



**Marin Clean Energy  
Special Meeting  
Thursday, September 17, 2015  
9:00 A.M.**

**Marin Art and Garden Center, Livermore Pavilion  
30 Sir Francis Drake Blvd., Ross, CA 94957**

Kathrin Sears, Chair  
County of Marin

Tom Butt, Vice Chair  
City of Richmond

Bob McCaskill  
City of Belvedere

Alan Schwartzman  
City of Benicia

Sloan C. Bailey  
Town of Corte Madera

Greg Lyman  
City of El Cerrito

Barbara Coler  
Town of Fairfax

Kevin Haroff  
City of Larkspur

Garry Lion  
City of Mill Valley

Brad Wagenknecht  
County of Napa

Denise Athas  
City of Novato

Carla Small  
Town of Ross

Ford Greene  
Town of San Anselmo

Genoveva Calloway  
City of San Pablo

Andrew McCullough  
City of San Rafael

Ray Withy  
City of Sausalito

Emmett O'Donnell  
Town of Tiburon

1125 Tamalpais Avenue  
San Rafael, CA 94901

1 (888) 632-3674  
[mceCleanEnergy.org](http://mceCleanEnergy.org)

**Agenda Page 1 of 2**

- |       |  |
|-------|--|
| 9:00  | 1. Welcome and 2015 Highlights (Discussion)                                    |
| 9:10  | 2. Progress Towards 2015 Goals & Strategic Goals for 2016 (Discussion)         |
| 9:30  | 3. Integrated Resource Plan 2015 Progress & Goals for 2016 (Discussion/Action) |
| 10:40 | Break  |
| 10:50 | 4. New Community Inclusion (Discussion/Action)                                 |
| 12:00 | Lunch  |
| 1:00  | 5. Board Business  |
|       | A. Public Open Time (Discussion)   |
|       | B. Report from CEO (Discussion)  |
|       | C. Consent Calendar (Discussion/Action)  |
|       | C-1. 8.20.15 Board Minutes   |
|       | C-2. Resolution 2015-05 Approving Activation of Agreement with River City Bank |



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**Agenda Page 2 of 2**

C-3. Second Addendum to Fourth Agreement with  
Jay Marshall

C-4. First Addendum to Second Agreement with  
Rincon Consultants

C-5. First Addendum to Third Agreement with  
Braun, Blasing, McLaughlin & Smith PC

D. MCE Power Content Label and Attestation  
(Discussion/Action)

2:00

6. Emerging Technology and Innovative Programs  
(Discussion)

A. Schneider Electric Load Control

B. City of Benicia: Grey Water

3:00

Complete any Unfinished Items

4:00

Adjourn



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# Achievements to Date



- **170,500+ customers** served



- **142 MW of new California renewable** energy came online this year



- More than **750,000 union work hours** in 1 year created from new California solar projects



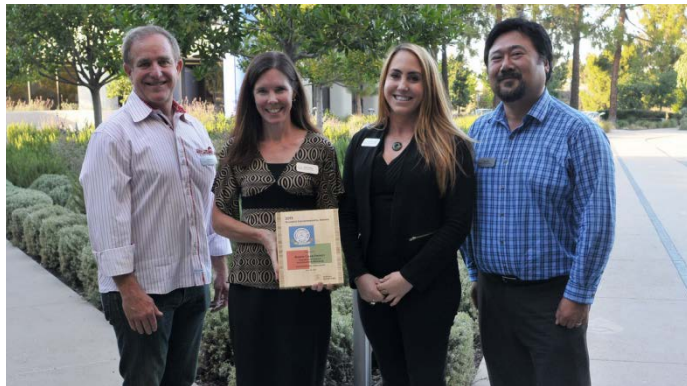
- **10 local renewable projects totaling 20.75 MW**, planned or developed, to provide enough power for 10,400 homes per year

# Awards & Recognition

San Rafael Chamber of Commerce's 2015 **Joe Garbarino Green Business of the Year**

Acterra's 2015 **Business Environmental Innovation Award**

**Environmental Protection Agency** recognizes MCE **Green Power Communities**, representing more than half of the top 15 communities in the country based on percentage of green power





# Cleaner Energy + Lower Rates

MCE achieved Governor Brown's goal to increase California's renewable energy to 50% by 2030 18 years ahead of schedule

Customers are estimated to save \$10.6 million in 2015



# Local Solar Developments



## Richmond FIT - 2 MW

400-600 homes



## MCE Local Sol -1.5 MW

200-300 homes



## MCE Solar One -10.5MW

3,400 homes

# Four New Member Communities

+ 30% increase in customer base

- Benicia
- El Cerrito
- San Pablo
- Unincorporated Napa County



# 59,477 metric tons of GHG reductions between 2010-2013

Equivalent to:



Eliminating carbon emissions of 12,500 cars for one year



The carbon sequestered by 48,705 acres of US forests in one year



Eliminating the energy use of 5,422 homes for one year





Agenda Item #02\_EE Update

# MCE Annual Board Retreat

## Overview of Goals & Progress

September 17, 2015





# Energy Efficiency

## 2015 Goals and Performance (Q1-Q2)

Program	Goal	Progress	
Multifamily	345,792 kWh 26,046 therms	17,317 kWh 15,9959 therms	5% 61%
Small Commercial	800,000 kWh 200 kW	428,380 kWh 106 kW	54% 53%
Single Family	1,618,533 kWh 67,783 therms	741,900 kWh 10,352 therms	46% 15%

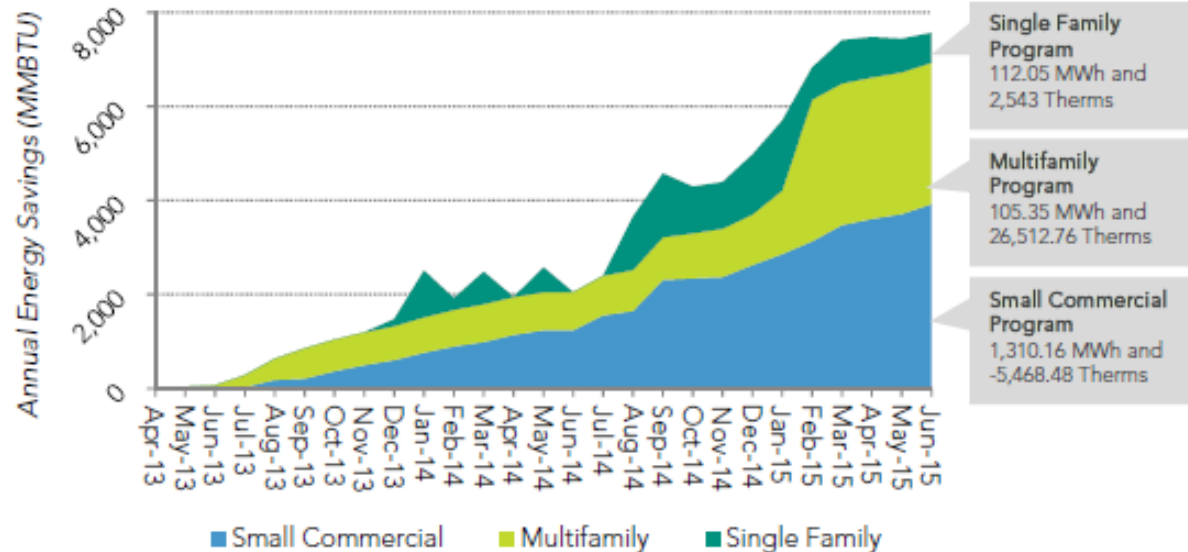


### Energy Efficiency Mission Statement

MCE's Energy Efficiency program increases the efficiency of energy and water systems within existing and new buildings to reduce environmental impacts and improve health, comfort and safety.

The program empowers communities through local workforce development, and access to educational tools and financial incentives.

## MCE Energy Efficiency Programs Monthly Update



### Program Achievements – January 2013 to Present

#### Small Commercial

Small Businesses Audited  
**2,452\***

Total Rebates Distributed  
**\$212,645.11**

Number of Completed Projects  
**137**

\* Split between MCE, Marin Energy Watch and East Bay Energy Watch

#### Single Family

Number of My Energy Tool Accounts Created  
**2,266**

Number of Action Plans Created  
**1,749**

Total Number of Home Utility Reports Delivered  
**216,946**

#### Multifamily

Multifamily Buildings Audited  
**558**

Total Rebates Distributed  
**\$181,521.00**

Number of Units Provided with Free Energy Saving Equipment  
**919**

#### Carbon Reductions

Annual Greenhouse Gas Emissions from:  
**248 cars**



CO<sub>2</sub> Emissions from:  
**162 Homes' Annual Electricity Use**



# Energy Efficiency

## 2016 Program Goals

(Based on Existing Budget and Targets)

Program	Goal
Multifamily	345,792 kWh 26,046 therms
Small Commercial	800,000 kWh 200 kW
Single Family	1,618,533 kWh 67,783 therms



# MCE Annual Board Retreat

## Overview of Goals & Progress

September 17, 2015



# Communications 2015 Goals Progress

Goal	Progress
New member community relationship development	<ul style="list-style-type: none"> <li>• 184 meetings, presentations or events</li> <li>• 87% participation rate (cumulatively)</li> </ul>
Increase Light Green	<ul style="list-style-type: none"> <li>• +170,500 accounts served</li> </ul>
Increase Deep Green	<ul style="list-style-type: none"> <li>• 3,232 accounts served; 35% increase</li> </ul>
Promote Local Sol	<ul style="list-style-type: none"> <li>• 94 customers on wait list</li> </ul>
Strengthen MCE brand awareness	<ul style="list-style-type: none"> <li>• Summer/Fall multi-media advertising campaign underway</li> <li>• 38% increase in Facebook/Twitter followers</li> </ul>
Encourage PG&E program equity for CCA customers	<ul style="list-style-type: none"> <li>• Customer deposits now applied to MCE charges on final bills</li> </ul>
Support new CCA start-ups	<ul style="list-style-type: none"> <li>• CleanPower SF, Lancaster Choice Energy</li> <li>• Alameda, Contra Costa, Mendocino, and San Mateo Counties; Davis, Brentwood, Lafayette, Walnut Creek</li> </ul>
Support Legal Team	<ul style="list-style-type: none"> <li>• CCA quarterly updates to legislature</li> </ul>
Promote energy efficiency	<ul style="list-style-type: none"> <li>• Ads, 3 new videos, introductions</li> </ul>



# New 2016 Communications Goals

- Continually elevate and improve customer experience and maintain high level of service despite growth and expansion.
- Create and implement strategic, goal-oriented, data-driven sales outreach plan.
- Fully subscribe Local Sol.
- Foster existing and develop new community relationships.

# Community Relationships

- Advocacy Training
- Solar Business Workshop
- Student Workshop
- Member Municipalities
  - Quarterly updates
  - Email and print newsletters
  - Community spotlight
  - EPA Green Power Communities
  - CoolChallenge California

## Communications Team Goals 2015 Board Retreat Update

- **Build new community relationships through outreach and enrollments in Benicia, El Cerrito, San Pablo and Unincorporated Napa County.**
  - *Participation in 184 community events in MCE service area to date in 2015*
  - *Community Outreach Plans created and implemented in all new communities*
  - *Contacted approximately 475 community-based organizations and businesses*
  - *Community Leader Advisory Groups (CLAG) formed in all new communities*
  - *Benicia*
    - *38 meetings, presentations and/or community events*
    - *Four CLAG meetings convened*
    - *Enrollment update (as of 9/8/15):*
      - *Retained customers: 80%*
      - *Opt out rate: 20%*
      - *Deep Green enrollments: 161*
  - *El Cerrito*
    - *27 meetings, presentations and/or community events*
    - *Four CLAG meetings convened*
    - *Enrollment update (as of 9/8/15):*
      - *Retained customers: 91 %*
      - *Opt out rate: 9%*
      - *Deep Green enrollments: 479*
  - *San Pablo*
    - *30 meetings, presentations and/or community events*
    - *Two CLAG meetings convened*
    - *Enrollment update (as of 9/8/15):*
      - *Retained customers: 92%*
      - *Opt out rate: 8%*
      - *Deep Green enrollments: 32*
  - *Unincorporated Napa County*
    - *33 meetings, presentations and/or community events*
    - *Enrollment update (as of 7/23/15):*
      - *Retained customers: 91%*
      - *Opt out rate: 9%*
      - *Deep Green enrollments: 187*
    - *Established close relationship with Sustainable Napa County (SNC) and the Napa Valley Vintners (NVV)*
      - *Working with SNC to identify local renewable development opportunities*
      - *Exploring partnership with SNC for Green Business Certification*

- Working with the NVV Napa Green program to expand awareness of Deep Green
- **Increase customer base through Light Green enrollments of previously opted out customers.**
  - +170,500 accounts served
  - Enrollment rates increasing as opposed to decreasing from opt outs
  - Chris Kubik hired to fulfill new outreach and sales position: Manager of Community & Business Development
  - Identified and reaching out to top 100 businesses from different rate classes to offer Light Green service
    - This includes calls, emails, and meetings to drive re-enrollment and understand/seek to overcome constraints and build our value proposition to maximize re-enrollment potential for these customer types
  - One of three Novato Sanitary District accounts enrolled; Staff plans to enroll the two other accounts after evaluation of expected savings of 6.5%. Additional 14.5% savings expected if the two other accounts are enrolled
  - Sausalito Marin City School District accounts enrolled
  - Mill Valley School District accounts enrolled
  - Novato Unified School District accounts enrolled
    - Marin public schools collectively savings approximately \$50,000/year
    - East Bay public schools collectively saving approximately \$65,000/year
- **Increase Deep Green enrollments.**
  - 3,233 accounts served, a 35% increase from 2,382 since January
  - Plan underway targeting major business brands with strong environmental goals to enroll in Deep Green
    - Identified 150 large local businesses to contact, contacted 17 and of those 5 are actively interested.
    - Identified 30 large non-local businesses (meaning they do a significant amount of businesses outside of MCE's service area), contacted 6.
  - 40 Deep Green businesses are promoted on MCE website, social media, e-newsletters and/or advertising opportunities through Deep Green Champion program
  - Direct outreach to 39 Deep Green commercial accounts to authorize publicity via Deep Green Champion program; 8 of these businesses provided authorization and 3 declined
  - Catahoula Coffee Co. (in Richmond) featuring 'Deep Green 100% Renewable' logo and customized Deep Green Champion URL on 40,000-50,000 coffee bags
  - Completed Terra Linda High School solar array installation, thanks to MCE Solar Schools Campaign which promoted Deep Green enrollments
  - Advertising for Deep Green through a variety of multimedia channels

- **Promote Local Sol.**
  - *Cooley Quarry fieldtrip and promotion at 5 year anniversary open house event*
  - *Active waitlist of 92 Local Sol customers and promotion of the program in our new communities*
  - *Creating a time-lapse video of the Cooley Quarry construction project for internal and promotional use*
  - *Advertising for Local Sol through online ads*
- **Support and promote energy efficiency (EE) program and fully integrate into communication efforts.**
  - *Facilitated introductions to Deep Green businesses and other community contacts*
  - *Promoted February Contractor Sales Training event*
  - *Promoted energy efficiency programs to residences and businesses during community events and meetings*
    - *Implemented tracking mechanism for EE conversations at events*
  - *Working with EE team to identify commercial program participants in Benicia*
  - *Partnered with EE on multifamily presentation*
  - *Incorporated energy efficiency messaging into social media*
  - *Implemented an ongoing 'EE' spotlight section in all MCE e-newsletters*
  - *Assisting with planning EE demo room*
  - *Created new energy efficiency webpages*
  - *Promoting energy efficiency through Bay Area KKSF AM radio spot*
  - *Running digital (static and video) EE ads*
  - *Creating 3 new EE video ads*
- **Support legal, legislative and regulatory communications needs.**
  - *Participating in CPUC workshops regarding PG&E residential rate redesign, marketing, education and outreach*
  - *Providing support with PG&E Net Energy Metering 2.0 implementation and protecting CCA customers*
  - *Created two statewide quarterly CCA updates for distribution to legislative and regulatory contacts*
  - *Success in working with the CPUC and PG&E to provide on-bill messaging about MCE programs and services*
  - *Responded to requests for community outreach updates from CA Assembly representatives representing MCE member-communities*
- **Expand and strengthen MCE brand awareness.**
  - *Nicole Busto hired to fulfill new marketing position: Creative Content Designer*
  - *Summer/Fall strategic multi-media advertising campaign underway throughout MCE service area, focusing on Deep Green, Local Sol, energy efficiency, creating jobs, new local projects, and cost savings*



- *Multimedia channels: online ads (static and video); online sponsored news articles; 6 billboards; 32 bus ads; 2 ferry shelters; 18 BART station posters; radio spots on 5 stations; direct mail; Facebook; Twitter; Instagram; e-newsletters*
- *Implemented weekly sponsored (paid) Facebook & Twitter posts to promote EE, Local Sol, Cost savings, jobs, new renewables and Deep Green*
  - *Facebook: 37% Account Growth (+503 likes); Reach of 200,385 (30,452 organic & 69,933 sponsored); Impressions of 260,270 (83,951 organic & 176,319 sponsored); Engagements of 3488;*
  - *Twitter: 38% Account Growth (+168 followers) Total Impressions of 18,136*
  - *Instagram: Account creation March 2015; 265 Organic Followers (Majority are Deep Green Businesses and Entities/Establishments who promote sustainability)*

*Reach = How many people have seen content associated with MCE*

*Impressions = # of times a post from MCE page is displayed*

*Engagements = # of people who clicked on any MCE related post*

- **Encourage PG&E program equity across all customer classes.**
  - *Continuing review of call center interactions and process for escalation*
  - *PG&E customer deposits are now applied to MCE charges on final bills*
  - *Upcoming fixes to final bills, on-bill sidebar info about MCE, and revised PG&E call center start scripts are in place pending code and implementation*
  - *Other efforts underway with PG&E Portfolio Manager to ensure equal access to data by CCA customers*
- **Continually elevate and improve customer experience and maintain high level of service despite growth and expansion.**
  - *Several improvements and updates to CRM system*
    - *Can track and input MCE Account Manager for customer accounts, whether we have marketing authorization, as well as create Parent Accounts for customers with multiple accounts.*
  - *Ongoing improvements to customer service process with PG&E – training and evaluation of call center performance*
  - *Expansion upon PG&E service tools available to MCE customers*
- **Identify team expertise and improve internal organization**
  - *Identified team needs to support community and business development and decided to fulfill needs with new Community Power Organizer position (new staff member starts late September, initially focusing on Latino outreach and organizing advocates about Power Charge Indifference Adjustment issues)*
- **Support new CCA start-ups and more community choice.**

- *Continuing to provide support and presentations to other burgeoning CCAs in California (Alameda County, Contra Costa County, Lancaster, Mendocino County, San Mateo County, Silicon Valley and LA County)*
- *Ongoing support for Lancaster Choice Energy and Clean Power SF in CCA operations*
- *Delivering presentations to neighboring jurisdictions (Davis, Lafayette, Walnut Creek, and Brentwood)*
- *Working with Sustainable Napa County to share information with incorporated Napa cities about MCE membership*

# MCE Community Relations 2015 Report

As a community-based public agency, MCE participates in hundreds of local meetings and events each year. These events often serve as an excellent opportunity to market our services and create awareness about energy and energy efficiency programs where residents, businesses and organizations come together. In addition to meeting and interacting with new potential community partners and businesses, event participation often leads to MCE's message reaching networks beyond our own by the event host.

MCE's community involvement is also reflected in the Community Leader Advisory Groups that were created in Unincorporated Napa County and the cities of Benicia, El Cerrito, San Pablo and Richmond to help guide MCE's outreach efforts. The groups are comprised of local residents and representatives from business associations, community organizations, and local government officials/staff.

To date this year, staff has contacted approximately 475 community-based organizations and businesses to provide information about MCE, participated in 184 public events, and collaborated with 86 community organizations on outreach. 19 community organizations have disseminated newsletters, articles, or advertised information about MCE.

The following information is not comprehensive but provides a detailed look into MCE's 2015 outreach leveraging community relationships.

## Belvedere

### City of Belvedere

- Belvedere is a Deep Green Champion and publicizes MCE with stickers and collateral at its city offices and on its website

## Benicia

### Benicia Chamber of Commerce

- MCE is a member and attended two events in 2015

### Benicia Makers

- MCE tabled at the Benicia Mini-Maker Faire
- MCE presented at the Maker solar energy workshop

### Benicia Moms

- MCE presented to Benicia Moms

- Benicia Moms distributed information about MCE on Facebook and in its newsletter

#### Benicia Library

- MCE tabled at the Benicia Library 7 times to provide information about MCE

#### Benicia Mainstreet

- MCE is a sponsor and tabled at 10 farmers market events

#### City of Benicia

- Published MCE enrollment information and related announcements on City's webpage and 6 times in the City Manager's newsletter.
- Hosted 2'City Hall-style' community events
- The town is promoting energy efficiency and renewable energy through Energy Upgrade California's CoolCalifornia Challenge

#### Sustainability Commission

- The Sustainability Commission authored an opinion editorial in the Benicia Herald about MCE's Deep Green service
- Representative participated in MCE's Community Leader Advisory Group
- MCE attended multiple meetings to strategize MCE's community outreach plan

#### MCE also presented to:

- Benicia Friendship Club
- Benicia Senior Center
- Benicia Rotary
- Soroptimist of Benicia

## County of Marin (unincorporated Marin and/or countywide organizations)

#### Agricultural Institute of Marin

- Distributed information about MCE's work on designing future Energy Efficiency programs in *Grown in Marin* newsletter:  
[http://ucanr.edu/sites/Grown\\_in\\_Marin/Grown\\_In\\_Marin\\_News/Archived\\_Issues/Eall\\_2014/Around\\_Marin\\_County\\_180/](http://ucanr.edu/sites/Grown_in_Marin/Grown_In_Marin_News/Archived_Issues/Eall_2014/Around_Marin_County_180/)

#### California Interfaith Power and Light

- Met about organizational goals so that we can collaborate generally on regulatory issues.
- Partner on outreach to congregations in Marin and entire service area

#### County of Marin

- Promoted MCE and renewable energy at Marin County Fair
- Publicizes information about MCE programs on website

#### Environmental Forum of Marin

- MCE staff participate as speakers in lecture series

#### Mainstreet Moms

- The Mainstreet Moms created a goal to increase Deep Green enrollments by tabling at community events, in front of the West Marin Post Office, and advertising in local newspapers
- The Mainstreet Moms' work to increase Deep Green enrollments resulted in a 14.2% increase in Deep Green participation in West Marin (with 27 new enrollments).
- The Mainstreet Moms are partnering to plan MCE's advocate training workshop

#### Marin 350

- Promotes MCE on website: [http://www.350marin.org/clean\\_energy](http://www.350marin.org/clean_energy)

#### Marin Agricultural Land Trust

- Participated in and promoted West Marin workshop on MCE's future Energy Efficiency programs

#### Marin Conservation League

- The Marin Conservation League has created a goal to promote community awareness about MCE
- MCE attended two of Marin Conservation League's Climate Action Working Group meetings
- The Marin Conservation League is partnering with MCE to plan MCE's advocate training workshop

#### Marin Resource Conservation District

- Participated in West Marin workshop on MCE's future Energy Efficiency programs

#### Resilient Neighborhoods

- Promotes MCE Light Green and Deep Green to program participants
- Assisted with coordination of energy efficiency focus groups

#### Sierra Club, Marin Group

- Promotes Deep Green in community e-newsletters and on website: <https://sierraclub.org/san-francisco-bay/marin/renewable-energy>

#### West Marin Community Radio

- The radio station has aired multiple stories highlighting MCE, including our energy efficiency and Deep Green programs

#### Whistlestop

- MCE is sponsoring the *Whistlestock* event
- Promotes MCE logo on event advertising
- Whistlestop is providing 2 bus backs with MCE ad for 3 months



## County of Napa

### Angwin Community Council

- MCE presented to Board
- Angwin Community Council hosted public MCE-informational event with MCE presenter

### County of Napa

- Provided information about MCE on public television
- Participated in 2 public informational events
- Attended 3 Community Leader Advisory Group meetings

### Napa County Farm Bureau

- Distributed information about MCE in e-newsletter

### Napa Green & Napa Valley Vintners

- Distributed an issue brief about MCE to members
- Hosted an MCE-informational event for members with MCE presenter
- MCE provided informational and promotional materials to support their outreach efforts

### Napa Valley Grapegrowers

- Partnered on Napa workshop on MCE's future Energy Efficiency programs
- Participated in MCE advertising campaign
- Distributed information about MCE in newsletter
- MCE attended Napa Valley Grapegrowers meeting

### Sierra Club, Napa Group

- Distributed information about MCE in e-newsletter

### Sustainable Napa County

- Sustainable Napa County distributed a newsletter with content about MCE service
- Sustainable Napa County participated in MCE's Community Leader Advisory Group
- Sustainable Napa County is working with the cities within Napa County to educate them about joining MCE
- MCE attended and presented at several meetings
- MCE is supporting their solar mapping project

### MCE also presented to:

- Calistoga Rotary Club
- Coombsville Vintners & Growers
- Napa North Rotary Club
- Rotary Club of Napa
- St. Helena Rotary

## El Cerrito

### City of El Cerrito

- Published MCE enrollment information and related announcements on City's webpage and online newsletters
- Organized online forum which received nearly 100 responses, the vast majority of which were supportive
- Hosted three 'Town Hall-style' community events

### El Cerrito Public Works Department

- Provided free advertising space on recycling trucks

### El Cerrito Environmental Quality Committee (EQC)

- Early advocates for bringing community choice to El Cerrito, and for ultimately joining MCE
- Hosted numerous presentations and opportunities for public comments, questions and feedback

### El Cerrito Committee on Aging

- MCE presented to Committee
- Committee facilitated introductions to other community groups and leaders

### El Cerrito Human Relations Commission

- MCE presented to Commission

### Tehiyah Day School

- MCE met with Director
- Offered to facilitate introductions and is open for future opportunities for engagement

### MCE also presented to:

- El Cerrito Chamber of Commerce
- El Cerrito Democratic Club
- El Cerrito Human Relations Commission
- El Cerrito Rotary
- Open House Senior Center
- Christ Lutheran Senior Center
- St. Johns Senior Center
- Stege Sanitary District
- Trinity Evangelical Free Church

## Fairfax

### Town of Fairfax

- Fairfax is a Deep Green Champion and publicizes MCE with stickers and collateral at its city offices and on its website

- Promoting Deep Green on a banner at the town entrance
- Promoting energy efficiency and renewable energy through Energy Upgrade California's CoolCalifornia Challenge

#### Fairfax Chamber of Commerce

- Promoted Deep Green through newsletter
- MCE staff attended the 2015 Spring Mixer to promote Deep Green to local businesses

#### Fairfax Climate Action Committee & Sustainable Fairfax

- The Fairfax Climate Action Committee is working to achieve a goal of more Deep Green enrollments
- MCE has attended two Climate Action Committee meetings.
- MCE created and provided Fairfax specific promotional materials for Deep Green
- MCE attends community events (including the Fairfax Farmer's Market and tabling outside of the Good Earth) with the Committee and Sustainable Fairfax to promote Deep Green enrollments
- Partnered with committee members to provide electricity data for the "Fairfax Meter," a goal of Fairfax's Climate Action Plan. The publicly visible "meter" will track a number of measures of the town's footprint, including use of electricity, garbage diversion, and others
- The Committee submitted a Marin Independent Journal *Marin Voice* article promoting Deep Green

## Latino Outreach

#### West Contra Costa Unified School District (WCCUSD)

- MCE presented at a Staff Development meeting
- WCCUSD distributed newsletters with information about MCE

#### MCE also presented in Spanish to:

- Concilio Latino, San Pablo
- Napa Valley Adult English as a Second Language (ESL) class
- Cinco de Mayo Event, Richmond
- Bayview Elementary School Adult ESL class, San Pablo
- Dover Elementary School Adult ESL class, San Pablo
- Lake Elementary School Adult ESL class, San Pablo
- Helms Middle School Adult ESL class, San Pablo
- Riverside Elementary School Adult ESL class, San Pablo
- San Pablo Rotary Club

## Mill Valley

### City of Mill Valley

- Shares information about MCE on its website

## Novato

### City of Novato

- Shares information about MCE on its website, social media, and e-newsletter

### Novato Chamber of Commerce

- MCE is a member and President's Circle sponsor
- MCE sponsors and participates in numerous chamber events

### Sustainable Novato

- Partnered to organize a Novato workshop on MCE's future Energy Efficiency programs

## Richmond

### Asian Pacific Environmental Network (APEN)

- APEN provided early support and advocacy for MCE and participates in MCE's Community Power group
- APEN facilitated introductions to other community groups and leaders
- MCE attends and sponsors APEN events

### City of Richmond

- Shares information about MCE on website
- Creates community and business introductions

### Communities for a Better Environment

- Provided support and advocacy for MCE
- Facilitated introductions to other community groups and leaders

### Richmond Chamber of Commerce

- MCE is a member and attends chamber meetings, *Breakfast 4 Business* events, and the West County Mixer

### Richmond Kiwanis

- MCE presented at multiple Kiwanis meetings

### Richmond Neighborhood Coordinating Council (RNCC) and Various Neighborhood Councils

- MCE sponsored and tabled at the annual North & East Picnic

### Urban Tilth

- Urban Tilth facilitated introductions to other community groups/leaders

MCE also presented to:

- Sons in Retirement (El Sobrante)

## Ross

Town of Ross

- Shares information about MCE in its community newsletter

## San Anselmo

City of San Anselmo

- San Anselmo is a Deep Green Champion and publicizes MCE with stickers and collateral at its city offices and on its website

San Anselmo Chamber

- MCE is a member

San Anselmo Quality of Life Commission & San Anselmo Deep Green Committee

- The San Anselmo Quality of Life Commission is working to reach the City's Climate Action Plan goal of more Deep Green enrollments
- Supported the creation of the San Anselmo Deep Green Committee
- MCE participated in multiple Committee meetings
- MCE created and printed custom materials for Deep Green outreach
- MCE presented and tabled at events hosted by the San Anselmo Quality of Life Commission
- MCE tabled with the Commission at the San Anselmo Solar Festival

## San Pablo

San Pablo Committee on Aging

- MCE presented to Committee and tabled at Flea Market event hosted by the Committee on Aging

San Pablo Economic Development Corporation

- Became a member, provided sponsorship
- Attended EDC member meeting and West County mixer
- San Pablo EDC provided publicity via email blast for both Community Meetings

San Pablo Rotary

- Distributed information about MCE in newsletter
- MCE presented at a Rotary meeting and attended a Rotary Open House Mixer

San Pablo Senior Center

- MCE presented and sponsored Hawaii Night event



MCE also presented to:

- 23rd Street Merchants Association
- Lao Family Community Development
- San Pablo Chamber of Commerce

## San Rafael

City of San Rafael

- Shares information about MCE on its website

Pacifics Baseball Green Team

- MCE sponsors the Pacifics Baseball Team and participates on the Green Team. The Green Team promotes “No Litter in Baseball” by tabling at games and passing out bracelets when children & adults take the pledge not to litter. MCE’s logo is placed on a banner at the recycling station, as well as on the cape of the Pacific’s mascot.

San Rafael Chamber of Commerce

- MCE is a member and Leaders Circle Sponsor, participating in several events annually
- MCE participates on the Green Biz Committee and attends monthly meetings
- Chamber promotes MCE Deep Green and energy efficiency programs to local businesses

Sustainable San Rafael

- Representatives participated in San Rafael workshop on MCE’s future Energy Efficiency programs

## Sausalito

City of Sausalito

- Shares information about MCE on its website

## Tiburon

Town of Tiburon

- Shares information about MCE on its website



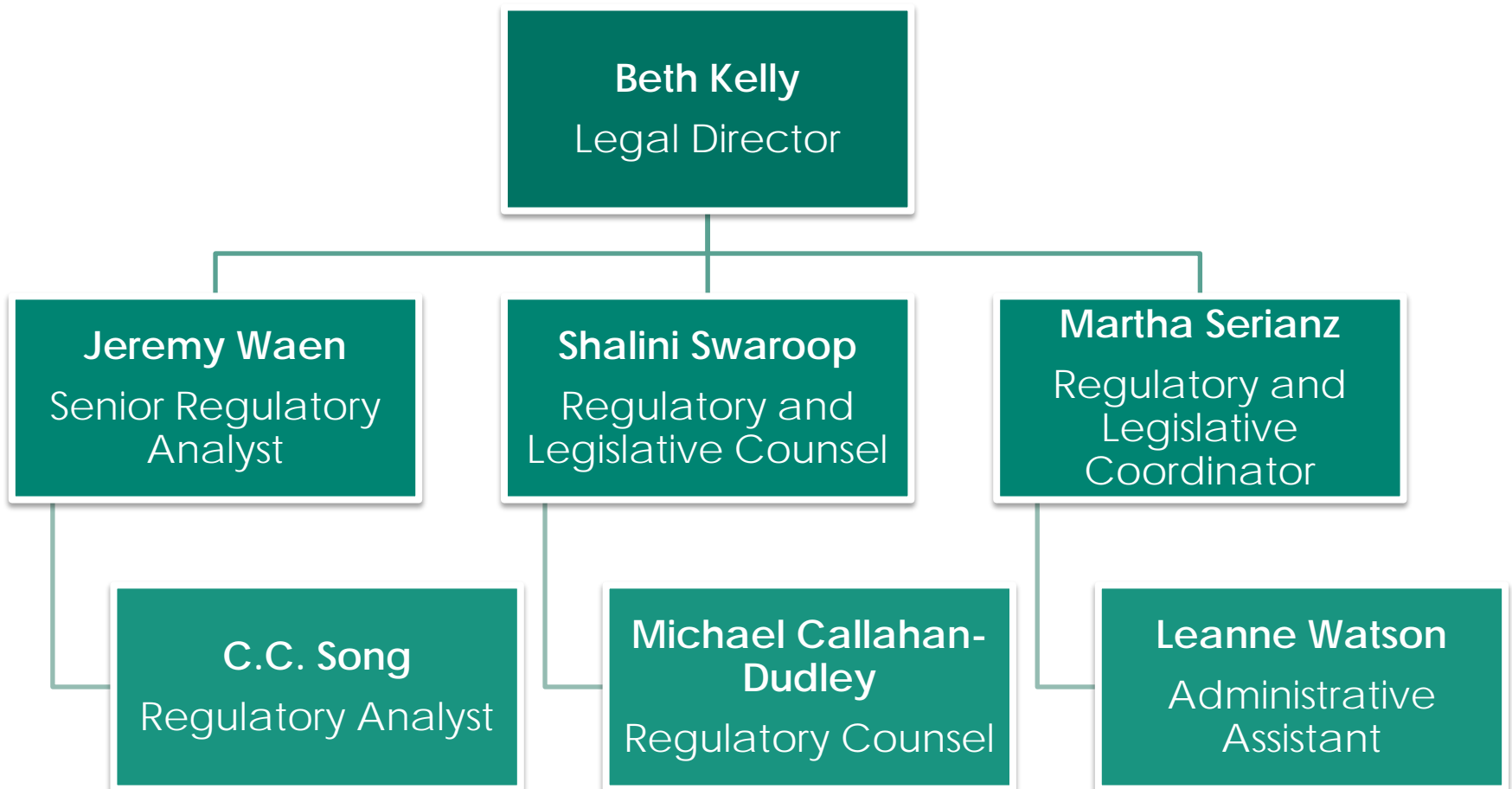
# MCE Annual Board Retreat

## Regulatory Overview of Goals & Progress

September 17, 2015



# Meet the Team



# Regulatory Team 2015 Goals

The objective of the 2015 Strategic Plan was to promote efficient, strategic, and meaningful work for the Regulatory Team.

1. Develop strategic relationships that ensure more certainty at the Commission and Legislature and help MCE staff be “in the know.”
2. Establish MCE as the go-to source for information and leadership in CCA community.
3. Improve internal time management and role definition to help reduce stress and avoid burnout.
4. Pursue meaningful and strategic development opportunities.

# Regulatory Team 2015 Progress

Goal	Progress
<b>Develop Strategic Relationships</b>	<ul style="list-style-type: none"> <li>• Identified and met with three key contacts</li> <li>• Maintained broader relationships through regular contact, meetings, and information sharing</li> <li>• Developed meeting and relationship tracking</li> <li>• Increased event attendance</li> </ul>
<b>Go-to-Source of Information</b>	<ul style="list-style-type: none"> <li>• Increased external communication materials (info sheets, updates, and press releases)</li> <li>• Coordinated with existing and emerging CCAs on key issues</li> <li>• Provided information and education sessions for statewide CCA advocates</li> </ul>
<b>Improve Time Management</b>	<ul style="list-style-type: none"> <li>• Developed individual work plans</li> <li>• Conducted regular weekly and monthly team meetings</li> <li>• Implemented MOCHA strategy, assigning owners to each task</li> <li>• Increased internal documentation and improved internal organizational systems</li> </ul>
<b>Professional Development</b>	<ul style="list-style-type: none"> <li>• Identified key knowledge areas</li> <li>• Increased external professional development opportunities</li> <li>• Dedicated time to unstructured learning</li> </ul>

# 2015 Key Accomplishments

- Regulatory
  - New: Quarterly CCA, IOU, CPUC meetings
  - Cost allocation mechanism (CAM) reform, resulting in improved procurement
  - Negotiated agreements with PG&E to allow on-bill repayment (OBR) for energy efficiency and solar
- Legislative
  - SB 350 – Prevented anti-CCA language
  - AB 1110 (inactive) – Ensured appropriate compliance timeline
  - AB 793, 1330 – Ensured CCAs have access to run energy efficiency programs
- Internal Processes
  - Implemented proceeding “ownership” protocols



# Regulatory Team 2016 Goals

The objective of the Regulatory Team is to strengthen core functions and meaningfully impact key MCE and CCA issues in 2016.

1. Improve effectiveness of MCE's legal, regulatory, legislative, implementation, and compliance services.
2. Make a measurable impact on the Power Charge Indifference Adjustment (PCIA) charged to CCA customers.
3. Enable successful and cost-effective MCE demand side programs.
4. Collaborate with legal, regulatory, and legislative counterparts on CCA priorities and obligations.

## Regulatory Team Goals 2015 Board Retreat Update

- **Reform the Power Charge Indifference Adjustment (PCIA) exit fee charged to MCE customers.**
  - Major Accomplishment: As a result of our advocacy on PCIA, we have opened a new phase of a proceeding specifically to address PCIA vintaging.
  - Extensively raised PCIA issues at the CPUC, raising the issue in 19 filings across 6 proceedings and 4 advice letter.
  - MCE co-filed on PCIA issues with Communities for a Better Environment and Lancaster Choice Energy.
- **Reform the Cost Allocation Mechanism (CAM) fee charged to MCE customers and seek a CCA "opt out."**
  - Major Accomplishment: Achieved a functional reform of the CAM mechanism resulting in improved CAM figures and more accurate procurement for MCE.
  - Extensively engaged the legislature on SB 350 which proposed to expand CAM.
  - Held a top-level energy division meeting regarding MCE's concerns on the CAM.
  - Developed a CAM one-page handout in order to make clear the negative impacts of CAM on CCA.
  - Extensively participated in the Long-term Procurement Planning proceeding, resulting in a new phase related to CCA issues. The CPUC has not yet acted on this phase of the proceeding.
- **Successfully pursue funding for MCE's "2016 and beyond" energy efficiency programs at the California Public Utilities Commission (CPUC).**
  - Major Accomplishment: Laid extensive groundwork for the submittal of MCE's "2016 and beyond" energy efficiency programs:
    - Held 10 ex parte meetings with key advisors and Energy Division staff at the CPUC to inform them of MCE's proposed energy efficiency structure and submittal timelines.
    - Developed 4 "one pagers" for CPUC advisors and staff to ensure MCE asks are clear and concise.
  - Played a key support role to the energy efficiency team in refining the Business Plan and Program Implementation Plans (PIPs) to be submitted to the CPUC.
- **Develop strategic relationships that ensure more certainty at the Commission and Legislature and help MCE staff be "in the know."**
  - Major Accomplishment: Organized and attended one-on-one "meet and greet" meetings with Commissioners of the California Public Utilities Commission, the California Energy Commission and California Air Resources Board
  - Identified and met with three key contacts
  - Over 20 meetings with Assemblymembers, Senators, and key Legislative Contacts
  - Attended 9 events with key statewide stakeholders

- **Establish MCE as the go-to source for information and leadership in CCA community.**
  - *Major Accomplishment:* Developed a CCA Quarterly Update for statewide stakeholders and decisionmakers.
  - Held 19 ex parte meetings with Commissioner Advisors related to MCE's core regulatory objectives.
  - Launched a monthly call for top regulatory staff at CCAs within California.
  - Held 1 MCE/CCA informational session for statewide CCA advocates
  - Developed a CCA Quarterly Update for statewide stakeholders
  - Increased the number of key external regulatory communications:
    - 2 press releases
    - 8 "one pagers" including: EE and Procurement overviews, PCIA and CAM handouts, CCA best practices, GHG accounting methodology, Legislative updates, and MCE jobs calculations
  - Developed the quarterly CPUC-CCA-IOU meeting and hosted one at MCE's office in August 2015.
- **Improve internal time management and role definition to help reduce stress and avoid burnout.**
  - *Major Accomplishment:* For each proceeding and core task, the regulatory team has assigned roles of Manager, Owner, Consultant, Helper and Approver (MOCHA), improving role definition and responsibility.
  - Developed work plans for all regulatory staff.
  - Launched monthly regulatory team strategy meetings.
  - Created proceeding flow charts and processes to streamline proceeding participation.
  - For each existing and new undertaking, defined the roles within the team, mini-teams, and additional resources to be leveraged.
  - Completed a foundational review and overhaul of file and process systems.
  - Focused MCE's CPUC proceeding participation for 2015.
- **Pursue meaningful and strategic development opportunities.**
  - *Major Accomplishment:* Developed and formalized training for new Regulatory staff members and created an extensive regulatory onboarding PowerPoint deck.
  - We have developed a tracking system to track strategic professional development opportunities.
  - Added weekly educational discussions on key knowledge areas to our team meeting agenda

## Procurement Team Goals 2015 Board Retreat Update

- **Break ground on MCE Local Sol project**
  - *Ground breaking in May, 2015, COD expected Mar 2016*
- **MCE Solar One**
  - *Draft EIR published Aug 14, 2015*
  - *Site Mobilization expected November 2015*
  - *2 MW Interconnection agreement executed, COD expected July 2016*
  - *8.5 MW Interconnection agreement in Facility Study Process, COD expected October 2016, City of Richmond Design Review in process*
- **Execute 2-3 enabling agreements with new counterparties to cover 75% of our conventional energy needs.**
  - *Complete*
- **Increase MCE carbon-free content by 5% per year in order to achieve carbon neutral status by 2020.**
  - *EBMUD Transaction completed (Carbon free and RPS Bucket 1)*
  - *WAPA Full Load Service for delivery of Pacific NW large hydro*
- **Increase MCE lines of credit (collateral thresholds) from current \$3M to \$6M**
  - *River City Bank - Letter of Credit Facility +\$15 M*
- **Identify 2-3 additional sites for local development, focusing on new expansion territories.**
  - *Napa County - Homestake Mine – 125 MW*
  - *Napa County - American Canyon Landfill - 12 MW*
- **Facilitate online status of 50% of our FIT queue**
  - *Cooley Quarry 1.5 MW,*
  - *Cost Plus .3 MW,*
  - *Richmond Parkway 1 MW,*
  - *Goodrick 1 MW,*
  - *3.8 MW of 4.8 MW Queue (1 MW dropped – Giant Road)*
- **Effectively integrate Rising Tree (99 MW), & Integrate Cottonwood Solar (24 MW).**
  - *Rising Tree April 30, 2015,*
  - *Cottonwood May 23, 2015*
  - *Buck Institute 1 MW expected COD Mar 2016*



Agenda Item #03: Integrated Resource Plan 2015-2016 Goals and Accomplishments

# MCE Annual Board Retreat

## Overview of Goals & Progress

September 17, 2015



# Procurement 2015 Highlights

- 40 MW East Bay MUD Small Hydro executed
- 99 MW Rising Tree III MW Wind online
- 20 MW RE Kansas Solar online
- 23 MW RE Cottonwood Solar online
- 50% Reduction in PCC3  
replaced with PCC1
- 2014 GHG Free content up to **66%**
- 2015-2018 +748,000 MWh PCC1

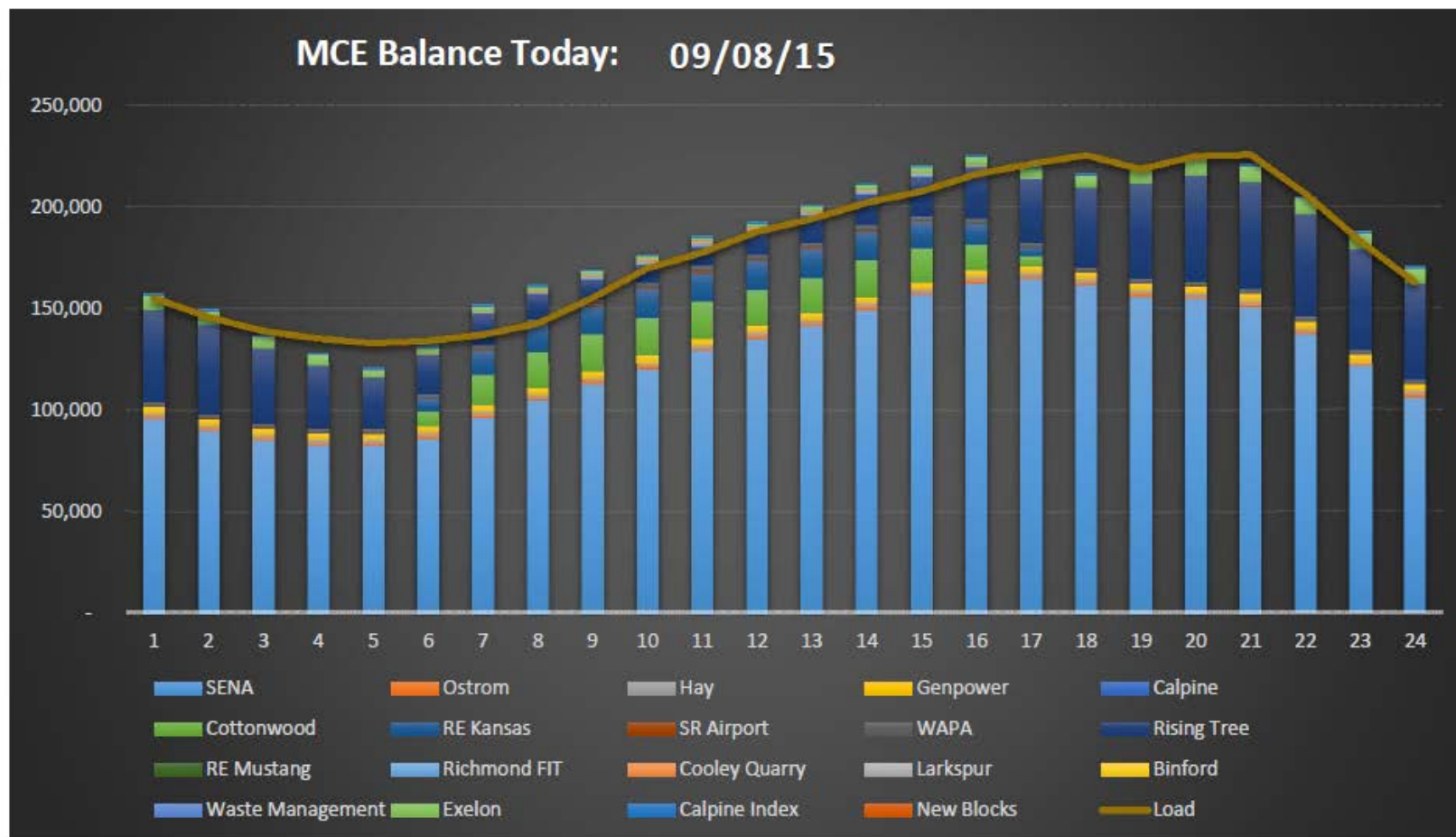


# Procurement

## 2015 Goals & Progress

- All 2015 Procurement goals met or exceeded.

Goal	Progress
MCE Local Sol project	COD expected Mar 2016
MCE Solar One	COD expected Oct 2016
^ GHG-free content	2014 - 66% GHG Free
MCE lines of credit	Unsecured Lines of Credit \$3M+ \$15M LOC
Local Development	10.5 MW Solar One – start const. Nov 2015
FIT Project Queue	3.8 MW of 4.8 MW queue breaking ground in 2015
PPA Integration	142 MW of new resources online

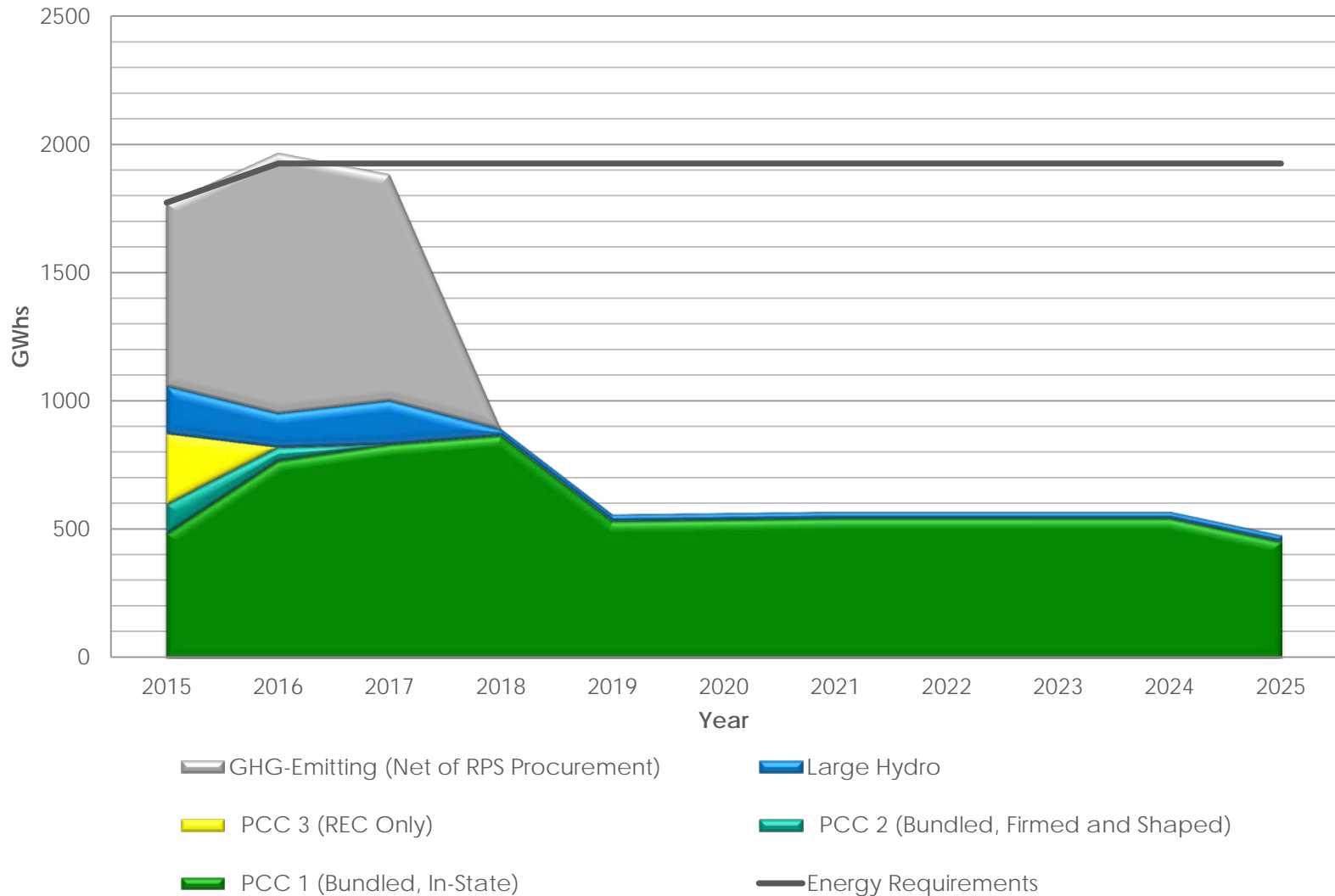


# Procurement 2016 Goals

Task	Goal
MCE Local Sol project	90% Subscribed by May 2016
MCE Solar One	COD by Nov 2016
Counterparties	Add 3 new counterparties
Conventional Power	Fill open position post 2017, 3-6 25MW Blocks
GHG-free Content	Increase GHG Free - subject to board approval
MCE RE Portfolio Content	PCC1, PCC2, PCC3 - subject to board approval
MCE lines of credit	Increase unsecured credit from \$3M to \$6M
Local Development	Start Pre Development on new site - TBD
MCE Office PV	75-100kW Solar Carport project
FIT Project Queue	Add 5 MW of projects to queue

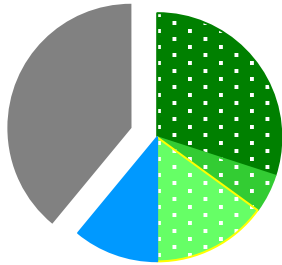
# Load Stack Graph

## MCE Energy Portfolio (Contracted to date)



### 2015 Baseline

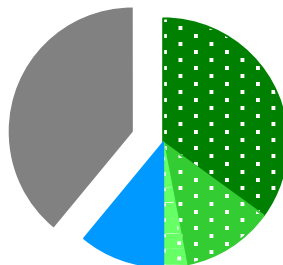
50% Renewable  
61% GHG Free



■ PCC1: 30%  
■ PCC2: 5%  
■ PCC3: 15%  
■ Large Hydro: 11%  
■ GHG-Emitting: 39%

### 2025 Strategy 1:

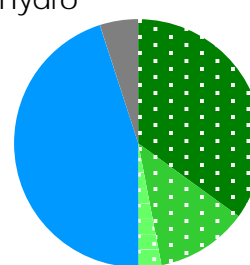
Replace PCC 3 with 75%  
PCC 1 & 25% PCC 2 ("A1")



■ PCC1: 35%  
■ PCC2: 12%  
■ PCC3: 3%  
■ Large Hydro: 11%  
■ GHG-Emitting: 39%

### 2025 Strategy 2:

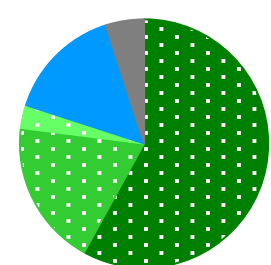
"A1" + Replace  
System Power with Large  
Hydro



■ PCC1: 35%  
■ PCC2: 12%  
■ PCC3: 3%  
■ Large Hydro: 45%  
■ GHG-Emitting: 5%

### 2025 Strategy 3:

80% Renewable  
95% GHG Free



■ PCC1: 58%  
■ PCC2: 19%  
■ PCC3: 3%  
■ Large Hydro: 15%  
■ GHG-Emitting: 5%

Key Drivers	Strategy 1	Strategy 2	Strategy 3
<u>Environmental Benefits</u> MCE's mission to reduce GHG emissions	50% Renewable 61% GHG Free	50% Renewable 95% GHG Free	80% Renewable 95% GHG Free
<u>Changes in GHG accounting</u> PCC3 may not be considered GHG-free	Minimal to no exposure	Minimal to no exposure	No exposure
<u>Maintaining competitive rates</u> Renewable/GHG-free resources may have Premium; PCIA fees may increase rates	+ 2% Impact on Rates in 2025: negligible impact through 2018	+ 3% to 6% Impact on Rates in 2025	+ 8% to 11% Impact on Rates in 2025
<u>RPS threshold</u> Statutory RPS requirements may increase PCC1, PCC2 and PCC3 definitions may change	No clear benefit	No clear benefit	Two-thirds Covered
<u>Hydro availability</u> Drought may impact hydro generation	Minimal exposure	Large exposure	Minimal to moderate exposure
<u>ISO expansion</u> CAISO expansion may redefine out of state PCC3 and PCC2 resources as PCC1	Benefit	Benefit	No benefit

## **Integrated Resource Plan Update:** *Potential Strategies Overview*

### **Background**

The Integrated Resource Plan is MCE's procurement plan over the next ten years; the IRP sets forth a roadmap to help align MCE procurement activities with MCE policy. MCE staff review the plan each fall after incorporating any new contracts and provide an updated plan for board for approval each November incorporating new strategies to advance the policy objectives of MCE.

MCE's resource planning considers three planning horizons:

1. Long-term planning horizon covers electric energy requirements of MCE the next ten years or longer;
2. Medium term planning horizon addresses similar requirements during the next one to five years; and
3. Short term planning horizon addresses MCE's electric energy requirements expected to over the upcoming twelve months.

MCE also actively manages the operating horizon, which is focused on the immediate needs of MCE. The operating horizon covers energy requirements as immediate as the "Hour Ahead" market and the 90 days that follow – during this period all or virtually all resource commitments have been made and only adjustments necessary to address short term operating variability related to weather and other uncertainties are considered. While longer-term planning horizons typically reflect a combination of firm resource commitments and unfilled or "open" positions, such open positions are typically "filled" (i.e., addressed via contracts with qualified suppliers of requisite energy products) with firm resource commitments as the operating horizon approaches.

MCE policy, established by MCE's founding documents and directed on an ongoing basis by MCE's governing board, guides development of the resource plan and the ensuing resource procurement activities that are conducted in accordance with the plan. MCE's key resource planning policies are as follows:

- Reduce green-house gas emissions and other pollutants associated with the electric power sector through increased use of renewable energy resources and reduced reliance on fossil-fueled resources.
- Maintain competitive electric rates and increase control over energy costs through management of a diversified resource mix.
- Benefit the area's economy through investments in local infrastructure and energy programs.
- Help customers reduce energy consumption and electric bills through investment in and administration of enhanced customer energy efficiency, cost effective distributed generation and other demand-side programs.
- Enhance system reliability through investment in supply and demand-side resources.



The Integrated Resources Plan translates these broad policy objectives into more specific plans for the use of various types of electric resources, taking into consideration MCE's projected customer needs and MCE's existing resource commitments. MCE has benefited from recent market conditions, securing additional bundled, "Bucket 1" renewable energy supply from resources located within California. The price premium associated with such incremental renewable energy volumes has been relatively modest, approximating \$10/MWh relative to conventional supply alternatives, namely market purchases or "system power". Greenhouse Gas Free (GHG Free) / Carbon Neutral resources are also proving to be available at nominal price premiums ranging from \$1 -\$2/MWh relative to conventional supply alternatives.

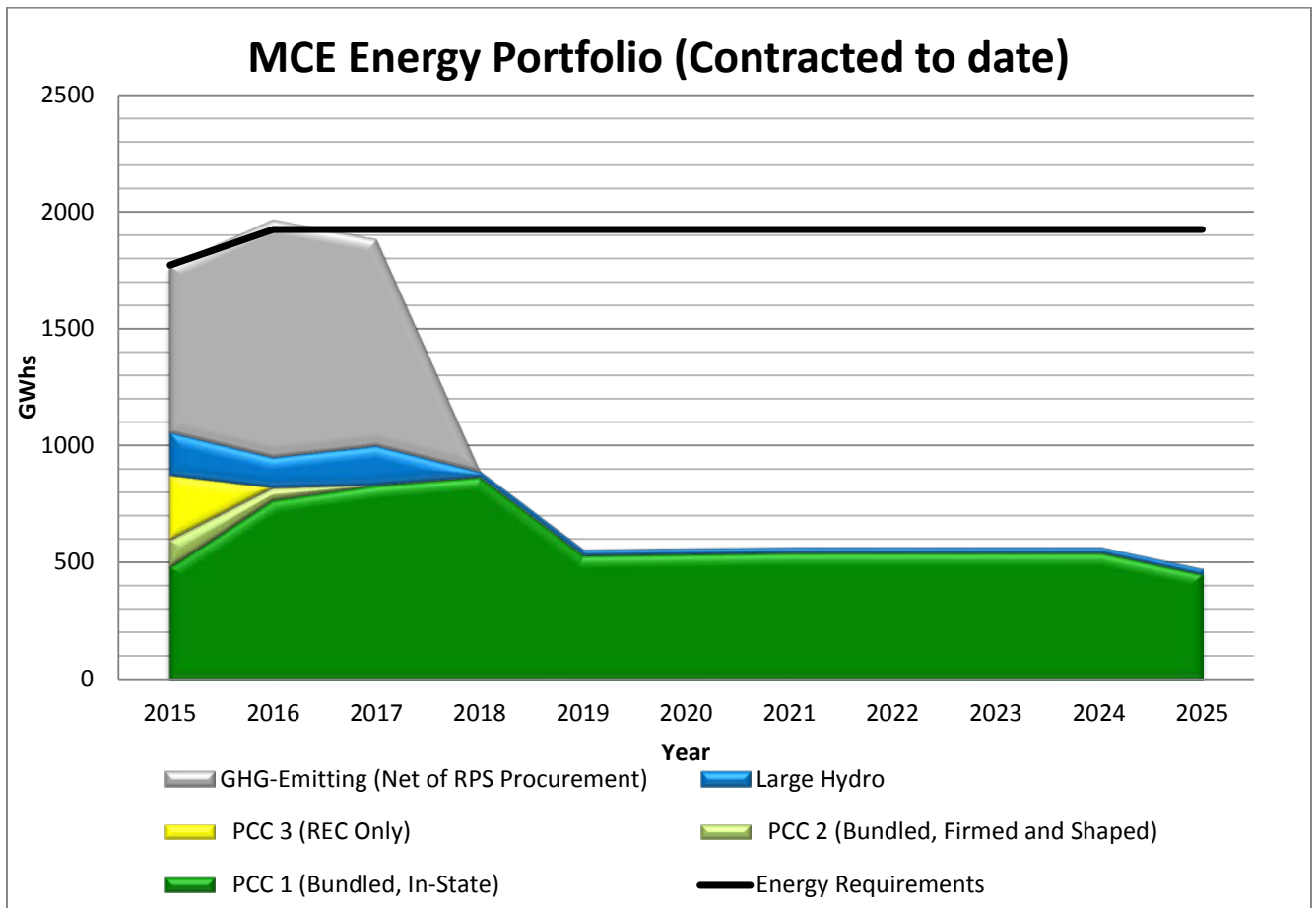
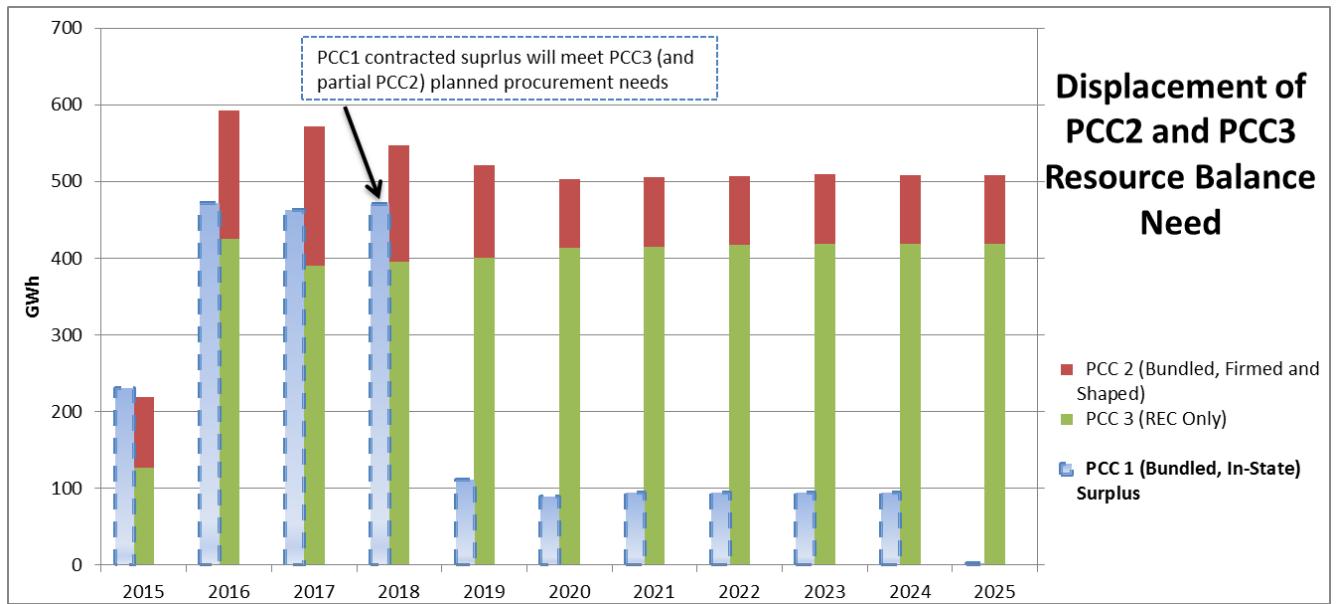
As part of this year's update to the IRP, Staff would like the Board to consider three potential procurement strategies that will accelerate progress towards MCE's stated resource planning policies. These strategies are generally characterized in the following manner:

1. Strategy 1: Accelerated Procurement of Bucket 1 Renewable Energy
2. Strategy 2: Increasing GHG/Carbon Neutral volumes to 95% by 2025
3. Strategy 3: Increasing Renewable Energy volumes to 80% by 2025

#### **Base Case (Current Strategy)**

MCE currently manages its procurement activities consistent with previously agreed upon procurement targets for renewable and carbon-free energy supplies. MCE annually administers its Open Season procurement program in an attempt to fill short positions in a cost-effective manner. With regard to renewable energy procurement, MCE continues to pursue a "balanced" product portfolio, utilizing various bundled and unbundled renewable energy products to increase overall renewable energy content at cost-competitive rates. Unbundled renewable energy procurement activities would be typically short-term in nature, addressing incremental renewable energy requirements over a 12-24 month period with certificates produced by existing renewable generators located throughout the western United States.

<b><u>Renewables Under Contract (GWh)</u></b>	<b><u>2015</u></b>	<b><u>2016</u></b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>	<b><u>2022</u></b>	<b><u>2023</u></b>	<b><u>2024</u></b>	<b><u>2025</u></b>
Retail Sales	1672	1816	1816	1816	1816	1816	1816	1816	1816	1816	1816
State RPS %	23%	25%	27%	29%	31%	33%	33%	33%	33%	33%	33%
MCE RPS %	52%	52%	52%	52%	52%	52%	53%	53%	53%	53%	53%
PCC1 Minimum Requirements	250	295	368	395	422	449	449	449	449	449	449
State RPS Requirements	385	454	490	527	563	599	599	599	599	599	599
MCE RPS Procurement Target	861	937	939	941	942	944	953	955	957	959	962
Contracted PCC1	482	767	830	865	533	538	543	543	543	543	451
Contracted PCC2	115	51	-	-	-	-	-	-	-	-	-
Contracted PCC3	275	-	-	-	-	-	-	-	-	-	-
State RPS- Net Short/(Long)	(487)	(364)	(340)	(339)	30	61	56	56	56	56	148
MCE RPS- Net Short/(Long)	(10)	119	109	75	410	406	410	412	414	416	511



**Strategy 1: Accelerated Procurement of Bucket 1 Renewable Energy**

Under this prospective strategy, MCE would forgo a significant portion of planned unbundled renewable energy certificate purchases in favor of additional bundled, Bucket 1 renewable energy supply. MCE's Renewable Energy procurement would consist of 75% Bucket 1, and 25% Bucket 2 products. Use of unbundled renewable energy certificates would be reduced to statutory limitations reflected under California's RPS program. In consideration of currently favorable market conditions as well as anticipated legislation focused on Power Content Label reform and increased RPS procurement targets, this prospective scenario should minimize philosophical objections focused on the use of unbundled renewable energy certificates and should prospectively align MCE's clean-energy portfolio with potential reporting changes that could reduce the future value of unbundled renewable energy products (by effectively eliminating the ability of unbundled certificate owners to count towards reporting of GHG emissions benefits associated with such products, as presently contemplated in Assembly Bill 1110).

Staff estimates that this strategy would result in a 2% increase to MCE rates in 2020 to 2025 with little impact to rates through 2020.

<b><u>Strategy 1: 10 Year Portfolio Mix</u></b>	<b><u>2015</u></b>	<b><u>2016</u></b>	<b><u>2017</u></b>	<b><u>2018</u></b>	<b><u>2019</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>	<b><u>2022</u></b>	<b><u>2023</u></b>	<b><u>2024</u></b>	<b><u>2025</u></b>
Product Content Category 1	30%	35%	35%	35%	35%	35%	35%	35%	35%	35%	35%
Product Content Category 2	5%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%
Product Content Category 3	15%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Large Hydro	11%	11%	11%	11%	11%	11%	11%	11%	11%	11%	11%
System/Conventional Energy	39%	39%	39%	39%	39%	39%	39%	39%	39%	39%	39%

**Strategy 2: Increasing GHG/Carbon Neutral volumes to 95% by 2025**

Under this prospective strategy, MCE would gradually increase the proportion of carbon-free energy content in its overall resource portfolio by advancing procurement of additional renewable energy and hydroelectric supply alternatives. The specific proportions of such products may vary based on resource availability and prevailing market prices with the goal of achieving a 95% carbon free supply portfolio no later than 2025. However, as part of this transition, MCE would continue to maintain its minimum 50% renewable energy supply commitment for Light Green customers through the use of a diverse portfolio of renewable energy products, including bundled renewable energy resources to the greatest extent possible without impacting rates and unbundled renewable energy resources up to statutory limitations of the California's RPS program ; Deep Green and Local Sol customers would receive 100% renewable energy supply, consistent with applicable product descriptions.

Staff estimates that this strategy would result in a 3% to 6% increase to MCE rates in 2025.

<b>Strategy 2: 10 Year Portfolio Mix</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Product Content Category 1	30%	35%	35%	35%	35%	35%	35%	35%	35%	35%	35%
Product Content Category 2	5%	12%	12%	12%	12%	12%	12%	12%	12%	12%	12%
Product Content Category 3	15%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Large Hydro	11%	11%	15%	18%	21%	25%	28%	32%	35%	38%	45%
System/Conventional Energy	39%	39%	36%	32%	29%	25%	22%	19%	15%	12%	5%

### **Strategy 3: Increasing Renewable Energy volumes to 80% by 2025**

Under this prospective strategy, MCE would gradually replace the conventional energy content in its overall resource portfolio by advancing procurement of additional renewable energy. The specific proportions of such products may vary based on resource availability and prevailing market prices with the goal of achieving a 100% renewable supply portfolio no later than 2025. This strategy will have the greatest impact on MCE Light Green rates. Deep Green and Local Sol customers would receive 100% renewable energy supply, consistent with applicable product descriptions.

Staff estimates that this strategy would result in a 8% to 11% increase to MCE rates in 2025. Staff estimated that supplying 100% Renewable Energy would result in a 16% to 20% increase to MCE rates in 2025, and that this would be in infeasible option in the current market because of its dramatic impact to rates.

<b>Strategy 3: 10 Year Portfolio Mix</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>
Product Content Category 1	30%	35%	38%	40%	43%	45%	48%	50%	53%	55%	58%
Product Content Category 2	5%	12%	13%	14%	14%	15%	16%	17%	17%	18%	19%
Product Content Category 3	15%	3%	3%	3%	3%	3%	3%	3%	3%	3%	3%
Large Hydro	11%	11%	12%	12%	12%	13%	13%	14%	14%	15%	15%
System/Conventional Energy	39%	39%	35%	31%	28%	24%	20%	16%	13%	9%	5%



September 17, 2015

TO: Marin Clean Energy Board of Directors

FROM: Dawn Weisz, Executive Officer

RE: New Customer Community Inclusion (Agenda Item #04)

ATTACHMENTS: A. Policy 007: New Customer Communities, revised  
B. Affiliate Membership Process, revised  
C. Membership Application Checklist, revised  
D. New Member Ordinance Template  
E. Draft Inclusion Letter for New Communities  
F. Draft Memorandum of Understanding

Dear Board Members:

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**Background**

On September 25, 2013 your Board approved Policy 007: New Customer Communities defining a process for including new communities in MCE services. In 2013 and 2014 MCE staff implemented Policy 007 through the formal addition of four new communities in MCE membership. After completing new community enrollment in February-May 2015, MCE staff and Board members began to evaluate the benefits achieved through implementation of the policy, and began to identify improvements to consider.

On June 18, 2015 your Board established an Ad Hoc Expansion Committee made up of your Board representatives to review information collected to date and develop recommendations to improve new community inclusion going forward. This committee met in July and August, developing recommendations that were subsequently presented and discussed at the meeting of the Technical Committee and Executive Committee in early September.

The Ad Hoc Expansion Committee determined that the benefits listed below have accrued from the inclusion of new communities.

**Benefits:**

- Reduced greenhouse gas emissions
- Increase in renewable energy usage
- Rate benefits throughout MCE service territory
- Successful community outreach
- Local buildout opportunities
- Increased regulatory and legislative visibility
- Incentivized creation of new CCAs
- New energy efficiency opportunities
- Added new and unique staff skill sets

The Ad Hoc Expansion Committee also discussed some of the challenges of new community inclusion that could benefit from improvements, and outlined improvement strategies to address those challenges.

***Improvement Strategies:***

- The process of new community inclusion could be more streamlined to reduce repetitive task completion for staff as well as redundant council actions for new members.
- Ensuring new community interest and commitment up-front would ensure time is spent with communities who are ready to proceed, and avoid delays caused by one or more new communities in completing Implementation Plan updates and procurement activities.
- Informational requests made of new members after joining can require more time and effort to complete; including informational requests as part of membership application would result in staff efficiencies.
- As the MCE Board increases in size efficient information flow and engagement challenges grow; Choose 1 of 3 options for governance adjustment with new members.
- Additional strategies can be built in up-front to collaborate with new communities on outreach and education and to maintain strong local connections with government and community groups.
- Energy efficiency programs will need ongoing local community presence and may need flexibility regarding service start dates to ensure comprehensive coverage.

The Ad Hoc Expansion Committee also discussed general guidelines that have been followed in the past and would continue to be useful to consider in most cases:

***General Guidelines:***

- Remain responsive to local government staff and elected officials in communities that have expressed interested in MCE service.
- Focus new community inclusion in communities that are within or adjacent to Counties already served by MCE
- Avoid inclusion of new communities in Counties where a different CCA is currently serving customers.

The Ad Hoc Expansion Committee developed the following recommendations which were also presented to and discussed by the Technical Committee and Executive Committee.

***Committee Recommendations:***

1. Adjustment to Policy 007, a). to allow jurisdictions with a customer base larger than 40,000 to join as an affiliate member if they are in a County already served by MCE and, b). adjustment to member designation for all prospective communities to maintain fair representation.
2. Adjustment to Affiliate Membership Process confirming to improvement strategies listed above.
3. Adjustment to Membership Application, streamlining community requirements to create staff efficiencies in analysis, outreach, procurement, and provision of service.

4. Creation of an “Inclusion Period” for communities that have already expressed interest in inclusion to create staff efficiencies in analysis, outreach, procurement, and provision of service.

During the last six months MCE has received letters of interest from all five cities and towns in the County of Napa, as well as the cities of Walnut Creek and Lafayette in Contra Costa County. Each of these letters are exploratory in nature, and are not structured to indicate that any decision about membership has been made. Based on committee discussions with Board members to-date, it is recommended that inclusion period letters be sent to the communities that have expressed interest to-date, providing them with a six-month period to confirm interest in membership, and to complete the requirements of the membership checklist.

While it is unknown whether all communities expressing interest will complete all steps to move forward, the proximity of the jurisdictions to one another would result in efficient, focused outreach and education efforts in each county. As a reference point, the projected customer base in each community is as follows:

- American Canyon: 7,800
- Calistoga: 2,000
- St. Helena: 2,100
- Lafayette: 8,500
- Napa: 29,000
- Walnut Creek: 22,000
- Yountville: 600

In addition to the in-County interest MCE has received, the City of Davis and the County of Yolo have submitted letters of interest to MCE. However, Davis and Yolo are currently in the process of evaluating the possibility of also forming their own CCA program. Staff recommends the continuation of discussions with Davis and Yolo representatives to assist in their exploratory work, and to consider additional support as needed when more information is available. Staff also recommends sending an information letter to the City of Davis and the County of Yolo to align their membership application cycle with the other prospective communities, and create efficiencies for staff, if the jurisdictions choose to pursue MCE membership.

**Recommendations:**

1. Approve recommended adjustments to Policy 007: New Customer Communities as attached and direct staff to draft conforming adjustments to the MCE JPA Agreement.
2. Direct staff to update the Affiliate Membership process and Membership Application as attached and described above.
3. Direct staff to submit “Inclusion Period” letters to the communities that have expressed interested in exploring MCE membership.





-- DRAFT--

**POLICY NO. 007 – NEW CUSTOMER COMMUNITIES (revised 9/2)**

Whereas MCE's founding mission is to address climate change by using a wide range of renewable energy sources, reducing energy related greenhouse gas emissions and promoting the development of energy efficiency programs; and

Whereas creating opportunities for customer electric service in new communities may allow MCE to further progress towards its founding mission; and

Whereas MCE currently provides a minimum 50% renewable energy supply to all MCE customers (through its default Light Green retail service option), which substantially exceeds similar renewable energy supply percentages provided by California's investor-owned utilities (IOUs); and

Whereas the inclusion of new communities to MCE's membership will increase state-wide renewable energy percentages due to 1) MCE's specified minimum renewable energy supply percentage of 50%, and 2) access to its 100% renewable option; and

Whereas the inclusion of new communities to MCE's membership will also decrease greenhouse gas emissions within the Western United States as a result of minimum renewable energy supply percentages exceeding such percentages provided by California's IOUs; and

Whereas the inclusion of new communities reaffirms the viability of community choice aggregation, and provides an incentive for other cities and counties to pursue more renewable energy options within their own jurisdictions.

Therefore, it is MCE's policy to explore and support customer electric service in new communities to further agency goals.

In consideration of the above MCE may allow access to service in new communities through two channels, affiliate membership or special-consideration membership, as applicable.

(Option #1: Recommended)

Beginning on January 1, 2016, new participating Counties will have the right to appoint one County representative/alternate, and new participating Cities in a single County will have the right to appoint one shared representative/alternate, to the MCE Board of Directors. Any shared City representative vote will be weighted based on the combined customer load of all participating Cities within the County borders. The City Council of each of the new participating Cities in a single County must agree to a designated shared representative before such representative may serve on the MCE Board of Directors, and the term of such representative shall be no less than 12 months. Any City with representation on the MCE Board of Directors prior to January 1, 2016 will continue to have the right to appoint their own representative to the Board of Directors.

-or-

(Option #2)

When the number of Directors on the MCE Board has reached 20 members, the Executive Committee of the Board will take on most primary decision making functions and Board will meet no less than annually to appoint officers and establish the annual budget. The Executive Committee will consist of no less than one representative from each participating County and one city/town representative from each participating county, but shall not consist of a quorum of the full Board.

Affiliate membership considered if:

1. All applicable membership criteria are satisfied,
2. New community is located in a county that is not more than 30 miles from MCE existing county jurisdiction, and
3. Customer base in new community is 40,000 or less **or is within a County already served by MCE.**

Special-consideration membership considered if:

1. All applicable membership criteria are satisfied,
2. New community is located in a county that is more than 30 miles from MCE existing jurisdiction and/or the customer-base in the new community is greater than 40,000.



## **MCE Affiliate Membership Process (revised 9/2)**

Step 1: Governing body submits letter to MCE from new community jurisdiction, requesting consideration as a member.

Step 2: Staff evaluates request to determine: (a) if internal resources are available to consider new membership, and (b) if a formal 'inclusion period' should be offered to create staff efficiencies.

Step 3: MCE Staff request Membership Application from new community governing body.

Step 4: Membership Application submitted to MCE. Request submitted to MCE Board to consider adherence to criteria D, E, F and G below, and to authorize membership of new community, subject to a net positive result in quantitative membership analysis by staff.

Step 4: Following MCE Board approval, staff executes agreement with governing body of new jurisdiction to fund costs of membership analysis (cost waived under inclusion period). Staff undertakes and completes analysis, with primary focus on quantitative criteria A, B and C below. If needed, re-analysis may be conducted over time to account for varying market conditions.

Step 5: Results of membership analysis presented to MCE Board. 1). If quantitative affiliate membership criteria are met, MCE Board adopts resolution to include municipality in MCE Joint Powers Authority membership. 2). If qualitative criteria are not met but other compelling criteria are present, Board may consider approval of membership.

Step 6: Mayor/Board President of new jurisdiction executes JPA Agreement.

Step 7: MCE submits updated Implementation Plan to CPUC.

### **Membership Criteria:**

- A. Including new community will result in a projected net rate reduction for existing customer base.
- B. Including new community will enhance strength of local programs, including an increase in distributed generation, and will accelerate greenhouse gas reductions on a larger scale.
- C. Including new community will increase the amount of renewable energy being used in California's energy market.
- D. There will be an increase in opportunities to launch and operate MCE energy efficiency programs to reduce energy consumption and reliance on fossil fuels.
- E. New opportunities are available to deploy local solar and other distributed renewable generation through the MCE Net Energy Metering Tariff and Feed in Tariff.
- F. Greater demand for jobs and economic activity is likely to result from service in new community.
- G. Inclusion of new community is likely to create stronger voice for MCE at the State and regulatory level.

**--DRAFT--**

## **MCE Membership Application Checklist**

- ✓ Request for load data for PG&E signed by Mayor, City Manager, Board president or Chief County Administrator
- ✓ County assessor data for all building stock in jurisdiction
- ✓ Adoption of the ordinance required by the Public Utilities Code Section 366.2(c) (10) to join MCE's CCA program, adopted governing Board, subject to MCE Board approval
- ✓ Executed 'Agreement for Services' or 'Memorandum of Understanding' (if during inclusion period) to cover:
  - Community agrees to publicize and share information about MCE with community during the 6 month enrollment period. Options to publicize include but are not limited to website, social media, public events, community workshops, and newsletter announcements (where feasible), as well as distribution of flyers and handouts provided by MCE at community offices.
  - Community agrees to provide desk space for up to 2 MCE staff during the 6 month enrollment period, and agrees to consider ongoing desk space availability if needed for effective and efficient outreach.
  - Community agrees to assign staff member as primary point of contact with MCE. Assigned staff member will support and facilitate communication with other community staff and officials, as well as provide input and high-level assistance on community outreach.
  - Community agrees to cover of quantitative analysis cost, not to exceed \$10,000; waived under inclusion period.

ORDINANCE NO. **XXX**

ORDINANCE OF THE CITY/TOWN COUNCIL OF \_\_\_\_\_ APPROVING THE MARIN  
CLEAN ENERGY JOINT POWERS AGREEMENT AND AUTHORIZING THE  
IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM

The City/Town Council of the City/Town of \_\_\_\_\_ ordains as follows:

SECTION 1. The City/Town of \_\_\_\_\_ has been actively investigating options to provide electric services to constituents within its service area with the intent of promoting use of renewable energy and reducing energy related greenhouse gas emissions.

SECTION 2. On September 24, 2002, the Governor signed into law Assembly Bill 117 (Stat. 2002, ch. 838; see California Public Utilities Code section 366.2; hereinafter referred to as the “Act”), which authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation.

SECTION 3. The Act expressly authorizes participation in a Community Choice Aggregation (CCA) program through a joint powers agency, and on December 19, 2008, the Marin Clean Energy (MCE) was established as a joint power authority pursuant to a Joint Powers Agreement, as amended from time to time.

SECTION 4. On February 2, 2010 the California Public Utilities Commission certified the “Implementation Plan” of the MCE, confirming the MCE’s compliance with the requirements of the Act.

SECTION 5. In order to become a member of the MCE, the Act requires the City of \_\_\_\_\_ to individually adopt an ordinance electing to implement a Community Choice Aggregation program within its jurisdiction by and through its participation in the MCE.

SECTION 6. Based upon all of the above, the City/Town Council elects to implement a Community Choice Aggregation program within the City/Town of \_\_\_\_\_’s jurisdiction by and through the City/Town of \_\_\_\_\_’s participation in the Marin Clean Energy. The Mayor is hereby authorized to execute the MCE Joint Powers Agreement.

SECTION 7. This ordinance shall take effect **on the later of (a) the date the Board of Directors of MCE adopts a Resolution adding the City/Town as a member of MCE, or (b) 30 days** after its adoption and, before the expiration of 30 days after its passage, a summary of this ordinance shall be published once with the names of the members of the Council voting for and against the same in the \_\_\_\_\_, a newspaper of general circulation published in the \_\_\_\_\_.

The foregoing ordinance was introduced at a meeting of the City/Town Council of the City/Town of \_\_\_\_\_ held on **Date**, and adopted at a meeting held on **Date**, by the following vote:

AYES: Councilmember  
NOES: Councilmember  
ABSENT: Councilmember

/s/ \_\_\_\_\_  
**XXX**, Mayor

/s/ \_\_\_\_\_  
**XXX**, City Clerk



--DRAFT--

Kathrin Sears, Chair  
County of Marin

Tom Butt, Vice Chair  
City of Richmond

Bob McCaskill  
City of Belvedere

Alan Schwartzman  
City of Benicia

Sloan C. Bailey  
Town of Corte Madera

Greg Lyman  
City of El Cerrito

Barbara Coler  
Town of Fairfax

Kevin Haroff  
City of Larkspur

Garry Lion  
City of Mill Valley

Brad Wagenknecht  
County of Napa

Denise Athas  
City of Novato

Carla Small  
Town of Ross

Ford Greene  
Town of San Anselmo

Genoveva Calloway  
City of San Pablo

Andrew McCullough  
City of San Rafael

Ray Withy  
City of Sausalito

Emmett O'Donnell  
Town of Tiburon

Marin Clean Energy  
1125 Tamalpais Avenue  
San Rafael, CA 94901

1 (888) 632-3674  
[mceCleanEnergy.org](http://mceCleanEnergy.org)

September 25, 2015

Dear [City/Town] Manager:

We are in receipt of your letter, dated \_\_\_\_, expressing interest in exploring membership in MCE. We are happy to consider your request and our Board has recently discussed next steps for new communities interested in being included in MCE service territory. Because your [city/town] has expressed interest we are pleased to inform you that our Board has approved a six-month "inclusion period" that would allow membership consideration at no cost to your city if your completed membership application is submitted on or before March 31, 2016.

Membership requirements are attached here and include the following:

- Adoption of the ordinance required by the Public Utilities Code Section 366.2(c) (10).
- Executed Memorandum of Understanding
- Signed request for load data from PG&E
- Designation of a staff person from your [city/town] to serve as a liaison to MCE

If you are interested in submitting a membership application please notify Alex DiGiorgio, MCE's Community Development Manager, and he will send you an application package with template documents for all required items. You can reach Alex by email at: [adigiorgio@mcecleanenergy.org](mailto:adigiorgio@mcecleanenergy.org) or by phone at: 415-464-6031.

Please note that (1) adoption of your Ordinance to join MCE will be subject to approval by the MCE Board, and (2) MCE will conduct an economic feasibility analysis prior to approving membership. Also, timing of procurement and customer enrollment if approved would be determined by the MCE Board, and we will remain in close contact with your [city/town] about most likely target dates for each process.

To streamline communications and policy setting, any participating cities and towns in your county joining after January 1, 2016 will have the opportunity to select one representative and one alternate to serve on the MCE Board as a voting member. The selected representative will have a

weighted vote based on the combined customer load of all participating cities and towns within your county.

We are happy to meet with you or your council to answer questions or provide additional information. We look forward to the opportunity to work with you on your membership application for MCE service. Please let me know if we can be of any further assistance.

Sincerely,



**-DRAFT-**

## **Memorandum of Understanding between MCE and (City/County) Exploring Inclusion in MCE**

This Memorandum of Understanding (MOU), regarding MCE membership consideration is entered into by and between MCE and (City/County).

WHEREAS, the (City/County) has expressed interest in exploring membership in MCE, and

WHEREAS, MCE has a Policy to consider new community inclusion, subject to receipt of a complete application and subject to MCE analysis and approval, and

WHEREAS, MCE and (City/County) are collaborating to determine the feasibility of including (City/County) within MCE's Service area and approving the (City/County) application for membership; and

WHEREAS, MCE and (City/County) have a mutual interest in following the guidelines below,

NOW THEREFORE, the parties hereto agree as follows:

1. (City/County) agrees to assign one staff member as primary point of contact with MCE. Assigned staff member will support and facilitate communication with other (City/County) staff and officials, as well as provide input and high-level assistance on community outreach.
2. (City/County) will work with MCE to conduct public outreach about the MCE program to aid in outreach and education and to collect feedback from the community. Options to publicize include, but are not limited to, website, social media, public events, community workshops, and newsletter announcements, as well as distribution of flyers and handouts provided by MCE.
3. (City/County) will complete and submit 'MCE Membership Application' to MCE.
4. After receipt of complete Membership Application MCE will conduct a quantitative analysis to determine feasibility of adding (City/County) to the MCE Service Area, and approve membership if analysis results are positive.
5. Subject to membership approval by the MCE Board, (City/County) agrees to publicize and share information about MCE within its community during the 6 month enrollment period. Options to publicize include, but are not limited to, website, social media, public events, community workshops, and newsletter announcements (where feasible), as well as distribution of flyers and handouts provided by MCE at (City/County) offices.
6. Subject to membership approval by the MCE Board, (City/County) agrees to provide desk space for up to 2 MCE staff during the 6 month enrollment period, and agrees to consider ongoing desk space availability if needed for effective and efficient outreach.

IN WITNESS WHEREOF, the parties hereto have executed this MOU.

MCE:

By: \_\_\_\_\_  
Dawn Weisz, CEO Date  
MCE

(CITY/COUNTY):

By: \_\_\_\_\_  
(REPRESENTATIVE NAME, TITLE) Date  
(CITY/COUNTY NAME)

**MARIN CLEAN ENERGY**

**BOARD MEETING MINUTES**

**Thursday, August 20, 2015**

**7:00 P.M.**

**THE CHARLES F. MCGLASHAN BOARD ROOM  
1125 TAMALPAIS AVENUE, SAN RAFAEL, CA 94901**

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**Roll Call:** Chair Sears called the regular Board meeting to order at 7:05 p.m. An established quorum was met.

**Present:** Sloan Bailey, Town of Corte Madera  
Peter Lacques (Alternative to Barbara Coler), Town of Fairfax  
Gayle McLaughlin (Alternative to Tom Butt) City of Richmond  
Larry Chu (Alternate to Kevin Haroff) City of Larkspur  
Garry Lion, City of Mill Valley  
Bob McCaskill, City of Belvedere  
Emmett O'Donnell, Town of Tiburon  
Kate Sears, County of Marin  
Brad Wagenknect, County of Napa (arrived late)  
Alan Schwartzman, City of Benicia  
Greg Lyman, City of El Cerrito

**Absent:** Denise Athas, City of Novato  
Genoveva Calloway, City of San Pablo  
Andrew McCullough, City of San Rafael  
Ford Greene, Town of San Anselmo  
Carla Small, Town of Ross  
Ray Withy, City of Sausalito

**Staff:** Dawn Weisz, Executive Officer  
**Jeremy Waen, Senior Regulatory Analyst**  
Beckie Menten, Director of Energy Efficiency  
Meaghan Doran, Energy Efficiency Specialist  
Michael Maher, Maher Accountancy  
Kirby Dusel, Technical Consultant  
John Dalessi, Technical Consultant  
Katie Gaier, Human Resources Coordinator  
Darlene Jackson, Board Clerk

**1. Board Announcements (Discussion)**

Board Member Lyman announced that on August 18<sup>th</sup>, the City of El Cerrito became the first City to be completely Deep Green among its Council membership. He found also that the City of El Cerrito has the highest Deep Green participation rate of any other member jurisdiction.

Board Member McLaughlin, Alternate to Board Member Butt, commented that the new building is beautiful.

## **2. Public Open Time (Discussion):**

There were no public comments.

## **3. Report from Chief Executive Officer (Discussion)**

Dawn Weisz, Executive Officer gave the following report:

- She reminded Board Members to state their name when speaking on agenda items and gave protocols for using the microphones.
- She thanked Board Members for their input for Annual Retreat topics for September 17<sup>th</sup>. Three items on the agenda include:
  - Strategic Planning for 2016, with a highlight on procurement;
  - MCE Inclusion of New Communities and Next Steps; and
  - Presentations on Emerging Technologies and Best Practices
- The Ad Hoc Expansion Committee met on New Community Inclusion in July and they will meet again on Monday, August 24, 2015 at 10:00 a.m.

Ms. Weisz introduced Jeremy Waen, Senior Regulatory Analyst who will provide a brief overview on structural rate changes.

Mr. Waen stated there are two different proceedings ongoing at the CPUC that will result in rate changes that will concern MCE; 1) the ongoing proceeding at the CPUC dealing with how to restructure residential rates. A decision was reached recently that has substantial changes moving forward which will start in January 2016; and 2) Every year there is a proceeding with PG&E of their energy resource recovery account (ERRA) which is where they file their revenue requests for their bundled customers and related non-bypassable charges. These charges have substantial impacts on MCE's ability to compete with PG&E.

Regarding residential rate changes, he said there are two residential rates: 1) the default rates; and 2) the voluntary time of use rates. Currently there are 4 tiers of usage on residential customer rates and they will be reduced to 2 tiers which will occur over several years. There is also a reduction of the CARE discount which is unfortunate and also an increase in the monthly minimum billing amount that customers will see on their bills.

He then referred to Slide 4 which addresses changes that are happening with time of use rates. There are presently two time of use rates; E6 and E7 rates and a seasonal rate E8. He explained that the CPUC has realized that the peak periods for time of use rates are out of date. The true peak period of demand is no longer the middle of the day but later in the day. There is still a summertime peak but more and more of an evening peak in spring and fall months which is becoming more and more difficult to meet. They are closing enrollment for the E6 rate starting next year and are terminating the E7 and E8 rates. The majority of MCE's rooftop solar customers participate in either E6 or E7 rates and the closure to E6 and termination of E7 rate will be a significant change and challenge to the way these customers are able to monetize and recover costs for the rooftop solar they installed.

There will be a new PG&E rate called E-TOU that people switch to from the E7 and E8 schedules by default when E7 and E8 are terminated; however, this time of use rate will have a different peak period which will either be 4PM to 9PM or 3PM to 8PM. Another element is that the summer season has been shortened to fewer months in the year so there is less of a summer peak period which is the prime time to be monetizing rooftop solar.

Mr. Waen said changes will most likely not occur by January per the Commission Decision and will likely be delayed until March 2016. Either way, MCE wants to warn their customers that these changes are occurring. The E6 rate is being closed and not terminated and customers will have 5 years from the closure date to move to a new time of use rate. MCE will likely be encouraging customers to switch to the E6 rate schedule by the end of the calendar year so they have that rate schedule which provides better peak periods.

He said there is also the potential for current rooftop solar customers to install batteries which would allow them to shift their flow of electricity back to the grid to a later period of the day that coincides with new peak periods of E-TOU, and this will have material changes to how rooftop solar and the finance of rooftop solar plays out.

The last slide deals with the proposed changes in the 2016 ERRR filing in June. He explained this is an annual cycle and a very compressed cycle. PG&E filed in June 1, 2015 and they are asking for changes to rates to be effective January 1, 2016. They are asking for a substantial increase in the PCIA. For residential customers it will be up to a 72% increase. All customer classes will see an increase, and if the forecasted load for 2015 was the same for 2016, just accounting for this change in the PCIA that PG&E has proposed, the PCIA will amount to over a \$30 million collection from MCE customers over the course of 2016. For 2015, the PCIA will amount to approximately \$19 million collection from MCE customers, thereby an \$11 million increase on residential communities. MCE staff is doing all they can to resist this change and plead with the CPUC to look at alternatives or providing some protection for customers against this volatility in PCIA rates that they are seeing.

Lastly, Mr. Waen said the potential impact on a Light Green customers when comparing the generation charges for PG&E if they stayed bundled customers versus MCE Light Green in 2016, assuming MCE's rates do not change at all and assuming both the PCIA increases PG&E has proposed and the bundled rate decreases a bit as proposed, it would mean MCE rates with PCIA included would be more 1 cent per kilowatt hour more expensive than PG&E. Therefore, it is the PCIA which is cutting into MCE's ability to compete. He said they are preparing legal briefs and working with external counsel on these efforts, and also coordinating with Sonoma Clean Power.

Board Member Bailey asked if MCE has a basis to challenge the PCIA and assuming they do, he asked what is the mechanism for doing that and when will they find out whether customers will have to pay higher amounts.

Mr. Waen said the CPUC has a history of decisions authorizing fees and discussing how CCA's should be implemented and in that there is clear language about how CCA customers need to be protected from volatility of rates. There is also language of how the PCIA should not be bestowing a competitive advantage for investor-owned utilities against CCA's and it is clearly doing so here with this large swing. There is language as well about how a PCIA by design should be close to zero and should drop off and disappear over time. What MCE has seen over the last 5 years is that the PCIA does not appear to be going away. So there may be some disconnects between the methodologies they have authorized for

PCIA and the policy put in place first to govern that methodology. The challenge is that ERRA proceedings are strictly about compliance and not considering any policy measures. Now they have some policy to be explored in the 2015 ERRA which may change the way PCIA is applied to customers in terms of their vintaging.

He said there will be the potential in 2016 for this to happen or the Commission may acknowledge in the 2016 proceeding that the policy needs to be revisited in a new, separate proceeding. Unfortunately it is a very convoluted way to address these matters.

Board Member Bailey clarified that the ERRA proceedings are only about whether the data and formula is correct or incorrect, and the formula itself should not ordinarily be challenged. He asked if there is a mechanism for raising the formula argument.

Mr. Waen said whether or not they can get the true movement, they are still presenting arguments with the hope that either the Commission will be more ambitious in that proceeding or be willing to re-direct matters to another proceeding where it may be more properly considered. The other challenge of ERRA proceedings is typically each utility participates in their own ERRA and does not wade into the ERRAs of the other utilities.

Ms. Weisz said in 2012 they engaged with the CPUC to adjust the PCIA methodology and they were successful and able to bring the PCIA down about 50%. That continues to have an ongoing impact as it would have been much higher this year, but opening up the PCIA formula is not something the CPUC has an appetite for because it takes a lot of time. Because it was done in 2012, it may not be the best course of action at this point. What they are seeing is that other approaches might be useful, such as vintaging and focusing on mitigation issues from one year to the next so customers are not having a huge increase from one year to the next.

She noted that Item 8 on the agenda is a PCIA item where they will be continuing that item to a future board meeting until they learn more information in the next month about what is happening in the proceeding and what is the best course of action.

Board Member Lion said he noticed PG&E is planning to decrease generation fees for its bundled customers. He asked if this is going to be offset by the increase on transmission and distribution costs on the other side to make up for it.

Mr. Waen said he believes the decrease is because of changes in PG&E's forecast of how much bundled load they are expecting to serve. It is not a matter of shifting costs between generation and distribution. PG&E is realizing there has been increased participation in CCAs, increased adoption of energy efficiency and distributed generation like rooftop solar all leading to a reduced amount of electricity that PG&E needs to purchase. As such, some of the cost associated with that electricity purchasing is decreasing as well. This is why their bundled rates are decreasing. He said we are also in the third year of the drought, so there are fluctuations due to weather that also influence the amount of extra power that PG&E will need to purchase in the coming year. There are many factors that play into it. As a market participant, it is challenging for MCE to have access to enough of the data to comprehensively understand these annual fluxuations.

Board Member McLaughlin said there were discussions about a waiver or reduction of the PCIA for CARE customers, and she asked if this is in existence and if so, will it remain in existence.

Mr. Waen said this is another angle with the PCIA that MCE has raised in a couple of proceedings; in the 2015 proceedings and in the Energy Saving Assistance program for low income. The judges in both proceedings decided the issue was outside of scope, so MCE is still trying to find the right home to address the policy question of whether it is fair and reasonable to collect PCIA to CARE eligible customers. At present, PG&E is the only utility that applies the PCIA to CARE eligible customers and because of the way the CARE discount applies to bills and the way PCIA applies to bills, CARE customers are paying the same PCIA charges as regular customers. For the average residential household at 508 KW, the monthly PCIA charge is about \$6 per month presently, and with PG&E's proposed changes for 2016 it will be about \$10 per month.

Board Member Bailey asked that instead of challenging the formula itself, the alternate plan is to mitigate the effect of it by challenging its application. Ms. Weisz said they have a couple of options and she suggested not getting into more detail at this time until next month. Their approach will more likely be to look at how to minimize a steep impact on customers with a cap so customers do not see such a big jump in PCIA charges on January 1<sup>st</sup>. The second approach will be looking at the CARE issue and they are already seeing some traction on the vintaging issue, which is when a customer departs from PG&E, there assigned a vintage in that year. That vintage is in place to determine what their PCIA should be, and more importantly, when their PCIA should sunset.

Board Member O'Donnell commented that in the last two years or so, they were advocating on sun-setting PCIA and now they have gone a completely opposite direction in what they were hoping for.

Ms. Weisz said one of the things they are seeing as they have been successful with many CCA interests across the state is that the investor-owned utilities are expressing a lot of concern at the legislative level about how they are being protected against the customer departure. The PCIA has become important for them to latch onto to prevent them from instituting new means of trying to shift costs onto departing customers. The place where this is most prominent is in San Diego. If San Diego County were to launch a CCA program, that would be a much more dramatic impact on their service area than MCE is in PG&E's service area. So the role of the PCIA in that community has been important to prevent further imposition of cost shifting onto potentially departing customers. The efforts they are trying to take are their biggest priority but it is fair to say there are more people engaged in this topic than seen before and it is making the topic more complex.

Mr. Waen said due to the upcoming launch of the utilities green tariff programs, there will now be an opportunity for the utilities to witness first-hand how their customers experience the unfair nature of the PCIA. As more and more customers are participating in CCAs and other alternative programs to the utilities' bundled service, these many changes and new programs and are proving that the policies and assumptions used to implement the PCIA back when are due for re-examination.

#### **4. Consent Calendar (Discussion/Action):**

C.1 6.18.15 Meeting Minutes

C.2 Approved Contracts Update

C.3 First Agreement with Community Media Center of Marin

C.4 Second Addendum to Third Agreement with Association for Energy Affordability



ACTION: It was M/S/C (Wagenknecht/Lion) to approve Consent Calendar Items C.1, as submitted. Motion carried by unanimous roll call vote: (Absent: Athas, Calloway, McCullough, Greene, Small, Withy; Abstain: Chu, McLaughlin, Lacques).

ACTION: It was M/S/C (Schwartzman/Wagenknecht) to approve the Consent Calendar Items C.2 through Items C.4. Motion carried by unanimous roll call vote: (Absent: Athas, Calloway, McCullough, Greene, Small, Withy).

## **5. Monthly Budget Report and Audited Financial Statements for FY 2014-15 (Discussion)**

John Dalessi, Technical Consultant, said they are three months into the fiscal year and financials are tracking well, and projections of revenues and cost of energy are slightly under the budgeted amounts. The other operating non-power expenses are tracking under budgeted amounts and they expect these to even out over the year.

Michael Maher, Maher Accountancy presented the audited financials, stating Marin Clean Energy gets audited annually, and any weaknesses or deficiencies are pointed out. He referred to the Accountants' Compilation Report and said he was pleased to report there were no material weaknesses and no recommendations were even given, noting it was a very clean report.

Mr. Maher then referred to the financial statements and letter to the Board, a portion of which he read into the record which gave Marin Clean Energy a very clean opinion. He provided an overview of the Independent Auditors' Report, Management's Discussion and Analysis, Financial Statements, and began discussion on page 7, stating that the side by side comparison is listed showing 2015 and 2014. He said cash increased by about 23%, a 15% increase in accounts receivables, estimates are shown for billing, total assets are \$27,987,354 as compared to 2014 which was \$22,492,248. Liabilities have increased and the largest item at year end is the accrued cost of electricity. Advances from grantor are energy efficiency funds MCE has received which have not yet been spent. As they use those expenses on qualified expenses, they will recognize the revenue and remove that liability.

He stated that notes to the bank were paid off last April and this will be the last statement showing these. Net position is broken out in capital assets, restricted for debt service which is collateral on the loans, and their unrestricted balance, leaving the total net position as \$13,256,319 as compared in 2014 to \$9,558,036, an increase of 38%. He then reviewed briefly the statement of revenues, expenses and changes in net position for years ended March 31, 2015 and 2014 showing an increase in net position of \$3.698 million. He deferred discussion on the Statement of Cash Flows and Notes to the Financial Statements, stating that it is much the same as presented in prior years.

He then referred to Note 3 on page 14; Accounts Receivable, which might cause some confusion. The table shows an allowance for uncollectible accounts in 2015 of \$2.36 million and gross accounts receivable is \$12.8 million. The allowance is an accumulation from 2010 where they still attempt collections on accounts and they are not written off and the gross positive number also has that portion built into it. The net number of \$10.5 million is the amount they expect to collect.

Mr. Maher then referred to Note 5; Advances from Grantor and said this note explains the methodology of how they receive funds in advance, spend and recognize them on eligible expenses. He said \$1.5 million was grant funding received and they spent just over \$1 million of it and recognize it as revenue

during 2014-2015. In addition, they received grant funding under the Gas Public Purpose Program which is structured differently wherein they spend the money first and request reimbursement.

Mr. Maher then referred to Note 9 on page 17; Commitments and Contingencies, and he explained that MCE has entered into multiple power purchase agreements to meet its near and long term needs. It had outstanding non-cancelable power purchase commitments of approximately \$886.5 million for energy and related services through October 31, 2041 that have not yet been provided. He pointed to the table that is broken out and said over the next three years much of the energy is procured and already contracted.

Board Member Chu referred to page 14 and Uncollectibles. He said irrespective of how it is reported for this purpose, the Board would want to know if MCE is doing better or worse on a year-end basis. The way it is presented, on a percentage basis to revenue, it looks like MCE is doing worse than it truly is.

Mr. Maher said revenues are tied to their actual sales, so it is a percentage of revenues. As their revenues grew from \$80 million in 2014 to \$100 million in 2015, they would expect about that increase also. Their collection cycle is long so it takes many months to weed out and see how much their collections are in each county. With new counties coming on board, they will do the same so they have a more cautionary estimate. They do not want to overstate revenue and err on the conservative side.

Board Member Chu said from a comparative basis, if MCE identifies who these uncollectibles are and whether they are getting better or worse, they can control and reduce the uncollectible. Mr. Maher said there is a point where those customers will automatically revert back to PG&E so the accounts will not grow. MCE will limit that loss so to speak and will try to collect on that amount.

Ms. Weisz thanked Board Member Chu for his comments and explained that MCE's business model is a bit different in that the opportunity for people to pay stays open for a long time. The requirement by statute is that charges that come into PG&E apply to first charges first. So if a customer is delinquent 6 months and then pays, MCE will not see revenue hit for about 6 months and even longer until charges are in time applied to MCE's bill. Board Member Chu said if MCE has a payment track record from PG&E, MCE might not want to take them on as a customer, and Ms. Weisz said they have asked PG&E for this information, but they are unwilling to provide it.

Board Member O'Donnell asked who is providing the financial information. Mr. Maher said there are two distinct financial numbers—the operating expenses that are run internally, and then the customer data, which gets processed by their data manager, which is their largest contracting service. The customer charges are sent to PG&E who then sends it out to the customer. PG&E communicates back with amounts collected, apply collections by each customer account, and our data manager sorts through the data. The procurement team will go through every invoice, match it, validate it, ensure it complies with the contracted amount, and once vetted and approved, it goes through yet another approval process and this is all done internally.

## **6. Resolution 2015-04 Approving Non-Revolving Credit Agreement with River City Bank (Discussion/Action)**

John Dalessi, Technical Consultant, said staff has negotiated a non-revolving credit agreement with River City Bank to provide up to \$15 million in financing for the purpose of providing collateral to MCE's

suppliers for incremental power purchases. The power purchases contemplated would be for future delivery for the period after the agreement with Shell Energy North America terminates in 2017.

As they move off of the current structure, what is standard is that the buyer needs MCE to post collateral and a letter of credit is issued. These credit terms typically require that MCE post cash collateral or provide a standby letter of credit issued by a qualifying bank that can be called upon by the seller in the event of a default. MCE intends to use the RCB credit facility to post collateral for certain forward power purchase contracts with deliveries commencing in the post 2017 period. The \$15 million will cover their anticipated collateral needs for the next 2-3 years. It provides the ability for MCE to draw cash under a traditional credit line or have letters of credit issued to support MCE's power purchases. They can request letters of credit be issued either via Union Bank which is an A+ rated bank or by River City Bank which is a smaller regional bank.

The term of the credit facility is one year and letters of credit issued will also be one year with automatic renewal for up to 5 years unless the issuing bank provides advance written notice of its intent to cancel the standby letters of credit (SBLC) upon its expiration. The termination notice is 120 days which will provide MCE the ability to replace it with a different form of collateral. In the event that a SBLC is drawn upon by the beneficiary, MCE would have the option of repaying the amount drawn, plus interest, over a five year term

He said primary fees are applicable to the entire \$15 million aggregate credit limit and for any LOC's issued it would be 1.25% if issued by Union Bank and 1% if issued by River City Bank. While MCE does not expect to use the entire \$15 million this year, if they did, the fees would be about \$225,000 a year. This fiscal year, he expects fees will be approximately \$60,000.

As collateral for the credit line, MCE will need to establish a debt service reserve fund and provide River City Bank a security interest in that fund in the amount of \$1.657 million which equates to six months of debt service payments.

Mr. Dalessi said they started the process in March and engaged in discussions with three different banks. They also had support from MCE's financial consultant and engaged the Finance Ad-Hoc and Technical Committees. They are confident that the fees and terms of this credit facility are competitive and recommend the Board adopt Resolution 2015-04 approving the Agreement with River City Bank for a credit facility to support MCE power purchases. He noted there are some clean-up revisions in the agreement in the Board's packet, but these are minor.

Board Member Lyman asked if the resolution needs to also establish the debt service reserve fund. Ms. Weisz said no; the resolution is adequate for what is being recommended.

Board Member Lacques said if the Letter of Credit converts to a note, he asked if a predetermined interest rate is set. Mr. Dalessi said yes, it is a floating rate and LIBOR plus a margin, and this is specified in the agreement.

Board Member Lacques asked and confirmed that the Debt Service Reserve Fund will be housed at River City Bank and it can be moved to an interest-bearing account where MCE would draw interest.

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

**ACTION:** It was M/S/C (Wagenknecht/Lyman) to adopt Resolution 2015-04 approving the Agreement with River City Bank for a credit facility to support MCE power purchases. Motion carried by unanimous roll call vote: (Absent: Athas, Calloway, McCullough, Greene, Small, Withy).

## **7. MCE Rate Tariff Schedule E-19 and E-20 Option R (Discussion/Action)**

John Dalessi, Technical Consultant, said PG&E recently introduced a variant to its large commercial and industrial schedules or COM-19 AND COM-20 schedules that can be more beneficial to customers with on-site solar and photovoltaic systems. They have evaluated the new PG&E options and are recommending the Board adopt a similar option under its commercial and industrial rate schedules.

The standard commercial rate schedules have two types of charges; the per KW energy charge and a per KW demand charge. The demand charge is applied to the highest demand during every 15 minute interval during the month. If a solar customer is normally self-producing most of their energy and there is a rainy day, their demand would spike and the charge would apply to the highest peak. The demand charges are not particularly solar-friendly and so the Option R variant will eliminate the demand charge and instead have higher energy charges. In theory, it is revenue neutral. Staff conducted an analysis and they estimate that MCE would see a revenue loss of about \$35,000 this fiscal year if this option were to be offered. He noted that if not offered, customers might have a better deal with PG&E and MCE might lose that revenue in that scenario.

Regarding eligibility, they would follow PG&E's eligibility guidelines. If they are on the Option R schedule for delivery charges, they would automatically qualify for MCE's Option R. The recommendation is to adopt the Option R variant rates as set forth in the staff report.

Board Member Lion said since the solar rate structure is changing dramatically which is not also not friendly to solar he asked if there is a chance to do anything for the residential customers that install solar. Mr. Dalessi said they will need to address this for customers by next year and noted that PG&E will introduce its new TOU so MCE will want to introduce something similar. This discussion will occur in the early part of next year, given changes.

Board Member Lacques said he was curious how many customers currently have COM-19 or COM-20 within MCE that would be eligible for Option R. Mr. Dalessi said they see less than ten customers at present.

Board Member Lacques asked what the total revenue these customers produce for MCE that could be lost if they switch over to PG&E.

Mr. Dalessi said they conducted this analysis and while he does not have exact numbers, the revenue loss, as well as the surplus of revenue over cost would be greater than \$35,000. In response to Board Member Lacques, Mr. Dalessi confirmed it is more cost-effective to lose a little rate revenue in order to retain those ten customers. Ms. Weisz added that staff received inquiries from a couple of those ten customers and this was part of staff's reasoning in looking at this.

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

**ACTION:** It was M/S/C (Bailey/O'Donnell) to adopt the proposed COM-19-R and COM-20-R rates and instruct staff to implement them as soon as practicable. Motion carried by unanimous roll call vote: (Absent: Athas, Calloway, McCullough, Greene, Small, Withy).

**8. Authorization to File Petition for Rulemaking with the California Public Utilities Commission regarding Power Charge Indifference Adjustment (PCIA) Charges to Customers (Discussion/Action)**

This matter was deferred to a future meeting.

**9. MCE Staff Positions (Discussion/Action)**

Katie Gaier, Human Resources Coordinator, stated that given continued growth in MCE's Energy Efficiency offerings, there is a need for mid-management level staff position of Energy Efficiency Program Manager for the Energy Efficiency Team to support the Director. The salary range is that of other mid-management positions.

The second position is a Finance and Project Manager position to assist the Chief Executive Officer. The recommended salaries are at the senior level of mid-management positions.

Board Member Lyman asked where positions fit in the organization chart of the Energy Efficiency Business Plan. Ms. Gaier said the positions do not necessarily translate to the function as described in the Business Plan. Program Managers would most likely take on some of the contracted work and so it is not a direct correlation. She noted also because some of the positions described here are "function-related" which provide a single point of contact, rather than that of a Program Manager position.

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

**ACTION:** It was M/S/C (Bailey/Wagenknecht) to approve the job description for Energy Efficiency Program Manager with the salary range of \$77,833 - \$96,657 with exact compensation to be determined by the Chief Executive Officer within the Board approved budget; and approve the job description of the Finance and Project Manager with the salary range of \$91,000 - \$117,000 with exact compensation to be determined by the Chief Executive Officer within the Board approved budget. Motion carried by unanimous roll call vote: (Absent: Athas, Calloway, McCullough, Greene, Small, Withy).

**10. Energy Efficiency Update and Approval of Program Implementation Plans for 2016 Cycle (Discussion/Action)**

Beckie Menten, Director of Energy Efficiency, said staff seeks approval tonight of the Implementation Plans for 2016 and Beyond and presented a PowerPoint presentation, stating staff has been regularly reporting information to the CPUC. For the past 6 to 8 months they have been preparing a more user-friendly version with more of the qualitative metrics such as the number of homes audited.

She referred to the program results of 2015 and noted that the information is also posted on MCE's Energy Efficiency website page. She said what they have been able to demonstrate since launching these programs is a dramatic increase in the savings of the program and also that due to their hard work in their multi-family program they are over-subscribed and have had to establish a wait list. If projections

hold true, they may also be over-subscribed in 2016. They are on track in small commercial and the single family program savings are based on sending out mailers.

Ms. Menten discussed numbers as of July, stating they have provided energy savings equipment to almost 1,000 units throughout their service territory, have done 137 projects for the small commercial sector, and they expect a huge uptick of these numbers by the end of the year.

They provided in the Board's packets not only the final versions of the implementation plans but also the original versions that were sent out for public comment showing track changes. They include a quick summary in the appendices and on the last page of the Business Plan is a summary of public comment received to date.

The implementation plans are structured to provide the detail that does not exist by design in the Business Plan, which is a high level strategy. The Implementation Plans; however, go into much more detail. They include market characterization, building and energy characteristics, key market factors and forces that impact energy usage, the non-residential benchmarking law, vision that shows they have an understanding of their global market and how they plan on intervening in that market to get people to do energy efficiency upgrades.

The implementation plans also talk about specific strategies, and their approach is for a single point of contact that has a variety of strategies at their disposal that they can combine, direct customers to, and not disreect programs competing against each other within one customer sector. They also talk about quality assurance/quality control which leads into how to measure the programs' success. They also have smart meter data to monitor real time impacts, customer and contractor surveys, and in the packet they pulled a list of all metrics for each implementation plan to see what they are tracking over time.

Ms. Menten briefly discussed the process for the implementation plan review and said at each workshop people could sign up for a list serve to receive information, said they had some people to show up at Tech Com and Ex Com in early August to provide feedback, and they revised the implementation plans as shown in the Board packet.

Ms. Menten said between May 2014 and January 2015 they were out on the streets asking people how energy efficiency figured into their lives and what mattered to them which helped shape the plans today. She presented the schedule of events and said they have had significant activity. She displayed actual GHG emission savings from programs and reported that the proposed decision they were anticipating from the CPUC has come out on Tuesday. The decision provides the structure for forms of applications. There are one or two tweaks to the Business Plan, but by and large it is exactly on point for the level of detail they were hoping to see. Regarding the implementation plan, she is encouraged as they have a lot of involvement with joint stakeholders which has served them very well. She said they will spend some time conducting final review and making final changes, and the next step would be to file a motion for consideration of the CPUC. They are seeing that the Business Plan itself would be the formal document the CPUC votes on. The implementation plans are not voted on, but posted on the website for the CPUC to review and can be updated at any time by Program Administrators.

Chair Sears thanked Ms. Menten for including the summary of metrics in the packet, which are helpful to be in one place. She thinks the slides demonstrate the significance of the implementation plans and Business Plan and the incredible amount of work by the team.

Board Member Lyman asked if it will be an advantage to be out there first.

Ms. Menten said they think so because when MCE initially launched its program proposal to the CPUC, they were directed to avoid duplication of existing programs. Since then, they were told they must achieve the same cost effectiveness ratio as programs that have been operating for over 20 years and have access to state-wide rebate programs and high air conditioning loads such as the San Joaquin Valley. Because of the fact that they have to achieve the higher cost effectiveness ratio and secondly, because they have to do this with 88% of their customers being single family residential with the majority in a coastal temperate climate, they need to be able to stake the claim on the cost-effective programs to achieve the mandates of the CPUC. Secondly, they also have some policy guidance. The CCA decision that directs how CCAs can do EE was passed mid-cycle for them so in order to come into compliance with that decision, they think there is an opportunity to put their application in at this point, being the third year of their program. It falls in line with the decision on CCAs and energy efficiency, as well.

Board Member O'Donnell said he hopes it all works, but he would have gone down more of the niche road rather than trying to do everything for every person. He thinks it is taking on a lot and he said he would like to see the flexibility and innovation MCE has always brought to the table that is more focused and not replicating what all programs are doing.

**ACTION:** It was M/S/C (Bailey/Lion) to approve the 2016 Energy Efficiency Program Implementation Plans and authorize MCE staff to file the 2016 Beyond Energy Efficiency Program Application with the CPUC. Motion carried by the following roll call vote: (No: O'Donnell; Absent: Athas, Calloway, McCullough, Greene, Small, Withy).

## 11. Communications Update (Discussion)

Jamie Tuckey, Public Affairs Director, gave the following energy efficiency tips and update:

- She reminded everybody that now is a great time in the summer heat to exercise energy efficiency habits. The current temperature to set when hot outside to be most efficient and comfortable is between 75 and 78, health permitting. She also reminded everybody to keep their shades down, turn off A/C and work with nature to stay cool later in the day.
- The team has been busy in town, attending community events and meetings, farmer's markets, and in the Board packet is a list of events they participated to date this year. She said they participated in more than 170 events in 2015. This is twice as many at the same time last year.
- Over the last several months MCE's customer base has been growing independently from the addition of new communities added in Napa County, Benicia, El Cerrito and San Pablo. Customers who had previously chosen to opt out of MCE are now deciding to enroll in the Light Green or Deep Green programs.
- Today MCE serves over 170,000 accounts and more than 3,200 Deep Green customers which represent 2% of their overall customer base today.
- She presented a chart showing the percentage of customers that have chosen to receive their electric service from MCE.
  - 90% of the customer base in Napa County has enrolled. 1% of those have chosen Deep Green.



- 91% in San Pablo have enrolled, and just less than 1% are enrolled in Deep Green.
  - 90% in El Cerrito have enrolled, and they have a huge Deep Green rate at 5%.
  - 79% in Benicia have enrolled with a 2% Deep Green rate.
  - They also track the City of Richmond and Marin communities, and the participation rate between both is about 80%.
- An Advocacy Training Workshop will be held and videotaped on September 22, 2015. The workshop was requested by advocates so they can have an opportunity to come together and spend a day at MCE's offices to network amongst each other. She said MCE works a lot with community organizations throughout the service area and relationships have been instrumental in growing their programs. They have primarily been working with the Main Street Moms, the Fairfax Climate Action Committee, the San Anselmo Quality of Life Commission and the Marin Conservation League to develop this training workshop. Items advocates wanted discussed on the agenda include:
  - Basics about Community Choice Aggregation and how it works;
  - Power resources and the electric grid;
  - How different renewable energy works;
  - How renewable compares to traditional fossil fuels;
  - How the electric grid works;
  - MCE procurement principles and policies;
  - Details about Deep Green, Local Sol and MCE's Energy Efficiency Program;
  - Brainstorming about what types of campaigns and efforts to continue advocating for MCE and what that means for real life and other community groups.

Board Member O'Donnell asked about the process for selecting advocates.

Ms. Tuckey said MCE has relationships with many community groups throughout their service areas. A large part of this happened organically when they rolled out in communities and sometimes it begins with individuals who have a passion for sustainability and renewable energy. They sometimes work with City staff to identify community groups.

She said another example is asking individuals and residents within the community to join and meet with them regularly to help inform their outreach efforts. For this particular training, they are inviting all networks and asking them to pass it on to their networks as well. They are taking R.S.V.P.'s because of the maximum occupancy of 49 people, and she said she would be happy to forward along the invitation.

Chair Sears commented that this type of workshop would be of interest to high schools, the Terra Linda School of Environmental Leadership and the Marin Youth Commission, and she asked if Ms. Tuckey could forward information to a couple of representatives of each body. Ms. Tuckey noted that an Intern from Drake High School is going to be working with MCE for the entire year and they are happy to engage youth whenever possible.

Board Member Schwartzman asked if staff was reaching out to school districts in other areas for advocacy training, and Ms. Tuckey said she can do this. Chair Sears suggested Ms. Tuckey consider holding a separate youth workshop, as well.

- Regarding their advertising campaign, Ms. Tuckey said the plan details what they will be doing over the next several months to promote MCE. The goal is to increase brand awareness, educate

the community about options and how MCE works, and ultimately increase customer participation in programs. She discussed outdoor advertising, advertisements running on 4 radio stations, on-line digital ads which are geographically targeted, social and earned media such as Facebook, Twitter and Instagram as well as MCE's e-newsletters, and newspaper articles or radio interviews. She then presented a sampling of the many advertisements.

Board Member Wagenknecht offered to pick from the Letters to the Editor and choose one to place in the Napa Register newspaper.

In response to a question from Member of the public, Leslie Alden, on advertising in movie theaters, Ms. Tuckey said this is something they have done in the past and can explore later in the year.

#### **12. Board Member & Staff Matters (Discussion)**

Chair Sears reminded all Board Members that they have a Regulatory Executive Summary and a Legislative Executive Summary in the packet and she recognized staff for producing such a user-friendly report.

#### **13. Adjournment:**

The Board of Directors adjourned the meeting at 9:03 p.m. to the Board Retreat on September 17, 2015.

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Kate Sears, Chair

Attest:

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Dawn Weisz, Secretary



September 17, 2015

TO: Marin Clean Energy Board

FROM: Dawn Weisz, Chief Executive Officer

RE: Resolution 2015-05 of Marin Clean Energy Board of Directors for Activation of Credit Agreement with River City Bank (Agenda Item #05 - C.2)

ATTACHMENTS: A. Partially Executed Non-Revolving Credit Agreement with River City Bank  
B. Resolution No. 2015-04 Approving Non-Revolving Credit Agreement with River City Bank  
C. Resolution No. 2015-05 Approving Activation of the Agreement with River City Bank

Dear Board Members:

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**SUMMARY:**

On August 20, 2015 your Board approved Resolution 2015-04 approving the Agreement with River City Bank for a credit facility to support MCE power purchases. The Non-Revolving Credit Agreement is attached hereto as Attachment A. The Adopted Resolution No. 2015-04 approving the Non-Revolving Credit Agreement with River City Bank is also attached hereto as Attachment B. The attached Resolution No. 2015-05 is part of the documentation requested by River City Bank to have on file as part of the Agreement.

**Recommendation:** Adopt Resolution 2015-05 approving the activation of the Agreement with River City Bank.

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**\$15,000,000**

**NON-REVOLVING CREDIT AGREEMENT**

**Dated as of August 21, 2015**

**by and between**

**MARIN CLEAN ENERGY,  
as Borrower**

**and**

**RIVER CITY BANK,  
as Lender**

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## **NON-REVOLVING CREDIT AGREEMENT**

This NON-REVOLVING CREDIT AGREEMENT (this “*Agreement*”) is entered into as of August 21, 2015, by and between **MARIN CLEAN ENERGY**, 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 non-revolving credit facility 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 NON-REVOLVING CREDIT.

*Section 2.1. Non-Revolving Credit.* Subject to the terms and conditions hereof, Lender agrees to make a non-revolving credit facility (the “*Non-Revolving Credit*”) available to Borrower for the sole purpose of providing credit support for energy procurement contracts in an aggregate principal amount not to exceed, at any one time, the Non-Revolving Credit Commitment at any time prior to the Non-Revolving Credit Termination Date. The Non-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 8 are satisfied. Subject to the Non-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 Termination Date, and Borrower may not re-borrow Advances as they are repaid.

*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.* Each Advance made under the Non-Revolving Credit will be evidenced by a promissory note (each, a “*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** (the “*Letter of Credit Note*”), **Exhibit C** (the “*Cash Advance Note*”), or, if converted to a Term Loan as provided in Section 5, **Exhibit D** (the “*Term Note*”), as set forth herein.

(a) Letter of Credit Notes. For each Letter of Credit requested by Borrower and issued by the L/C Issuer in accordance with Section 4, Borrower will execute and deliver to Lender 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 Non-Revolving Credit Commitment; provided that each Letter of Credit Note will evidence Borrower’s obligation to repay the lesser of the stated principal amount thereof or the outstanding principal amount of any Advances actually made by Lender under the Non-Revolving Credit as a result of an unreimbursed drawing (the “*Unreimbursed Amount*”), in accordance with Section 4.3. Each Letter of Credit Note will (i) be due and payable in full on the earlier of (x) the applicable Maturity Date, or (y) the Non-Revolving Credit Termination Date, and (ii) bear interest on the Unreimbursed Amount from and after the Honor Date, payable monthly as provided in Section 3. All references to “Advances” in in Section 3 shall, with respect to a Letter of Credit Note, refer solely to the outstanding Unreimbursed Amount(s) evidenced by such Letter of Credit Note. Subject to the terms and conditions of this Agreement and provided that no Event of Default has occurred, Borrower will have a one-time option to convert the indebtedness evidenced by the Letter of Credit Notes into a Term Loan as provided in Section 5.

(b) Cash Advance Notes. Borrower may request Advances under the Non-Revolving Credit in the form of cash disbursements (each a “*Cash Advance*”) deposited by Lender into a designated account of Borrower maintained with Lender. Borrower will make each request for a Cash Advance in writing in substantially the form of **Exhibit G**. On the date of each Cash Advance, Borrower will execute a Cash Advance Note to evidence the Cash Advance. Each Cash Advance Note will (i) be due and payable in full on the Non-Revolving Credit Termination Date, and (ii) bear interest, payable monthly as provided in Section 3. Subject to the terms and conditions of this Agreement and provided that no Event of Default has occurred, Borrower will have the option to convert the indebtedness evidenced by the Cash Advance Notes into a Term Loan as provided in Section 5.

*Section 2.4. Repayment on Non-Revolving Credit Termination Date.* All Advances (including all outstanding principal and accrued but unpaid interest) that have not been converted to a Term Loan shall be due and payable in full on the Non-Revolving Credit Termination Date. Until the Non-Revolving Credit Termination Date, Borrower shall repay the Advances with interest as provided herein and in the applicable Promissory Notes.

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 on October 1, 2015, 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 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 the Promissory 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 than 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 Promissory Note together with interest accrued thereon, 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 Non-Revolver 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 in respect of the Non-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 the Promissory Notes 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 the Promissory Notes, 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 the Promissory Note of the principal amount remaining unpaid, the status of the Advances evidenced by the Promissory 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 the Promissory Note together with accrued interest thereon. Prior to any negotiation of the Promissory Note, Lender will record on a schedule thereto the status of all amounts evidenced by the Promissory 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 set forth herein, the L/C Issuer agrees, in reliance upon the agreements of Borrower, (1) from time to time on any Business Day during the period from the date of this Agreement until the Letter of Credit Expiration Date, to issue Letters of Credit in Dollars for the account of Borrower, and to amend or extend Letters of Credit previously issued by it, in accordance with subsection (b) below, and (2) to honor drawings under the Letters of Credit; provided that after giving effect to any L/C Credit Extension, the aggregate principal amount of all Advances shall not exceed the Non-Revolving Commitment. Each request by Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by Borrower that the L/C Credit Extension 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) The L/C Issuer 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 or last extension;
  - (ii) The expiry date of the requested Letter of Credit would occur after the Letter of Credit Expiration Date;
  - (iii) The requested Letter of Credit requires the L/C Issuer to provide a notice of non-renewal, if any, earlier than 120 days before the expiration of the Letter of Credit;
  - (iv) The requested Letter of Credit contains terms and conditions required by the beneficiary that are deemed unacceptable to the L/C Issuer;
  - (v) Any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin the L/C Issuer from issuing such Letter of Credit, or any law applicable to the L/C Issuer or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the L/C Issuer shall prohibit, or request that the L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon the L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which the L/C Issuer is not otherwise compensated hereunder) not in effect on the date of this Agreement, or shall impose upon the L/C Issuer any unreimbursed loss, cost or expense which was not applicable as of the date of this Agreement and which the L/C Issuer in good faith deems material to it;
  - (vi) The issuance of such Letter of Credit would violate one or more policies of the L/C Issuer generally applicable to the issuance of letters of credit;
  - (vii) The Letter of Credit is to be denominated in a currency other than Dollars;
  - (viii) The Letter of Credit provides for automatic reinstatement or renewal of the stated amount after any drawing thereunder; or
  - (ix) The issuance of the Letter of Credit would result in an L/C Credit Extension and a deemed Advance under the corresponding Letter of Credit Note that exceeds the Non-Revolving Credit Commitment at the time of issuance.
- (c) The L/C Issuer shall not amend any Letter of Credit if the L/C Issuer would not be permitted at such time to issue such Letter of Credit in its amended form under the terms hereof.
- (d) The L/C Issuer shall have no obligation to amend any Letter of Credit if (i) the L/C Issuer would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (ii) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

*Section 4.2. Issuance and Amendment of Letters of Credit.*

(a) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of Borrower delivered to Lender and the L/C Issuer in the form of a Letter of Credit Application substantially in the form of **Exhibit E**, completed to the satisfaction of Lender and the L/C Issuer and signed by a Responsible Officer 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 the L/C Issuer and must be received by Lender and the L/C Issuer not later than ten (10) Business Days (or such later date as Lender and the L/C Issuer may agree in their sole discretion) before the proposed issuance date or date of amendment, as the case may be. In the case of a request for initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to Lender and the L/C Issuer: (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; and (viii) such other matters as Lender or the L/C Issuer may require. In the case of a request for amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail satisfactory to Lender and the L/C Issuer (A) the Letter of Credit to be amended; (B) the proposed date of the amendment (which shall be a Business Day); (C) the nature of the proposed amendment; and (D) such other matters as Lender or the L/C Issuer may require. Additionally, Borrower will furnish to Lender and the L/C Issuer such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any L/C Issuing Documents, as Lender or the L/C Issuer may request.

(b) Promptly after receipt of any Letter of Credit Application, the L/C Issuer will confirm with Lender that the Lender has received a copy of such Letter of Credit Application from Borrower and, if not, the L/C Issuer will provide Lender with a copy thereof. Unless the L/C Issuer has received written notice from Lender or Borrower, at least two (2) Business Days prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions set forth in Section 8 has not then been satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of Borrower or enter into the applicable amendment, as the case may be, in each case in such form as may be approved from time to time by the L/C Issuer and in accordance with the L/C Issuer's usual and customary business practices.

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

*Section 4.3. Drawings and Reimbursements of Letters of Credit.*

(a) Upon the presentment of any notice of drawing under any Letter of Credit by the beneficiary thereof which the L/C Issuer determines to be in compliance with the conditions for payment thereunder, the L/C Issuer will notify Borrower and Lender 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 the L/C Issuer under a Letter of Credit (each such date, an “*Honor Date*”), Borrower shall reimburse the L/C Issuer by making payment to Lender in an amount equal to the amount of such payment. If Borrower fails to so reimburse the L/C Issuer on or before the Reimbursement Date, Lender will make an Advance under the Letter of Credit Note to be disbursed as of the Honor Date in an amount equal to the Unreimbursed Amount, subject to the limits of the Non-Revolving Credit Commitment and the conditions precedent set forth in Section 8.

(b) With respect to any Unreimbursed Amount that is not fully refinanced by an Advance under a corresponding Letter of Credit Note for any reason, Borrower shall be deemed to have incurred an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate.

*Section 4.4. Obligations Absolute.*

(a) The obligation of Borrower to reimburse the L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing 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 any 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), the L/C Issuer 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 the L/C Issuer of any requirement that exists for the L/C Issuer’s protection and not the protection of Borrower or any waiver by the L/C Issuer which 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 the L/C Issuer 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 ISP or the UCP, as applicable.

(vii) any payment by the L/C Issuer 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 the L/C Issuer 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 and each amendment thereto 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 and the L/C Issuer in writing. Borrower shall be conclusively deemed to have waived any such claim it would have against Lender or the L/C Issuer and its correspondents unless such notice is given.

*Section 4.5. Role of L/C Issuer.* Borrower agrees that, in paying any drawing under a Letter of Credit, the L/C Issuer 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 the L/C Issuer, Lender, any of their respective Related Parties nor any correspondent, participant or assignee of the L/C Issuer 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 or L/C Issuing Document. 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 the L/C Issuer or Lender, nor any correspondent, participant or assignee of the L/C Issuer shall be liable or responsible for any of the matters described in Section 4.4; provided, however, that anything in such clauses to the contrary notwithstanding, Borrower may have a claim against the L/C Issuer, and the L/C Issuer may be liable to Borrower, 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 the L/C Issuer's willful misconduct or gross negligence or the L/C Issuer'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, the L/C Issuer 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 the L/C Issuer 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 4.6. Applicability of ISP, Limitation of Liability.* Unless otherwise expressly agreed by the L/C Issuer and Borrower when a Letter of Credit is issued, the rules of the ISP shall apply to each Letter of Credit. Notwithstanding the foregoing, the L/C Issuer shall not be responsible to Borrower for, and the L/C Issuer’s rights and remedies against Borrower shall not be impaired by, any action or inaction of the L/C Issuer 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 the L/C Issuer 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 4.7. Letter of Credit Fees.* Borrower shall pay to Lender fees for each Letter of Credit as follows:

(a) Issuance Fee. Upon issuance of any Letter of Credit, an amount equal to 1.25% per annum of the face amount of any Union Letter of Credit or 1.00% per annum for any RCB Letter of Credit (the “*Issuance Fee*”).

(b) Renewal Fee. Upon renewal or extension of any Letter of Credit, whether automatic, by operation of the Letter of Credit or other request by beneficiary under the Letter of Credit, the applicable Issuance Fee plus a renewal fee equal to \$1,250.00 (collectively, the “*Renewal Fee*”).

(c) Other Letter of Credit Costs and Fees. Borrower shall be subject and agrees to pay any and all fees due under a Union Letter of Credit that are imposed or charged to Lender by MUFG Union Bank, N.A., in connection with the Union Letter of Credit as provided on **Exhibit F**. In addition, Borrower agrees to pay Lender for any Letter of Credit amendment or other fees as quoted on Lender’s Letter of Credit Fee Schedule provided to Borrower by Lender. Nothing in this Section 4.7(c) shall obligate Borrower to pay more than one Issuance Fee upon issuance of each Letter of Credit and one Renewal Fee (including the applicable Issuance Fee) upon each renewal or extension thereof.

*Section 4.8. Conflicts and Inconsistencies with L/C Issuing Documents.* In the event of any conflict or inconsistency between the terms and conditions of this Agreement and the terms and conditions of any L/C Issuing Document, the terms and conditions of this Agreement shall control, and if any L/C Issuing Document contains provisions that impose obligations on the L/C

Issuer or grant rights to Borrower beyond those imposed or granted under this Agreement, such provisions shall be of no force or effect and shall not be binding on the L/C Issuer.

SECTION 5. CONVERSION OF PROMISSORY NOTES TO TERM NOTES.

*Section 5.1. Term Loans.* Provided no Default or Event of Default has occurred or is continuing, Borrower shall have an option to convert outstanding balances under the Letter of Credit Notes or a Cash Advance Note to a term loan (each a "*Term Loan*") payable in sixty (60) equal monthly amortizing payments of principal and interest at the Applicable Rate.

*Section 5.2. Conversion of Letter of Credit Notes.* To the extent there are any unpaid Advances under any Letter of Credit Notes due and payable on the Termination Date, Borrower, by written notice to Lender on the Termination Date, may request that the aggregate outstanding Advances and other indebtedness under the Letter of Credit Notes be converted to a single Term Loan. Borrower's option to convert the Letter of Credit Notes may be exercised no more frequently than once and must be exercised on the Termination Date. The Term Loan described in this Section 5.2 will accrue interest from the Termination Date and will be evidenced by a single Term Note made, executed and delivered by Borrower in the form (with appropriate insertions) attached hereto **Exhibit D**.

*Section 5.3. Conversion of Cash Advance Notes.* At any time before the Non-Revolution Credit Termination Date, Borrower, by written notice to Lender, may request that any unpaid Advances under the Cash Advance Notes be converted to a Term Loan. Any Term Loan described in this Section 5.3 may, at Lender's option, be evidenced by a Term Note or by a modification of the applicable Cash Advance Note.

SECTION 6. COLLATERAL.

*Section 6.1. Debt Service Reserve Account.* As a condition to Lender's obligation to make any Advances hereunder, Borrower will open and establish a restricted deposit account or certificate of deposit with Lender (the "*Debt Service Reserve Account*") with a balance of not less than \$1,657,487.00 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 6.2. Assignment of Debt Service Reserve Account.* 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 (i) the Debt Service Reserve Account, (ii) all replacements, substitutions or proceeds thereof, (iii) all instruments and documents now or hereafter evidencing the Debt Service Reserve Account, (iv) all powers, options, rights, privileges and immunities pertaining to the Debt Service Reserve Account, including the right to make withdrawals therefrom, and (v) 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 \$1,657,487.00 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 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 Promissory 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 Account entered into as of the date hereof between Borrower and Lender shall be cumulative.

#### SECTION 7. REPRESENTATIONS AND WARRANTIES.

Borrower represents and warrants to Lender as follows:

*Section 7.1. 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 Promissory 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 the Shell 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 7.2. 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 7.3. Subsidiaries.* Borrower has no Subsidiaries.

*Section 7.4. Use of Proceeds.* Borrower will use the proceeds of the Advances 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 7.5. Financial Reports.* Effective with the delivery to Lender of the financial statements required by Section 9.2, 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 accompanied by the audit of independent public accountants, 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. 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 7.6. 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 7.7. 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 7.8. 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 7.9. Members.* Borrower is not a party to any contracts or agreements 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 7.10. 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 7.11. 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 7.12. No Default.* No Default or Event of Default has occurred or is continuing.

#### SECTION 8. CONDITIONS PRECEDENT.

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

*Section 8.1. 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 7 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 7.5 (except for the initial Advance) shall be deemed to refer to the most recent financial statements furnished to Lender pursuant to Section 9.2 hereof; and

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

*Section 8.2. Initial Advance.* At or prior to the making of the first Advance, the following conditions precedent must also be satisfied:

(a) Lender shall have received properly completed and executed originals of the following in form and substance approved by Lender:

- (i) this Agreement;
- (ii) the Request for Advance and Letter of Credit Application (if applicable);

(iii) each of 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;

(iv) an incumbency certificate containing the name, title and genuine signatures of each of Borrower's Authorized Representatives;

(v) payment by Borrower of the Loan Fee and all payments and expenses required to be paid by Borrower pursuant to Section 11.4(a) of this Agreement;

(vi) an updated Schedule 9.7 listing all outstanding Indebtedness for Borrowed Money;

(vii) 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; and

(viii) the Assignment of Debt Service Reserve Account.

(b) The Debt Service Reserve Account shall have been established with Lender; and

(c) 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.

#### SECTION 9. 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 9.1. 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 9.2. 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, shall furnish to Lender:

(a) as soon as available, and in any event within forty-five (45) days after the close of each quarter, 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 within six (6) months after the close of each annual accounting period of Borrower, a copy of the audited 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, 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 auditing 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 effect 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 after the request therefore, all such other information as Lender may reasonably request.

Each of the financial statements furnished to Lender pursuant to subsection (b) of this Section 9.2 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 9.3. Maintenance of Debt Service Reserve Account.* Borrower shall ensure that the Debt Service Reserve Account remains pledged and assigned to Lender as collateral for the Obligations in accordance with Section 6.

*Section 9.4. Primary Depository Relationship.* Borrower shall maintain its primary business banking deposit account relationship with Lender for so long as any amounts under this Agreement, any Promissory Note or Letter of Credit remain outstanding. In the event that this condition is not met, as determined by Lender, the Applicable Rate (or the Default Rate, if applicable) and any commissions charge on any outstanding Letters of Credit will immediately increase by an additional 0.25 percentage points.

*Section 9.5. Fixed Charge Coverage Ratio.* Borrower agrees to maintain a minimum Fixed Charge Coverage Ratio at all times greater than or equal to 1.25, measured quarterly as of the end of each fiscal quarter. As used herein,

*“Fixed Charge Coverage Ratio”* is defined as EBIDAR divided by total required Debt Service plus rent expense.

*“EBIDAR”* is defined as Change in Net Position plus depreciation, amortization, interest expense, and rent expense.

*“Change in Net Position”* is defined as the difference between current Net Position and prior period's Net Position.

*“Net Position”* is defined as total assets less total liabilities.

*“Debt Service”* is defined as interest expense for the calculated period, plus current maturities of long term debt reported at the beginning of the calculated period (twelve months prior to the current period), plus current maturities of capital lease payments.

*Section 9.6. Total Liabilities to Tangible Adjusted Unrestricted Net Position.* Borrower agrees to maintain a maximum Total Liabilities to Tangible Adjusted Unrestricted Net Position not at any time greater than 2.50:1.00, measured quarterly. As used herein,

*“Total Liabilities to Tangible Adjusted Unrestricted Net Position”* is defined as the total of current liabilities, non-current liabilities and Contingent Liabilities, then divided by Tangible Adjusted Unrestricted Net Position.

*“Tangible Adjusted Unrestricted Net Position”* is defined as total Adjusted Unrestricted Net Position less any intangible assets.

*“Adjusted Unrestricted Net Position”* is defined as total net assets (i.e., total assets less total liabilities) less temporarily and permanently restricted net assets as presented in Borrower's financial statements, plus the Debt Service Reserve Account.

*“Contingent Liabilities”* are defined as a present obligation that arises from past events, but is not recognized because (i) it is not probable that an outflow of resources embodying economic benefits will be required to settle the obligation; or (ii) the amount of the obligation cannot be measured with sufficient reliability. Contingent Liabilities will include outstanding Letters of Credit issued and will exclude power purchase contingencies and the available Non-Revolver Credit Commitment.

*Section 9.7. 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 so long as 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 each 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 9.8. Liens.* Borrower shall not create, incur or permit to exist any Lien of any kind on any Property owned by Borrower or any Subsidiary; 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 \$500,000 at any one time outstanding;

(d) the Liens identified on Schedule 7.4 hereto; and

(e) the Liens of Shell Energy under the Shell Security Agreement and Shell Collateral Account Agreements.

The Liens described in clauses (a) through (e) of this Section 9.8 are collectively referred to in this Agreement as the "*Permitted Liens*."

*Section 9.9. 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, vendors and suppliers 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 9.10. 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 9.11. Burdensome 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 9.12. Notices of Claims and Litigation.* Borrower shall promptly inform Lender in writing of (a) all material adverse changes in Borrower's financial condition, (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 9.13. 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 and notify Lender immediately in writing of any default in connection with any other such agreements.

*Section 9.14. Performance.* Borrower shall timely perform and comply with all terms, conditions, and provisions set forth in this Agreement, the Promissory Notes and in all other instruments and agreements between Borrower and Lender. Borrower shall notify Lender immediately in writing of any Default in connection with any Loan Document.

*Section 9.15. 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 9.16. Fiscal Year.* Borrower shall not change its fiscal year without the prior written consent of Lender.

*Section 9.17. Indebtedness for Borrowed Money.* As of the date hereof, Borrower has no outstanding Indebtedness for Borrowed Money, except as set forth on Schedule 7.4. Except as disclosed on Schedule 7.4, 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. EVENTS OF DEFAULT AND REMEDIES.

*Section 10.1. 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 the Promissory Notes, 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 Letter of Credit Application or Advance (including an L/C Borrowing) 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 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 Non-Revolver 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, (ii) fails to pay, or admits in writing its inability to pay, its debts generally as they become due; or
- (h) a custodian, receiver, administrative receiver, administrator, trustee, examiner, liquidator or similar official is appointed over Borrower or any substantial part of any of its Properties, 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 10.2. Non-Insolvency Default Remedies.* Upon the occurrence of any Event of Default described in clauses (a) through (g) of Section 10.1, Lender or any permitted holder of any Promissory Note 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 Promissory 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 10.3. Insolvency Default Remedies.* Upon the occurrence of any Event of Default described in Section 10.1(h), all Advances and all indebtedness under the Promissory Notes 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 the Lender shall have no obligation to extend any further credit hereunder (including but not limited to Advances).

#### SECTION 11. MISCELLANEOUS.

*Section 11.1. 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 11.2. No Waiver, Cumulative Remedies.* No delay or failure on the part of Lender or on the part of the holder of any Promissory 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 Promissory 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 11, and Borrower irrevocably

waives any right it may have to require the obtaining, furnishing or posting of any such bond or similar instrument.

*Section 11.3. 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 11.4. Costs and Expenses.*

(a) Borrower shall pay all reasonable out-of-pocket expenses incurred by Lender, if any, 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, a \$2,500.00 documentation fee.

(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 11.5. Indemnity.* Whether or not the transactions contemplated hereby shall be consummated, Borrower shall indemnify, defend and hold harmless Lender and the L/C Issuer and their respective 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 or the L/C Issuer 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 and the L/C Issuer owe 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. Neither Lender nor the L/C Issuer are 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 the L/C Issuer or their respective representatives or agents.

The obligations of Borrower in this Section 11.5 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 11.5 shall be paid within thirty (30) days after demand.

*Section 11.6. 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). 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. This includes all accounts Borrower holds jointly with someone else and all accounts Borrower may open in the future. However, this does not include the Loan Loss Reserve Accounts, the Energy Efficiency Account or any trust accounts that are not subject to setoff under applicable law. In addition, Lender's right of setoff shall apply to the Shell Energy Accounts, but only to the extent that the funds on deposit therein are not subject to a valid and perfected first-priority security interest in favor of Shell Energy.

*Section 11.7. 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 11.8. Notices.* Except as otherwise specified herein, all notices hereunder will be in writing (including by hand, post, courier or telecopy) and will be given to the relevant party at its 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 capable of creating a written record of such notice and its receipt. Notices hereunder will be addressed:

To Borrower at:

Marin Clean Energy  
1125 Tamalpais Ave.  
San Rafael, CA 94901  
Telephone: (415) 464-6010  
Telecopy: (415) 499-7880  
Attention: Executive Officer

With a copy (not constituting notice) to:

Richards Watson & Gershon  
44 Montgomery Street, Suite 3800  
San Francisco, California 94104-4811  
Telephone: (415) 421-8484  
Telecopy: (415) 421-8486  
Attention: Greg Stepanicich

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 is transmitted to the telecopier number specified in this Section and a confirmation of such telecopy 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 11.8; *provided that* any notice given pursuant to Section 2.2 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 11.9. 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 11.10. 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 11.11. 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 11.12. 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 the Promissory 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 11.13. 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 fullest 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 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 11.14. Time is of the Essence.* Time is of the essence in the performance and enforcement of this Agreement and the other Loan Documents.

*Section 11.15. 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 Non-Revolver Credit to one or more purchasers, whether related or unrelated to 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 Promissory Note 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 Promissory Note. 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 11.16. 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 Promissory 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 left intentionally blank; signature page follows]**

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.

MARIN CLEAN ENERGY

By:   
Dawn Weisz  
Executive Officer

By:   
Chairman of the Board

RIVER CITY BANK

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**APPROVED**

**AUG 20 2015**

**RESOLUTION NO. 2015-04**

**MARIN CLEAN ENERGY**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF  
MARIN CLEAN ENERGY APPROVING NON-REVOLVING CREDIT  
AGREEMENT WITH RIVER CITY BANK**

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

**WHEREAS**, Marin Clean Energy members include the following communities: the County of Marin, the City of Belvedere, the City of Benicia, the Town of Corte Madera, the City of El Cerrito, the Town of Fairfax, the City of Larkspur, the City of Mill Valley, the County of Napa, the City of Novato, the Town of San Anselmo, the City of San Pablo, the City of San Rafael, the City of Sausalito, the City of Richmond, the Town of Ross, and the Town of Tiburon; and

**WHEREAS**, River City Bank has been Marin Clean Energy's primary bank since March 8, 2010; and

**WHEREAS**, MCE continues to expand the number of entities with which it contracts for power supply, and it is beneficial to utilize industry standard credit terms for power purchase contracts; and

**WHEREAS**, MCE staff have negotiated the terms of a credit facility with River City Bank to provide credit support for future power purchase contracts; and

**WHEREAS**, the proposed RCB credit facility allows MCE to borrow cash or to direct the issuance of standby letters of credit (SBLC) that would be used as credit support for MCE's forward purchases of energy.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Directors of Marin Clean Energy that the Marin Clean Energy Board approves the non-revolving credit agreement with River City Bank for Power Supply Collateral.

**PASSED AND ADOPTED** at a regular meeting of the Marin Clean Energy Board of Directors on this 20<sup>th</sup> day of August 2015, by the following vote:



	AYES	NOES	ABSTAIN	ABSENT
City of Belvedere	✓			
City of Benicia	✓			
Town of Corte Madera	✓			
City of El Cerrito	✓			
Town of Fairfax	✓			
City of Larkspur	✓			
County of Marin	✓			
City of Mill Valley	✓			
County of Napa	✓			
City of Novato				✓
City of Richmond	✓			
Town of Ross				✓
Town of San Anselmo				✓
City of San Pablo				✓
City of San Rafael				✓
City of Sausalito				✓
Town of Tiburon	✓			

  
 CHAIR, MARIN CLEAN ENERGY BOARD

Attest:

  
 SECRETARY, MARIN CLEAN ENERGY BOARD

**APPROVED**

AUG 20 2015

**MARIN CLEAN ENERGY**

## RESOLUTION 2015-05 OF MARIN CLEAN ENERGY

**In my capacity as Secretary of Marin Clean Energy (the “Authority”), I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT:**

**THE AUTHORITY’S EXISTENCE.** The complete and correct name of the Authority is Marin Clean Energy. The Authority is a public agency formed under the provisions of the Joint Exercise Powers Act of the State of California, Government Code section 6500 *et seq.* The Authority is, and at all times shall be, duly organized, validly existing, and in good standing under and by virtue of the laws of the State of California.

The Authority is duly authorized to transact business, having obtained all necessary filings, governmental licenses and approvals in the State of California in which the Authority is doing business.

The Authority 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. The Authority maintains an office at 1125 Tamalpais Ave., San Rafael, CA 94901. Unless the Authority has designated otherwise in writing, the principal office is the office at which the Authority keeps its books and records. The Authority will notify Lender prior to any change in the location of the Authority’s state of organization or any change in the Authority’s name. The Authority shall do all things necessary to preserve and to keep in full force and effect, its existence, rights and privileges, and shall comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental or quasi-governmental authority or court applicable to the Authority and the Authority’s business activities.

**RESOLUTIONS ADOPTED.** At a meeting of the Marin Clean Energy Board of Directors, duly called and held on the 17<sup>th</sup> day of September, by a vote affixed hereto, the resolutions set forth in this Resolution were adopted.

**AUTHORIZED REPRESENTATIVES.** The following named individuals are the authorized representatives of the Authority with titles and genuine signatures provided below:

NAMES	TITLES	
Dawn Weisz	Secretary	_____
Dawn Weisz	Executive Officer and Responsible Officer	_____
Kathrin Sears	Chairman of the Board	_____

**ACTIONS AUTHORIZED.** Any one (1) of the authorized representatives listed above may enter into any agreements of any nature with River City Bank (“Lender”), and those agreements will bind the Authority. Specifically, but without limitation, each of the authorized representatives is authorized, empowered, and directed to do the following for and on behalf of the Authority with respect to a loan or loans and any other financial accommodations from Lender:

**Borrow Money.** To borrow 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 the Authority and Lender, such sum or sums of money as in its judgment should be borrowed, without limitation.

**Execute Notes.** To execute and deliver to Lender any loan agreement, promissory note or notes, letter of credit applications, requests, or other evidence of the Authority's credit accommodations, in form and substance acceptable to Lender, at such rates of interest and on such terms as may be agreed upon, evidencing the sums of money so borrowed or any of the Authority'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.

**Grant Security.** To pledge, transfer, endorse, hypothecate, or otherwise encumber and deliver to Lender any property now or hereafter belonging to the Authority or in which the Authority now or hereafter may have an interest, including without limitation all of the Authority'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 the Authority 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.

**Execute Security Documents.** To execute and deliver to Lender any assignment agreements, pledge agreements, 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.

**Negotiate Items.** To draw, endorse, and discount with Lender all drafts, trade acceptances, promissory notes, or other evidences of indebtedness payable to or belonging to the Authority or in which the Authority may have an interest, and either to receive cash for the same or to cause such proceeds to be credited to the Authority's account with Lender, or to cause such other disposition of the proceeds derived therefrom as it may deem advisable.

**Further Acts.** 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.

**NOTICES TO LENDER.** The Authority will promptly notify Lender in writing at Lender's address shown above (or such other addresses as Lender may designate from time to time) prior to any (A) change in the Authority's name; (B) change in the Authority's assumed business name(s); (C) change in the management or in the members of the Authority; (D) change in the authorized signer(s); (E) change in the Authority's principal office address; (F) change in the Authority's state of organization; (G) conversion of the Authority to a new or different type of business entity; or (H) change in any other aspect of the Authority that directly or indirectly relates to any agreements between the Authority and Lender. No change in the Authority's name or state of organization will take effect until after Lender has received notice.

**CERTIFICATION CONCERNING OFFICERS AND RESOLUTIONS.** The authorized representatives named above are duly elected, appointed, or employed by or for the Authority, as the case may be, and each occupies the position set opposite his or her name. This Resolution now stands of record on the books of the Authority, is in full force and effect, and has not been modified or revoked in any manner whatsoever.

**CONTINUING VALIDITY.** 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 at Lender's address shown above (or such addresses as Lender may designate from time to time). Any such notice shall not affect any of the Authority's agreements or commitments in effect at the time notice is given.

**IN TESTIMONY WHEREOF, I have hereunto set my hand and attest that the signature set opposite the name listed above is its genuine signature.**

**I have read all the provisions of this Resolution, and I personally and on behalf of the Authority certify that all statements and representations made in this Resolution are true and correct. This Resolution is dated on this 17<sup>th</sup> day of September, 2015.**

**MARIN CLEAN ENERGY**

By: \_\_\_\_\_  
Dawn Weisz  
Secretary

	AYES	NOES	ABSTAIN	ABSENT
City of Belvedere				
City of Benicia				
Town of Corte Madera				
City of El Cerrito				
Town of Fairfax				
City of Larkspur				
County of Marin				
City of Mill Valley				
County of Napa				
City of Novato				
City of Richmond				
Town of Ross				
Town of San Anselmo				
City of San Pablo				
City of San Rafael				
City of Sausalito				
Town of Tiburon				

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CHAIR, MARIN CLEAN ENERGY BOARD

**Attest:**

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SECRETARY, MARIN CLEAN ENERGY BOARD



September 17, 2015

TO: Marin Clean Energy Board of Directors

FROM: Sarah Estes-Smith, Internal Operations Coordinator

RE: Second Addendum to Fourth Agreement with Jay Marshall (Agenda Item #05 – C.3)

**ATTACHMENTS:**

- A. Fourth Agreement with Jay Marshall
- B. First Addendum to Fourth Agreement with Jay Marshall
- C. Second Addendum to Fourth Agreement with Jay Marshall

Dear Board Members:

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**SUMMARY:**

On March 5, 2015, MCE entered into the Fourth Agreement with Jay Marshall ("Agreement") to provide general information technology (IT) support services to MCE. The agreement is for \$35,000 and will expire on March 31, 2016. Jay Marshall currently provides general IT support to MCE's staff on a routine basis and oversees MCE's IT and communications infrastructure.

Due to staffing increases and logistical support needs in the new MCE office, MCE executed the First Addendum to the Fourth Agreement with Jay Marshall on May 1, 2015. The scope of services was adjusted to include a minimum of 14 hours of on-site work per week, and the fee/payment schedule was changed from an hourly fee to a flat monthly fee of \$6,000, plus \$125/hour for additional services rendered.

Jay Marshall has continued to provide valuable IT support services to MCE. MCE staff requests approval of the draft Second Addendum, which would reflect an increase in the contract amount to not exceed \$90,000.

**Recommendation:** Approve Second Addendum to Fourth Agreement with Jay Marshall.

**MARIN CLEAN ENERGY  
STANDARD SHORT FORM CONTRACT**

**FOURTH AGREEMENT  
BY AND BETWEEN  
MARIN CLEAN ENERGY AND JAY MARSHALL**

**THIRD AGREEMENT** ("Agreement") is made and entered into this day **March 5, 2015** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and JAY MARSHALL, hereinafter referred to as "Contractor."

**RECITALS:**

**WHEREAS**, MCE desires to retain a person or firm to provide the following services: general information technology (IT) support as requested by MCE staff;

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

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

**1. SCOPE OF SERVICES:**

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

**2. FURNISHED SERVICES:**

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

**3. FEES AND PAYMENT SCHEDULE; INVOICING:**

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

**4. MAXIMUM COST TO MCE:**

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$35,000**.

**5. TIME OF AGREEMENT:**

This Agreement shall commence on **April 1, 2015**, and shall terminate on **March 31, 2016**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

**6. INSURANCE:**

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

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

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



#### **6.1 GENERAL LIABILITY**

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

#### **6.2 AUTO LIABILITY**

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

#### **6.3 WORKERS' COMPENSATION**

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

#### **6.4 PROFESSIONAL LIABILITY INSURANCE**

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

#### **7. NONDISCRIMINATORY EMPLOYMENT:**

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

#### **8. SUBCONTRACTING:**

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

#### **9. ASSIGNMENT:**

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

#### **10. RETENTION OF RECORDS AND AUDIT PROVISION:**

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

#### **11. WORK PRODUCT:**

All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Contractor, its officers, employees and agents in the course of implementing this Agreement shall become the sole property of MCE upon payment to Contractor for such work. MCE shall have the exclusive right to use such materials in its sole discretion without further compensation to Contractor or to



any other party. Contractor shall, at MCE's expense, provide such reports, plans, studies, documents and writings to MCE or any party MCE may designate, upon written request. Contractor may keep file reference copies of all documents prepared for MCE.

**12. TERMINATION:**

- A. If the Contractor fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, MCE may terminate this Agreement by giving five (5) calendar days written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s).

**13. AMENDMENT:**

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

**14. ASSIGNMENT OF PERSONNEL:**

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

**15. JURISDICTION AND VENUE:**

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

**16. INDEMNIFICATION:**

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

**17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:**

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

**18. COMPLIANCE WITH APPLICABLE LAWS:**

The Contractor shall comply with any and all Federal, State and local laws and resolutions (including, but not limited to the County of Marin Nuclear Free Zone, Living Wage Ordinance, and Resolution #2005-97 of the Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Agreement. Copies of any of the above-referenced local laws and resolutions may be secured from MCE's contact person referenced in paragraph 19. NOTICES below.

**19. NOTICES**

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

Contract Manager: Sarah Estes-Smith

MCE Address: 700 Fifth Avenue

San Rafael, CA 94901

Email Address: invoices@mcecleanenergy.org

Telephone No.: (415) 464-6028

Notices shall be given to Contractor at the following address:

Contractor:	Jay Marshall
Address:	16 Portola Avenue
	San Rafael, CA 94903
Email Address:	jay@primemovertech.com
Telephone No.:	(415) 987-7153

**20. ACKNOWLEDGEMENT OF EXHIBITS**

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

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

**APPROVED BY**  
Marin Clean Energy:

By: [Signature]  
CEO Date: 3-6-15

By: [Signature]  
Chairperson Date: 3-5-15

**CONTRACTOR:**

By: [Signature]  
Name: Hoyd J. Marshall  
Date: 3/27/15

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

**REASON(S) REVIEW:**

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

MCE Counsel: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES (required)**

Contractor shall be responsible for the complete and successful move and integration of all IT and communications equipment from MCE's existing office at 781 Lincoln Avenue, Suite 320 in San Rafael to the new headquarters at 700 Fifth Avenue in San Rafael. This includes all individual work stations, conference rooms, server room, and other data and communication drop locations throughout the new office. The move will take place in March of 2015 and any related technical issues that arise at the start of this agreement will take priority over all other scope of work.

As requested and directed by MCE staff, up to the maximum time/fees allowed under this Agreement, the Contractor will provide the following general information technology (IT) support services for maintaining and addressing issues related to operations of:

- Computer systems, including desktops, networking, internet connectivity
- File server and Switch/WIFI/Firewall
- Telephone systems, including 25 handsets, voicemail, Allwork version 7.5 telephony software, connections to Internet and SIP provider for telephony
- Microsoft operating system and a single file/print server and Service Pack Installation and updates as required
- Google Applications and Egnyte file services support (Email and Cloud Back-up)
- Software, including Office, Acrobat Professional, Dreamweaver, anti-virus and anti-malware, and others
- Other hardware components

Contractor shall provide IT transitional assistance if MCE elects to contract IT services through a different contractor. If requested, Contractor shall provide and assist in transferring his full knowledge of MCE computer, telephone, and internet systems, settings, and passwords.

Support is available Monday through Friday from 9:00am to 5:00pm, excluding holidays.

**EXHIBIT B**  
**FEES AND PAYMENT SCHEDULE**

For services provided under this agreement, MCE shall pay the Contractor an hourly fee of \$125 per hour, billed in .25 hour increments. Contractor shall bill MCE monthly for all services rendered. Invoices will not be accepted if received more than 60 days from the original invoice date.

In no event shall the total cost to MCE for the service provided herein exceed the maximum sum of **\$35,000** for the term of the agreement.

**EXHIBIT C**  
**INSURANCE REDUCTION/WAIVER (if applicable)**

CONTRACTOR: Jay Marshall

CONTRACT TITLE: Fourth Agreement By and Between Marin Clean Energy and Jay Marshall

This statement shall accompany all requests for a reduction/waiver of insurance requirements. Please check the box if a waiver is requested or fill in the reduced coverage(s) where indicated below:

	<i>Check Where Applicable</i>	<i>Requested Limit Amount</i>	<i>MCE Use Only</i>
General Liability Insurance	<input checked="" type="checkbox"/>	\$	
Automobile Liability Insurance	<input type="checkbox"/>	\$	
Workers' Compensation Insurance	<input checked="" type="checkbox"/>		
Professional Liability Deductible	<input checked="" type="checkbox"/>	\$	

Please set forth the reasons for the requested reductions or waiver.

The nature of services being provided by this contractor does not place MCE into any significant liability risk.
Contractor shall provide proof of individual automobile liability insurance.

Contract Manager Signature: 

Date: 3/27/15

Telephone: 415-464-6028

Approved by: 

Date: 3-27-15

**FIRST ADDENDUM TO FOURTH AGREEMENT  
BY AND BETWEEN  
MARIN CLEAN ENERGY AND JAY MARSHALL**

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This FIRST ADDENDUM is made and entered into on May 1, 2015 by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and JAY MARSHALL (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, MCE and the Contractor entered into an agreement to provide general information technology (IT) services as directed by MCE staff dated March 5, 2015 ("Agreement"); and

WHEREAS, Exhibit A to the agreement obligated Contractor to provide support as-needed Monday through Friday from 9:00am to 5:00pm, excluding holidays; and

WHEREAS, Exhibit B to the agreement obligated Contractor to be compensated at a rate of \$125 per hour, billed in .25 hour increments for the IT services described within the scope therein; and

WHEREAS the parties desire to amend the agreement to include the provision of services on-site according to a specific schedule and allow Contractor to bill MCE a flat monthly fee.

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

AGREEMENT

1. The last sentence of Exhibit A is hereby replaced in its entirety to read as follows:

Contractor shall work on-site at MCE's office 14 hours per week, typically on Tuesdays and Thursdays. Contractor shall provide additional support to MCE staff as-needed on other weekdays.

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

For services provided under this agreement, MCE shall pay the Contractor a monthly fee of \$6,000. Additional hours beyond 14 in a given week shall be at a rate of \$125/hour, billed in .25-hour increments. Contractor shall bill MCE monthly for all services rendered. Invoices will not be accepted if received more than 60 days from the original invoice date.

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

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

CONTRACTOR:

By: \_\_\_\_\_

Date: \_\_\_\_\_

MARIN CLEAN ENERGY:

By: \_\_\_\_\_

Date: \_\_\_\_\_

**SECOND ADDENDUM TO FOURTH AGREEMENT  
BY AND BETWEEN  
MARIN CLEAN ENERGY AND JAY MARSHALL**

---

This FOURTH ADDENDUM is made and entered into on September 17, 2015, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and JAY MARSHALL (hereinafter referred to as "Contractor").

**RECITALS**

WHEREAS, MCE and the Contractor entered into an agreement to provide general information technology (IT) services as directed by MCE staff dated March 5, 2015 ("Agreement"); and

WHEREAS, Section 4 and Exhibit B to the agreement obligated Contractor to be compensated an amount not to exceed \$35,000 for the IT services described within the scope therein; and

WHEREAS the parties desire to amend the agreement to increase the contract amount by \$55,000 for a total not to exceed \$90,000.

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

**AGREEMENT**

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

**MAXIMUM COST TO MCE:**

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$90,000**.

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

**In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of \$90,000 for the term of the agreement.**

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



**SECOND ADDENDUM TO FOURTH AGREEMENT  
BY AND BETWEEN  
MARIN CLEAN ENERGY AND JAY MARSHALL**

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

CONTRACTOR:

By: \_\_\_\_\_

Date: \_\_\_\_\_

MARIN CLEAN ENERGY:

By: \_\_\_\_\_

Date: \_\_\_\_\_

MARIN CLEAN ENERGY:

By: \_\_\_\_\_

Date: \_\_\_\_\_



September 17, 2015

TO: Marin Clean Energy Board of Directors

FROM: Greg Brehm, Director of Power Resources

RE: First Addendum to Second Agreement with Rincon Consultants, Inc.  
(Agenda Item #05 – C.4)

**ATTACHMENTS:**

- A. Second Agreement with Rincon Consultants, Inc.
- B. First Addendum to Second Agreement with Rincon Consultants, Inc.

Dear Board Members:

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**SUMMARY:**

On March 16, 2015, MCE entered into the Second Agreement with Rincon Consultants, Inc. ("Agreement") to provide California Environmental Quality Act (CEQA) document support services for the MCE 10.5-megawatt Chevron Refinery Solar Project located in the City of Richmond, CA. The Agreement stated that the maximum cost to MCE would be \$25,000.

MCE staff requests approval of the present First Addendum, which would reflect a contract maximum increase of \$15,000 for a total amount not to exceed \$40,000.

**Recommendation:** Approve First Addendum to Second Agreement with Rincon Consultants, Inc.

**MARIN CLEAN ENERGY  
STANDARD SHORT FORM CONTRACT**

**SECOND AGREEMENT  
BY AND BETWEEN  
MARIN CLEAN ENERGY AND RINCON CONSULTANTS, INC.**

THIS SECOND AGREEMENT ("Agreement") is made and entered into this day **March 16, 2015** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and RINCON CONSULTANTS, INC., hereinafter referred to as "Contractor."

**RECITALS:**

**WHEREAS**, MCE desires to retain a person or firm to provide the following services: California Environmental Quality Act (CEQA) document support services for the MCE 10.5-megawatt Chevron Refinery Solar Project located in the City of Richmond, CA;

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

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

**1. SCOPE OF SERVICES:**

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

**2. FURNISHED SERVICES:**

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

**3. FEES AND PAYMENT SCHEDULE; INVOICING:**

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

**4. MAXIMUM COST TO MCE:**

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$25,000**.

**5. TIME OF AGREEMENT:**

This Agreement shall commence on **April 1, 2015**, and shall terminate on **March 31, 2016**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

**6. INSURANCE:**

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

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

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

#### **6.1 GENERAL LIABILITY**

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

#### **6.2 AUTO LIABILITY**

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

#### **6.3 WORKERS' COMPENSATION**

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

#### **6.4 PROFESSIONAL LIABILITY INSURANCE**

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

#### **7. NONDISCRIMINATORY EMPLOYMENT:**

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

#### **8. SUBCONTRACTING:**

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

#### **9. ASSIGNMENT:**

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

#### **10. RETENTION OF RECORDS AND AUDIT PROVISION:**

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

#### **11. WORK PRODUCT:**

All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Contractor, its officers, employees and agents in the course of implementing this Agreement shall become the sole property of MCE upon payment to Contractor for such work. MCE shall have the exclusive right to use such materials in its sole discretion without further compensation to Contractor or to



any other party. Contractor shall, at MCE's expense, provide such reports, plans, studies, documents and writings to MCE or any party MCE may designate, upon written request. Contractor may keep file reference copies of all documents prepared for MCE.

**12. TERMINATION:**

- A. If the Contractor fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, MCE may terminate this Agreement by giving five (5) calendar days written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s).

**13. AMENDMENT:**

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

**14. ASSIGNMENT OF PERSONNEL:**

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

**15. JURISDICTION AND VENUE:**

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

**16. INDEMNIFICATION:**

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

**17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:**

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

**18. COMPLIANCE WITH APPLICABLE LAWS:**

The Contractor shall comply with any and all Federal, State and local laws and resolutions (including, but not limited to the County of Marin Nuclear Free Zone, Living Wage Ordinance, and Resolution #2005-97 of the Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Agreement. Copies of any of the above-referenced local laws and resolutions may be secured from MCE's contact person referenced in paragraph 19. NOTICES below.

**19. NOTICES**

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

Contract Manager: Sarah Estes-Smith

MCE Address: 1125 Tamalpais Avenue

San Rafael, CA 94901

Email Address: invoices@mcecleanenergy.org

Telephone No.: (415) 464-6028

Notices shall be given to Contractor at the following address:

Contractor:	Abe Leider / Michael P. Gialketsis
Address:	180 Grand Avenue, Suite 400
	Oakland, CA 94612
Email Address:	aleider@rinconconsultants.com / mike@rinconconsultants.com
Telephone No.:	(510) 834-4455

**20. ACKNOWLEDGEMENT OF EXHIBITS**

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

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

APPROVED BY

Marin Clean Energy:

By: [Signature]  
CEO  
Date: 3-25-15

By: N/A  
Chairperson  
Date: \_\_\_\_\_

CONTRACTOR:

By: [Signature]  
Name: Michael Gialketsis  
Date: March 17, 2015

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

REASON(S) REVIEW:

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

MCE Counsel: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES (required)**

Contractor will provide California Environmental Quality Act (CEQA) document support services for the MCE 10.5-megawatt Chevron Refinery Solar Project located in the City of Richmond, CA, as requested and directed by MCE staff, up to the maximum time/fees allowed under this Agreement.

Contractor will prepare the focused Environmental Impact Report (EIR) for the above Project, and manage, with the Environmental Coordinator, the CEQA process as set forth in the state CEQA *Guidelines* and MCE's CEQA Environmental Review Guidelines (2009).

Additional scope of work and schedule details are listed in Sections 1.0 and 5.0 of attached Exhibit C, "Proposal to Prepare: CEQA Documentation for the Marin Clean Energy Chevron Refinery Solar Project."

**EXHIBIT B  
FEES AND PAYMENT SCHEDULE**

For services provided under this agreement, MCE shall pay the Contractor in accordance with Appendix A of attached Exhibit C, "Proposal to Prepare: CEQA Documentation for the Marin Clean Energy Chevron Refinery Solar Project."

In no event shall the total cost to MCE for the service provided herein exceed the maximum sum of **\$25,000** for the term of the agreement.



**FIRST ADDENDUM TO SECOND AGREEMENT  
BY AND BETWEEN  
MARIN CLEAN ENERGY AND RINCON CONSULTANTS, INC.**

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This FIRST ADDENDUM is made and entered into on September 17, 2015, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and RINCON CONSULTANTS, INC. (hereinafter referred to as "Contractor").

**RECITALS**

WHEREAS, MCE and the Contractor entered into an agreement to provide California Environmental Quality Act (CEQA) document support services for the MCE 10.5 megawatt Chevron Refinery Solar Project as directed by MCE staff dated March 16, 2015 ("Agreement"); and

WHEREAS, Section 4 and Exhibit B to the agreement obligated Contractor to be compensated an amount not to exceed \$25,000 for the CEQA document support services described within the scope therein; and

WHEREAS the parties desire to amend the agreement to increase the contract amount by \$15,000 for a total not to exceed \$40,000.

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

**AGREEMENT**

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

**MAXIMUM COST TO MCE:**

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$40,000**.

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

**In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of \$40,000 for the term of the agreement.**

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

**FIRST ADDENDUM TO SECOND AGREEMENT  
BY AND BETWEEN  
MARIN CLEAN ENERGY AND RINCON CONSULTANTS, INC.**

---

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

CONTRACTOR:

By: \_\_\_\_\_

Date: \_\_\_\_\_

MARIN CLEAN ENERGY:

By: \_\_\_\_\_

Date: \_\_\_\_\_

MARIN CLEAN ENERGY:

By: \_\_\_\_\_

Date: \_\_\_\_\_



September 17, 2015

TO: Marin Clean Energy Board of Directors

FROM: Beth Kelly, Legal Director

RE: First Addendum to Third Agreement with Braun, Blaising, McLaughlin & Smith PC (Agenda Item #05 – C.5)

**ATTACHMENTS:**

- A. Third Agreement with Braun, Blaising, McLaughlin & Smith PC
- B. First Addendum to Third Agreement with Braun, Blaising, McLaughlin & Smith PC

Dear Board Members:

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**SUMMARY:**

On March 5, 2015, MCE entered into the Third Agreement with Braun, Blaising, McLaughlin & Smith PC ("Agreement") to provide regulatory and legal services as needed and requested by MCE staff. The Agreement stated that the maximum cost to MCE would be \$50,000.

MCE staff requests approval of the present First Addendum, which would reflect a contract maximum increase of \$50,000 for a total amount not to exceed \$100,000.

**Recommendation:** Approve First Addendum to Third Agreement with Braun, Blaising, McLaughlin & Smith PC.

**MARIN CLEAN ENERGY  
STANDARD SHORT FORM CONTRACT**

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

**THIS THIRD AGREEMENT** ("Agreement") is made and entered into this day **March 5, 2015** by and between MARIN CLEAN ENERGY, hereinafter referred to as "MCE" and BRAUN, BLAISING, MCLAUGHLIN & SMITH, hereinafter referred to as "Contractor."

**RECITALS:**

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

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

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

**1. SCOPE OF SERVICES:**

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

**2. FURNISHED SERVICES:**

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

**3. FEES AND PAYMENT SCHEDULE; INVOICING:**

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

**4. MAXIMUM COST TO MCE:**

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

**5. TIME OF AGREEMENT:**

This Agreement shall commence on **April 1, 2015**, and shall terminate on **March 31, 2016**. Certificate(s) of Insurance must be current on the day the Agreement commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Contractor.

**6. INSURANCE:**

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

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

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

#### **6.1 GENERAL LIABILITY**

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

#### **6.2 AUTO LIABILITY**

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

#### **6.3 WORKERS' COMPENSATION**

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

#### **6.4 PROFESSIONAL LIABILITY INSURANCE**

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

#### **7. NONDISCRIMINATORY EMPLOYMENT:**

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

#### **8. SUBCONTRACTING:**

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

#### **9. ASSIGNMENT:**

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

#### **10. RETENTION OF RECORDS AND AUDIT PROVISION:**

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

#### **11. WORK PRODUCT:**

All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Contractor, its officers, employees and agents in the course of implementing this Agreement shall become the sole property of MCE upon payment to Contractor for such work. MCE shall have the exclusive right to use such materials in its sole discretion without further compensation to Contractor or to



any other party. Contractor shall, at MCE's expense, provide such reports, plans, studies, documents and writings to MCE or any party MCE may designate, upon written request. Contractor may keep file reference copies of all documents prepared for MCE.

**12. TERMINATION:**

- A. If the Contractor fails to provide in any manner the services required under this Agreement or otherwise fails to comply with the terms of this Agreement or violates any ordinance, regulation or other law which applies to its performance herein, MCE may terminate this Agreement by giving five (5) calendar days written notice to the party involved.
- B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.
- C. Either party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Agreement so long as proof of required insurance is provided for the periods covered in the Agreement or Amendment(s).

**13. AMENDMENT:**

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

**14. ASSIGNMENT OF PERSONNEL:**

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

**15. JURISDICTION AND VENUE:**

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

**16. INDEMNIFICATION:**

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

**17. NO RECOURSE AGAINST CONSTITUENT MEMBERS OF MCE:**

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

**18. COMPLIANCE WITH APPLICABLE LAWS:**

The Contractor shall comply with any and all Federal, State and local laws and resolutions (including, but not limited to the County of Marin Nuclear Free Zone, Living Wage Ordinance, and Resolution #2005-97 of the Board of Supervisors prohibiting the off-shoring of professional services involving employee/retiree medical and financial data) affecting services covered by this Agreement. Copies of any of the above-referenced local laws and resolutions may be secured from MCE's contact person referenced in paragraph 19. NOTICES below.

**19. NOTICES**

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

Contract Manager: Sarah Estes-Smith

MCE Address: 700 Fifth Avenue

San Rafael, CA 94901

Email Address: invoices@mcecleanenergy.org

Telephone No.: (415) 464-6028

Notices shall be given to Contractor at the following address:

Contractor:	Scott Blaising
Address:	915 L Street, Suite 1270
	Sacramento, CA 95814
Email Address:	blaising@braunlegal.com
Telephone No.:	(916) 682-9702 / (916) 712-3961

20. ACKNOWLEDGEMENT OF EXHIBITS

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

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

APPROVED BY  
Marin Clean Energy:

By: [Signature]  
CEO  
Date: 3-6-15

By: [Signature]  
Chairperson  
Date: 3-5-15

CONTRACTOR:

By: [Signature]  
Name: SCOTT BLAISING  
Date: 3/25/15

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

REASON(S) REVIEW:

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

MCE Counsel: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF SERVICES (required)**

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



**EXHIBIT B**  
**FEES AND PAYMENT SCHEDULE**

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

Senior Partners	\$390
Junior Partners	\$315
Senior Associates	\$290
Junior Associates	\$240
Of Counsel	\$305-\$345
Contract Associate (As Authorized)	\$270
Law Clerk and Associates Not Admitted to Bar	\$150

The contractor shall bill in .10 hour increments on a monthly basis for all services rendered. In no event shall the total cost to MCE for the service provided herein exceed the maximum sum of **\$50,000** for the term of the agreement.

**FIRST ADDENDUM TO THIRD AGREEMENT  
BY AND BETWEEN  
MARIN CLEAN ENERGY AND BRAUN, BLAISING, MCLAUGHLIN  
& SMITH PC**

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This FIRST ADDENDUM is made and entered into on September 17, 2015, by and between MARIN CLEAN ENERGY, (hereinafter referred to as "MCE") and BRAUN, BLAISING, MCLAUGHLIN & SMITH PC (hereinafter referred to as "Contractor").

**RECITALS**

WHEREAS, MCE and the Contractor entered into an agreement to provide regulatory and legal services as needed and requested by MCE staff dated March 5, 2015 ("Agreement"); and

WHEREAS, Section 4 and Exhibit B to the agreement obligated Contractor to be compensated an amount not to exceed \$50,000 for the regulatory and legal services described within the scope therein; and

WHEREAS the parties desire to amend the agreement to increase the contract amount by \$50,000 for a total not to exceed \$100,000.

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

**AGREEMENT**

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

**MAXIMUM COST TO MCE:**

In no event will the cost to MCE for the services to be provided herein exceed the maximum sum of **\$100,000**.

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

**In no event shall the total cost to MCE for the services provided herein exceed the maximum sum of \$100,000 for the term of the agreement.**

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

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

CONTRACTOR:

By: \_\_\_\_\_

Date: \_\_\_\_\_

MARIN CLEAN ENERGY:

By: \_\_\_\_\_

Date: \_\_\_\_\_

MARIN CLEAN ENERGY:

By: \_\_\_\_\_

Date: \_\_\_\_\_



September 17, 2015

TO: Marin Clean Energy Board

FROM: Kirby Dusel, Technical Consultant

RE: MCE Power Content Label and Attestation (Agenda Item #05 - D)

ATTACHMENT: Customer Communication: 2014 Power Content Label

Dear Board Members:

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**SUMMARY:**

California Public Utilities Code requires all retail sellers of electric energy, including Marin Clean Energy, to disclose “accurate, reliable, and simple-to-understand information on the sources of energy” that are delivered to their respective customers.<sup>1</sup> Applicable regulations direct retail sellers to provide such communications no later than October 1st. The format for requisite communications is highly prescriptive, offering little flexibility to retail sellers when presenting such information to customers. This format has been termed the “Power Content Label” by the California Energy Commission (CEC).

Information presented in the Power Content Label includes the proportionate share of total energy supply attributable to various resource types, including both renewable and conventional fuel sources. In the event that a retail seller meets a certain percentage of its supply obligation from unspecified resources, the report must identify such purchases as “unspecified sources of power.” As your Board is aware, our supply agreement with Shell Energy North America allows for the use of such unspecified purchases to satisfy a portion of MCE’s energy requirements – these purchases have been appropriately identified as “unspecified sources of power” in the Power Content Label.

During the 2014 calendar year, MCE successfully delivered a substantial portion of its electric energy supply from various renewable energy sources, including wind, solar, geothermal, biomass and biogas – for Light Green customers, the percentage of supply attributable to renewable energy sources approximated 56 percent; for Deep Green

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<sup>1</sup> California Public Utilities Code Section 398.1(b)

customers, renewable energy comprised 100 percent of the supply portfolio. A copy of MCE's 2014 Power Content Label is presented below:

<b>POWER CONTENT LABEL</b>			
<b>ENERGY RESOURCES</b>	<b>2014</b>	<b>2014</b>	<b>2014</b>
	<b>LIGHT GREEN</b>	<b>DEEP GREEN</b>	<b>CALIFORNIA</b>
	<b>POWER MIX</b> (Actual)	<b>POWER MIX</b> (Actual)	<b>POWER MIX</b> (Actual)
<b>Eligible Renewable</b>	<b>56%</b>	<b>100%</b>	<b>20%</b>
-- Biomass & waste	5%	0%	3%
-- Geothermal	4%	0%	4%
-- Small hydroelectric	0%	0%	1%
-- Solar	<1%	0%	4%
-- Wind	46%	100%	8%
<b>Coal</b>	0%	0%	6%
<b>Large Hydroelectric</b>	9%	0%	6%
<b>Natural Gas</b>	0%	0%	45%
<b>Nuclear</b>	0%	0%	9%
<b>Other</b>	0%	0%	0%
<b>Unspecified sources of power*</b>	<b>35%</b>	<b>0%</b>	<b>14%</b>
<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Consistent with applicable regulations, MCE will complete requisite customer communications in accordance with the October 1<sup>st</sup> deadline. Customers receiving Power Content Label communications will include those enrolled in the MCE program as of December 31, 2014 – the distribution list was derived based on prior discussions with designated CEC staff. The entirety of the communication provided to the aforementioned group of MCE customers is attached for your review.

While developing MCE's 2014 Power Content Label, staff performed a detailed review of all power purchases completed for the 2014 calendar year. This review included an inventory of all renewable energy transfers within MCE's Western Renewable Energy Generation Information System (WREGIS) accounts as well as a requisite independent audit for MCE's voluntary Deep Green, 100% renewable energy program.<sup>2</sup> Based on staff's review of available transaction records and findings of the independent auditor (related to the Deep Green program), the information presented in the Power Content Label is accurate. It is also noteworthy that the supply percentages reflected in the 2014 Power Content Label are equivalent to statistics presented in the joint mailer (which included comparative information related to MCE and PG&E power supply, rates and greenhouse gas emissions) that was distributed to MCE and PG&E customers earlier this year.

<sup>2</sup> MCE's Deep Green retail service option is a Green-e Energy certified product, conforming to guidelines established by the Center for Resource Solutions, the Green-e Energy program administrator. As part of this certification, MCE must successfully complete an annual independent audit of power sources, ensuring the delivery of qualifying renewable energy to participating Deep Green customers.

To fulfill its Power Content Label reporting obligation, MCE must also provide the CEC with your Board's attestation regarding the accuracy of information included in the Power Content Label. As previously noted, staff has performed a detailed transaction review and has verified the accuracy of reported percentages for each resource type, as reflected in the Power Content Label. With this in mind, staff requests that your Board accept this determination and attest to the accuracy of the information included in MCE's 2014 Power Content Label, which will be distributed to MCE customers later this month. Should your Board endorse staff's recommendation, a copy of this staff report and related meeting minutes will be forwarded to the CEC, thereby completing MCE's Power Content Label reporting obligation for the 2014 calendar year.

**Recommendation:** Endorse the accuracy of information presented in MCE's 2014 Power Content Label based on staff's review.

<b>POWER CONTENT LABEL</b>			
<b>ENERGY RESOURCES</b>	<b>2014</b>	<b>2014</b>	<b>2014</b>
	<b>LIGHT GREEN</b>	<b>DEEP GREEN</b>	<b>CALIFORNIA</b>
	<b>POWER MIX</b>	<b>POWER MIX</b>	<b>POWER MIX</b>
	(Actual)	(Actual)	(Actual)
<b>Eligible Renewable</b>	<b>56%</b>	<b>100%</b>	<b>20%</b>
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<b>TOTAL</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

[http://energyalmanac.ca.gov/electricity/total\\_system\\_power.html](http://energyalmanac.ca.gov/electricity/total_system_power.html)