

MARIN COUNTY | NAPA COUNTY | UNINCORPORATED CONTRA COSTA COUNTY | UNINCORPORATED SOLANO COUNTY  
BENICIA | CONCORD | DANVILLE | EL CERRITO | FAIRFIELD | LAFAYETTE | MARTINEZ | MORAGA | OAKLEY  
PINOLE | PITTSBURG | PLEASANT HILL | RICHMOND | SAN PABLO | SAN RAMON | VALLEJO | WALNUT CREEK

**Board of Directors Meeting  
Thursday, March 21, 2024  
6:30 P.M.**

*Public comments may be made in person or remotely via the details below.*

1125 Tamalpais Avenue, San Rafael, CA 94901 (MCE)  
2300 Clayton Road, Suite 1150, Concord, CA 94920 (MCE)  
11780 San Pablo Ave., Ste D, El Cerrito, CA 94530 (Contra Costa County)  
955 School Street, Napa, CA 94559, City Hall Committee Room (Napa)  
14 Ace Court, Fairfax CA 94930 (Fairfax)  
Flat C, 35/F Phase 4 Tower 2, 68 Bel-Air Peak Avenue, Pokfulam, Hong Kong (Danville)  
329 Rheem Blvd., Moraga, CA 94556, Moraga Town Hall, Walnut Conference Room, 2<sup>nd</sup> Floor (Moraga)  
2500 North Hollywood Way, Burbank, CA 91505, Marriott Burbank Airport Hotel (Mill Valley)  
9006 Yosemite Lodge Drive, Tuolumne Meadows, CA 95389, Yosemite Valley Lodge (El Cerrito)  
3921 E Bayshore Rd, Palo Alto, CA 94303 (Pittsburg)

**Remote Public Meeting Participation**

Video Conference: <https://zoomto.me/F6Ogt>

Phone: Dial (669) 900-9128, Meeting ID: 890 0487 7785, Passcode: 525690

**Agenda Page 1 of 2**

1. Roll Call/Quorum
2. Board Announcements (Discussion)
3. Public Open Time (Discussion)
4. Report from Chief Executive Officer (Discussion)
5. Consent Calendar (Discussion/Action)
  - C.1 Approval of 2.15.24 Meeting Minutes
  - C.2 Approved Contracts for Energy Update
  - C.3 Proposed First Amendment to Second Agreement with Energy Solutions
6. Proposed Fiscal Year 2024/25 Budget (Discussion/Action)

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7. Fiscal Year 2023/24 Update, Projections, and Discussion of Proposed Transfers and Deferrals (Discussion)
8. Board & Staff Matters (Discussion)
9. Adjourn

*The Board may discuss and/or take action on any or all of the items listed on the agenda irrespective of how the items are described.*

DISABLED ACCOMMODATION: If you are a person with a disability who requires an accommodation or an alternative format, please contact MCE at (888) 632-3674 or [ada-coordinator@mcecleanenergy.org](mailto:ada-coordinator@mcecleanenergy.org) at least 72 hours before the meeting start time to ensure arrangements are made.

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**MCE BOARD MEETING MINUTES**

**Thursday, February 15, 2024**

**6:30 P.M.**

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**Present:** Eli Beckman, Town of Corte Madera  
Kari Birdseye, City of Benicia  
Monica Brown, County of Solano  
Barbara Coler, Town of Fairfax  
Cindy Darling, City of Walnut Creek  
Gina Dawson, City of Lafayette  
Alexis Fineman, Town of San Anselmo  
David Fong, Town of Danville  
John Gioia, Contra Costa County  
Ryan Gregory, The County of Napa and Four Napa Cities/Town  
(American Canyon, Calistoga, St. Helena, and Town of Yountville)  
Maika Llorens Gulati, City of San Rafael  
Kerry Hillis, Town of Moraga  
J.R. Matulac, City of Vallejo  
Eduardo Martinez, City of Richmond  
Aaron Meadows, City of Oakley  
Devin Murphy, City of Pinole  
Laura Nakamura, Alternate, City of Concord  
Beth Painter, City of Napa  
Gabe Paulson, City of Larkspur  
Scott Perkins, City of San Ramon  
Gabriel Quinto, City of El Cerrito  
Katie Rice, County of Marin  
Matt Rinn, City of Pleasant Hill  
Shanelle Scales-Preston, City of Pittsburg  
Susan Wernick, City of Novato  
Sally Wilkinson, City of Belvedere  
K. Patrice Williams, City of Fairfield<sup>1</sup>  
Brianne Zorn, City of Martinez

**Absent:** Janelle Kellman, City of Sausalito  
C. William Kircher, Town of Ross  
Elizabeth Pabon-Alvarado, City of San Pablo  
Max Perrey, City of Mill Valley  
Holli Thier, Town of Tiburon

**Staff  
& Others:** Jessica Brooks, Board Clerk

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<sup>1</sup> Due to Brown Act requirements, the City of Fairfield was not included in the votes for action items and deemed absent.

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Michael Callahan, Associate General Counsel  
Stephanie Chen, Director of Legislative Affairs  
Darlene Jackson, Lead Board Clerk  
Vicken Kasarjian, COO  
Tanya Lomas, Internal Operations Coordinator  
Catalina Murphy, General Counsel  
Justine Parmelee, Director of Internal Operations  
Enyonam Senyo-Mensah, Office Manager  
Sabrinna Soldavini, Senior Policy Analyst  
Jamie Tuckey, Chief of Staff  
Dawn Weisz, CEO

1. **Roll Call**

Chair Scales-Preston called the regular meeting to order at 6:42 p.m. with quorum established by roll call.

2. **Board Announcements (Discussion)**

There were none.

3. **Public Open Time (Discussion)**

Chair Scales-Preston opened the public comment period and there were no comments.

4. **Report from Chief Executive Officer (Discussion)**

CEO Dawn Weisz introduced this item and addressed questions from Board members.

Chair Scales-Preston opened the public comment period and there were no comments.

5. **Consent Calendar (Discussion/Action)**

C.1 Approval of 11.16.23 Meeting Minutes

C.2 Approved Contracts for Energy Update

Chair Scales-Preston opened the public comment period and there were no comments.

Action: It was M/S/C (Darling/Perkins) to <b>approve Consent Calendar items C.1 and C.2</b> . Motion carried by unanimous roll call vote. (Absent: Directors Kellman, Kircher, Pabon-Alvarado, Perrey, Thier, and Williams).
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6. **Charles McGlashan Award Presentation (Discussion)**

CEO Weisz, and Chair Scales-Preston, and Directors Llorens-Gulati and Gioia presented the item and addressed questions from Board members.

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Chair Scales-Preston opened the public comment period and there were no comments.

Action: No action required.

### 7. Election of MCE Chair and Vice Chair (Discussion/Action)

Catalina Murphy, General Counsel, introduced this item and addressed questions from Board members.

Chair Scales-Preston opened the public comment period and there were no comments.

Action 1: It was M/S/C (Quinto/Perkins) **to re-elect Director Shanelle Scales-Preston as MCE Board Chair.** Motion carried by unanimous roll call vote. (Absent: Directors Kellman, Kircher, Pabon-Alvarado, Perrey, Thier, and Williams).

Action 2: It was M/S/C (Scales-Preston/Gioia) **to re-elect Director Gabriel Quinto as MCE Vice Chair.** Motion carried by unanimous roll call vote. (Absent: Directors Kellman, Kircher, Pabon-Alvarado, Perrey, Thier, and Williams).

### 8. Proposed Resolution No. 2024-01 Appointing Chief Financial Officer as Treasurer (Discussion/Action)

Catalina Murphy, General Counsel, introduced this item and addressed questions from Board members.

Chair Scales-Preston opened the public comment period and there were no comments.

Action: It was M/S/C (Brown/Gulati) **to approve Proposed Resolution No. 2024-01 Appointing Chief Financial Officer as Treasurer.** Motion carried by unanimous roll call vote. (Absent: Directors Kellman, Kircher, Pabon-Alvarado, Perrey, Thier, and Williams).

### 9. Addition of Board Members to Committees (Discussion/Action)

Jamie, Tuckey, Chief of Staff, introduced this item and addressed questions from Board members.

Chair Scales-Preston opened the public comment period and there were no comments.

Action: It was M/S/C (Murphy/Darling) **to approve addition of Board Members to Committees. Director Gulati to the Executive Committee, Director Quinto to the Technical Committee, Directors Darling, Meadows,**

## DRAFT

and Paulson to the Ad Hoc Contracts Committee, and Directors Nakamura, and Quinto to the Ad Hoc Audit Committee. Motion carried by unanimous roll call vote. (Absent: Directors Kellman, Kircher, Pabon-Alvarado, Perrey, Thier, and Williams).

### 10. Legislative Session Preview (Discussion)

Stephanie Chen, Director of Legislative Affairs, introduced this item and addressed questions from Board members.

Chair Scales-Preston opened the public comment period and there were no comments.

Action: No action required.

### 11. Income Graduated Fixed Charge Update (Discussion)

Michael Callahan, Associate General Counsel and Sabrinna Soldavini, Senior Policy Analyst, introduced this item and addressed questions from Board members.

Chair Scales-Preston opened the public comment period and there were no comments.

Action: No action required.

### 12. Introduction to Generation Technologies (Discussion)

COO Vicken Kasarjian and Michael Callahan, Associate General Counsel, introduced this item and addressed questions from Board members.

Chair Scales-Preston opened the public comment period and there were no comments.

Action: No action required.

### 13. Board Matters & Staff Matters (Discussion)

There were none.

### 14. Adjournment

Chair Scales-Preston adjourned the meeting at 9:03 p.m. to the next scheduled Board Meeting on March 21, 2024.

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Shanelle Scales-Preston, Chair

Attest:

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Dawn Weisz, Secretary



March 21, 2024

TO: MCE Board of Directors

FROM: Bill Pascoe, Senior Power Procurement Manager

RE: Approved Contracts for Energy Update (Agenda Item #05 C.2)

Dear Board Members:

**SUMMARY:**

This report summarizes contracts for energy procurement entered into by the Chief Executive Officer or her delegate and, if applicable, the Chair of the Technical Committee, since the last regular Board meeting in February. This summary is provided to your Board for information purposes only and no action is needed.

Review of Procurement Authorities

In November 2020, your Board adopted Resolution 2020-04 which included the following provisions:

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

*The CEO is authorized to approve and execute contracts for Energy Procurement for terms of less than or equal to 12 months, which the CEO shall timely report to the Board of Directors.*

The CEO is required to report all such contracts and agreements to the MCE Board of Directors on a regular basis.



<i>Item #</i>	<i>Month of Execution</i>	<i>Purpose</i>	<i>Average Annual Contract Amount</i>	<i>Contract Term</i>
1	January 2024	Purchase of Renewable Energy	\$10,500,000	Under 1 Year
2	February 2024	Purchase of Resource Adequacy	\$21,000	Under 1 Year
3	February 2024	Purchase of Renewable Energy	\$1,875,000	Under 1 Year

**Contract Approval Process:** Energy procurement is governed by MCE’s Energy Risk Management Policy as well as Board Resolutions 2020-04 and 2018-08. The Energy Risk Management Policy (Policy) has been developed to help ensure that MCE achieves its mission and adheres to its procurement policies established by the MCE Board of Directors (Board), power supply and related contract commitments, good utility practice, and all applicable laws and regulations. The Board Resolutions direct the CEO to sign energy contracts up to and including 12 months in length.

The evaluation of every new energy contract is based upon how to best fill MCE’s open position. Factors such as volume, notional value, type of product, price, term, collateral threshold and posting, and payment are all considered before execution of the agreement.

After evaluation and prior to finalizing any energy contract for execution, an approval matrix is implemented whereby the draft contract is routed to key support staff and consultants for review, input, and approval. Typically, contracts are routed for commercial, technical, legal, and financial approval, and are then typically routed through the Chief Operating Officer for approval prior to execution. The table below is an example of MCE staff and consultants who may be assigned to review and consider approval prior to the execution of a new energy contract or agreement.

<i>Review Owner</i>	<i>Review Category</i>
Vidhi Chawla (MCE, Interim Vice President of Power Resources)	Procurement/Commercial
John Dalessi (Pacific Energy Advisors)	Technical Review
Steve Hall (Hall Energy Law)	Legal
Nathaniel Malcolm (MCE, Senior Policy Counsel)	Legal/CPUC Compliance
Garth Salisbury (MCE, Chief Financial Officer & Treasurer)	Credit/Financial
Vicken Kasarjian (MCE, Chief Operating Officer)	Executive

**Fiscal Impacts:** Expenses and revenue associated with these Contracts and Agreements that are expected to occur during FY 2023/24 are within the FY 2023/24 Operating Fund Budget. Expenses and revenue associated with future years will be incorporated into budget planning as appropriate.

**Recommendation:** Information only. No action required.



March 21, 2024

TO: MCE Board of Directors

FROM: Melanie Biesecker, Customer Programs Manager

RE: Proposed First Amendment to Second Agreement with Energy Solutions (Agenda Item #05 C.3)

ATTACHMENTS: A. First Amendment to Second Agreement with Energy Solutions  
B. Second Agreement with Energy Solutions

Dear Board Members:

**Summary:**

The proposed First Amendment to the Second Agreement with Energy Solutions ("Amendment") would continue to provide MCE the ability to scale up adoption of electric vehicles ("EV") and increase access to new and used EV ownership by providing income qualified customers with educational resources and incentives.

**Background:**

Since Fall 2019, MCE has offered an EV incentive program that educates customers about EVs and charging and provides income qualified customers up to \$3,500 toward the purchase of an EV. Between 2019 and May 2023, the program distributed 347 post-purchase EV rebates and was managed largely in-house by MCE staff with a vendor supporting financial verification and application processing.

In May 2023, MCE adjusted the program in response to customer feedback to offer an EV Instant Rebate. The EV Instant Rebates allowed MCE to continue expanding EV adoption for income-qualified customers, while directly addressing some of the largest barriers for participation by:

- Changing the post-purchase rebate processed by MCE into a point-of-sale instant rebate processed by car dealers and approved by the vendor to reduce the upfront financial burden;

- Adding a \$2,000 incentive for used EVs in addition to the \$3,500 incentive for new EVs; and
- Managing marketing, education, & outreach to MCE customers, local dealers, and automakers to boost EV incentive program participation.

When the incentive was adjusted to a point-of-sale rebate in 2023, the goal was to provide 556 rebates by 2026, nearly doubling MCE's rate of impact over what the prior iteration of the EV rebate program was able to accomplish. Due to the popularity of the rebate, MCE is on track to meet the 2026 target in 2024.

The EV Instant Rebates program is now largely managed by Energy Solutions, with oversight by MCE staff. The proposed Amendment would provide an additional 661 additional instant rebates for low-income customers in fiscal year 2024/25, building on the success of MCE's point-of-sale EV incentive model in overcoming barriers, expanding the EV incentive program's impacts, and deepening MCE's reach to priority communities.

**Fiscal Impact:** The proposed amendment would increase the total cost of the First Agreement with Energy Solutions from \$ 2,399,410 to \$6,028,520, which would provide sufficient funding for the EV incentive program through fiscal year 2024-25. These funds derive from the Local Renewable Energy & Program Development Fund, which is generated from a portion of Deep Green customer revenue.

**Recommendation:** Approve the proposed First Amendment to the Second Agreement with Energy Solutions.

# **FIRST AMENDMENT TO SECOND AGREEMENT BY AND BETWEEN MARIN CLEAN ENERGY AND ENERGY SOLUTIONS**

This FIRST AMENDMENT is made and entered into on March 21, 2024 by and between MARIN CLEAN ENERGY (hereinafter referred to as "MCE") and COHEN VENTURES, INC., DBA Energy Solutions (hereinafter referred to as "Contractor") (each, a "Party," and, together, the "Parties").

## **RECITALS**

WHEREAS, MCE and Contractor entered into an agreement on February 3, 2023 to provide MCE Electric Vehicle ("EV") Incentive Program ("Program") management services ("Agreement"); and

WHEREAS, Section 3 and Exhibit B to the Agreement provided for Contractor to be compensated in an amount not to exceed \$2,399,410 for the MCE EV Incentive Program management services described within the scope therein; and

WHEREAS, the Parties desire to amend the Agreement to increase the contract amount by \$3,629,110 for total consideration not to exceed \$6,028,520; and

WHEREAS, Section 4 of the Agreement stated the Agreement shall terminate on March 31, 2026; and

WHEREAS, the Parties desire to amend the Agreement to modify the term length of the Agreement; and

WHEREAS, Section 6 of the Agreement included the insurance coverages that are required by MCE; and

WHEREAS, the Parties desire to amend the Agreement to add to the insurance coverages that are required; and

WHEREAS, Section 17 of the Agreement included the indemnification protections Contractor would provide to MCE; and

WHEREAS, the Parties desire to amend the Agreement to add to the indemnification protections; and

WHEREAS, Exhibit A to the Agreement specified the tasks Contractor will complete for the MCE EV Incentive Program management services as described in the scope therein; and

WHEREAS, the Parties desire to amend the Agreement to modify the scope of work of the Agreement; and

WHEREAS Exhibit B to the Agreement specified the fee and payment schedule MCE would use to compensate Contractor for the MCE EV Incentive Program management services described within the scope therein; and

WHEREAS, the Parties desire to amend the Agreement to modify the fee and payment schedule therein; and

WHEREAS, Exhibit C to the Agreement specified the protective measures Contractor must provide in order to access MCE's Customer Relationship Management software; and

WHEREAS, the Parties desire to amend the Agreement to update the Customer Relationship Management access protocols therein;

NOW, THEREFORE, the Parties agree to modify Section 3, Section 4, Section 6, Section 17, Exhibit A, Exhibit B, and Exhibit C as set forth below.

## **AGREEMENT**

1. Section 3 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 **\$6,028,520**.

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

**TERM OF AGREEMENT:**

This Agreement shall commence on **February 4, 2023** ("Effective Date"), and shall terminate on **May 31, 2025**, unless earlier terminated pursuant the terms and conditions set forth in Section 12.

3. Section 6 is hereby amended to include the following as 6.4:

**6.4 PRIVACY AND CYBERSECURITY LIABILITY.** Contractor shall maintain privacy and cybersecurity liability (including costs arising from data destruction, hacking or intentional breaches, crisis management activity related to data breaches, and legal claims for security breach, privacy violations, and notification costs) of at least \$1,000,000 US per occurrence.

4. Section 17 is hereby amended to read as follows:

**17. INDEMNIFICATION.** To the fullest extent permitted by Applicable Law, Contractor shall indemnify, defend, and hold MCE and its employees, officers, directors, representatives, and agents ("MCE Parties"), harmless from and against any and all actions, claims, liabilities, losses, costs, damages, and expenses (including, but not limited to, litigation costs, attorney's fees and costs, physical damage to or loss of tangible property, and injury or death of any person) (collectively, the "Losses") arising out of, resulting from, or caused by: a) the negligence, recklessness, intentional misconduct, or fraud of all Contractor Parties; b) the failure of a Contractor Party to comply with the provisions of this Agreement or Applicable Law; c) any defect in design, workmanship, or materials carried out or employed by any Contractor Party; or d) any unauthorized disclosure of, access to, or use of MCE Data processed or otherwise stored on hardware or software controlled by Contractor Party. The foregoing indemnity obligation does not apply to the extent such Losses are attributable to the gross negligence or willful misconduct of any MCE parties.

5. The following tasks in Exhibit A are hereby modified or added to read as follows:

- a. In Exhibit A Task 1: Startup & Administration, the following bullets are hereby added to 1:4 Systems Configuration:
  - Work with MCE to assess the viability of a customer search application programming interface ("API").
    - If deemed viable by Contractor, work with MCE to integrate with MCE's customer search API in order to transfer MCE Data to Iris.
- b. In Exhibit A Task 1, the following bullets are hereby added to Task 1 Deliverables:
  - Assess viability of customer search API
  - If viable, integrate API for customer search transfer
- c. In Exhibit A Task 2:1: Program Marketing, the second bullet is hereby modified to read as follows:
  - Contractor will engage CBOs, community leaders, and other groups that work with traditionally underserved, low-income, and disadvantaged populations to build trust, understand customer needs, and ultimately drive Program participation and EV uptake within these communities. Engagement will include

1-on-1s with CBOs or community leaders that serve the above mentioned customers and one co-hosted in-person or virtual listening/education session per quarter, after one quarter of ramp up, in partnership with one or more local community groups to build a trusting relationship, educate customers about EVs, and identify barriers and potential solutions for how the Program and Evs can benefit their lives.

- d. In Exhibit A, the following is added as a Task 3: Program Closeout to follow Task 2 Deliverables:

**Task 3: Program Closeout**

**Task 3.1: Program Closeout**

Contractor will work with MCE to closeout the Program, including transferring any relevant Program data to MCE, providing closeout messaging for the Program website and FAQs, outreach communications to dealer participants and customers, reporting, meeting with MCE bi-weekly, and supporting MCE in transferring the Program to a new implementer, if applicable.

**Task 3 Deliverables:**

- Closeout the Program
- Provide MCE with any relevant Program data or reports
- Provide closeout messaging for the Program website and FAQs
- Support transfer to new contractor, if applicable

- e. In Exhibit A **Schedule**, the following cells are added below 2.7 Software Management

Tasks	Description	Timeline
3.1 Program Closeout	Program closeout activities	03/01/2025 – 05/31/2025

6. The fee and payment schedule in Exhibit B is hereby removed and replaced in its entirety to read as follows:

**EXHIBIT B  
FEES AND PAYMENT SCHEDULE**

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

The Program is intended to provide the following point-of-sale incentives: 1) 1108 new EV incentives in the amount of \$3,500 per new EV; and 2) 129 used EV incentives in the amount of \$2,000 per used EV; for a total of \$4,136,000 (collectively the "Rebate Incentives") for the term of the Agreement.

Contractor will invoice \$250,000 in Rebate Incentives upon execution of the First Amendment and will invoice MCE monthly to replenish the advanced Rebate Incentives to \$250,000 each month to cover: funds needed for distribution at the point-of-sale for EVs, and any funds needed to cover Rebate Incentives beyond the prior month's

\$250,000 payment. This process shall repeat until MCE's funds for Rebate Incentives have been exhausted. Contractor shall ensure that all such Rebate Incentives are held in an FDIC-insured account. Contractor shall draw against these Rebate Incentives to pay valid point-of-sale requests according to the amounts listed above (\$3,500 for new EV, \$2,000 for used EV). Contractor will return all undisbursed Rebate Incentives to MCE within 10 business days upon written request by MCE Customer Programs staff or the termination of the Agreement.

Task	Category	Units	Amount/Unit	Total Budget, Not to Exceed by Categories	Invoice Schedule
1	Startup Fee	1	\$66,250	\$66,250	Upon 4/30/23 Program Launch
1	Assess Viability of Customer Search API	1	\$5,000	\$5,000	Upon Contractor's Viability Determination
1	Customer Search API Integration	1	\$60,000	\$60,000	Upon API Launch
2	Implementation Fees	1237	\$1,210	\$1,496,770	Per claim paid, invoiced monthly
2	Dealer Spiffs*	1237	\$200 new \$100 used	\$234,500***	Per claim paid, invoiced monthly
2	Vehicle Rebates**	1237	\$3,500 new \$2,000 used	\$4,136,000***	Per claim paid beyond MCE's monthly \$250,000 incentive prepayment, invoiced monthly
3	Program Closeout	3	\$10,000	\$30,000	Monthly for 3 months after Program shutdown
Total				\$6,028,520	

\*This amount will be passed through to the dealer to incentivize the stocking and upselling of EVs.

\*\*This amount will be passed through to the dealer as a reimbursement for applying a discount in the amount of the rebate at the point of sale.

\*\*\*Assuming 1108 new EVs and 129 used EVs receiving incentives through the Program

Except for Assess Viability of Customer Search API and Customer Search API Integration which will be billed according to the invoice schedule listed above, Contractor shall bill for the deliverables in task 1, included within the Startup Fee, on 4/30/23. After the initial payment of the Start Up Fee, Contractor shall bill monthly for Services rendered the month prior.

In no event shall the total cost to MCE for the services provided herein exceed the **maximum sum of \$6,028,520** for the term of the Agreement.



7. Exhibit C is hereby removed and replaced in its entirety to read as follows:

**EXHIBIT C  
MCE CRM ACCESS PROTOCOLS**

Contractor shall implement the following security measures as part of the Agreement according to program needs up to the time/fees allowed under the Agreement in order to gain access to MCE's Customer Relationship Management software ("MCE CRM"), whether through direct portal access or via application programming interface ("API") integration.

To access MCE CRM, Contractor must first agree to and comply with the following protocols, including, if applicable, those related to API integration:

1. MCE CRM access is subject to the NDA between the Parties dated January 20, 2023.
2. MCE CRM login information, passwords, and any information retrieved from MCE CRM shall be treated as Confidential Information.
  - A. Confidential Information shall have the same meaning as defined in the MCE NDA between the Parties dated January 30, 2023.
  - B. No Contractor employee is to give, tell, or hint at their login information or password to another person under any circumstance.
  - C. MCE CRM passwords are required to be changed every 90 days at least.
  - D. MCE encourages strong passwords (such as minimum character length, and use of special characters) that are not reused for other logins.
  - E. MCE CRM shall only be accessed from an Internet Protocol (IP) address in the United States.
    - Any suspicious or unauthorized IP access may be blocked without notice by MCE.
    - Contractor agrees that MCE is not liable for any interruption or restriction of access to the CRM resulting from the blocking of suspicious or unauthorized IP addresses.
  - F. MCE reserves the right to use approved public IP addresses to control and limit access to MCE's systems.
3. MCE CRM access shall be provided through MCE's selected Single Sign-On (SSO) provider, Okta, Inc. or another MCE-designated SSO provider.
4. Direct MCE CRM Portal Access Restrictions.
  - A. Direct MCE CRM portal access shall only be provided to those employees of Contractor who have a "need to access" such information in the course of their duties with respect to Contractor's Services ("Designated Employees").
    - Designated Employees who access MCE CRM shall only update or view fields related to the tasks assigned.
    - Contractor shall maintain a list of Designated Employees that have been authorized to access MCE CRM.
      - The list shall be updated and verified by Contractor quarterly and provided to MCE upon request.
      - In the event of an employment status change for a Designated Employee who had been granted access to MCE CRM, Contractor shall provide the following information to MCE:
        - Name and email of pertinent Contractor employee.
        - Notification to MCE within 3 days of employment status change.
  - B. Designated Employees who access MCE CRM shall first review and agree to be bound by these MCE CRM Access Protocols.
  - C. Designated Employees' use of MCE CRM is restricted to that which is necessary to provide the Services described in Exhibit A.
  - D. Designated Employees shall not copy, download, record or reproduce in any way any data existing within MCE CRM.
    - Any customer data that is utilized or uploaded must be removed from Designated Employees' computers and Contractor's systems within 24 hours of upload or utilization.

5. API Integration Restrictions
  - A. Contractor shall only use an MCE-authorized API to the extent its use is necessary for the completion of contracted work as included in Exhibit A.
  - B. Contractor shall use industry best standards and significant access control in a closed API system. This includes, but is not limited to:
    - If accessing Personal Identifiable Information (PII) data, only employees of Contractor who have a “need to access” such information in the course of their duties with respect to Contractor’s Services (“Designated Employees”) will be allowed to access information available through the API.
      - For an employee to become a Designated Employee, they must first successfully pass a background screening, which may include a screening of the individual’s educational background, employment history, valid driver’s license, and court record.
      - If a Designated Employee leaves Contractor’s employment or if a Designated Employee’s position changes such that they no longer need API access, Contractor will close the employee’s access within 24 hours and provide the following information to MCE:
        - Name and email of pertinent employee.
        - Notification to MCE within 3 days of employment status change.
    - Contractor must keep MCE informed of the names, positions, and data access levels of all Designated Employees with a Designated Employee List which shall be updated and verified by Contractor quarterly and provided to MCE upon request.
    - Designated Employees are prohibited from copying, downloading, recording, or reproducing any MCE data except through the approved API integration.
6. Contractor having any interaction with an MCE customer shall do the following:
  - A. Contractor shall comply at all times during the Term with any MCE-provided MCE co-branding and/or customer engagement protocol that provides MCE’s expectations for customer interactions by Contractor. Failure of Contractor to comply at all times with this section will constitute a material breach pursuant to Agreement section 12 and may result in the discontinuation of work with MCE at MCE’s request.
  - B. Contractor and any approved subcontractors responding to, or engaging directly with, MCE customers shall respond to direct customer inquiries within 3 business days after the inquiry is received. Unless otherwise agreed to, Contractor and subcontractors are to provide two options for customer contact (email and phone). Contractor shall provide MCE with a process to document any customer issues, escalations and resolutions.

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

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

MARIN CLEAN ENERGY:

CONTRACTOR:

By:

By:

Date:

Date:

CHAIRPERSON:

By:

Date:

**MARIN CLEAN ENERGY  
STANDARD SHORT FORM CONTRACT  
SECOND AGREEMENT  
BY AND BETWEEN  
MARIN CLEAN ENERGY AND ENERGY SOLUTIONS**

**THIS SECOND AGREEMENT** ("Agreement") is made and entered into on February 3, 2023, by and between MARIN CLEAN ENERGY (hereinafter referred to as "MCE") and COHEN VENTURES, INC., DBA Energy Solutions, a California corporation with principal address at: 449 15th Street, Oakland, California 94612 (hereinafter referred to as "Contractor") (each, a "Party," and, together, the "Parties").

**RECITALS:**

**WHEREAS**, MCE desires to retain Contractor to provide the services described in **Exhibit A** attached hereto and by this reference made a part hereof ("Services");

**WHEREAS**, Contractor desires to provide the Services to MCE;

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. SCOPE OF SERVICES:**

Contractor agrees to provide all of the Services in accordance with the terms and conditions of this Agreement. "Services" shall also include any other work performed by Contractor pursuant to this Agreement.

**2. 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 ("Term"). Contractor shall provide MCE with Contractor's Federal Tax I.D. number prior to submitting the first invoice. Contractor is responsible for billing MCE in a timely and accurate manner. Contractor shall email invoices to MCE by the fifteenth (15<sup>th</sup>) calendar day of each month, on a monthly basis for any Services rendered or expenses incurred hereunder. Fees and expenses invoiced beyond ninety (90) days will not be reimbursable. The final invoice must be submitted within thirty (30) days of completion of the stated scope of services or termination of this Agreement. MCE will process payment for undisputed invoiced amounts within thirty (30) days of receipt of such invoice.

**3. MAXIMUM COST TO MCE:**

In no event will the cost to MCE for the Services to be provided herein exceed the maximum sum of **\$2,399,410**.

**4. TERM OF AGREEMENT:**

This Agreement shall commence on **February 4, 2023** ("Effective Date") and shall terminate on **March 31, 2026**, unless earlier terminated pursuant to the terms and conditions set forth in Section 12.

**5. REPRESENTATIONS; WARRANTIES; COVENANTS:**

**5.1. CONTRACTOR REPRESENTATIONS AND WARRANTIES.** Contractor represents, warrants and covenants that (a) it is a corporation duly organized, validly existing and in good standing under the laws of the State of **California**, (b) it has full power and authority and all regulatory authorizations required to execute, deliver and perform its obligations under this Agreement and all exhibits and addenda and to engage in the business it presently conducts and contemplates conducting, (c) it is and will be duly licensed or qualified to do business and in good standing under the laws of the State of California and each other jurisdiction wherein the nature of its business transacted by it makes such licensing or qualification necessary and where the failure to be licensed or qualified would have a material adverse effect on its ability to perform its obligations hereunder, (d) it is qualified and competent to render the Services and possesses the requisite expertise to perform its obligations hereunder, (e) the execution, delivery and performance of this Agreement and all exhibits and addenda hereto are within its powers and do not violate the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it, (f) this Agreement and each exhibit and addendum constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, and (g) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt.

**5.2. COMPLIANCE WITH APPLICABLE LAW.** At all times during the Term and the performance of the Services, Contractor shall comply with all applicable federal, state and local laws, regulations, ordinances and resolutions ("Applicable Law")

- 5.3. LICENSING.** At all times during the performance of the Services, Contractor represents, warrants and covenants that it has and shall obtain and maintain, at its sole cost and expense, all required permits, licenses, certificates and registrations required for the operation of its business and the performance of the Services. Contractor shall promptly provide copies of such licenses and registrations to MCE at the request of MCE.
- 5.4. NONDISCRIMINATORY EMPLOYMENT.** Contractor shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, gender identity, age or condition of disability. Contractor understands and agrees that Contractor is bound by and shall comply with the nondiscrimination mandates of all federal, state, and local statutes, regulations, and ordinances.
- 5.5. PERFORMANCE ASSURANCE; BONDING.** At all times during the performance of the Services, Contractor represents, warrants and covenants that it has and shall obtain and maintain, at its sole cost and expense, all bonding requirements of the California Contractors State License Board ("CSLB"), as may be applicable. Regardless of the specific Services provided, Contractor shall also maintain any payment and/or performance assurances as may be requested by MCE during the performance of the Services.
- 5.6. SAFETY.** At all times during the performance of the Services, Contractor represents, warrants and covenants that it shall:
- a) abide by all applicable federal and state Occupational Safety and Health Administration requirements and other applicable federal, state, and local rules, regulations, codes and ordinances to safeguard persons and property from injury or damage;
  - b) abide by all applicable MCE security procedures, rules and regulations and cooperate with MCE security personnel whenever on MCE's property;
  - c) abide by MCE's standard safety program contract requirements as may be provided by MCE to Contractor from time to time;
  - d) provide all necessary training to its employees, and require Subcontractors to provide training to their employees, about the safety and health rules and standards required under this Agreement;
  - e) have in place an effective Injury and Illness Prevention Program that meets the requirements all applicable laws and regulations, including but not limited to Section 6401.7 of the California Labor Code. Additional safety requirements (including MCE's standard safety program contract requirements) are set forth elsewhere in the Agreement, as applicable, and in MCE's safety handbooks as may be provided by MCE to Contractor from time to time;
  - f) be responsible for initiating, maintaining, monitoring and supervising all safety precautions and programs in connection with the performance of the Agreement; and
  - g) monitor the safety of the job site(s), if applicable, during the performance of all Services to comply with all applicable federal, state, and local laws and to follow safe work practices.
- 5.7. BACKGROUND CHECKS.**
- a) Contractor hereby represents, warrants and covenants that any employees, members, officers, contractors, Subcontractors and agents of Contractor (each, a "Contractor Party," and, collectively, the "Contractor Parties") having or requiring access to MCE's assets, premises, customer property ("Covered Personnel") shall have successfully passed background screening on each such individual, prior to receiving access, which screening may include, among other things to the extent applicable to the Services, a screening of the individual's educational background, employment history, valid driver's license, and court record for the seven (7) year period prior to hiring.
  - b) Notwithstanding the foregoing and to the extent permitted by applicable law, in no event shall Contractor permit any Covered Personnel to have one or more convictions during the seven (7) year period immediately preceding the individual's date of assignment to perform the Services, or at any time after the individual's date of, assignment to perform the Services, for any of the following ("Serious Offense"): (i) a "serious felony," similar to those defined in California Penal Code Sections 1192.7(c) and 1192.8(a), or a successor statute, or (ii) any crime involving fraud (such as, but not limited to, crimes covered by California Penal Code Sections 476, 530.5, 550, and 2945, California Corporations Code 25540), embezzlement (such as, but not limited to, crimes covered by California Penal Code Sections 484 and 503 et seq.), or racketeering (such as, but not limited to, crimes covered by California Penal Code Section 186 or the Racketeer Influenced and Corrupt Organizations("RICO") Statute (18 U.S.C. Sections 1961-1968)).
  - c) To the maximum extent permitted by applicable law, Contractor shall maintain documentation related to such background and drug screening for all Covered Personnel and make it available to MCE for audit if required pursuant to the audit provisions of this Agreement.
  - d) To the extent permitted by applicable law, Contractor shall notify MCE if any of its Covered Personnel is charged with or convicted of a Serious Offense during the term of this Agreement. Contractor shall also immediately prevent that employee, representative, or agent from performing any Services.

**5.8. FITNESS FOR DUTY.** Contractor shall ensure that all Covered Personnel report to work fit for their job. Covered Personnel may not consume alcohol while on duty and/or be under the influence of drugs or controlled substances that impair their ability to perform the Services properly and safely. Contractor shall, and shall cause its Subcontractors to, have policies in place that require their employees, contractors, subcontractors and agents to report to work in a condition that allows them to perform the work safely. For example, employees should not be operating equipment under medication that creates drowsiness.

**5.9. QUALITY ASSURANCE PROCEDURES.** Contractor shall comply with the Quality Assurance Procedures identified in Exhibit A (if any) (the "Quality Assurance Procedures"). Additionally, Quality Assurance Procedures must include, but are not limited to: (i) industry standard best practices; (ii) procedures that ensure customer satisfaction; and (iii) any additional written direction from MCE.

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

**5.11. ACCESS TO CUSTOMER SITES.** Contractor shall be responsible for obtaining any and all access rights for Contractor Parties, from customers and other third parties to the extent necessary to perform the Services. Contractor shall also procure any and all access rights from Contractor Parties, customers and other third parties in order for MCE and CPUC employees, representatives, agents, designees and contractors to inspect the Services.

## **6. INSURANCE:**

At all times during the Term and the performance of the Services, Contractor shall maintain the insurance coverages set forth below. All such insurance coverage 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, directors, officers, and agents as additional insureds. The certificate(s) of insurance and required endorsement shall be furnished to MCE prior to commencement of Services. Certificate(s) of insurance must be current as of the Effective Date, and shall remain in full force and effect through the Term. If scheduled to lapse prior to termination date, certificate(s) of insurance must be automatically updated before final payment may be made to Contractor. Each certificate of insurance shall provide for thirty (30) days' advance written notice to MCE of any cancellation or reduction in coverage. Insurance coverages shall be payable on a per occurrence basis only.

Nothing in this Section 6 shall be construed as a limitation on Contractor's indemnification obligations in Section 17 of this Agreement.

Should Contractor fail to provide and maintain the insurance required by this Agreement, in addition to any other available remedies at law or in equity, MCE may suspend payment to the Contractor for any Services provided during any period of time that insurance was not in effect and until such time as the Contractor provides adequate evidence that Contractor has obtained the required insurance 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. "Marin Clean Energy" 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).

**6.3. WORKERS' COMPENSATION.** The Contractor acknowledges that 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, it shall comply with this requirement and 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 Services.

**6.4. INTENTIONALLY OMITTED**

## **7. FINANCIAL STATEMENTS:**

Contractor shall deliver financial statements as may be reasonably requested by MCE within seven (7) days of MCE's request for the financial statements. Such financial statements or documents shall be for the most recently available audited or reviewed period and prepared in accordance with generally-accepted accounting principles.

## **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 expressly identified herein in Exhibit A. If Contractor hires a subcontractor under this Agreement (a "Subcontractor"), Subcontractor shall be bound by all applicable terms and conditions of this Agreement, and Contractor shall ensure the following:

- 8.1.** Subcontractor shall comply with the following terms of this Agreement: Sections 9, 10, Exhibit A.
- 8.2.** Subcontractor shall provide, maintain and be bound by the representations, warranties and covenants of Contractor contained in Section 5 hereof (as may be modified to be applicable to Subcontractor with respect to Section 5.1(a) hereof) at all times during the Term of such subcontract and its provision of Services.
- 8.3.** Subcontractor shall comply with the terms of Section 6 above, including, but not limited to providing and maintaining insurance coverage(s) identical to what is required of Contractor under this Agreement, and shall name MCE as an additional insured under such policies. Contractor shall collect, maintain, and promptly forward to MCE current evidence of such insurance provided by its Subcontractor. Such evidence of insurance shall be included in the records and is therefore subject to audit as described in Section 9 hereof.
- 8.4.** Subcontractor shall be contractually obligated to indemnify the MCE Parties (as defined in Section 17 hereof) pursuant to the terms and conditions of Section 17 hereof.
- 8.5.** Subcontractors shall not be permitted to further subcontract any obligations under this Agreement.

Contractor shall be solely responsible for ensuring its Subcontractors' compliance with the terms and conditions of this Agreement made applicable above and to collect and maintain all documentation and current evidence of such compliance. Upon request by MCE, Contractor shall promptly forward to MCE evidence of same. Nothing contained in this Agreement or otherwise stated between the Parties shall create any legal or contractual relationship between MCE and any Subcontractor, and no subcontract shall relieve Contractor of any of its duties or obligations under this Agreement. Contractor's obligation to pay its Subcontractors is an independent obligation from MCE's obligation to make payments to Contractor. As a result, MCE shall have no obligation to pay or to enforce the payment of any monies to any Subcontractor.

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

Contractor shall keep and maintain on a current basis full and complete records and documentation pertaining to this Agreement and the Services, whether stored electronically or otherwise, including, but not limited to, valuation records, accounting records, documents supporting all invoices, employees' time sheets, receipts and expenses, and all customer documentation and correspondence (the "Records"). MCE shall have the right, during regular business hours, to review and audit all Records during the Term 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 request from MCE. Contractor shall refund any monies erroneously charged. Contractor shall have an opportunity to review and respond to or refute any report or summary of audit findings, and shall promptly refund any overpayments made by MCE based on undisputed audit findings.

## **10. DATA, CONFIDENTIALITY AND INTELLECTUAL PROPERTY:**

- 10.1. DEFINITION OF "MCE DATA".** "MCE Data" shall mean all data or information provided by or on behalf of MCE, including but not limited to, customer Personal Information; energy usage data relating to, of, or concerning, provided by or on behalf of any customers; all data or information input, information systems and technology, software, methods, forms, manuals, and designs, transferred, uploaded, migrated, or otherwise sent by or on behalf of MCE to Contractor as MCE may approve of in advance and in writing (in each instance); account numbers, forecasts, and other similar information disclosed to or otherwise made available to Contractor. MCE Data shall also include all data and materials provided by or made available to Contractor by MCE's licensors, including but not limited to, any and all survey responses, feedback, and reports subject to any limitations or restrictions set forth in the agreements between MCE and their licensors.

"Confidential Information" under this Agreement shall have the same meaning as defined in the Marin Clean Energy Non-Disclosure Agreement between the Parties dated **January 20, 2023**.

**10.2. DEFINITION OF CONTRACTOR'S "IRIS PLATFORM".** "Iris Platform" is defined as the Iris online software and associated data, owned and maintained by Contractor and provided as a part of the services to MCE under this Agreement, that functions as an incentive processing and program reporting platform for MCE's customers and other third parties.

**10.3. DEFINITION OF "PERSONAL INFORMATION".** "Personal Information" includes but is not limited to the following: personal and entity names, e-mail addresses, addresses, phone numbers, any other public or privately-issued identification numbers, IP addresses, MAC addresses, and any other digital identifiers associated with entities, geographic locations, users, persons, machines or networks. Contractor shall comply with all applicable federal, state and local laws, rules, and regulations related to the use, collection, storage, and transmission of Personal Information.

**10.4. MCE DATA SECURITY MEASURES.** Prior to Contractor receiving any MCE Data, Contractor shall comply, and at all times thereafter continue to comply, in compliance with MCE's Data security policies set forth in MCE Policy 009 (available upon request) and MCE's Advanced Metering Infrastructure (AMI) Data Security and Privacy Policy ("Security Measures") and pursuant to MCE's Confidentiality provisions in Section 5 of the Marin Clean Energy Non-Disclosure Agreement between the parties dated **January 20, 2023**, and as set forth in MCE Policy 001 - Confidentiality. MCE's Security Measures and Confidentiality provisions require Contractor to adhere to reasonable administrative, technical, and physical safeguard protocols to protect the MCE's Data from unauthorized handling, access, destruction, use, modification or disclosure.

**10.5. CONTRACTOR DATA SECURITY MEASURES.** Additionally, Contractor shall, at its own expense, adopt and continuously implement, maintain and enforce reasonable technical and organizational measures consistent with the sensitivity of Personal Information and Confidential Information including, but not limited to, measures designed to (1) prevent unauthorized access to, and otherwise physically and electronically protect, the Personal Information and Confidential Information, and (2) protect MCE content and MCE Data against unauthorized or unlawful access, disclosure, alteration, loss, or destruction.

**10.6. RETURN OF MCE DATA.** Promptly after this Agreement terminates, (i) Contractor shall securely destroy all MCE Data in its possession and certify the secure destruction in writing to MCE, and (ii) each Party shall return (or if requested by the disclosing Party, destroy) all other Confidential Information and property of the other (if any), provided that Contractor's attorney shall be permitted to retain a copy of such records or materials solely for legal purposes.

**10.7. OWNERSHIP AND USE RIGHTS.**

- a) **MCE Data.** Unless otherwise expressly agreed to in writing by the Parties, MCE shall retain all of its rights, title and interest in MCE's Data.
- b) **Intellectual Property.** Unless otherwise expressly agreed to in writing by the Parties, any and all materials, information, or other intellectual property created, prepared, accumulated or developed by Contractor or any Contractor Party under this Agreement ("Intellectual Property"), including finished and unfinished inventions, processes, templates, documents, drawings, computer programs, designs, calculations, valuations, maps, plans, workplans, text, filings, estimates, manifests, certificates, books, specifications, sketches, notes, reports, summaries, analyses, manuals, visual materials, data models and samples, including summaries, extracts, analyses and preliminary or draft materials developed in connection therewith, shall be owned by MCE. MCE shall have the exclusive right to use Intellectual Property in its sole discretion and without further compensation to Contractor or to any other party. Contractor shall, at MCE's expense, provide Intellectual Property to MCE or to any party MCE may designate upon written request. Contractor may keep one file reference copy of Intellectual Property prepared for MCE solely for legal purposes and if otherwise agreed to in writing by MCE. In addition, Contractor may keep one copy of Intellectual Property if otherwise agreed to in writing by MCE.
- c) **Intellectual Property Rights to the Iris Platform.** All right, title, and interest in and to the Iris Platform (including without limitation all intellectual property rights therein) and all modifications, improvements, extensions, customizations, scripts or other definitive works of the Iris Platform provided or developed by the Contractor, whether prior to or during the Term of this Agreement, are and shall remain at all times solely vested in the Contractor. The Iris Platform was developed in its entirety by Contractor prior to the term of this Agreement, is the sole and exclusive property of Contractor, and Contractor retains all intellectual property rights thereto, including but not limited to copyrights (including all registrations and applications therefor), trade secrets, service marks, trademarks, trade names, trade dress, trademark applications and registrations, internet domain names, and all other proprietary and intellectual property rights, including moral rights. Use of the Iris Platform by MCE, its customers or any third party as part of these Services shall not convey any rights of ownership to the Iris Platform, express or implied, including any intellectual property rights thereto, to any such party. During the term of this Agreement, Contractor grants to MCE a non-exclusive, non-assignable, royalty-free, worldwide limited right to access and use the Iris Platform in connection with the Services. Except as expressly provided herein, MCE agrees not to assign, sublicense, transfer, copy,



reproduce, distribute, republish, display, post or transmit in any form or by any means, any part of the Iris Platform to any third party. MCE agrees not to access the Iris Platform by any means other than through the interfaces that are provided by Contractor. The Iris Platform and any and all works, expressions, inventions, ideas, discoveries, improvements and developments made to the Iris Platform by any person during the term of this Agreement, are explicitly excluded as "Intellectual Property" pursuant to this Agreement. Any MCE Data provided by MCE to Contractor on the Iris Platform remains the property of MCE and, upon request, shall be exported and/or deleted from the Iris Platform.

- d) **Iris Platform Terms of Use.** All users of the Iris Platform shall be required to comply with the Iris Platform's standard Terms of Use, including MCE's employees who accesses the Iris Platform in connection with the Services; provided, however, that if any Terms of Use applicable to MCE's employees conflict with any provisions of this Agreement, with respect to MCE employee's use of the Iris Platform in connection with the Services, the provision of this Agreement shall control.
- e) **Intellectual Property shall be owned by MCE upon its creation.** Contractor agrees to execute any such other documents or take other actions as MCE may reasonably request to perfect MCE's ownership in the Intellectual Property.
- f) **Contractor's Pre-Existing Materials** Contractor is, and shall remain the sole and exclusive owner of all right, title and interest in and to all documents, works, codebases, software, data, know-how, methodologies, and materials provided, developed, acquired or used by Contractor prior to the Effective Date ("Contractor's Pre-Existing Materials"). To the extent any of Contractor's Pre-Existing Materials are used to create, develop, and prepare the Intellectual Property, Contractor hereby grants MCE on behalf of its customers and the CPUC for governmental and regulatory purposes an irrevocable, assignable, non-exclusive, perpetual, fully paid up, worldwide, royalty-free, unrestricted license to use and sublicense others to use, reproduce, display, prepare and develop derivative works, perform, distribute copies of any intellectual or proprietary property right of Contractor or any Contractor Party for the sole purpose of using such Intellectual Property for the conduct of MCE's business and for disclosure to the CPUC for governmental and regulatory purposes related thereto. Any and all claims to Contractor's Pre- Existing Materials to be furnished or used to prepare, create, develop or otherwise manifest the Intellectual Property must be expressly disclosed to MCE prior to performing any Services under this Agreement. Any such Pre-Existing Material that is modified by work under this Agreement is owned by Contractor and licensed to MCE.

**10.8. EQUITABLE RELIEF.** Each Party acknowledges that a breach of this Section 10 would cause irreparable harm and significant damages to the other Party, the degree of which may be difficult to ascertain. Accordingly, each Party agrees that MCE shall have the right to obtain immediate equitable relief to enjoin any unauthorized use or disclosure of MCE Data or Personal Information, in addition to any other rights and remedies that it may have at law or otherwise; and Contractor shall have the right to obtain immediate equitable relief to enjoin any unauthorized use or disclosure of Contractor's Pre-Existing Materials, in addition to any other rights and remedies that it may have at law or otherwise.

## **11. FORCE MAJEURE:**

A Party shall be excused for failure to perform its obligations under this Agreement if such obligations are prevented by an event of Force Majeure (as defined below), but only for so long as and to the extent that the Party claiming Force Majeure ("Claiming Party") is actually so prevented from performing and provided that (a) the Claiming Party gives written notice and full particulars of such Force Majeure to the other Party (the "Affected Party") promptly after the occurrence of the event relied on, (b) such notice includes an estimate of the expected duration and probable impact on the performance of the Claiming Party's obligations under this Agreement, (c) the Claiming Party furnishes timely regular reports regarding the status of the Force Majeure, including updates with respect to the data included in Section 10 above during the continuation of the delay in the Claiming Party's performance, (d) the suspension of such obligations sought by Claiming Party is of no greater scope and of no longer duration than is required by the Force Majeure, (e) no obligation or liability of either Party which became due or arose before the occurrence of the event causing the suspension of performance shall be excused as a result of the Force Majeure; (f) the Claiming Party shall exercise commercially reasonable efforts to mitigate or limit the interference, impairment and losses to the Affected Party; (g) when the Claiming Party is able to resume performance of the affected obligations under this Agreement, the Claiming Party shall give the Affected Party written notice to that effect and promptly shall resume performance under this Agreement. "Force Majeure" shall mean acts of God such as floods, earthquakes, fires, orders or decrees by a governmental authority, civil or military disturbances, wars, riots, terrorism or threats of terrorism, utility power shutoffs, strikes, labor disputes, pandemic, or other forces over which the responsible Party has no control and which are not caused by an act or omission of such Party.

## **12. TERMINATION:**

**12.1.** Either Party may terminate this contract, in whole or in part, immediately upon notice to the other Party if: (a) the non-breaching Party determines that the actions or inactions of the breaching Party, its agents, employees or subcontractors have caused, or reasonably could cause, jeopardy to health, safety, or property, or (b) If either party fails to fulfill any material

requirement of this contract, is in violation of a material provision of this contract, or either party determines that the other party lacks the financial resources to perform the contract, The non-breaching party shall give the breaching party fifteen (15) days prior written notice of the non-breaching party's intent to terminate, and the grounds therefor. Termination shall occur if the parties fail to agree on a plan for the breaching party to cure within fifteen (15) days of the breaching party's receipt of such notice.

**12.2.** Either Party hereto may terminate this Agreement for any reason by giving thirty (30) calendar days' written notice to the other Party. Notice of termination shall be by written notice to the other Party and be sent by registered mail or by email to the email address listed in Section 19.

**12.3.** In the event of termination not the fault of the Contractor, the Contractor shall be paid for Services performed up 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). Notwithstanding anything contained in this Section 12, in no event shall MCE be liable for lost or anticipated profits or overhead on uncompleted portions of the Agreement. Contractor shall not enter into any agreement, commitments or subcontracts that would incur significant cancellation or termination costs without prior written approval of MCE, and such written approval shall be a condition precedent to the payment of any cancellation or termination charges by MCE under this Section 12. Also, as a condition precedent to the payment of any cancellation or termination charges by MCE under this Section 12, Contractor shall have delivered to MCE any and all Intellectual Property (as defined in Section 10.6(b)) prepared for MCE before the effective date of such termination.

**12.4.** MCE may terminate this Agreement if funding for this Agreement is reduced or eliminated by a third-party funding source.

**12.5.** Without limiting the foregoing, if either Party's activities hereunder become subject to law or regulation of any kind, which renders the activity illegal, unenforceable, or which imposes additional costs on such Party for which the parties cannot mutually agree upon an acceptable price modification, then such Party shall at such time have the right to terminate this Agreement upon written notice to the other Party with respect to the illegal, unenforceable, or uneconomic provisions only, and the remaining provisions will remain in full force and effect.

**12.6.** Upon termination of this Agreement for any reason, Contractor shall and shall cause each Contractor Party to bring the Services to an orderly conclusion as directed by MCE and shall return all MCE Data (as defined in Section 10.1 above) and Intellectual Property to MCE.

**12.7.** Notwithstanding the foregoing, this Agreement shall be subject to changes, modifications, or termination by order or directive of the California Public Utilities Commission ("CPUC"). The CPUC may from time to time issue an order or directive relating to or affecting any aspect of this Agreement, in which case MCE shall have the right to change, modify or terminate this Agreement in any manner to be consistent with such order or directive.

**12.8.** Notwithstanding any provision herein to the contrary, Sections 2, 3, 8.4, 9, 10, 12, 15, 16, 17, 18, 19, 20, 21, 22, 24 and Exhibit B of this Agreement shall survive the termination or expiration of this Agreement.

### **13. 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.

### **14. AMENDMENT; NO WAIVER:**

This Agreement may be amended or modified only by written agreement of the Parties. Failure of either Party to enforce any provision or provisions of this Agreement will not waive any enforcement of any continuing breach of the same provision or provisions or any breach of any provision or provisions of this Agreement.

### **15. DISPUTES:**

Either Party may give the other Party written notice of any dispute which has not been resolved at a working level. Any dispute that cannot be resolved between Contractor's contract representative and MCE's contract representative by good faith negotiation efforts shall be referred to Legal Counsel of MCE and an officer of Contractor for resolution. Within 20 calendar days after delivery of such notice, such persons shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute. If MCE and Contractor cannot reach an agreement within a reasonable period of time (but in no event more than 30 calendar days), MCE and Contractor shall have the right to pursue all rights and remedies that may be available at law or in equity. All negotiations and any mediation agreed to by the Parties are confidential and shall be treated as

compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and Section 1119 is incorporated herein by reference.

**16. JURISDICTION AND VENUE:**

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

**17. INDEMNIFICATION:**

To the fullest extent permitted by Applicable Law, Contractor shall indemnify, defend, and hold MCE and its employees, officers, directors, representatives, and agents ("MCE Parties"), harmless from and against any and all actions, claims, liabilities, losses, costs, damages, and expenses (including, but not limited to, litigation costs, attorney's fees and costs, physical damage to or loss of tangible property, and injury or death of any person) (collectively, the "Losses") arising out of, resulting from, or caused by: a) the negligence, recklessness, intentional misconduct, fraud of all Contractor Parties; b) the failure of a Contractor Party to comply with the provisions of this Agreement or Applicable Law; or c) any defect in design, workmanship, or materials carried out or employed by any Contractor Party. The foregoing indemnity obligation does not apply to the extent such Losses are attributable to the gross negligence or willful misconduct of any MCE parties.

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

MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.). Pursuant to MCE's Joint Powers Agreement, MCE 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. No Contractor Party shall have rights and nor shall any Contractor Party make any claims, take any actions, or assert any remedies against any of MCE's constituent members in connection with this Agreement.

**19. INVOICES; NOTICES:**

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

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

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

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Email Address:	contracts@mcecleanenergy.org
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Telephone No.:	(925) 378-6767
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Notices shall be given to Contractor at the following address:

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Contractor:	Ryan Bird
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Address:	449 15th Street
	Oakland, California 94612

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Email Address:	rbird@energy-solution.com
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Telephone No.:	510.482.4420 ext. 269
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**20. ENTIRE AGREEMENT; ACKNOWLEDGMENT OF EXHIBITS:**

This Agreement along with the attached Exhibits marked below constitutes the entire Agreement between the Parties. In the event of a conflict between the terms of this Agreement and the terms in any of the following Exhibits, the terms in this Agreement shall govern.

	<input checked="" type="checkbox"/>	<u>Check applicable Exhibits</u>	<u>CONTRACTOR'S INITIALS</u>	<u>MCE'S INITIALS</u>
<u>EXHIBIT A.</u>	X	Scope of Services		
<u>EXHIBIT B.</u>	X	Fees and Payment		
<u>EXHIBIT C.</u>	X	CRM Access Protocols		
<u>EXHIBIT D.</u>	X	Key Performance Indicators		
<u>EXHIBIT E.</u>	X	Service Level Agreement		

**21. SEVERABILITY:**

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

**22. INDEPENDENT CONTRACTOR:**

Contractor is an independent contractor to MCE hereunder. Nothing in this Agreement shall establish any relationship of partnership, joint venture, employment or franchise between MCE and any Contractor Party. Neither MCE nor any Contractor Party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided for herein.

**23. TIME:**

Time is of the essence in this Agreement and each and all of its provisions.

**24. THIRD PARTY BENEFICIARIES:**

The Parties agree that there are no third-party beneficiaries to this Agreement either express or implied.

**25. FURTHER ACTIONS:**

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

**26. PREPARATION OF AGREEMENT:**

This Agreement was prepared jointly by the Parties, each Party having had access to advice of its own counsel, and not by either Party to the exclusion of the other Party, and this Agreement shall not be construed against either Party as a result of the manner in which this Agreement was prepared, negotiated or executed.

**27. DIVERSITY SURVEY:**

Pursuant to Senate Bill 255 which amends Section 366.2 of the California Public Utilities Code, MCE is required to submit to the California Public Utilities Commission an annual report regarding its procurement from women-owned, minority-owned, disabled veteran-owned and LGBT-owned business enterprises ("WMDVLGBTBE"). Consistent with these requirements, Contractor agrees to provide information to MCE regarding Contractor's status as a WMDVLGBTBE and any engagement of WMDVLGBTBEs in its provision of Services under this Agreement. Concurrently with the execution of this Agreement, Contractor agrees to complete and deliver MCE's Supplier Diversity Survey, found at the following link: <https://form.asana.com/?k=jSGYk4x3sf2dHfSzywc2fg&d=163567039999692> (the "Diversity Survey"). Because MCE is required to submit annual reports and/or because the Diversity Survey may be updated or revised during the term of this Agreement, Contractor agrees to complete and deliver the Diversity Survey, an updated or revised version of the Diversity Survey or

a similar survey at the reasonable request of MCE and to otherwise reasonably cooperate with MCE to provide the information described above. Contractor shall provide all such information in the timeframe reasonably requested by MCE.

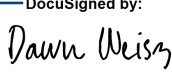
## 28. COUNTERPARTS:

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

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

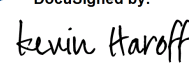
### APPROVED BY

#### MARIN CLEAN ENERGY:

DocuSigned by:  
By:   
A59878416EBC4F8...  
Name: Dawn Weisz

Title: CEO

Date: 2/7/2023

DocuSigned by:  
By:   
F40838117816455...  
Name: Kevin Haroff

Date: 2/7/2023

#### CONTRACTOR:

DocuSigned by:  
By:   
F40838117816455...  
Name: Christine Riker

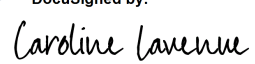
Title: Senior Director

Date: 2/8/2023

### MODIFICATIONS TO STANDARD SHORT FORM

☐ Standard Short Form Content Has Been Modified

**List sections affected: 2 (modified), 5.7 (modified), 7 (modified), 10.2 (added), 10.7(c) (added), 10.7(d) (added), 10.7(f) (modified), 12.1 (modified), 17 (modified)**

DocuSigned by:  
Approved by MCE Counsel:   
A90D5C36DBF141C...

Date: 2/7/2023

## EXHIBIT A SCOPE OF SERVICES

Contractor shall provide the following Services under the Agreement as requested and directed by MCE Customer Programs staff, up to the maximum time/fees allowed under this Agreement:

### Task 1: Startup & Administration

#### 1.1: Program Kickoff

Contractor will schedule an on-site or virtual kickoff within two weeks of contract execution and include all relevant MCE stakeholders. Attendees at this meeting will discuss the MCE Electric Vehicle ("EV") Incentive Program ("Program") objectives and success metrics, MCE goals, roles and responsibilities, and specific Program design elements. Based on collaboration with MCE in the Program Kickoff Meeting, Contractor will create:

- A Program Implementation Plan ("PIP"), which will include the scope and schedule of activities, MCE reporting requirements, Data & Integration Requirements, Quality Assurance/Quality Control procedures and risk mitigation strategies, communication protocols for internal and external stakeholders, and project roles & responsibilities.
- A Marketing, Education & Outreach ("ME&O") Plan, subject to MCE Public Affairs team approval, which will include a recommended outreach strategy with messaging, marketing tools (such as digital materials and collateral), and timing. The ME&O Plan will include details about recruiting and enrolling Program participants. The ME&O Plan will leverage existing MCE collateral and establish a marketing tool kit for EV dealers. Deliverables to include, but not be limited to:
  - Email and direct mail<sup>1</sup> campaign to eligible MCE customers
    - At Program Kick-off
    - Throughout Program, frequency of which will be determined in ME&O Plan
  - Customer testimonials
    - A signed Customer Testimonial Waiver is required to be signed before a customer's testimonial can be used in marketing materials
  - Informational blog posts (top of funnel marketing to improve searchability)
  - Fliers (three types of fliers include: customer facing, dealer and partner/Community Based Organization ("CBO") facing, and referral materials)
    - The number of fliers required will be identified in the ME&O Plan
  - Frequently Asked Questions ("FAQs") handout available in print and on MCE's website.

#### 1.2: MCE Support

Contractor will collaborate with MCE throughout the Program and meet MCE's goals. This collaboration will include:

- Regular virtual meetings with MCE Customer Programs staff to discuss Program status and action items. Check-in meetings will take place every other week during Program launch and then transition to monthly upon agreement by Contractor and MCE.
- Monthly Status Reports to MCE with relevant Program and participation data. The data elements, visualizations, and narrative for this report will be determined in the Program Kickoff Meeting.

#### 1.3: Annual Reporting

Contractor will create an Annual Program Report for MCE each year of Program implementation which will include, but not be limited to, information on: Annual Highlights, Year Overview, Marketshare Report, Marketing Initiatives, Customer Equity based on information in KPIs, Dealer Outreach, and Program Influence (to be defined in PIP).

#### 1.4: Systems Configuration

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<sup>1</sup> If MCE stakeholders decide that a direct mail campaign should be utilized, the direct mail campaigns would be developed and designed by Contractor. MCE will pay an additional cost for this marketing tactic.

Contractor will configure its application processing software platform, Iris, to serve as a portal for Program participants. Contractor will:

- Create an MCE-branded landing page allowing dealers to log in with a username and password
- Configure an online incentive application (claim) form that allows participants to submit claims individually or in bulk, monitor the status of their claims, and view payment details
- Deploy reports for MCE to track Key Performance Indicators (preferences on format, graphic depictions, charts, and key data points for these dashboards will be determined at the Project Kickoff) and based on Exhibit D
- Import MCE customer data via flat file to Iris and set a recurring cadence for data import during Program Kickoff Meeting
- Establish Web-services based application programming interface (“API”) between Iris and MCE’s CRM system to share MCE Program participation data and establish a mechanism to push the relevant Program participation data continuously into the MCE CRM
- Utilize MCE’s CRM continuously to log Customer and Dealer/Original Equipment Manufacturer (“OEM”) Interaction Data
- Establish a Program Qualified Product List (“QPL”) of all vehicles that are eligible for Program rebates

#### **Task 1 Deliverables:**

- Project Kickoff Meeting
- Program Implementation Plan
- Regular Meetings
- ME&O Plan
- Email and direct mail<sup>2</sup> campaigns, to be determined in the ME&O Plan
- Customer testimonials
- Informational blog posts
- Fliers, to be determined in the ME&O Plan
- Frequently Asked Questions (“FAQs”)
- Status Reports
- Annual Program Report
- MCE branded customer portal
- Transfer of MCE customer data via flat file to Contractor
- Establish an API for transfer of Program Participation data into MCE CRM
- Access MCE’s CRM to log Customer and Dealer/OEM Data upon Program launch
- Establish a Program QPL

Contractor will work with MCE to finalize the data requirements and API specifications. Contractor will integrate with MCE CRM to publish the Program participation and customer related activities in real time using web services-based APIs, maintaining the MCE CRM data integrity. Contractor will import the ongoing Program participation data into Contractor’s applications and provide the updates on these imports to MCE as soon as the API is implemented.

#### **Task 2: Implementation**

##### **Task 2.1: Program Marketing**

In collaboration with MCE Customer Programs and Public Affairs staff and EV dealer participants, Contractor will develop new marketing materials for the Program. Contractor will develop drafts and coordinate approval with relevant MCE programmatic, marketing, branding, and communications staff on all marketing initiatives, including the development of campaigns or materials. Contractor will provide content to update the MCE website with Program information and links for customer and dealer resources, ensuring resources are up-to-date as the market changes during implementation, and will plan adequate time for MCE approvals.

- Contractor will develop Program marketing materials including, but not limited to, point-of-purchase (“POP”) collateral, EV dealer-facing materials, and congratulatory post-purchase customer-facing.

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<sup>2</sup> Ibid.

- Contractor will engage CBOs and other groups that serve traditionally underserved, low-income, and disadvantaged populations to drive Program participation.

Contractor will collaborate with the implementers of complementary EV and EV Supply Equipment (“EVSE”) programs to include promotional material for the Program in with their existing ME&O efforts while also clearly noting in the promotional materials that the Program is independent of the complementary programs. These programs may include the MCE EV Charging Program, forthcoming PG&E Multifamily EVSE Direct Install Program, Clean Vehicle Assistance Program, Drive Clean Assistance Program, Clean Cars for All, Consumer Assistance Program Vehicle Retirement, and other EV, low-income, or multifamily Programs as appropriate.

### **Task 2.2: Dealer Outreach & Enrollment**

Contractor will engage a variety of sales channels, including franchised dealers, online dealers, and OEMs that sell directly to customers, with the goal of reaching Program enrollment and participation targets. The primary engagement strategy will be via calls and in-person visits from the Contractor team at dealer locations.

- Contractor will provide MCE standard Dealer Participation Agreement (“DPA”) language and will work with MCE to determine specific dealer eligibility requirements, customer data requirements, participant compliance, and the impacts to non-compliant participants.
- Contractor will recruit dealers to the Program. In these visits and conversations, Contractor will promote the Program and its benefits, collect all required information for participation, and ensure all potential participants meet “Participating Dealer” criteria and are approved for enrollment prior to collecting signed DPAs.
- Once new dealer participants enroll, Contractor will train salespeople, management, and administrative staff on Program participation. These trainings will include how to submit claims to the online system and what is expected of staff during the sales process.

### **Task 2.3: Ongoing Dealer Engagement**

Contractor will provide ongoing in-person and virtual outreach and support to dealers as needed to ensure they are promoting EV sales and applying rebates to eligible customers. The level of continuing outreach with individual EV dealer participants will depend on a variety of factors, including MCE priorities, participant capacity to deliver EV sales, participant level of engagement, and location, and will continue to be discussed between MCE and Contractor at regular meetings.

- Contractor will perform regular outreach to all enrolled dealers with the goal of increasing Program participation and increasing adoption of EVs.
- Contractor will distribute Program marketing materials and maintain POP collateral at dealer locations.
- Contractor will distribute a quarterly newsletter to dealers to alert them of Program updates, newly eligible vehicles, other MCE Programs, and additional customer incentive opportunities.
- On an annual basis, Contractor will create and distribute dealer performance reports which show each dealer how they are performing in the Program compared to their prior year’s performance and to other anonymized participants.

### **Task 2.4: Quality Assurance/Quality Control Procedures**

Contractor will work with MCE to determine the data to be collected by the Program upon rebate claim submission. Claim processing will occur daily on weekdays and Contractor will reach out to dealers to follow up on any claims that need edits or clarification.

- Contractor will develop a Quality Assurance/Quality Control Claim Processing Guide that will define Program claim processing requirements that confirm that the rebate recipient is an eligible MCE customer, the vehicle is on the QPL, the claim is not a duplicate, and that the rebate was provided to the customer via a line item discount on the customer’s purchase or lease agreement.
- Contractor will process all submitted rebate claims on the following schedule. If claims require further action or revision from dealer participants, Contractor will reach out to the appropriate dealer contact to make any necessary edits or clarifications.



- Claims submitted between Mondays at 8:00 am and Fridays at 12:00 pm that do not require revisions will be reviewed and approved within 48 hours of claim submittal or by Fridays at 5:00 pm, whichever comes first. For claims that require revisions, Program participants will be contacted via email within 48 hours of claim submittal or by Fridays at 5:00 pm, whichever comes first.
- Claims submitted between Fridays at 12:00 pm and Mondays at 8:00 am that do not require revisions will be reviewed and approved by the following Tuesday at 5:00 pm. For claims that require revisions, Program participants will be contacted via email by the following Tuesday at 5:00 pm.

Contractor will track participants' rejected and flagged claims and will contact participants regularly to discuss the errors or omissions, request updates or edits to flagged claims, provide additional training if needed, and work with participants to identify potential solutions to improve claim approval rates. Contractor will review with MCE the specific metrics used for flagging data discrepancies, possible errors, or unusual sales activity during the Project Kickoff and ongoing check-ins. Additional flags can be programmed, and metrics can be modified as needed to meet MCE's preferences.

### **Task 2.5: Rebate Processing**

Once a participating dealer's claims have been reviewed and approved, Contractor will provide secondary review to approve claims for payment.

- Contractor will approve claims for payment weekly, on Mondays, which will include all claims that have been reviewed and approved the week prior.
- Contractor will deliver rebate reimbursement payments and spiffs to Program participants according to payee information provided during enrollment weekly, on Thursdays, within 2 weeks of claim approval.

Contractor will work with MCE during Program kickoff to determine the best way to collaborate with the other relevant post-sale vehicle rebate Programs available to MCE customers. Through this collaboration, Contractor will collect submitted customer information and transmit that information securely to the implementers of the other Programs. It will be the responsibility of those Programs to follow up directly with customers for any additional income verification or documentation needed and pay the downstream rebate.

- Contractor will engage the implementation teams of the other EV rebate programs available to MCE customers to develop a collaboration plan. The collaboration plan will provide guidance on how the Program will transmit information to the other Programs and explore the potential for future Program modifications that would integrate those rebates at the point-of-sale.

### **Task 2.6: Customer Support**

Contractor will

- Establish a Program support hotline and email to provide support to dealers and customers. The support number and email will answer questions on Program policies, claim submissions, customer and vehicle eligibility, additional incentives, access to Program materials, and general EV and EV charging topics. Phone and email contact information for the hotline will be listed prominently on the Program website and marketing materials.
- Provide MCE Customer Operations Team with ongoing and updated FAQs
- Operate the Program support hotline seven days a week from 8 AM to 9 PM Pacific Time. Contractor will respond to most inquiries immediately, but all inquiries will receive a response within 24 hours.
- Follow the MCE Service Level Agreements (SLAs) outlined in Attachment X

If a complaint is made regarding a participating dealer or the Program, Contractor will respond within 24 hours with a resolution plan and a timeline. MCE will be informed of any complaints and be kept informed of progress towards resolution.

### **Task 2.7 Software Management**

Contractor's information systems maintain a SOC Type 2 Certification for data security, software development and hosting, and data management. This certification is audited annually by an accredited SOC2 auditor, Moss Adams. Contractor's SOC2 certification explicitly includes our systems and processes which support the transfer, storage, and handling of sensitive customer and market data.

- Contractor will operate and maintain the Program online system and will store all sales data and supporting documents collected from dealers in claims, as well as all data documenting completed validation checks, eligible vehicle specifications, and payments to dealers, for at least three years. Data stored in Iris will be available to support all automated and manual QA/QC and Evaluation, Measurement and Verification (EM&V) processes.

Contractor releases new code to the Iris production server on a bi-weekly basis on Tuesdays after business hours Pacific Time. This release process will not impact users' ability to access or use the system; if maintenance activities need to be scheduled, Contractor will notify MCE at least 48 hours in advance. Similarly, MCE will be promptly notified in the event of an emergency outage. The Iris team has a dedicated Quality Assurance and support team trained to respond quickly to unforeseen software problems, allowing Contractor to uphold the integrity of Iris and minimize the impacts such events may have on users.

#### Task 2 Deliverables:

- MCE branded Program Marketing Materials
- Program DPA
- Recruit and Enroll Program Participants
- In-person and/or virtual dealer trainings
- Regular Program outreach to enrolled dealers
- Distribute Program materials and maintain POP collateral
- Program Newsletter
- Delivery of Dealer Performance Reports
- Claim Processing Guide
- Rebate claim processing
- Approve claims for payment
- Rebate reimbursement and spiff payments
- Additional incentive Program collaboration plan
- Maintain and Provide support through the Program hotline and email address
- Hosting and maintenance of online claims portal

#### Schedule

Tasks	Description	Timeline
<b>Task 1 — Startup &amp; Administration</b>		
1.1 Program Kickoff	Attend Program Kickoff Meeting to finalize Program design and implementation	2/6/2023 – 2/17/2023
	Draft and Finalize PIP <ol style="list-style-type: none"> <li>PIP draft</li> <li>PIP semifinal</li> </ol>	<ol style="list-style-type: none"> <li>By 3/1/23 (MCE reviews by 3/10)</li> <li>By 3/17 (MCE reviews by 3/24)</li> </ol>

	3. Final PIP	3. By 3/31 (MCE approves by 4/7)
	Draft and Finalize ME&O Plan <ol style="list-style-type: none"> <li>1. ME&amp;O Plan draft</li> <li>2. ME&amp;O Plan semifinal</li> <li>3. Final ME&amp;O Plan</li> </ol>	<ol style="list-style-type: none"> <li>1. By 3/1/23 (MCE reviews by 3/10)</li> <li>2. By 3/17 (MCE reviews by 3/24)</li> <li>3. By 3/31 (MCE approves by 4/7)</li> </ol>
1.2 MCE Support	Regular check-ins	Every two weeks during Program launch, Monthly once agreed to by MCE and Contractor
	Status Reports	Monthly, by the 10th of the following month
1.3 Annual Reporting	Create and deliver Annual Program Report	Yearly, by January 31 each year
1.4 Systems Configuration	Launch of MCE branded Claim Portal	4/30/2023
	Transfer of MCE customer data via flat file to Contractor	3/31/2023, followed by a regular cadence set during Project Kickoff Meeting
	Establish an API for transfer of Program Participation data into MCE CRM	4/28/2023
	Utilize MCE's CRM for Customer and Dealer/OEM Data	4/28/2023
	Establish a Program QPL	4/28/2023
<b>Task 2 — Implementation</b>		

2.1 Program Marketing	<p>Develop MCE branded Program Marketing Materials</p> <ol style="list-style-type: none"> <li>1. Draft launch materials</li> <li>2. Semifinal launch materials</li> <li>3. Final launch materials</li> <li>4. Draft supporting materials</li> <li>5. Semifinal supporting materials</li> <li>6. Final supporting materials</li> </ol>	<ol style="list-style-type: none"> <li>1. By 3/1/23 (MCE reviews by 3/10)</li> <li>2. By 3/17/23 (MCE reviews by 3/24)</li> <li>3. By 3/31/23 (MCE approves by 4/7)</li> <li>4. By 5/5/23 (MCE reviews by 5/12)</li> <li>5. By 5/19/23 (MCE reviews by 5/26)</li> <li>6. By 6/2/23 (MCE reviews by 6/9)</li> </ol>
2.2 Dealer Outreach & Enrollment	<p>Develop and Launch Dealer Participation Agreement (DPA)</p> <ol style="list-style-type: none"> <li>1. Draft DPA</li> <li>2. Semifinal DPA</li> <li>3. Final DPA</li> </ol>	<ol style="list-style-type: none"> <li>1. By 3/1/23 (MCE reviews by 3/10)</li> <li>2. By 3/17/23 (MCE reviews by 3/24)</li> <li>3. By 3/31/23 (MCE approves by 4/7)</li> </ol>
	Recruit and Enroll Program Participants	March 2023, ongoing
	In-person and/or virtual dealer trainings	April 2023, ongoing
2.3 Ongoing Dealer Engagement	Regular Program outreach to enrolled dealers	April 2023, ongoing
	Distribute Program materials and maintain POP collateral	April 2023, Ongoing
	Send Program Newsletter	Quarterly, by the last day of each quarter
	Delivery of Dealer Performance Reports	Yearly, by February 28th each year
2.4 Rebate Processing	<p>Develop and Launch Claim Processing Guide</p> <ol style="list-style-type: none"> <li>1. Draft Guide</li> <li>2. Semifinal Guide</li> </ol>	<ol style="list-style-type: none"> <li>1. By 3/31/23 (MCE reviews by 4/7)</li> </ol>

	3. Final Guide	2. By 4/14/23 (MCE reviews by 4/21) 3. By 4/28/23 (MCE approves by 5/2)
	Rebate claim processing	Daily, on weekdays
2.5 Rebate Processing	Approve claims for payment	Weekly, on Mondays
	Rebate reimbursement and spiff payments	Weekly, on Thursdays
	Additional incentive program collaboration plan	July 28, 2023
2.6 Customer Support	Maintain and Provide support through the Program hotline and email address	5/1/2023 – ongoing (Daily)
2.7 Software Management	Hosting and maintenance of online claims portal	4/30/2023 - ongoing

All dates included in the above Schedule are estimates based on likely contract execution date and are subject to change upon mutual agreement of the Parties.

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

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

Task	Category	Units	Amount/Unit	Total Budget, Not to Exceed by Categories	Invoice Schedule
1	Startup Fee	1	\$66,250	\$66,250	Upon 4/30/23 Program Launch
2	Implementation Fees	556	\$1,210	\$672,760	Per claim paid, invoiced monthly
2	Dealer Spiffs*	556	\$200 new \$100 used	\$86,400***	Per claim paid, invoiced monthly
2	Vehicle Rebates**	556	\$3,500 new \$2,000 used	\$1,574,000***	Per claim paid, invoiced monthly
Total				\$2,399,410	

\*This amount will be passed through to the dealer to incentivize the stocking and upselling of EVs.

\*\*This amount will be passed through to the dealer as a reimbursement for applying a discount in the amount of the rebate at the point of sale.

\*\*\*Assuming 308 new EVs and 248 used EVs receiving incentives through the Program

Contractor shall bill for the deliverables in task 1, included within the Startup Fee, on 4/30/23. After the initial payment of the Start Up Fee, Contractor shall bill monthly for Services rendered the month prior. In no event shall the total cost to MCE for the services provided herein exceed the **maximum sum of \$2,399,410** for the term of the Agreement.

**EXHIBIT C**  
**MCE CRM ACCESS PROTOCOLS**

Contractor shall provide the following protective measures under the Agreement in order to access the MCE Customer Relationship Management software ("MCE CRM") according to program needs up to the time/fees allowed under this Agreement.

In order for Contractor to access MCE CRM, Contractor must first agree to and comply with the following protocols:

1. MCE CRM access is subject to the NDA between the Parties dated January 20, 2023.
2. MCE CRM login information, passwords, and any information retrieved from MCE CRM shall be treated as Confidential Information.
  - o Confidential Information shall have the same meaning as defined in the MCE NDA between the Parties dated January 20, 2023.
  - o No Contractor employee is to give, tell, or hint at their login information or password to another person under any circumstance.
  - o MCE CRM passwords are required to be changed every 90 days.
  - o MCE encourages strong passwords (such as minimum character length, and use of special characters) that are not reused for other logins.
  - o MCE CRM shall only be accessed from an Internet Protocol (IP) address in the United States.
3. MCE CRM access shall be provided through MCE's selected Single Sign-On (SSO) provider, Okta, Inc. or any MCE-designated SSO provider.
4. MCE CRM access shall be restricted.
  - o MCE CRM access shall only be provided to those employees of Contractor who have a "need to access" such information in the course of their duties with respect to Contractor's Services.
    - Contractor employees who access MCE CRM shall only update or view fields related to the tasks assigned.
    - Contractor shall maintain a list of Contractor employees that have been authorized to access MCE CRM.
      - The list shall be updated and verified by Contractor quarterly, upon Contractor employee turnover, and upon MCE's request.
  - o Contractor employees who access MCE CRM shall first review and agree to be bound by these MCE CRM Access Protocols.
  - o Contractor's use of the CRM is restricted to that which is necessary to provide the Services described in Exhibit A.
  - o Contractor shall not copy, download, record or reproduce in any way any data existing within MCE's CRM.
5. In the event of an employment status change for a Contractor employee who had been granted access to MCE CRM, Contractor shall provide the following information to MCE:
  - o Name and email of pertinent Contractor employee.
  - o Notification to MCE within 3 days of employment status change.
6. Contractor having any interaction with an MCE customer shall do the following:
  - o Contractor shall comply at all times during the Term with any MCE-provided MCE co-branding and/or customer engagement protocol that provides MCE's expectations for customer interactions by Contractor. Failure of Contractor to comply at all times with this section will constitute a material breach pursuant to Agreement section 12, and may result in the discontinuation of work with MCE at MCE's request.
  - o Contractor and any approved subcontractors responding to, or engaging directly with, MCE customers shall respond to direct customer inquiries within 3 business days after the inquiry is received. Unless otherwise agreed to, Contractor and subcontractors are to provide two options for customer contact (email and phone). Contractor shall provide MCE with a process to document any customer issues, escalations and resolutions.

**EXHIBIT D**  
**Key Performance Indicators (KPIs)**

EV Grant Goals	
Objective	How It's Measured
Expanding educational reach of EVs	Number of residents engaged by zip code
	Number of dealer employees engaged by zip code
	Percent of residents engaged by ME&O tactic
	Percent of dealers engaged by ME&O tactic
	Number of applications submitted and approved
Reducing administrative burden	Avg days between application submitted and approved/rejected
	Total additional funding that applicants are automatically qualified for and how much was received with a single application
Equitable attainment of incentive funds	Percent of incentive dollars spent by zip code, with a break out among low-income census tracts or Disadvantaged Communities (DACs)
	Avg household size and avg household income of applicants
	Percent of incentive dollars spent based on race of participants*



	Percent of incentive dollars spent on Hispanic and non-Hispanic participants*
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\* This metric is used for data gathering only and is not a basis for incentive dollar distribution.

## EXHIBIT E

### Service Level Agreement (SLA)

Both Parties shall comply at all times during the Term with the following MCE SLA that provides MCE's expectations for customer interactions by Contractor:

- Contractor shall keep a 99% platform uptime.
- Contractor and all subcontractors responding to, or engaging directly with, MCE customers shall respond to direct customer inquiries no later than within 3 business days after the inquiry is received. Unless otherwise agreed to, Contractor and subcontractors are to provide two options for customer contact (email and phone). Unless otherwise agreed to, the Contractor shall provide MCE with a process to document customer issues, escalations and resolutions.
- MCE to review and approve the Outreach Plan.
- MCE to review and approve all branded customer facing materials (digital and physical content) before Contractor and/or subcontractor uses and distributes them.
- Contractor will provide the following customer information ("Customer Information") to MCE: when and how the Pilot participants and potential Pilot participants will be contacted, what data will be collected, how that information will be stored, how that information will be shared with MCE, the process for handling customer complaint escalation, and identification of key individuals associated with Contractor or subcontractor who have been specifically assigned to work with MCE customers and the key individuals' subsequent outreach and response activities throughout the X Phases.
- Contractor to provide to MCE monthly reports which will include lead generation, outreach status, Customer Information updates and any customer complaints, feedback and escalations.

#### a) Availability Service Level.

##### 1) Definitions.

(a) "Maintenance Window" shall mean the total minutes in the reporting month represented by the mutually agreed day(s) and time(s) during which Service Provider shall maintain the Services.

(b) "Scheduled Downtime" shall mean the total minutes in the reporting months represented by the Maintenance Window.

(c) "Scheduled Uptime" shall mean the total minutes in the reporting month less the total minutes represented by the Scheduled Downtime.

2) Service Level Standard. Services will be available to Authorized Users for normal use 99% of the Scheduled Uptime.

#### b) Technical Support Problem Response and Resolution Service Level.

1) Service Level Standard. The Service Provider will respond to two categories of problems associated with delivery of the Services:

- i) Problems that shall be investigated and resolved within 3 working days if the problem prevents >25% of Authorized Users from accessing the Services to MCE residential customers as required; and
- ii) Problems that shall be investigated and resolved within 15 working days if >25% of Authorized Users are able to access the Services to MCE residential customers as required but are unable to access a specific functionality delivered by the Service Provider.



March 21, 2024

TO: MCE Board of Directors

FROM: Garth Salisbury, Chief Financial Officer & Treasurer  
Maíra Strauss, Manager of Finance

RE: Proposed Fiscal Year 2024/25 Budget (Agenda Item #06)

ATTACHMENTS: A. Customer Savings and Discount Programs  
B. Proposed FY 2024/25 Operating Fund Budget  
C. Proposed FY 2024/25 Program Development Fund Budget  
D. Proposed FY 2024/25 Resiliency VPP Fund Budget  
E. Proposed FY 2024/25 Energy Efficiency Program Fund Budget

Dear Board Members:

**Summary:**

Before the beginning of every fiscal year (FY), running April 1 through March 31, staff present proposed budgets to the Executive Committee and Board for consideration.

The attached Proposed Budgets reflect MCE's projected revenue, expenditures, and contingencies for FY 2024/25, and are anticipated to allow MCE to continue 60-100% renewable energy and 95% greenhouse gas (GHG)-free energy for our customers.

This year, rates charged by PG&E for transmission and distribution have increased substantially, adding to an already significant energy cost burden. Despite this, MCE offers stable, competitive rates and a variety of discount and assistance programs to support customers (Attachment A). Since March 2020, MCE has facilitated approximately \$62 million in customer discounts. Current rates are lower than PG&E, saving homes about \$5 per month and small businesses about \$17 per month. Staff does not anticipate a need for a rate adjustment in the upcoming fiscal year. Since 2022, MCE customers have saved over \$100 million on energy bills, and staff estimates another \$30 million in 2024 bill savings.

**FY 2024/25 Operating Fund Budget Highlights:**

The Proposed FY 2024/25 Operating Fund Budget (Attachment B) is based on the most recent five-year average for weather patterns in the MCE service area including warmer summers and colder winters compared to the current fiscal year. The budget also assumes

higher costs for resource adequacy and renewable energy reflective of the patterns seen over the course of 2023.

Variances in the highlights below compare proposed FY 2024/25 budget to approved FY 2023/24 budget unless otherwise noted.

**Targeted Bill Relief: \$5 million** (new program)

Building on MCE's tradition of promoting energy affordability and accessibility, staff recommends allocating \$5 million for a new Targeted Cost Relief Program to reduce energy costs for our most vulnerable residential and small commercial customers with monthly bill credits. By targeting customers struggling to pay their bills, including those eligible for the California Alternate Rates for Energy (CARE) and the Family Electric Rate Assistance (FERA) programs, and small businesses impacted by economic shifts, MCE seeks to provide support that aligns with our core values of community care and sustainable energy access.

**Revenue – Electricity Net: \$787.9 million** (1.5% decrease from FY 2023/24 approved budget; 4.3% increase over projected actuals)

The sales volume (GWh) is projected to increase by 4.5% and net energy revenue is adjusted downward by an assumed delinquency rate of 1.5%, which represents approximately \$12 million in projected uncollectible balances.

**Cost of Energy: \$688.8 million** (3.4% increase from FY 2023/24 approved budget; 21% increase from projected actuals)

Over the last 12 months, renewable energy premiums have quadrupled and Resource Adequacy (RA) costs have doubled. Although MCE is mostly hedged for these costs, contingencies such as underproduction at certain renewable facilities, construction delays, and other factors often result in MCE having to purchase these products in the open market to meet demand. Expenses associated with the purchase of energy include our renewable energy power purchase agreements, charges by the California Independent Systems Operator (CAISO) for MCE load, services performed by CAISO, RA costs and other regulatory energy requirements necessary to meet our customers' energy.

**Personnel: \$22.8 million** (19.1% Increase)

This increase accounts for cost-of-living adjustments, increased cost of benefits, promotions, a budgeted assumption of merit increases for 2024 and 2025, fully integrating the full year's costs of new full-time employees (FTEs) added last year, and the anticipated addition of 7 new FTEs this fiscal year. Specifically, the increased costs include:

- 5.5% for increased headcount (96 to 103 FTEs),
- 4% for merit increases and promotions,
- 2.7% for retirement 401a contributions,
- 2.4% for Cost-of-Living Adjustment (following U.S. Labor Bureau guidelines),
- 1.7% increase in medical, dental, and vision costs,
- 1.3% increase in employer taxes,
- 1.3% increase in ancillary employee benefits, such as life-insurance and short-term disability insurance,

- 0.2% from other costs such as vacation leave cashout, increase in workers compensation rates due to inflation, and projected overtime costs.

MCE's workforce development includes a Board-approved internship program with up to 16 interns per year from our service area. Additionally, MCE provides opportunities for 2 fellows, 3 temporary employees, and 1 part-time employee.

MCE is dedicated to attracting and retaining skilled professionals that believe in our vision through a responsible and appealing benefits package, recognized by the San Francisco Chronicle's 'Top Places to Work' award. With a 7.53% turnover rate in 2023, well below the industry average of 15.4%, our strategy to enhance employee benefits has proven effective.

MCE ensures competitiveness and equity by adjusting salaries annually with a Cost-of-Living Adjustment based on the U.S. Bureau of Labor Statistics Consumer Price Index, San Francisco Area and by offering performance-based merit increases of 0-5% following standardized parameters. Regular salary and market reviews help avoid unintended bias regarding gender or other characteristics and build alignment with industry compensation standards.

The proposed personnel costs, making up 3% of the total Operating Fund Budget (up from 2.4% in FY 2023/24), reflect a strategic increase to enhance MCE's capacity, expertise, employee satisfaction, and competitive position. This is net of \$4 million allocated from CPUC-funded programs and other grant programs for staff time.

**Communications Services: \$2.48 million (3% increase)**

Communications costs cover a wide range of marketing and community engagement activities including advertising, printing, and mailing customer notices, and community events and sponsorships. Costs are expected to increase due to additional vendor support for marketing new and growing customer programs and launching a community education campaign for the anticipated early 2025 enrollment of the City of Hercules. MCE is also focusing on improving how we communicate with individuals who speak languages other than English. The proposed budget increase includes funding for a language access study to identify linguistic needs within our service area, evaluate the effectiveness of current multilingual communications, and develop a plan to ensure all community members have equitable access to our programs and services.

**Other services: \$3.16 million (30.8% increase)**

Other services encompass expenses such as consulting related to new projects and the ongoing performance of MCE's Customer Relationship Management (CRM) software and Digital Analytics Platform developed by the Technology and Analytics Department.

**General and Administration: \$4.18 million (46.4% increase)**

Costs include office supplies, data, travel, dues and subscriptions, including California Community Choice Association (CalCCA), and other related expenses. Increased costs are associated with increased regulatory and legislative activities, CRM, and other platforms' licenses for use by our Finance, Public Affairs, Customer Programs and Legal and Policy

Departments. Two load forecasting software tools are also included for use by the Power Resources Department to allow for more sophisticated resource allocation and optimization of load scheduling.

**Occupancy: \$1.01 million** (10% increase)

Increased costs are expected due to built-in annual increases in our rent schedules.

**Contingency: \$1.5 million** (no change)

Contingency is 0.2% of the total Operating Fund Budget, managed and allocated by the Finance Department based upon actual outcomes and needs within the budgets throughout the fiscal year.

**Non-Operating Revenue and Expense, Fund Transfer, and Other Updates:**

**Interest Income: \$12 million**

Continued strong interest income is expected to result from a mix of  $\frac{1}{3}$  liquid money market funds,  $\frac{1}{3}$  short term CDARS and CDS invested out to a maximum of two years and  $\frac{1}{3}$  a targeted diversified investment strategy developed by an outside investment management company for investments out to five years. This investment strategy is designed to capture the highest interest rates MCE has experienced over the past 15 years while maintaining strict adherence to the Board-approved Investment Policy.

**Grant income: \$5.07 million**

MCE receives grants from government and non-profit organizations to support certain activities connected to MCE's mission. Grant income varies year to year as grants can be "one time" or can be provided to MCE under multiple year agreements. Some grants were completed in the current fiscal year and others are starting in FY 2024/25. Some grants that were awarded in the current fiscal year, particularly those resulting from federal funding, have taken more time than expected to become active. Also, some grant activities require a ramp-up time that can be hard to predict, and this can cause year-to-year budget variation. The following grants or portions thereof are included in the \$5,068,000 grant income line item in the proposed budget:

1. \$3,000,000 (2023-2027) for MCE's Healthy Homes program in Richmond. Funded by the California Strategic Growth Council Transformative Climate Communities program.
2. \$2,000,000 (2024-2025) for EV charging installations. Funded by congressionally directed community spending requests (federal earmarks).
3. \$1,762,000 for the Disadvantaged Communities Green Tariff (Green Access) program to provide income-qualified, residential customers in disadvantaged communities with 100% renewable energy and a 20% bill discount.
4. \$1,500,000 (2022-2024) for EV charging installations in Contra Costa disadvantaged communities in partnership with the Contra Costa Transportation Authority. Funded

by the California Energy Commission.

5. \$972,924 to support a participatory budgeting process in priority communities to guide the grant investment into EV charging stations and shared mobility options. Funded by the U.S. Department of Energy.
6. \$750,000 (2024-2025) for MCE's Healthy Homes program. Funded by congressionally directed community spending requests (federal earmarks).
7. \$750,000 (2020-2025) for solar paired with storage at nonprofits in Marin. Funded by the Marin Community Foundation.
8. \$500,000 (2024-2025) for solar paired with storage at critical facilities. Funded by federal earmarks.
9. \$180,000 (2022-2024) for EV charging installations at multifamily properties in Marin. Funded by the Marin Community Foundation.
10. \$99,000 for the Virtual Power Plant (VPP) pilot in Richmond. Funded by the California Energy Commission.
11. \$86,000 (2024-2024) for EV charging installations at multifamily properties. Funded by the California Energy Commission.

In addition to the grants in the proposed budget, MCE has submitted \$6,280,000 in new grant applications and is actively developing proposals for \$66,300,000 more. If awarded, any of these new grants would be brought to the Board for acceptance and would be added to the grants budget on a forward basis.

#### **FY 2024/25 Program Development Fund: \$9.7 million**

The Program Development Fund (Attachment C) is financed by a transfer from the Operating Fund equal to 50% of the 1¢/kWh premium for Deep Green service (\$1,940,000) and additional amounts approved by the Board. For FY 2024/25 staff is recommending a transfer from the Operating Fund of an additional \$6,460,000 to combine with existing funding of \$180,000 from the Marin Community Foundation for a total funding amount of \$8,580,000. This fund will be used for incentives, technical assistance, community education, and implementation of the following programs:

- Transportation electrification:
  - Rebates for newly purchased and leased EVs for income-qualified residents.
  - Rebates for charging ports installed at workplaces and multifamily properties.
  - MCE's EV smart charging app, MCE Sync, which automates home EV charging to use the least expensive and cleanest energy on the grid.
- Building electrification:
  - Rebates for electric, grid-enabled Heat Pump Water Heaters.
  - An Emergency Replacement Water Heater Loaner program to facilitate

electrification at the point of existing water heater failure.

- Community Housing Fund:
  - Funds building remediation and repair work for homeless shelters and other community housing resources that would otherwise be a barrier to accessing energy efficiency programs.

The Program Development Fund finances programs that require long lead times from project application, approval, permitting, construction, and final completion. In some cases, this process can take many years. Consequently, MCE commits funding for projects on an annual basis, but actual expenditures of these funds are often delayed for a few years or, occasionally, projects can be canceled entirely. If actual expenditures in a given fiscal year are expected to exceed available funding, staff will come back to the Board to recommend additional appropriations from the General Fund.

**FY 2024/25 Resiliency VPP Fund: \$4.6 million**

The Board approved creation of a Resiliency VPP Fund (Attachment D) in 2019 response to power outages which significantly impact the safety, reliability, health, and welfare of our customers, and disproportionately affect vulnerable populations. MCE is working to help strengthen our communities by piloting energy storage paired with solar to retain essential power supply during outages while minimizing the use of carbon-emitting generators and fossil-fuel technologies. Since the creation of the fund, your Board has approved \$9 million in addition to directing \$500,000 of Federally Earmarked funds and \$750,000 of funding from the Marin Community Foundation for a total of \$10,250,000 toward battery storage programs in our communities. So far, over 1.6 MWhs of storage facilities have been installed at 76 homes and seven critical facilities in MCE's service area.

Staff is recommending utilizing \$878,000 of additional funding from Federal Earmark funds and Marin Community Foundation grants this year but no transfers from the Operating Account as sufficient funding is available from previous years to satisfy anticipated expenditure in FY 2024/25.

**Energy Efficiency Program Fund: \$32.9 million**

The Energy Efficiency Program Fund (Attachment E) uses funding MCE applied for and was awarded by the CPUC to support the following programs: Efficiency Market Programs (Residential, Commercial and Peak Flex Market), Strategic Energy Management for Commercial, Industrial and Multifamily Properties, Agricultural and Industrial Resources (AIR) Program, Commercial Equity Program, Multifamily Energy Savings, Home Energy Savings, and Green Workforce Pathways. The funds awarded from the CPUC have increased from \$28,757,000 in FY 2023/24 to \$32,869,000 in FY 2024/25.

**Fiscal Impacts:**

Finances in the upcoming fiscal year are subject to a variety of anticipated and unforeseen factors that could have a measurable impact on MCE's budgetary results. These include:

- 1) Market volatility – System energy, renewable energy and resource adequacy



prices may be higher than anticipated due to market volatility, scarcity, availability, or regulatory changes that can diminish the value of existing contracts or drive-up costs.

- 2) Customer Energy Demand – As we continue to experience climate change through extreme weather events, including summer heat waves, severe cold temperatures, and drought, energy demand can outpace our hedged energy supply and negatively impact MCE's finances. This is particularly true when day-ahead and/or real-time market prices are abnormally high.

The projected net impact of the Proposed Operating Fund budget is an estimated \$65,000,000 contribution to MCE's Net Position during FY 2024/25, assuming no significant increases in market prices. If your Board chooses to also approve the \$5,000,000 allocation to the new Targeted Cost Relief Program and the transfer of \$8,400,000 to the Program Development Fund, the projected contribution to the Operating Fund Balance would be approximately \$52,000,000. Funding for Energy Efficiency Programs is projected to be \$32,869,000. The projections assume no change to MCE's current rates and are based on the best available information regarding market prices for any unhedged power supply.

#### **Results of FY 2023/24:**

End of year results for FY 2023/24 and possible fund deferral allocations will be discussed in the next agenda item and will also be further discussed in the Community Power Coalition, Technical Committee and Executive Committee meetings in April and May. Any deferral allocations recommended from these discussions would come to the Board for consideration at the regular May Board meeting.

#### **Recommendations:**

1. Approve the proposed Fiscal Year 2024/25 budgets.
2. Approve the Targeted Cost Relief Program with an allocation of \$5,000,000.



## MCE Customer Savings and Discount Programs

In support of MCE's vision to lead California to an equitable, clean, affordable, and reliable energy economy, MCE offers a variety of customer discount and assistance programs. Since the declaration of the COVID-19 pandemic in March 2020, which magnified the community's need for economic support, through February 2024, MCE customers have received approximately \$62 million in discounts and funding. Since 2022, customers have saved over \$100 million on energy bills and staff estimates another \$30 million in 2024 bill savings, as MCE continues to offer lower and more stable rates compared to PG&E.

Each of the following programs aims to support energy affordability, accessibility, and sustainability by helping customers reduce or manage costs. Between August 2023 and January 2024, MCE has promoted the CARE and FERA discount programs resulting in 1,600 new customer enrollments. This successful campaign underscores our commitment to ensuring affordable clean energy is accessible for everyone.

### **1. California Alternate Rates (CARE)**

CARE provides a monthly discount of 20% or more on electricity and gas for qualifying households, with electricity discounts provided by MCE and PG&E.

Eligibility is based on household size and income. Customers may also qualify for CARE if they participate in certain public assistance programs, such as CalFresh/SNAP (Food Stamps) and Medicaid/MediCal, to name a few.

MCE provided \$12.6 million in discounts to over 104,000 CARE customers in 2023.

### **2. Family Electric Rate Assistance (FERA)**

FERA provides a monthly discount of 18% on electricity for families of three or more whose household income slightly exceeds the CARE allowances.

MCE provided \$1.1 million in discounts to nearly 3,600 FERA customers in 2023.

### **3. Disadvantaged Communities Green Tariff (MCE Green Access)**

The Disadvantaged Communities Green Tariff (DAC-GT), called Green Access for MCE customers, is a CPUC-funded program that provides 100% renewable energy at a 20% discount. Green Access is available to households who meet the income eligibility requirements for the CARE and FERA programs and are in one of the top 25% most disadvantaged communities statewide or the census tracts in the highest 5 percent of CalEnviroScreen's Pollution Burden. This includes Pittsburg, Richmond, and Vallejo in

MCE's service area.

The Green Access Program exemplifies a crucial step in addressing the critical issues of energy equity and environmental justice. By offering 100% renewable energy access and substantial bill discounts to those in need, communities are empowered, pollution is reduced, and a cleaner future is created for everyone.

MCE currently provides Green Access to 3,170 customers, prioritizing customers in arrears with overdue energy bills, who were auto enrolled into the discount program, and has provided over \$2 million in discounts since service launched in September 2021.

#### **4. Low-Income Home Energy Assistance Program (LIHEAP)**

LIHEAP is a federally-funded program overseen by the California Department of Community Services and Development that offers financial assistance to low-income households to help manage costs associated with:

- Home energy bills
- Energy-related crisis (such as utility shut-offs and energy-related life-threatening emergencies)
- Home weatherization and minor energy-related home repairs

Eligibility for LIHEAP benefits is determined by income, family size, and availability of funds. LIHEAP may also prioritize applicants based on the greatest need and income, as well as households with vulnerable populations, including older adults, people with disabilities, and households with young children.

#### **5. Relief for Energy Assistance through Community Help (REACH)**

REACH is PG&E-funded and provides a one-time energy credit of up to \$500 for households who have received either a 15-day or 48-hour disconnection notice and are experiencing severe, temporary financial hardship such as job loss, illness, or other emergency situations.

Eligibility for REACH is determined by income, which must not exceed the CARE program allowance, and is not provided more than once in a 12-month period.

#### **6. Medical Baseline**

The Medical Baseline Program, also known as Medical Baseline Allowance, is an assistance program that provides additional energy at a lower cost for households who depend on power for certain qualifying medical needs. The program is not a discount on gas and energy delivery rates but it allows for a higher baseline energy allotment at the lowest pricing tier which can lead to reduced overall energy bills.

The additional monthly allotment of energy is approximately 500 kilowatt-hours (kWh) of electricity and/or 25 therms of gas depending on the energy needs, on the PG&E delivery portion only, which must be verified by a medical practitioner.

Some examples of qualifying medical conditions include:

- Paraplegic, hemiplegic, or quadriplegic condition
- Multiple sclerosis with additional heating and/or cooling needs
- Scleroderma with additional heating needs
- Life-threatening illness or compromised immune system, and additional heating and/or cooling are needed to sustain life or prevent medical deterioration
- Asthma and/or sleep apnea

Some examples of qualifying medical devices include:

- Motorized wheelchair/scooter
- IPPB or CPAP machines
- Respirator (all types)
- Hemodialysis machine
- Iron lung

## **7. Arrearage Management Plan (AMP)**

AMP is a state-funded payment plan to help qualifying households reduce unpaid energy bill balances of up to \$8,000. To qualify a customer must:

- Be enrolled in CARE or FERA
- Owe at least \$500 or more on their gas and electric bill OR (for gas-only customers) owe at least \$250 or more on their gas bill
- Be over 90 days past due and a PG&E customer for at least 6 months (MCE customers qualify for this program)
- Have made at least 1 on-time payment

MCE secured nearly \$7 million of energy debt forgiveness for approximately 19,000 residents since the program launched in January 2021.

## **8. Percentage of Income Payment Plan (PIPP)**

PIPP is a CPUC-funded pilot that bills participants on a fixed, flat rate (\$29 or \$86 for electric and \$9 or \$29 for gas) based on a percentage of their income, rather than according to their usage. PIPP participants with existing debt will also be enrolled in the Arrearage Management Program.

The pilot, launched in July 2023, will run for 48 months, and assess whether income-based monthly bills reduce disconnection risk and uncollectible debt, and whether they impact energy usage.

Households are eligible if their income does not exceed the FERA allowance and they either 1) live in zip codes with the highest rates of recurring disconnections, or 2) were

disconnected 2+ times during the 12 months before the disconnection moratorium in 2020. Customers are ineligible if they are master metered, direct access, currently billed through PG&E's Advanced Billing System, enrolled in any other pilot, or do not have a Smart Meter.

The PIPP pilot has approximately 500 MCE customers enrolled in February 2024.

#### **9. California Arrearage Payment Plan (CAPP)**

CAPP is a state-funded financial assistance program that reduced California household energy debt between March 2020 and December 2021 due to the COVID-19 pandemic.

MCE secured \$10.3 million of debt forgiveness for 51,777 residential and small business customers through the CAPP program.

#### **10. MCE Cares Credit**

The MCE Cares Credit was established in April 2021, as a targeted cost relief effort to support vulnerable residential and small business customers affected most by the COVID-19 pandemic. The program provided a \$10/month credit to households and a 20% discount to small businesses for 34,726 customers, totaling over \$5.8 million in savings over its 1-year time frame.

B. Proposed FY 2024/25 Operating Fund Budget

**MCE Operating Fund**  
**Proposed Budget Fiscal Year 2024/25**  
**From April 1, 2024 through March 31, 2025**

	Fiscal Year 2023/24 Approved Budget	Fiscal Year 2023/24 Projected Budget	Fiscal Year 2024/25 Proposed Budget	Approved vs Proposed % Variance (Under) Over	As % of Net Electricity Revenue
<b>ENERGY REVENUE</b>					
Operating Revenues	\$ 816,760,000	\$ 770,825,000	\$ 799,829,000	(2.1%)	
Uncollectible Accounts	(16,621,000)	(15,507,000)	(11,967,000)	(28.0%)	
<b>REVENUE - ELECTRICITY NET</b>	<b>800,139,000</b>	<b>755,318,000</b>	<b>787,862,000</b>	<b>(1.5%)</b>	<b>100.0%</b>
<b>ENERGY EXPENSES</b>					
Cost of Energy	665,973,000	565,545,000	688,761,000	3.4%	87.4%
<b>NET ENERGY REVENUE</b>	<b>134,166,000</b>	<b>189,773,000</b>	<b>99,101,000</b>	<b>(26.1%)</b>	<b>12.6%</b>
<b>OPERATING EXPENSES</b>					
Personnel	19,169,000	19,972,000	22,830,000	19.1%	2.9%
Data Manager	5,134,000	5,232,000	5,136,000	0.0%	0.7%
Technical and Scheduling Consultants	1,275,000	1,008,000	1,275,000	0.0%	0.2%
Service Fees - PG&E	2,527,000	2,496,000	2,560,000	1.3%	0.3%
Legal and Policy Services	1,487,000	816,000	1,420,000	(4.5%)	0.2%
Communication Services	2,405,000	1,872,000	2,476,000	3.0%	0.3%
Other Professional Services	2,419,000	2,184,000	3,163,000	30.8%	0.4%
General and Administrative	2,855,000	2,676,000	4,179,000	46.4%	0.5%
Occupancy	916,000	816,000	1,008,000	10.0%	0.1%
Contingency	1,500,000	-	1,500,000	0.0%	0.2%
<b>TOTAL OPERATING EXPENSES</b>	<b>39,687,000</b>	<b>37,072,000</b>	<b>45,547,000</b>	<b>14.8%</b>	<b>5.8%</b>
<b>OPERATING INCOME</b>	<b>94,479,000</b>	<b>152,701,000</b>	<b>53,554,000</b>	<b>(43.3%)</b>	<b>6.8%</b>
<b>NONOPERATING REVENUES</b>					
Grant Income	5,385,000	1,056,000	5,068,000	(5.9%)	0.6%
Other Income	-	16,938,000	-	-	-
Interest Income	5,000,000	13,956,000	12,000,000	140.0%	1.5%
<b>TOTAL NONOPERATING REVENUES</b>	<b>10,385,000</b>	<b>31,950,000</b>	<b>17,068,000</b>	<b>64.4%</b>	<b>2.2%</b>
<b>NONOPERATING EXPENSES</b>					
Banking Fees and Financing Costs	222,000	204,000	225,000	1.4%	0.0%
Grant Expenses	5,385,000	1,056,000	5,068,000	(5.9%)	0.6%
<b>TOTAL NONOPERATING EXPENSES</b>	<b>5,607,000</b>	<b>1,260,000</b>	<b>5,293,000</b>	<b>(5.6%)</b>	<b>0.7%</b>
<b>CHANGE IN NET POSITION</b>	<b>99,257,000</b>	<b>183,391,000</b>	<b>65,329,000</b>	<b>(34.2%)</b>	<b>8.3%</b>
Budgeted Net Position Beginning of Period	241,249,000	241,249,000	424,640,000	76.0%	-
Change in Net Position	99,257,000	183,391,000	65,329,000	(34.2%)	8.3%
<b>BUDGETED NET POSITION END OF PERIOD</b>	<b>340,506,000</b>	<b>424,640,000</b>	<b>489,969,000</b>	<b>43.9%</b>	<b>-</b>
<b>CAPITAL EXPENDITURES, INTERFUND TRANSFERS &amp; OTHER</b>					
Capital Outlay	389,000	-	-	(100.0%)	-
Transfer to Resiliency VPP Fund	-	-	-	-	-
Transfer to Cost Relief Program	-	-	5,000,000	-	1%
Transfer to Program Development Fund	1,970,000	1,970,000	8,400,000	326.4%	1.1%
<b>TOTAL CAPITAL EXPENDITURES, INTERFUND TRANSFERS &amp; OTHER</b>	<b>2,359,000</b>	<b>1,970,000</b>	<b>13,400,000</b>	<b>468.0%</b>	<b>1.7%</b>
<b>BUDGETED NET INCREASE IN OPERATING FUND BALANCE</b>	<b>96,898,000</b>	<b>181,421,000</b>	<b>51,929,000</b>	<b>(46.4%)</b>	<b>6.6%</b>

For comparison purposes, the Proposed FY 2024/25 budget is shown along the current year's Approved Budget. Actuals through December 2023 plus projections through March 31, 2024 are shown in the Fiscal Year 2023/24 Projected Budget column.

C. Proposed FY 2024/25 Program Development Fund Budget

**MCE**  
**Program Development Fund**  
**Proposed Budget Fiscal Year 2024/25**  
**From April 1, 2024 through March 31, 2025**

	FY 2023/24 Approved Budget	FY 2023/24 Projected Budget	FY 2024/25 Proposed Budget
<b>REVENUE AND OTHER SOURCES</b>			
Transfer from Operating Fund and Deep Green Premium	\$ 1,970,000	\$ 1,970,000	\$ 8,400,000
Marin Community Foundation Grant	-	-	180,000
<b>TOTAL REVENUE AND OTHER SOURCES</b>	<b>1,970,000</b>	<b>1,970,000</b>	<b>8,580,000</b>
<b>EXPENDITURES AND COMMITTED FUNDS</b>			
Transportation Electrification Programs	4,850,000	3,505,000	6,461,000
Committed Funds	-	-	2,320,000
Heat Pump Water Heater Incentives	360,000	250,000	500,000
Emergency Water Heater Loaner Fund	-	-	145,000
Marin Community Foundation Grant Efforts	-	-	180,000
Community Housing Fund	100,000	37,000	100,000
Electrification Technical Assistance	100,000	2,000	9,000
<b>TOTAL EXPENDITURES AND OTHER USES</b>	<b>5,210,000</b>	<b>3,794,000</b>	<b>9,715,000</b>
Net Increase (Decrease) in Fund Balance	(3,240,000)	(1,824,000)	(1,135,000)
Fund Balance at Beginning of Period*	3,288,000	2,959,000	1,135,000
Fund Balance at End of Period	<b>48,000</b>	<b>1,135,000</b>	<b>-</b>

\*Beginning balance for FY 2025/24 budget differs from budget FY 2023/24 ending actual balance due to delays in actual fund spending.

For comparison purposes, the Proposed FY 2024/25 budget is shown along the current year's Approved Budget. Actuals through December 2023 plus projections through March 31, 2024 are shown in the Fiscal Year 2023/24 Projected Budget column.

D. Proposed FY 2024/25 Resiliency VPP Fund Budget

MCE  
Resiliency VPP Fund  
Proposed Budget Fiscal Year 2024/25  
From April 1, 2024 through March 31, 2025

	FY 2023/24 Approved Budget	FY 2023/24 Projected Budget	FY 2024/25 Proposed Budget
<b>REVENUE AND OTHER SOURCES</b>			
Federal Earmark Funding	\$ 500,000	\$ 372,000	\$ 500,000
Marin Community Foundation Grant	750,000	-	378,000
Transfer from Operating Fund	-	-	-
<b>Total Revenue and Other Sources</b>	<b>1,250,000</b>	<b>372,000</b>	<b>878,000</b>
<b>EXPENDITURES AND OTHER USES</b>			
VPP Solar Storage	2,000,000	558,000	2,747,000
PeakFLEX	-	-	500,000
Federal Earmark Funding Supported Resiliency Efforts	-	-	500,000
Marin Community Foundation Grant Efforts	750,000	372,000	378,000
Federal Earmark Match Expense	-	-	250,000
Home Area Network Device Pilot	-	-	150,000
VPP Efforts	500,000	-	74,000
<b>TOTAL EXPENDITURES AND OTHER USES</b>	<b>3,250,000</b>	<b>930,000</b>	<b>4,599,000</b>
Net Increase (Decrease) in Fund Balance	(2,000,000)	(558,000)	(3,721,000)
Fund Balance at Beginning of Period*	4,232,000	4,919,000	4,361,000
Fund Balance at End of Period	<b>2,232,000</b>	<b>4,361,000</b>	<b>640,000</b>

\*Beginning balance for FY 2025/24 budget differs from budget FY 2023/24 ending actual balance due to delays in actual fund spending.

For comparison purposes, the Proposed FY 2024/25 budget is shown along the current year's Approved Budget. Actuals through December 2023 plus projections through March 31, 2024 are shown in the Fiscal Year 2023/24 Projected Budget column.



E. Proposed FY 2024/25 Energy Efficiency Program Fund Budget

MCE  
Energy Efficiency Fund  
Proposed Budget Fiscal Year 2024/25  
From April 1, 2024 through March 31, 2025

	FY 2023/24 Approved Budget	FY 2023/24 Projected Budget	FY 2024/25 Proposed Budget
<b>REVENUE AND OTHER SOURCES</b>			
Public Purpose Energy Efficiency Program	\$ 14,982,000	\$ 8,295,000	\$ 30,084,000
Public Purpose Low Income Families and Tenants Pilot Program	1,625,000	1,104,000	2,785,000
Peak FLEXmarket	8,250,000	54,000	-
ResMap	3,900,000	129,000	-
<b>TOTAL REVENUE AND OTHER SOURCES</b>	<b>28,757,000</b>	<b>9,582,000</b>	<b>32,869,000</b>
<b>EXPENDITURE AND OTHER USES</b>			
Public Purpose Energy Efficiency Program	14,982,000	8,295,000	30,084,000
Public Purpose Low Income Families and Tenants Pilot Program	1,625,000	1,104,000	2,785,000
Peak FLEXmarket	8,250,000	54,000	-
ResMap	3,900,000	129,000	-
<b>TOTAL EXPENDITURES AND OTHER USES</b>	<b>28,757,000</b>	<b>9,582,000</b>	<b>32,869,000</b>
<b>BALANCE</b>	<b>-</b>	<b>-</b>	<b>-</b>



March 21, 2024

TO: MCE Board of Directors

FROM: Garth Salisbury, Chief Financial Officer & Treasurer  
Maíra Strauss, Manager of Finance

RE: Fiscal Year 2023/24 Update, Projections, and Discussion of Proposed Transfers and Deferrals (Agenda Item #07)

ATTACHMENT: MCE Policy 016: Operating Reserve Fund

Dear Board Members:

**Summary:**

The projected results from Fiscal Year 2023/24 are expected to be above budget and result in significant progress toward meeting MCE's Reserve Policy goals including potentially meeting or exceeding our liquidity goals. MCE utilizes deferrals and transfers for financial management and planning. A deferral sets aside surplus revenues for future use, ensuring financial flexibility and stability in upcoming fiscal years. A transfer allocates funds for planned spending on specific projects, reflecting direct investment in our operational goals.

In past fiscal years, when net revenues have been sufficient, the Board has elected to defer revenues into the Operating Reserve Fund ("ORF" a.k.a. "rate stabilization fund") for use in future fiscal years when financial results may be under budget or stressed. Once the current fiscal year's results are more certain, staff will return to the Board to consider a deferral of some net revenue from this year into to the ORF.

In the same vein, other core MCE business functions could benefit from direct investment in renewable energy generation, battery storage, transmission, or resource adequacy assets. Changes in tax law and the price volatility and uncertainty of executing power purchase agreements with developers have created an environment where direct project ownership is a viable and needed activity for MCE. After some additional analysis and input, staff will return to the Board to consider a transfer of revenue into a Capital Projects Fund.

These options will be explored below, and then discussed in the Community Power Coalition, Technical Committee and Executive Committee meetings in April and May. Any deferrals or transfers recommended from these discussions would come to the Board for consideration at the

regular May Board meeting.

### **Operating Reserve Fund (ORF)**

The Operating Reserve Fund was created four years ago and is governed by MCE Policy 016 (See attachment A). The ORF is a rate stabilization fund established to address the variability in MCE's annual cashflows and expenses. The ORF policy allows MCE to defer revenues in years when revenues are strong and to use them in years when revenues are stressed or expenses exceed the budget. The ORF can be used to address significant unanticipated variations in budgeted costs and can, if funded sufficiently, avoid the type of mid-year rate adjustments that were necessary in 2022 and 2023. Your Board can consider deposits to or withdrawals from the fund after the close of the fiscal year once near final unaudited results are available.

Any deferrals into or withdrawals from the ORF are subject to Board review and approval. The ORF policy sets the maximum amount in the ORF to be 10% of the projected Operating and Non-Operating Revenues for the ensuing fiscal year.

- Deferrals of revenues were made into the ORF in three of the last four years totaling \$30,000,000.
- The ORF cap for Fiscal Year 2024/25 is approximately **\$80 million**.

Staff will be seeking input from the Community Power Coalition, the Technical Committee, and the Executive Committee to develop a recommendation regarding a deferral of funds from FY 2023/24 to the ORF. Given the projected net revenues in the current fiscal year, a deferral of \$30-\$40 million may be appropriate, subject to final results and Board input.

### **Capital Projects Fund**

Over the past several years, as part of the Board-approved Risk Management Policy, MCE has been monitoring risks and projecting what variables outside of MCE's control are most likely to create future cost uncertainty and rate volatility. The cost and availability of renewable energy assets, access to transmission capacity and the cost of resource adequacy have been particularly volatile, and risks in this area are increasing.

To hedge against these risks, MCE has taken steps to prepare for capital expenditures that would reduce future uncertainty. Such capital expenditures could include owning renewable energy generating assets and could also include paying for upgrades and possibly owning new transmission additions to reduce or eliminate curtailments at some of our generation resources.

In addition, opportunities exist to use capital expenditures to reduce routine expenditures, such as monthly lease payments. Given the current real-estate market, a capital expenditure could be directed at eliminating office space lease expense by consolidating and purchasing office space.

Steps that have been taken to prepare for capital expenditures include securing strong investment grade ratings from the major credit rating agencies, establishing, and funding an Operating Reserve Fund through revenue deferrals, creating a Board approved form of Bond Indenture and Debt Policy to allow MCE to quickly access the US debt capital markets, and finally, increasing the size of MCE's credit facility to \$60,000,000.

Investment in assets has been a part of MCE's business planning dating back to formation, and as the federal tax rules have changed, there is now an easier path to engage in this part of the business plan and further reduce risk. As a point of reference, the language below is from MCE's Implementation Plan, approved by the Board of Directors in 2009, prior to launching service to customers in 2010:

*"In the future, MCE may begin evaluating opportunities for investment in renewable generating assets, subject to then-current market conditions, statutory requirements and regulatory considerations. Any renewable generation owned by MCE or controlled under a long-term power purchase agreement with a proven public power developer, could provide a portion of MCE's electricity requirements on a cost-of-service basis. Electricity purchased under a cost-of-service arrangement should be more cost effective than purchasing renewable energy from third party developers, which will allow the Program to pass on cost savings to its customers through competitive generation rates. Any investment decisions will be made following thorough environmental reviews and in consultation with MCE's financial advisors, investment bankers, attorneys, and potentially with customer input."*

This language has persisted in all updated, revised and amended MCE Implementation Plans approved by the Board through 2023, but has shifted from *"MCE may begin evaluating opportunities for investment in renewable generating assets..."* to *"MCE has begun evaluating opportunities for future investment in renewable generating assets..."*

Staff will be seeking input from the Community Power Coalition, the Technical Committee and the Executive Committee in April and May, to develop a recommendation regarding a transfer of funds from FY 2023/24 into a Capital Projects Fund. This recommendation would come to the regular Board meeting in May.

Benefits of capital investments could include:

- Owning renewable energy generating assets, particularly if paired with storage, would have the effect of reducing the price volatility and cost spikes associated with market exposures.
- Project ownership would allow 100% dispatch control to optimize generation assets, addressing the specific load shapes in MCE's service area.
- Project ownership would allow for more accurate bidding of the assets' value into the CAISO markets.
- Project ownership would optimize the use of storage capacity to address resource adequacy (RA) and other costs that have negatively impacted MCE's budget over the past 2-3 years.
- Owning resources would reduce MCE's exposure to highly volatile market risks and bring more certainty to MCE costs thus providing rate stability and certainty to our customers.

Initially, capital expenditure funds would be needed for project feasibility consultants, land use professionals, engineers, and other consultants to assist in the evaluation process of identifying and purchasing assets. Additionally, capital expenditure funds would be directed to finance project ownership with a mix of equity (a "down payment") and tax-exempt or taxable debt in addition to any new investment tax incentives that MCE might be able to secure under federal law.

**Projected Impacts on MCE's Reserve Policy Goals:**

Preliminary results of fiscal year 2023/24 indicate strong progress toward the Board approved reserve target and liquidity goals. Final results are subject to power supply costs and demand between January and March, 2024, and will be available in May. As fiscal year results are being finalized, MCE is seeking input from the Community Power Coalition, the Technical Committee and the Executive Committee to develop a recommendation regarding any deferral of funds from FY 2023/24 into the Operating Reserve Fund (rate stabilization fund) and transfers into the Capital Projects Fund.

For illustrative purposes, if the Board does not elect to make any deferrals from FY 2023/24 revenues into the Operating Reserve Fund (rate stabilization fund) or transfers into the Capital Projects Fund and if net revenues are as projected, MCE would be able to meet the Board approved Reserve Policy goals and achieve the Liquidity targets:

MCE Reserve & Liquidity Requirement Targets		FY 2023/24
Reserve Projections	Reserve Target (\$)	423,396,000
	<b>Projected Actual Reserves (\$)</b>	<b>427,564,000</b>
	% of Target	101%
Liquidity Projections	Liquidity Target (\$)	463,996,000
	<b>Total Projected Liquidity (\$)*</b>	<b>515,594,000</b>
	% of Target	111%
	Target Days Liquidity on Hand	240
	Projected Days Liquidity on Hand	267

*\*Includes \$30 million of historically deferred revenue.*

For illustrative purposes, if the Board elects to defer \$30M from FY 2023/24 into the Operating Reserve Fund (rate stabilization fund) and transfer \$50M into the Capital Projects Fund, and if net revenues are as projected, MCE would make significant progress on the Reserve Policy Goals and meet the Liquidity targets:

MCE Reserve & Liquidity Requirement Targets		FY 2023/24
Reserve Projections	Reserve Target (\$)	423,396,000
	<b>Projected Actual Reserves (\$)</b>	<b>347,564,000</b>
	% of Target	82%
Liquidity Projections	Liquidity Target (\$)	463,996,000
	<b>Total Projected Liquidity (\$)*</b>	<b>465,594,000</b>
	% of Target	100%
	Target Days Liquidity on Hand	240
	Projected Days Liquidity on Hand	241

\*Includes \$30 million of historically deferred revenue plus an additional \$30 million deferral and \$50 million transfer to a Capital Projects Fund.

**Fiscal Impacts:**

Fiscal impacts will be determined after final FY 2023/24 results are available.

**Recommendation:**

Discussion only.



**APPROVED**

Date: 11/19/2020

**MARIN CLEAN ENERGY**

## **POLICY 016: Operating Reserve Fund**

### **Policy Purpose**

The Operating Reserve Fund Policy will describe the situations in which staff will propose and the MCE Board of Directors will consider deposits into and withdrawals from the Operating Reserve Fund and establishes an Operating Reserve Fund Targeted Balance.

### **Policy Statement**

The financial strength of MCE is one of the necessary pillars of the Agency if it is to deliver on its mission to address climate change by providing competitively priced renewable and GHG free energy to its customers. MCE will adopt policies and procedures designed to strengthen its financial position to allow the Agency to achieve these environmental goals. The MCE Board of Directors will adopt budgets and establish and adjust rates as necessary each fiscal year to provide sufficient revenues to pay all operating expenses and all other financial obligations of the agency. While MCE strives to meet its Reserve Policy targets, rates will be set to provide an addition to MCE's Net Position whenever possible. MCE will also take the necessary steps to achieve and maintain strong investment grade credit ratings to minimize interest costs and counterparty collateral posting requirements.

To this end, in November of 2019 the MCE Board of Directors approved Resolution 2019-06 creating an Operating Reserve Fund and later approved the first deferral of revenue into the Operating Reserve Fund effective the end of the 2019-20 Fiscal Year. The Operating Reserve Fund has been established and will be maintained and utilized to strengthen MCE's financial position and to be a tool to assist in addressing variability in MCE's annual cashflows and expenses. The Operating Reserve Fund is not to be used to address specific expenses of the Agency, but rather as a tool that supports MCE's ability to meet its financial obligations each fiscal year.

To the extent there is any conflict with Resolution 2019-06 which authorized the creation of the Operating Reserve Fund and this Policy 016, which provides directives for deposits to and withdrawals from the Operating Reserve Fund, this Policy 016, and any amendments thereto, shall control once approved by the MCE Board of Directors.

### **Policy Directives**

**Deposits:** Staff will recommend and the Board will consider deferral of revenue into the Operating Reserve Fund in a fiscal year (1) when the projected addition to Net Position is greater than 5% of total operating and non-operating revenues or (2) once the Reserve Policy targets are met, from any excess net revenues after payment of any debt service or other financial obligations due in that fiscal year

**Operating Reserve Fund Targeted Balance:** Deposits can be made into the Operating Reserve Fund as allowed above until the balance equals 10% of the total operating and non-operating Revenues in the

then current fiscal year.

**Withdrawals:** Staff will recommend withdrawals of Revenues from the Operating Reserve Fund in a fiscal year where net revenues are projected to be negative or as necessary to satisfy any legal covenants, contractual obligations or to maintain investment grade credit ratings.





March 21, 2024

TO: MCE Board of Directors

FROM: Sabrinna Soldavini, Manager of Policy

RE: Policy Update of Regulatory and Legislative Items

ATTACHMENT: Regulatory Packet with February Filings

Dear Board Members:

Below is a summary of the key activities in Congress, at the state legislature, and the California Public Utilities Commission, the California Energy Commission, and the California Independent System Operator impacting Community Choice Aggregation (CCA) and MCE.

I. **Legislative**

a. State Legislative Update

This year, the California legislature introduced more than 2,100 bills. Staff are analyzing and monitoring more than 100 bills and will continue to provide updates on priority items throughout the session.

b. Federal Legislative Update

As of the drafting of this staff report, Congress is on track to vote out a 6-bill Appropriations package, and President Biden is expected to sign it. The package includes \$850,000 for MCE's Enabling Electrification project, requested by Rep. DeSaulnier. This project would support income-qualified customers who are eligible to participate in electrification incentive programs, but require preliminary light construction and/or electrical work to take advantage of the incentive.

II. **California Public Utilities Commission (CPUC)**

a. Renewables Portfolio Standard (RPS) Proceeding

In February 2024, the CPUC issued a new Order Instituting Rulemaking (OIR) to continue overseeing implementation of California's Renewables Portfolio Standard (RPS). MCE joined the Joint CCAs in filing opening comments to ask for greater coordination between the RPS Plan and the Integrated Resource Plan, and consistent treatment of confidentiality for data. MCE also joined Joint CCA Bioenergy Market Adjusting Tariff (BioMAT) program comments requesting consideration of extending the BioMAT program beyond its current 2025 end date to provide CCAs more time to execute BioMAT contracts and potentially improve the overall success of and participation in the BioMAT program.

The Commission is expected to issue a Scoping Ruling in the coming months that will define the issues for consideration in the proceeding, including a decision as to whether BioMAT program extension will be within scope.

**Fiscal Impacts:** There are no immediate fiscal impacts to MCE.

b. Resource Adequacy (RA)

In March 2024, MCE helped develop California Community Choice Association (CalCCA) comments in the RA proceeding to advance the CalCCA proposal for a system RA waiver process whereby Load Serving Entities (LSEs) that are unable to meet their RA procurement requirements, despite taking all commercially reasonable actions, can be excused from non-compliance penalties. CalCCA continued to assert that a waiver structure is critical given the persistent tightness in the RA market, skyrocketing RA prices, and the increasingly onerous and wide-ranging penalties for RA deficiencies.

CalCCA also supported delayed implementation of the hourly RA framework to 2026 (currently scheduled for 2025 implementation) to allow more time for the CPUC and stakeholders to develop essential compliance and implementation details. CalCCA also continued to advocate for improving the hourly RA framework by establishing an appropriate Planning Reserve Margin and providing LSEs with more flexibility to trade load obligations with each other during specific hours. This aims to optimize procurement efficiency and hourly compliance potential among all LSEs.

The CPUC and stakeholders will continue to evaluate RA reform proposals over the coming months. The CPUC is expected to issue a Proposed Decision on near-term RA reform by late Q2, early Q3.

**Fiscal Impacts:** There are no immediate fiscal impacts to MCE, however, the resolution of the near-term reform proposals will affect MCE's RA procurement and costs.

c. Self-Generation Incentive Program - Assembly Bill 209 and Equity Outcomes

In February 2024, the CPUC issued a proposed decision modifying the Self-Generation Incentive Program (SGIP) to implement requirements from Assembly Bill 209 (2022) and improve equity outcomes. The Proposed Decision (PD) recommends allocation of funds across eligibility criteria, budget categories, and program administrators. SGIP requires participants to enroll in a qualifying demand response program and the PD's definition of a qualifying demand response program severely limits the number of eligible programs and places unnecessary barriers on SGIP participation.

MCE led the Joint CCAs in submitting Opening Comments on the following three issues: (1) Requesting alignment of the definition of a qualifying demand response program with the Demand Response Application proceeding definition from December 2023; (2) Clarifying participants may switch enrollment in qualifying demand response programs during the required 10 year period; (3) Requesting the CPUC continue to evaluate "eligible costs" for the Equity budget category in upcoming workshops. Equity budget participants may experience additional project costs and Joint CCAs support removing barriers to participation. The CPUC may vote on a Decision in March 2024.

**Fiscal Impacts:** There are no expected fiscal impacts to MCE.

d. Energy Efficiency

In February 2024, MCE received approval from the CPUC's Energy Division for our \$76,670,990 budget amount for 2024-2027 Energy Efficiency (EE) portfolio programs. Energy Division also approved the additional program details MCE submitted including expanding the eligibility of its Home Energy Savings program to better serve low-income customers.

**Fiscal Impacts:** The CPUC approval results in a \$76,670,990 budget amount for MCE's 2024-2027 EE programs.

e. PG&E's 2022 ERRA Compliance Proceeding

In February 2024, CalCCA filed a Motion for CPUC Review (Motion) of three Administrative Law Judge (ALJ) rulings in Pacific Gas & Electric's ("PG&E") 2022 Energy Resource Recovery Account (ERRA) Compliance Proceeding. ERRA compliance proceedings are intended to review whether PG&E prudently managed its resources and reasonably complied with CPUC rules and regulations during a particular compliance period, including whether PG&E administered resource adequacy (RA) procurement sales consistent with its CPUC approved plan. Throughout this proceeding CalCCA has attempted to provide evidence demonstrating that PG&E did not reasonably administer RA sales in compliance with its CPUC plan. Unfortunately, the three ALJ rulings have prohibited CalCCA's evidence from being considered and limited the ability of CalCCA to make a robust argument before the Commission. As such, CalCCA's motion asks that the CPUC reverse the three ALJ Rulings in question.

The proceeding is still ongoing, and the CPUC has not responded to CalCCA's Motion. MCE will provide updates on the proceeding and Motion as they become available.

**Fiscal Impacts:** There are no immediate fiscal impacts to MCE.

### III. California Energy Commission (CEC)

#### a. Power Source Disclosure Program

In February, MCE supported CalCCA's comments on the CEC's proposed changes to its Power Source Disclosure (PSD) program regulations. The proposed changes include adjusting near-term annual emissions accounting for LSEs (to be implemented as early as 2025) as well as hourly emissions regulations and accounting mechanisms (expected to be implemented in 2028). CalCCA's comments were generally supportive of the accounting enhancements, but requested that the CEC provide LSEs sufficient time prior to implementation to adjust and optimize procurement portfolios and to ensure that emissions templates and calculators are sufficiently functional.

Although the CEC has issued draft regulations, the proceeding is still in a pre-rulemaking phase. The CEC is expected to officially commence the proceeding in the coming weeks, and adoption of the draft regulations is expected in Q2/Q3 2024.

**Fiscal Impacts:** Currently the exact fiscal impact to MCE is unknown. However, these regulations will likely have a fiscal impact as they will affect power procurement decisions. To facilitate consistency between MCE's internal emissions goals and PSD program hourly and annual emissions conclusions, MCE will need to assess adjustments to its procurement.

### IV. California Independent System Operator (CAISO)

#### a. Interconnection Process Enhancements

In February 2024, MCE supported CalCCA's comments on the CAISO's Interconnection Process Enhancements (IPE) 2023 initiative. This initiative is advancing wide-ranging reforms to the processes for coordinating new grid interconnection resources with existing or planned transmission capacity to meet reliability needs. These processes have become increasingly impacted and slowed by recent annual increases in the number of new projects seeking interconnection in response to the state's reliability and GHG reduction needs. CalCCA's comments focused on ensuring that there is sufficient transparency in the new processes to give developers the information they need to plan and site proposed projects where transmission capacity is or will be available and load serving entities, like MCE, sufficient and timely information to evaluate, support, and procure proposed projects that will meet reliability needs, GHG targets, compliance obligations, and customer needs and preferences.

The CAISO expects to issue a Final Proposal that would be adopted by the CAISO's Board of Governors in May.

Fiscal Impacts: The interconnection process changes contemplated in this initiative do not have any immediate fiscal impact on MCE, but the changes will affect MCE's procurement processes and timelines.

**Recommendation:** There are no recommended actions at this time.