPA's office space at 555 W 5th Street.

Conferences/Sponsorships/Grants

CPA applied to receive a Civic Spark Fellow from the Local Government Commission. If awarded, CPA would host a fellow for 11 months over 2018/2019 to develop an equity and supplier diversity roadmap for CPA, including a set of goals and performance indicators for the Board's consideration.

Attachments:

- 1 – Energy Procurement Update
- 2 – CPA Organizational Chart
- 3 – Integrated Resource Plan Compliance and Work Plan



Energy Contracting Update: 2018 Short-Term RFO

Prepared for

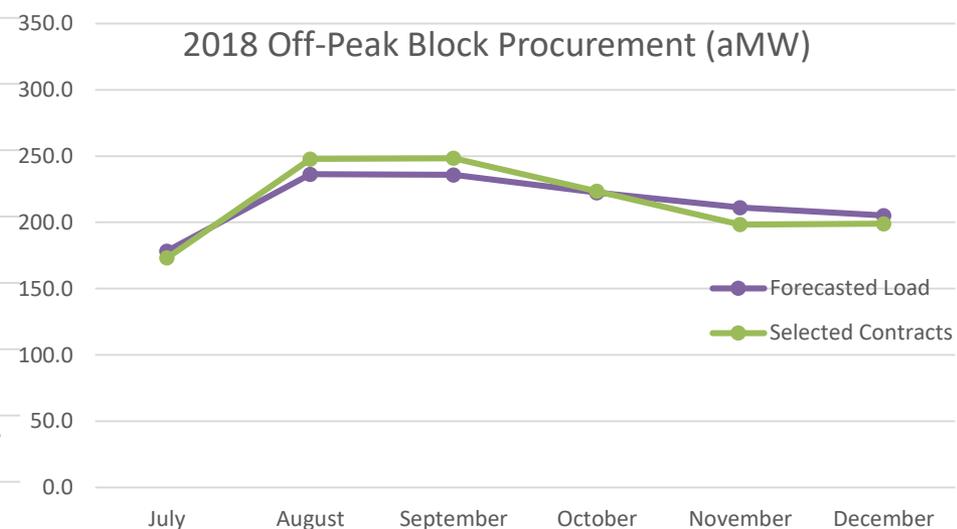
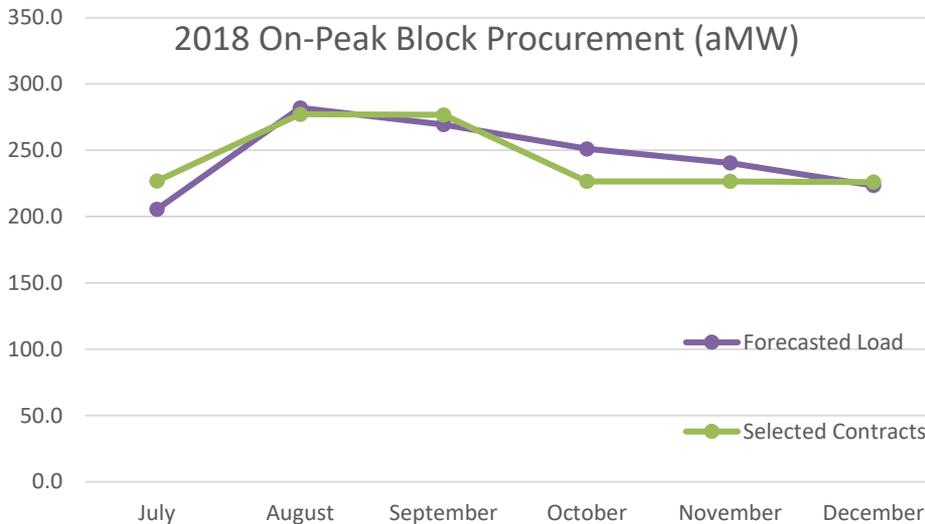


Summary

- Fixed Price Energy
 - Received offers from 6 suppliers
 - Executed confirmations with 5 suppliers to meet 2018 requirements and to begin layering in purchases through 2020
- Renewable and Carbon-free/Low-carbon Energy
 - Received offers from 8 suppliers
 - Negotiations underway with 6 suppliers
 - Expected to fill significant portion of 2018 requirements and to begin layering in purchases through 2020
 - Will continue to explore portfolio optimization opportunities and complete residual procurement for 2018 needs in coming weeks
- Resource Adequacy (“RA”)
 - Received offers from 4 suppliers
 - Negotiations underway
 - Plan to execute confirmations this week for a portion of 2018 RA requirements and to begin layering in purchases through 2020
 - Plan to issue new RFO for remaining 2018 RA requirements

Block Energy

- Fixed-priced blocks of energy provide cost certainty for CPA supply portfolio
 - Highest priority due to price volatility
- Offers received from 6 suppliers
 - Offered volumes for 2018 exceed CPA needs
- Executed confirmations with 5 suppliers
 - 2018 target volumes contracted at prices below assumptions used to set rates
 - Began layering in purchases through 2020



Renewable Energy

- Offers received from 6 suppliers
 - Offered volumes varied by year (2018-2020) and product (PCC1, PCC2), but total renewable offers for 2018 exceed CPA needs
- Negotiations underway with 3 suppliers
 - Plan to execute confirmations for majority of forecast 2018 renewable requirements
 - Will begin layering in purchases through 2020
- Will complete residual procurement for 2018 in coming weeks

Carbon-free and Low-Carbon Energy

- Offers received from 7 suppliers
 - Offered volumes for 2018 exceed CPA needs
- Negotiations underway with 5 suppliers
 - Plan to execute confirmations to meet 2018 all carbon-free/low-carbon requirements
 - Will begin layering in purchases through 2020

Resource Adequacy (“RA”)

- Offers received from 4 suppliers
 - Offered volumes vary greatly by year (2018, 2019, and 2020) and product (System, Local LA Basin, Local Big Creek/Ventura, Flexible)
- Negotiations underway with 4 suppliers
 - Plan to execute confirmations for a portion of 2018 RA requirements
 - Will begin layering in purchases through 2020
- Plan to issue new RFO for 2018 RA
 - 2018 RA true-ups for July through December, as well as Q3 CAM allocations, have been provided to all load serving entities, which may change offers



As of 04/23/18

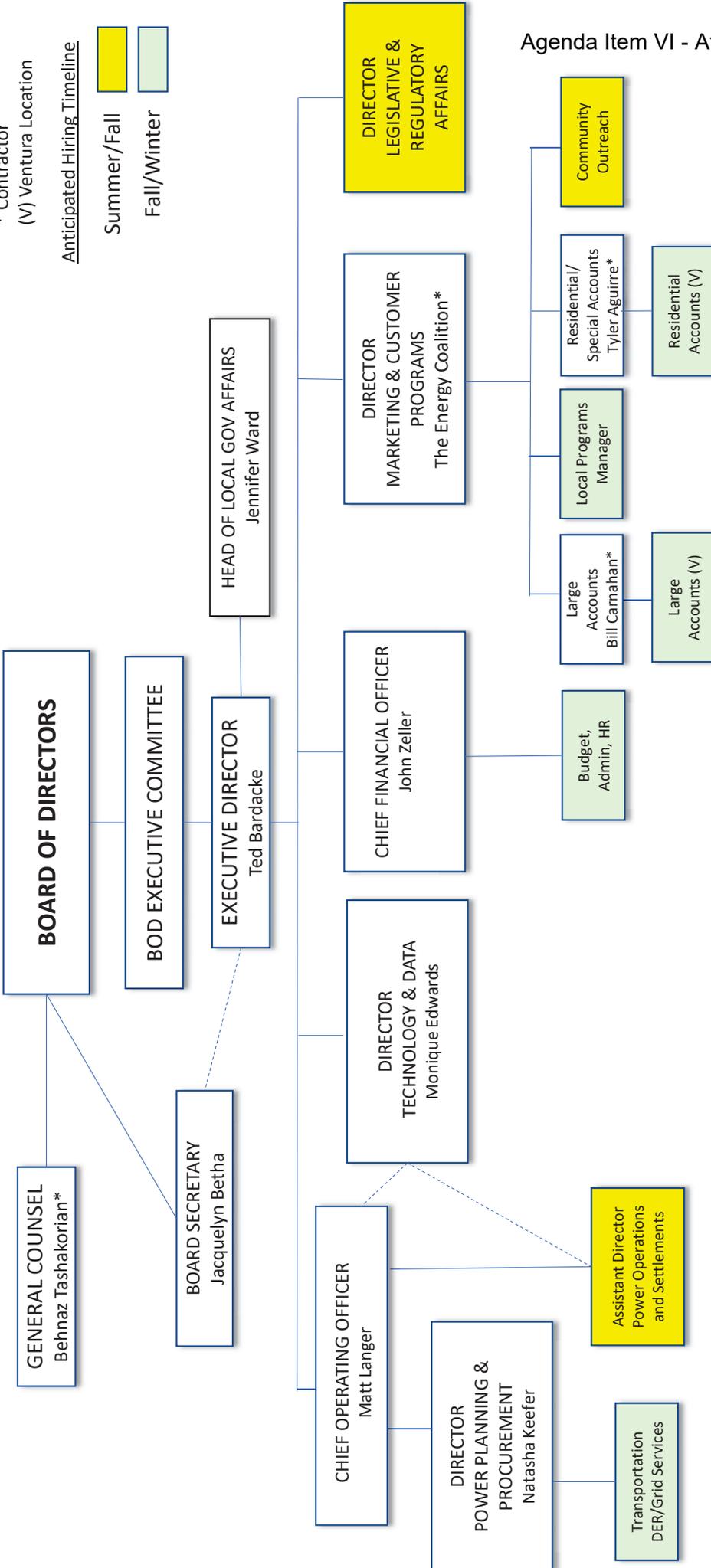
* Contractor

(V) Ventura Location

Anticipated Hiring Timeline

Summer/Fall

Fall/Winter





Integrated Resource Plan

Compliance and 2020 Prep

Overview

- Regulatory Requirement
- IRP Compliance Requirements
- Proposed Schedule
- Long Term IRP Plan

Regulatory Requirement

- CPUC Decision February 2018
 - CPUC to review and approve (certify) the substance of **compliance** IRP
 - Provides CPUC with authority over aspects of CCA renewable integration planning
 - Defines GHG-free resources for the first time excluding RPS buckets 2 and 3
- IRP must be filed August 1, 2018, repeated on 2-year cycle
 - CPUC work group is currently working on input assumptions for the IRP to be filed in May 2020 (next cycle)

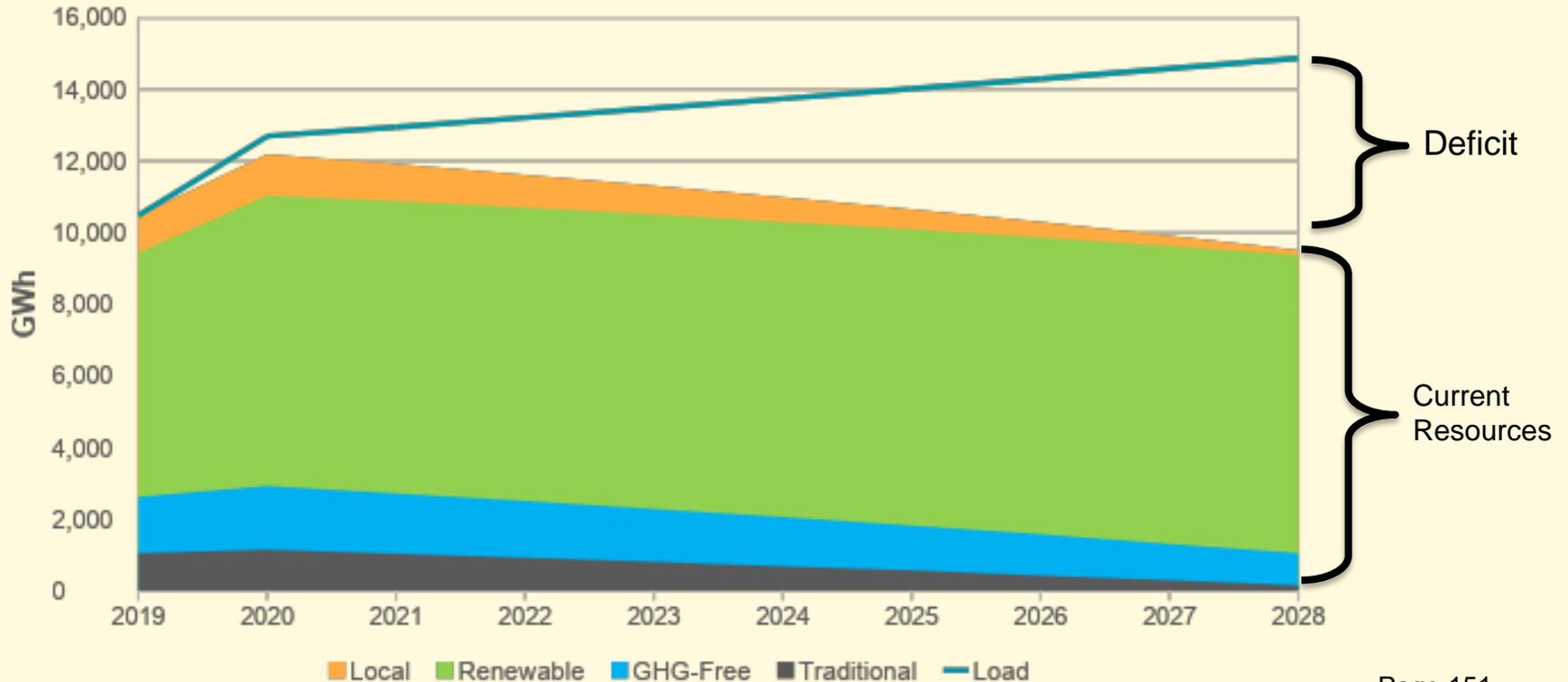
IRP Compliance Requirements

- CEC load forecast – cover period through 2030 with data for 2022, 2026 and 2030
- Reference System Portfolio (determined by CEC) used for “Conforming Portfolio”
 - Alternative Portfolios are optional and must be explained and justified
 - GHG emission benchmark and accounting methodology determined by CEC
 - Gas Price projections based on 2017 IEPR projection
- CPA must select “Preferred Portfolio” including analysis of:
 - Local air pollution minimalization
 - Cost & Rate Analysis
 - Local Needs Analysis, including impact on disadvantaged communities
 - CAISO most recent Transmission Plan
- Action Plan for 1-3 years
- Data Summary
- Lessons Learned

Compliance IRP Steps

- Load Resource Balance
- Needs Assessment
- Current resources and contracts
- Current programs
- Potential Supply and Demand Side Resources
- Evaluation Criteria
- Portfolio Evaluation
- Risk Analysis
- Documentation

Load/Resource Balance Example

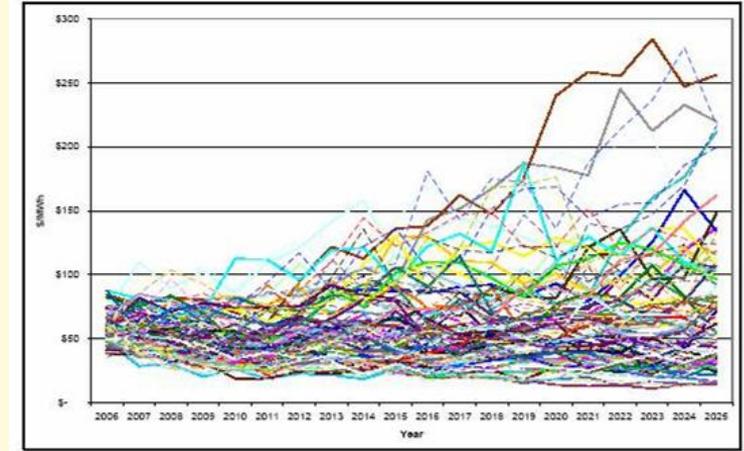


Regulatory Requirements

- Renewable Portfolio Standard (SB350)
 - 50% by 2030
 - 65% with minimum 10 year contract beginning in 2021
- Resource Adequacy (D 17-06-027)
 - Effective load carrying capacity (ELCC) for wind and solar
- Electric Storage (AB 2514)
 - Energy storage target of 1% forecasted 2020 peak load by 2024
 - 36.6 MW for CPA
- GHG requirements
 - AB 1110: CEC methodology adopted for calculation of GHG intensity for each product offered by retail supplier.

Risk Analysis/Preferred Portfolio

- Risk analysis is performed to evaluate portfolio costs under different planning assumptions
 - Market Price Risk
 - GHG -free resource costs
 - Demand-side program achievement
 - Load forecast variances
 - Resource Costs
 - Other variables
- Preferred Portfolio selected based on least cost/least risk/goal objectives



Long Term IRP Planning

- The 2018 Compliance IRP is a first step in CPA's long-term procurement strategy
- For many CCAs and utilities, it is not the same as their internal strategic planning IRP document
 - Internal IRP needs to come from a place of overall vision and mission values
 - Internal IRP needs to reflect unique circumstances
- The 2018 Compliance IRP **will provide base data and insights into the tradeoffs that will need to be considered for CPA's own long-term strategic IRP.**
- For 2020 it is envisioned that the compliance IRP and the internal strategic IRP will be combined, such that the Compliance IRP will be a subset of CPA's own Long-Term Strategic Resources Plan

Proposed Work Plan

1. April 25 Energy Committee - Proposed work plan/introduction
2. May 2 Board Meeting - Update on IRP workplan
3. May 30 Energy Committee - Load Resource Balance, Resources/Programs, Draft Portfolios
4. June 7 Board Meeting - Summary of Energy Committee meeting work/direction
5. Mid-June - Community Workshop for Draft Portfolio review and feedback
6. June 27 Energy Committee - Portfolio Results, Preferred portfolio, Action Plan
7. July 12 Board Meeting - IRP Update and consideration of delegation of authority for Final IRP approval
8. July 25 Energy Committee - Approval of Final Compliance IRP with input from Executive Committee Leadership
9. August 1 Compliance IRP due to CPUC



Wrap-Up

- The 2018 Compliance IRP will have to be developed fast – a full IRP (Compliance + Internal Strategic) usually takes 9 months
- EES and CPA Staff will work with Energy Committee to develop the 2018 Compliance IRP
- Updates will be provided at each meeting with opportunity for feedback
- CPUC IRP Process is ongoing, and assumptions for the next cycle are already being discussed



**Any
questions?**