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PINOLE | PITTSBURG | PLEASANT HILL | RICHMOND | SAN PABLO | SAN RAMON | VALLEJO | WALNUT CREEK

**Executive Committee Meeting
Wednesday, December 6, 2023
12:00 P.M.**

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

MCE Mt. Diablo Room, 2300 Clayton Road, Suite 1150, Concord, CA 94920

Members of the public who wish to observe the meeting and/or offer public
comment may do so telephonically via the following teleconference call-in number
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1. Roll Call/Quorum
2. Public Open Time (Discussion)

CLOSED SESSION

Conference with Labor Negotiator

Agency Designated Representative: Executive Committee Chair

Unrepresented Employee: Chief Executive Officer

Public Employee Performance Evaluation: Chief Executive Officer

3. Roll Call/Quorum

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4. Board Announcements (Discussion)
5. Public Open Time (Discussion)
6. Report from Chief Executive Officer (Discussion)
7. Consent Calendar (Discussion/Action)
 - C.1 Approval of 11.1.23 Meeting Minutes
 - C.2 Proposed Second Amended and Restated Schedule A.1 to the Master Services Agreement with Franklin Energy Services, LLC
 - C.3 Proposed First Agreement with Resource Innovations, Inc.
8. Resolution No. 2023-14 Establishing the Annual Compensation for the Chief Executive Officer (Discussion/Action)
9. 2023 Charles F. McGlashan Advocacy Award Nominations (Discussion/Action)
10. Revised MCE Implementation Plan to Include the City of Hercules (Discussion/Action)
11. Fiscal 2023/24 Operating Fund Budget Update (Discussion)
12. Committee Matters & Staff Matters (Discussion)
13. Adjourn

The Executive Committee 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 which requires an accommodation or an alternative format, please call MCE at 1 (888) 632-3674 at least 72 hours before the meeting start time to ensure arrangements for accommodation.

DRAFT

MCE EXECUTIVE COMMITTEE MEETING MINUTES
Wednesday, November 1, 2023
12:00 P.M.

Present: Eli Beckman, Town of Corte Madera
Edi Birsan, City of Concord
Cindy Darling, City of Walnut Creek
Eduardo Martinez, City of Richmond
Devin Murphy, City of Pinole
Gabriel Quinto, City of El Cerrito
Shanelle Scales-Preston, City of Pittsburg
Sally Wilkinson, City of Belvedere

Absent: David Fong, Town of Danville
Max Perrey, City of Mill Valley
Holli Thier, Town of Tiburon

**Staff
& Others:** Jessica Brooks, Board Clerk
Darlene Jackson, Lead Board Clerk
Vicken Kasarjian, Chief Operating Officer
Shaheen Khan, VP of Human Resources, Diversity & Inclusion
Tanya Lomas, Internal Operations Assistant
Catalina Murphy, General Counsel
Ashley Muth, Internal Operations Assistant
Daniel Settlemyer, Internal Operations Coordinator
Jamie Tuckey, Chief of Staff
Alden Walden, Consultant, PEA
Dawn Weisz, Chief Executive Officer

1. Roll Call/Quorum

Acting Chair Quinto called the regular Executive Committee meeting to order at 12:11 p.m. with quorum established by roll call.

2. Public Open Time (Discussion)

Acting Chair Quinto opened the public comment period and there no comments.

CLOSED SESSION

Conference with Labor Negotiator
Agency Designated Representative: Executive Committee Chair
Unrepresented Employee: Chief Executive Officer
Public Employee Performance Evaluation: Chief Executive Officer

The Committee adjourned to Closed Session at 12:14 p.m.

DRAFT

The Committee reconvened in open session at 1:23 p.m. Acting Chair Quinto reported out from the closed session that direction was given to staff.

3. Roll Call/Quorum

Quorum was established by roll call.

4. Board Announcements (Discussion)

There were no comments.

5. Public Open Time (Discussion)

Acting Chair Quinto opened the public comment period and there no comments.

6. Report from Chief Executive Officer (Discussion)

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

7. Consent Calendar (Discussion/Action)

C.1 Approval of 10.4.23 Meeting Minutes

Acting Chair Quinto opened the public comment period and there were no comments.

Action: It was M/S/C (Murphy/Birsan) to approve Consent Calendar item C.1 . Motion carried by unanimous roll call vote. (Absent: Directors Fong, Perrey, Scales-Preston, and Thier).

8. Resolution No. 2023-12 Establishing the Annual Compensation for the Chief Executive Officer (Discussion/Action)

The item was not voted on and will be considered at a future meeting.

9. City of Hercules Membership Request and Analysis (Discussion/Action)

Jenna Tenney, Manager of Communications and Community Engagement and Alden Walden, Consultant with PEA, presented this item and addressed questions from Committee members.

Acting Chair Quinto opened the public comment period and there were no comments.

DRAFT

Action: It was M/S/C (Darling/Murphy) to recommend that the Board of Directors:

- Approve Resolution 2023-13 Approving the City of Hercules as a Member,
- Approve Amendment 16 to the MCE JPA Agreement, and
- Direct staff to submit Addendum No. 9 to the MCE Implementation Plan and Statement of Intent to the CPUC.

Motion carried by unanimous roll call vote. (Absent: Directors Fong, Perrey, Scales-Preston, and Thier).

10. Draft 11.16.23 Board Agenda (Discussion)

Dawn Weisz, CEO, presented this item and addressed questions from Committee members.

Acting Chair Quinto opened the public comment period and there were no comments.

Action: No action required.

11. Committee Matters & Staff Matters (Discussion)

Comments were made by Directors Birsan, Wilkinson, and Murphy.

12. Adjournment

Acting Chair Quinto adjourned the meeting at 2:12 p.m. to the next scheduled Executive Committee Meeting on December 1, 2023.

Gabriel Quinto, Acting Chair

Attest:

Dawn Weisz, Secretary



December 6, 2023

TO: MCE Executive Committee

FROM: Michelle Nochisaki, Senior Customer Programs Manager

RE: Proposed Second Amended and Restated Schedule A.1 to the Master Services Agreement with Franklin Energy Services, LLC (Agenda Item #07_C2)

ATTACHMENTS: A. Second Amended and Restated Schedule A.1 to the Master Services Agreement with Franklin Energy Services, LLC
B. Master Services Agreement with Franklin Energy Services, LLC

Dear Executive Committee Members:

Summary:

The proposed Second Amended and Restated Schedule A.1 ("A.1") to the Master Services Agreement ("MSA") with Franklin Energy Services, LLC ("Franklin") would provide MCE customers with continued energy efficiency services, focused on the implementation and expansion of MCE's Home Energy Savings (HES) program.

Background

MCE's HES program provides no-cost energy efficiency services to moderate income households across MCE's service area. Eligible participants receive home upgrades valued at \$4,000 to \$9,000 on average, such as attic insulation, duct sealing, heat pump hot water heater, mini split heat pump, a smart thermostat and more. MCE has been approved for funding from the California Public Utility Commission ("CPUC") to continue this program through 2027. MCE has contracted with Franklin since May 2019 to implement MCE's HES program.

Under the proposed A.1 (Attachment A), which would be governed by the Board-approved MSA (Attachment B), Franklin would continue to implement MCE's HES program—offering no-cost home assessments and comprehensive energy upgrades to

eligible single-family homeowners and renters. If approved, A.1 would expand program eligibility to reach low-income as well as moderate income homeowners and renters. The proposed A.1 also includes two MCE funding sources which would allow for even more customers to be served. The two funding sources included in the proposed A.1 are MCE's Local Program Fund and Electrification Technical Assistance Fund.

MCE's Local Program Fund

The addition of this funding source would allow Franklin to provide additional electrification measures and the necessary repairs for installation to customers that are not currently covered with CPUC funds. The added MCE funds would allow for a greater number of customers to receive the deep energy savings, electrification adoption, and health, comfort, safety, energy, and cost benefits provided by HES.

MCE's Electrification Technical Assistance Fund

The addition of this funding source would allow Franklin to provide services as a "designated applicant" for the Self-Generation Incentive Program's ("SGIP") heat pump water heater ("HPWH") program. If approved as an SGIP applicant, Franklin would then use the SGIP incentives to offset the HPHW measure cost for up to 60 customers; this financial offset would allow the HES program to provide incentives to additional MCE customers.

Fiscal Impacts:

The duration of the proposed A.1 would be from January 1, 2024 through December 31, 2024. The maximum cost would be \$3,018,361, with \$2,191,329 allocated to customer incentives.

Expenditures related to the proposed A.1 would be funded from the following three sources:

- Up to \$2,937,861 in Energy Efficiency Program funds allocated by the CPUC
- Up to \$70,000 in Local Program funds allocated by MCE
- Up to \$10,500 in Electrification Technical Assistance funds allocated by MCE

Recommendation:

Approve the proposed Second Amended and Restated Schedule A.1 to the Master Services Agreement with Franklin Energy Services, LLC.

**Statement of Work – Second
Amended and Restated Schedule
A.1**

This Second Amended and Restated Schedule A.1 ("Schedule A.1" or "Statement of Work" or "SOW") is entered into on **December 6, 2023**, pursuant to the Master Services Agreement between MARIN CLEAN ENERGY, hereinafter referred to as "MCE", and FRANKLIN ENERGY SERVICES, LLC, hereinafter referred to as "Implementer", dated **April 20, 2023** ("Agreement") and is governed by its terms and conditions. If applicable, capitalized but undefined terms herein shall have the meanings set forth in the Agreement.

Implementer will 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 Statement of Work.

Overview

Implementer will implement the Home Energy Savings ("HES") Program by delivering residential single-family assessments and direct energy efficiency installs for home energy savings ("HES Program" or "Program").

Implementer shall:

- Provide HES Program services, including:
 - Perform electrification assessments and home upgrades to at least 325 residential single-family units per year (home upgrades must include the delivery of at least one measure included in Table B: 2024 HES Program Measure Payment and Incentive Budget, included below); and
 - Target moderate-income single-family property owners and tenants (who have permission from the relevant property owner) with high utility bills in MCE's service area for potential participation in the Program.
- Provide electrification and/or repair measures via MCE's Local Program Fund.
- Enroll HES customers in the Self-Generation Incentive Program (SGIP) heat pump water heater (HPWH) program via MCE's Electrification Technical Assistance Fund.

Implementer will perform the following tasks in accordance with the Energy Efficiency Program Terms included in Exhibit C of the Master Services Agreement dated April 20, 2023.

Task 1: Program Management

- A. Customer Service Support.** Implementer will provide a live customer support team to respond to Program participant inquiries and requests within two business days, provide Program support, connect Program participants to participating trade allies, and connect Program participants to additional Program resources. The customer support team will be available from 8:30 a.m. – 5:00 p.m. PST Monday through Friday and will monitor Program emails submitted to mce-energysavings@Franklinenergy.com.
- B. Trade Ally Engagement.** Implementer will onboard initial trade allies and provide a single point of contact for each participating trade ally by holding a minimum of two check-in calls per month, as-needed office visits, and support with technical Program questions, and will provide mentoring in the field. Implementer will manage the trade allies, relevant contracts between the trade allies and Implementer, and is responsible for all aspects of home upgrade delivery to Program participants.
- C. Monthly Reporting.** Implementer will ensure all data collected from customers and participating trade allies is shared with MCE's team on an ongoing basis to ensure systems are tested, new data points are added and formatted as needed, and energy savings and payment information is accurate and complete. Implementer will intake all Program assessment questions and CPUC-required data points and submit monthly reports and invoices to MCE. Implementer will work with MCE as needed to complete the Annual or Biannual Budget Advice Letter ("BBAL") process and data requests as required by the CPUC. MCE and Implementer will outline any additional and/or ad hoc reporting as needed throughout the term (defined below).
- D. Coordination with Investor Owned Utilities ("IOUs")/Bay Area Regional Energy Network ("BayREN").** Implementer will coordinate with IOUs, BayREN, other Program implementers, and/or local government agencies authorized by the CPUC to implement CPUC-directed energy efficient programs that are administering energy efficiency programs within MCE's service territory as necessary to ensure timely, accurate, and consistent access to data. The CPUC may develop further rules related to coordination between program administrators in the same geographic area, and any relevant party is required to comply with such rules. Upon MCE's request, Implementer will assist MCE with tasks and deliverables as they relate to development of joint cooperation memoranda. Implementer's activities in this Task 1D include: meeting preparation and attendance; coordination across internal teams at MCE and/or IOUs; research; analysis; writing; and editing.
- E. Program Implementation Plan.** Implementer will update the Program Implementation Plan ("PIP"), Program Handbook, and any other necessary Program-related documents to reflect ongoing changes to the Program delivery process and trade ally requirements, and to align with CPUC requirements.
- F. Program Closeout.** If Program is terminated, upon termination of the Program, Implementer will package all project and participant data into a Zip folder and securely transfer it to MCE. Implementer will complete a final Program closeout

report and submit it to MCE within 2 business weeks of written notification by MCE of Program termination.

Deliverables:

- Implementer shall:
 - Provide customer service support;
 - Onboard, engage with, and mentor participating trade allies in the field;
 - Manage the installation of Program participants' home upgrade measures;
 - Report at least monthly to MCE;
 - Coordinate with IOUs, BayREN, other Program implementers, and/or local government agencies as applicable;
 - Update Program-related documents as necessary; and
 - Close out the Program if terminated.

Task 2: Application Platform Support

Implementer will collect and maintain data to assist in the avoidance of double-dipping (which occurs when a customer accesses two ratepayer-funded benefits for the same measures). Implementer will complete routine improvements to the application platform that receives, securely stores, and securely transfers all data and documents required for the Program. After platform updates are released, Implementer will identify, address, and resolve application submission and data collection bugs within a reasonable time so that the Program is interrupted as minimally as possible if at all. Implementer will continue to address ongoing bugs and optimize ongoing data collection processes.

Deliverables:

- Implementer shall provide ongoing Program platform support.

Task 3: Quality Assurance and Control

Implementer will:

Quality Assurance.

- Review all initial applications submitted to the Program.
- Coordinate with trade ally and/or potential Program participants about incomplete applications.
- Ensure Program applications are accurate and complete.
- Ensure data is formatted to meet ongoing reporting criteria updates as requested by MCE.

Quality Control.

- Test home for combustion safety.
- Test installed home upgrade measures for quality installation.
- Coordinate return visits as needed.
- Conduct and complete field inspections which will include full reviews of all field work for the first 5 projects submitted per newly added trade ally.
- Conduct and complete random field inspections of 10 percent of home upgrade projects submitted per trade ally after the first 5 projects are reviewed.
- Increase field inspection quality control as needed to ensure safe, quality, and complete installations.

Deliverables:

- Implementer shall continually complete all tasks listed above in Quality Assurance and Quality Control for a minimum of 10% of units served.

Task 4: Marketing and Outreach

Implementer will:

- Update Marketing & Outreach (M&O) Plan ("M&O Plan") and present updated M&O Plan to MCE Customer Programs and Public Affairs teams for MCE approval within 40 days of commencement date;
- Complete M&O campaign as detailed in the M&O Plan to drive interest in the Program;
- Adjust M&O strategies as needed in coordination with MCE to ensure the Program is maximally enrolled to meet savings, customers served and budget targets;
- Coordinate with local governments, property owners, participating trade allies, and other single-family program implementers as needed to identify good candidates for the Program;
- Coordinate and complete canvassing activity in accordance with the MCE Home Energy Savings Trade Ally Code of Conduct document, which are subject to MCE approval, and part of the M&O Plan.

Tactics and timelines will be incorporated into the updated M&O Plan provided by Implementer within 40 days of commencement date to MCE for Public Affairs team approval. The M&O Plan will be approved within two weeks of receipt; MCE may request two additional rounds of edits to the M&O Plan after it is initially received from Implementer.

Deliverables:

- Implementer shall provide M&O, which will be defined in the updated M&O Plan.

Task 5: Electrification Assessments

Implementer will offer an electrification assessment to Program participants to assess the existing conditions of their homes, identify electrification opportunities and determine feasibility of home upgrades.

Deliverables:

- Implementer shall provide at least 325 electrification assessments.

Task 6: Measures via Local Program Fund

Via MCE's Local Program Fund that includes \$70,000, Implementer will provide electrification and/or repair and electrification readiness measures as listed in Table C (below).

Deliverables:

- Implementer shall:
 - Provide measures included in Table C to at least 7 additional homes that would not otherwise receive the measures through the Program; and
 - Cover installation costs and/or repair costs associated with the measures included in Table C.

Task 7: Designated Applicant SGIP Enrollment via Electrification Technical Assistance Fund

Via MCE's Electrification Technical Assistance Fund, MCE will provide up to \$10,500 to Implementer to enroll up to 60 HES participants into the Self-Generation Incentive Program (SGIP) heat pump water heater (HPWH) program. Implementer will layer program incentives by offsetting the cost of the HES HPWH installation by the amount awarded to the Implementer through SGIP enrollment. Implementer will provide full service customer education, application and enrollment support, help with time-of-use enrollment as needed and customer service until MCE receives confirmation of SGIP enrollment.

Deliverables:

- Enroll up to 60 HES customers in SGIP;
- Offset cost of HES HPWH installation by the amount awarded to Implementer through SGIP enrollment; and
- Track and provide monthly reports on customer information and enrollment numbers.

Staff

Key staff who will support the Program include:

- Isai Reyes—Program Management
- Justin Kjeldsen—Program Management
- Eric Perez—Project Management, Quality Assurance
- Brett Bishop—Trade Ally Engagement, Quality Control
- Ashley Faircloth —Engineering
- Leonel Campoy—Engineering
- Katie Pearson—Marketing
- Harrison Fegley—Information Management
- Ingrid Victoria—Customer Care Center

The list of key staff members above is subject to change. Should a staff member need to be replaced, Implementer shall ensure that a staff member who has comparable experience serves as the replacement, and MCE shall be notified of the staffing change in writing within four weeks of such replacement.

PAYMENT STRUCTURE

Table A: January to December 2024 HES Program Delivery Billing Schedule (Re. Tasks 1-4)

Task	Payment	Estimated Delivery Date
1. Program Management	Time & Materials Estimate: \$43,571 per month Total Annual NTE: \$522,852	Monthly
2. Application Platform Support	\$5,500 per month Total Annual NTE: \$66,000	Monthly
3. Quality Assurance and Control	QA: \$148 for each unit QC: \$920 for each unit Total Annual NTE: \$89,824	QA: Per unit, Billed Monthly QC: Per unit, Billed Monthly
4. M&O	Time & Materials Estimate: \$11,488 per month Total Annual NTE: \$137,856	Monthly
Total 2024 HES Program Delivery Budget	\$816,532	Final Delivery for 2024: December 31, 2024

* Upon written approval of MCE Senior Customer Programs Manager, to accomplish the scope of services outlined in this Schedule A.1, funds may shift A) between Tasks 1-4; and B) from HES Program Delivery Budget to Incentive Budget.

Table B: 2024 HES Program Measure Payment and Incentive Budget (Re. Tasks 1 & 5)

Home Upgrade Measure	Payment
Electrification Assessment (325 Assessments)	\$175/each (NTE \$56,875)
Attic Insulation/Seal Attic Plane	Specified in BBAL
Duct Sealing (typ leakage)	Specified in BBAL
Duct Seal (High Leakage w/added return)	Specified in BBAL
Fuel Sub Mini Split Heat Pumps 12k BTU	Specified in BBAL
Fuel Sub Mini Split Heat Pumps 18k BTU	Specified in BBAL
Fuel Sub Mini Split Heat Pumps 24k BTU	Specified in BBAL
Fuel Sub Heat Pump HVAC 3 ton	Specified in BBAL
Fuel Sub Heat Pump HVAC 4 ton	Specified in BBAL
Fuel Sub Heat Pump HVAC 5 ton	Specified in BBAL
Smart Thermostat	Specified in BBAL
Fuel Sub Heat Pump Water Heater 40G	Specified in BBAL
Fuel Sub Heat Pump Water Heater 50G	Specified in BBAL
Fuel Sub Heat Pump Water Heater 66G	Specified in BBAL
Heat Pump Water Heater 40G	Specified in BBAL
Heat Pump Water Heater 50G	Specified in BBAL
Induction Stoves	Specified in BBAL
Induction Stoves w/ Home Run	Specified in BBAL
Heat Pump Dryers	Specified in BBAL
Heat Pump Washers	Specified in BBAL
Deeply Buried Ducts	Specified in BBAL
Bathroom ECM Fan & LED Light Fixture	Specified in BBAL
Central brushless fan motors (BFM or DC Motor)	Specified in BBAL
Pipe Wrap	Specified in BBAL
Total Incentive Budget	\$2,121,329

Table C: Local Program Fund: Electrification and Repair and Electrification Readiness Measures (Re. Task 6)

Incentive Measures	Category and Per Measure Cost	Estimated Delivery Date
Heat Pump Mini-Split Install	Electrification Measure \$5,752.32/unit	Billed monthly, per cost of installation incurred
Heat Pump Water Heater Install	Electrification Measure \$7,150/unit	Billed monthly, per cost of installation incurred
Dedicated Circuit Install	Repair and Electrification Readiness Measure \$1,250/unit	Billed monthly, per cost of installation incurred

Minor Electrical Repair	Repair and Electrification Readiness Measure \$600/unit	Billed monthly, per cost of installation incurred
Plenum Repairs/Replaced	Repair and Electrification Readiness Measure \$1,200/unit	Billed monthly, per cost of installation incurred
Duct Repair	Repair and Electrification Readiness Measure \$800/unit	Billed monthly, per cost of installation incurred
Total Incentive NTE Amount	\$70,000	Final Delivery for March 31st, 2024

Table D: Category Allotment for Local Program Fund: Electrification and Repair and Electrification Readiness Measures (Re. Task 6)

Category	Amount Allotted
Electrification Measures	\$51,100
Repair and Electrification Readiness Measures	\$18,900
Total Task 6 NTE	\$70,000**

**Any monies included in the Local Program Fund that were unspent in 2023 may be used up until March 31, 2024. Implementer must identify on invoices when monies from the \$70,000 Local Program Fund are being used by labeling the expense "Local Program Fund Measure". Upon written approval of MCE Senior Customer Programs Manager, to accomplish the scope of services outlined in Task 6, funds may shift between "Electrification Measures" and "Repair and Electrification Readiness Measures".

Table E: Payment Structure for Designated Applicant SGIP Enrollment via Electrification Technical Assistance Fund (Re. Task 7)

Payment	Delivery Date
\$175 per every 1 HES customer enrolled in SGIP	Billed monthly, per enrollment
Total Task 7 NTE: \$10,500***	Final Delivery by December 31, 2024

***Implementer must identify on invoices when monies from the \$10,500 Electrification Technical Assistance Fund are being used by labeling the expense "Electrification Technical Assistance Fund Enrollment".

Table F: Overall 2024 Budget for HES Program

Implementation	Total
HES Program Delivery	\$816,532
HES Incentives	\$2,121,329
Local Program Fund	\$70,000****
Electrification Readiness Fund	\$10,500
Total	\$3,018,361

****This is a maximum estimate as the final number will depend on the amount of Local Program Funds spent in December 2023.

Billing:

Implementer shall bill monthly and according to the payment schedule listed herein and the rate schedule listed in Exhibit B of the Agreement. In no event shall the total cost to MCE for the Services provided under this Statement of Work exceed the maximum sum of **\$3,018,361** for the term of the Agreement.

Term of Statement of Work:

This Statement of Work shall commence on **January 1, 2024** and shall terminate on **December 31, 2024**.

IN WITNESS WHEREOF, the parties have executed this Statement of Work – Second Amended and Restated Schedule A.1 on the date first above written.

APPROVED BY**Marin Clean Energy:****Implementer:**

By:

By:

Name:

Name:

Date:

Date:

By:
Chairperson

Date:

MASTER SERVICES AGREEMENT BY AND BETWEEN MARIN CLEAN ENERGY AND FRANKLIN ENERGY SERVICES, LLC

THIS MASTER SERVICES AGREEMENT ("Agreement") is made and entered into on April 20, 2023 by and between MARIN CLEAN ENERGY (hereinafter referred to as "MCE") and Franklin Energy Services, LLC, a Delaware limited liability company with principal address at: 102 North Franklin Street, Port Washington, WI 53074 (hereinafter referred to as "Implementer") (each, a "Party," and, together, the "Parties").

RECITALS:

WHEREAS, MCE desires to retain Implementer to provide the services described in this Agreement and each statement of work ("Statement of Work"), which shall be considered Schedules hereto, which are attached hereto and by this reference made a part hereof ("Services");

WHEREAS, MCE and Franklin Energy had a previous agreement, known as the "Third Agreement by and between Marin Clean Energy and Franklin Energy Services, LLC" dated December 3, 2021 ("Third Agreement"), which is hereby terminated as of April 20, 2023, and replaced with this Master Service Agreement. MCE and Franklin agree that the termination period required by the Third Agreement between the parties has been waived to accommodate such immediate termination and start of this new Agreement.

WHEREAS, Implementer desires to provide the Services to MCE;

WHEREAS, Implementer warrants that it is qualified and competent to render the Services set forth herein;

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:

Implementer agrees to provide all of the Services in accordance with the terms and conditions of this Agreement and each Statement of Work entered into by the Parties. The form of Statement of Work is set forth as **Exhibit A**. Services shall also include any other work performed by Implementer pursuant to this Agreement and Statement of Work. In connection with Implementer's provision of the Services, MCE agrees to make available to Implementer all pertinent data and records for review.

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"). Implementer shall provide MCE with Implementer's Federal Tax I.D. number prior to submitting the first invoice. Implementer is responsible for billing MCE in a timely and accurate manner. Implementer shall email invoices to MCE 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.

3. MAXIMUM COST TO MCE:

In no event will the cost to MCE for the Services to be provided herein exceed the maximum sum identified in each Statement of Work.

4. TERM OF AGREEMENT:

This Agreement shall commence on **April 20, 2023** ("Effective Date") and shall terminate on **December 31, 2028**, unless earlier terminated pursuant to the terms and conditions set forth in Section 12.

5. REPRESENTATIONS; WARRANTIES; COVENANTS:

5.1. IMPLEMENTER REPRESENTATIONS AND WARRANTIES. Implementer represents, warrants and covenants that (a) it is a limited liability company duly organized, validly existing and in good standing under the laws of the State of **Delaware**, (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)

AI #07_C.2_Att. B: MSA with Franklin Energy

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, Implementer shall comply with all applicable federal, state and local laws, regulations, ordinances and resolutions affecting Services that it provides under this Agreement ("Applicable Law")

5.3. LICENSING. At all times during the performance of the Services, Implementer 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. Implementer shall promptly provide copies of such licenses and registrations to MCE at the request of MCE.

5.4. NONDISCRIMINATORY EMPLOYMENT. Implementer shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, gender identity, age or condition of disability. Implementer understands and agrees that Implementer 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, Implementer represents, warrants and covenants that it has and shall obtain and maintain, at its sole cost and expense, all bonding requirements of the California Implementers State License Board ("CSLB"), as may be applicable.

5.6. SAFETY. At all times during the performance of the Services, Implementer 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 Implementer 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 Implementer 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) Implementer hereby represents, warrants and covenants that any employees, members, officers, contractors, Subcontractors and agents of Implementer (each, a "Implementer Party," and, collectively, the "Implementer 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 immediately preceding the individual's date of assignment to perform the Services.
- b) Notwithstanding the foregoing and to the extent permitted by applicable law, in no event shall Implementer 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

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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, Implementer 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, Implementer shall notify MCE if any of its Covered Personnel is charged with or convicted of a Serious Offense during the term of this Agreement. Implementer shall also immediately prevent that employee, representative, or agent from performing any Services.

5.8. FITNESS FOR DUTY. Implementer 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. Implementer 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. Implementer shall comply with the following requirements (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 Implementer shall not substitute any personnel for those specifically named in Exhibit B, 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. Implementer shall be responsible for obtaining any and all access rights for Implementer Parties, from customers and other third parties to the extent necessary to perform the Services. Implementer shall also procure any and all access rights from Implementer 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, Implementer 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 updated before final payment may be made to Implementer. Each certificate of insurance shall provide for thirty (30) days' advance written notice to MCE of any cancellation, except for ten (10) days' notice for non-payment of premium. Implementer will provide advance written notice to MCE of any 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 Implementer's indemnification obligations in Section 17 of this Agreement.

Should Implementer 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 Implementer for any Services provided during any period of time that insurance was not in effect and until such time as the Implementer provides adequate evidence that Implementer has obtained the required insurance coverage.

6.1. GENERAL LIABILITY. The Implementer shall maintain a commercial general liability insurance policy in an amount of no less than **two million dollars (\$2,000,000) with a four million dollar (\$4,000,000) 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 Implementer in order to perform said Services, Implementer 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 Implementer 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 Implementer 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. PRIVACY AND CYBERSECURITY LIABILITY. Implementer 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.

7. INTENTIONALLY OMITTED.

8. SUBCONTRACTING:

The Implementer 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 the applicable SOW. If Implementer hires a subcontractor under this Agreement (a "Subcontractor"), Subcontractor shall comply with the following:

- 8.1.** Subcontractor shall comply with the following terms of this Agreement: Sections 9, 10, and the applicable SOW.
- 8.2.** Subcontractor shall provide, maintain and be bound by the representations, warranties and covenants of Implementer contained in Section 5 hereof (only as, and if, applicable to the services to be provided by Subcontractor, and as may be modified to be applicable to Subcontractor, including 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 Implementer under this Agreement, and shall name MCE as an additional insured under such policies. Implementer 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.

Implementer 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, Implementer 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 Implementer of any of its duties or obligations under this Agreement. Implementer's obligation to pay its Subcontractors is an independent obligation from MCE's obligation to make payments to Implementer. 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:

Implementer 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"). Provided that MCE has agreed in writing to confidentiality terms acceptable to Implementer to protect the confidentiality of such 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 Implementer's premises or, at MCE's option, Implementer shall provide all records within a maximum of thirty (30) days upon receipt of written request from MCE. Implementer shall refund any monies erroneously charged. Implementer 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 Implementer 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 Implementer. MCE Data shall also include all data and materials provided by or made available

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to Implementer 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 **April 12, 2023**.

10.2. 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. Implementer shall comply with all applicable federal, state and local laws, rules, and regulations related to the use, collection, storage, and transmission of Personal Information.

10.3. MCE DATA SECURITY MEASURES. Prior to Implementer receiving any MCE Data, Implementer 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 **April 12, 2023**, and as set forth in MCE Policy 001 - Confidentiality. MCE's Security Measures and Confidentiality provisions require Implementer 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.

10.4. IMPLEMENTER DATA SECURITY MEASURES. Additionally, Implementer 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.

10.5. RETURN OF MCE DATA. Promptly after this Agreement terminates, (i) Implementer 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). Notwithstanding the foregoing, Implementer may retain whatever MCE Data or Confidential Information is necessary to exercise any of Implementer's surviving rights or obligations hereunder.

10.6. 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 Implementer or any Implementer Party under this Agreement with MCE funds ("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. In addition, Implementer may keep file reference copies of all Intellectual Property and all documents prepared by Implementer for MCE so long as MCE data is not included.
- c) **Intellectual Property shall be owned by MCE upon its creation.** Implementer 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.
- d) **Implementer's Pre-Existing Materials.** If, and to the extent Implementer incorporates any preexisting ownership rights ("Implementer's Pre-Existing Materials") in any of the materials furnished or used to create, develop, and prepare the Intellectual Property, Implementer hereby grants MCE on behalf of its customers and the CPUC for governmental and regulatory purposes an irrevocable, non-exclusive, perpetual, fully paid up, worldwide, royalty-free license to use any such Implementer's Pre-Existing Materials 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. Unless otherwise expressly agreed to by the Parties, Implementer shall retain all of its rights, title and interest in Implementer's Pre-Existing Materials, including improvements thereto and derivatives thereof. Any and all claims to Implementer'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.

Implementer's Pre-Existing Materials include:

- Green Point Rated (GPR) and associated system components and curriculum
- Energy and Electrification Assessment tool
- Climate Calculator
- Energy and Water calculator.
- Implementer's Desktop Review Tools

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- Healthy Home Connect
- California Multifamily Existing Building training content
- NGAGE™ system software, including Efficiency Manager™, Efficiency Contact™, and Efficiency Clipboard™

10.7. 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 seek 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 Implementer shall have the right to seek immediate equitable relief to enjoin any unauthorized use or disclosure of Implementer's Pre-Existing Materials or Implementer Confidential Information, in addition to any other rights and remedies that it may have at law or otherwise.

11. FORCE MAJEURE:

Implementer shall be excused for failure to perform Services herein if such Services are prevented by acts of God, strikes, labor disputes or other forces over which Implementer has no control and is actually so prevented from performing.

12. TERMINATION:

- 12.1.** If the Implementer fails to provide in any manner the Services required under this Agreement, otherwise fails to comply with the terms of this Agreement, or violates any Applicable Law which applies to its performance hereunder, then MCE may terminate this Agreement by giving twenty (20) business days' written notice to Implementer, provided that Implementer does not cure such default within such twenty (20) day period after receipt of notice from MCE.
- 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 Implementer, the Implementer 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 Services. Implementer 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, Implementer shall have delivered to MCE any and all Intellectual Property (as defined in Section 10.6(b)) prepared for MCE that MCE has paid for 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.** Intentionally Omitted.
- 12.6.** Upon termination of this Agreement for any reason, Implementer shall and shall cause each Implementer Party to bring the Services to an orderly conclusion as directed by 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, 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 Implementer and may not be transferred or assigned without the express prior written consent of MCE, provided, however, that Implementer may in its discretion assign this Agreement or any of its rights under this Agreement to any parent, subsidiary or affiliated business entity of Implementer, with timely written notice to 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 Implementer'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 Implementer 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 Implementer cannot reach an agreement within a reasonable period of time (but in no event more than 30 calendar days), MCE and Implementer shall have the right to pursue all rights and remedies that may be

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available at law or in equity. In particular, Implementer shall have right to request arbitration or mediation to resolve the dispute and MCE shall be required to participate in arbitration or mediation in good faith. 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, Implementer shall indemnify, defend, and hold MCE and its employees, officers, and agents ("MCE Parties"), harmless from and against any and all claims, liabilities, losses, and damages (including, but not limited to, reasonable litigation costs, attorney's fees and costs, and injury or death of any person) arising out of, resulting from, or caused by: a) the negligence, recklessness, intentional misconduct, fraud of all Implementer Parties; b) the failure of a Implementer 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 Implementer Party, provided however, that if such claim, liability, loss or damage is caused by the negligence, recklessness or willful misconduct of both MCE and Implementer, then Implementer's indemnification obligation shall be limited to the proportional extent that such liabilities arise from Implementer's negligence, recklessness or willful misconduct.

EXCEPT WITH REGARD TO IMPLEMENTER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT WILL IMPLEMENTER BE LIABLE HEREUNDER FOR ANY PUNITIVE, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES.

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 Implementer Party shall have rights, nor shall any Implementer 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:

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

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

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

Implementer:	Dean Laube
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Address:	102 North Franklin Street
	Port Washington, WI 53074

Email Address:	dlaube@franklinenergy.com
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Telephone No.:	(715) 304-0366
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With a copy to:

Implementer:	Corporate Counsel
Address:	102 North Franklin Street Port Washington, WI 53074
Email Address:	legal@franklinenergy.com
Telephone No.:	(262) 284-3838

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>	<input checked="" type="checkbox"/>	Form of Statement of Work		
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	Rate Schedule		
<u>EXHIBIT C.</u>	<input checked="" type="checkbox"/>	Energy Efficiency Program Terms		

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:

Implementer 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 Implementer Party. Neither MCE nor any Implementer 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. INTENTIONALLY OMITTED.

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, Implementer agrees to provide

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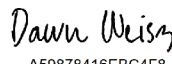
information to MCE regarding Implementer's status as a WMDVLGBTBE and any engagement of WMDVLGBTBEs in its provision of Services under this Agreement. Concurrently with the execution of this Agreement, Implementer agrees to complete and deliver MCE's Supplier Diversity Survey, found at the following 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, Implementer 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. Implementer 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.

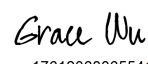
APPROVED BY**Marin Clean Energy:**

DocuSigned by:
By: 
A59878416EB4F8...
Name: Dawn Weisz

Title: CEO

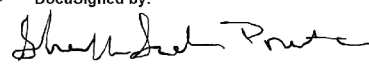
Date: 4/25/2023

CONTRACTOR:

DocuSigned by:
By: 
176120688655418...
Name: Grace Wu

Title: COO

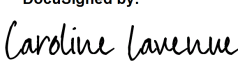
Date: 5/24/2023

DocuSigned by:
By: 
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Chairperson
Date: 4/25/2023

MODIFICATIONS TO MASTER SERVICES AGREEMENT SHORT FORM

☒ Master Services Agreement Form Content Has Been Modified

List sections affected: 1, 5.1, 5.2, 5.5, 5.10, 6, 7 (omitted), 8, 9, 10.5, 10.6(b) and (d), 10.7, 11, 12.1, 12.3, 12.5 (omitted), 12.6, 13, 15, 17, and 23 (omitted)

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

Date: 5/4/2023

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EXHIBIT A
FORM OF STATEMENT OF WORK

Statement of Work – Schedule A.[#]

This Schedule A._ ("Schedule A.1" or "Statement of Work" or "SOW") is entered into on **[Date]** pursuant to the Master Services Agreement between MARIN CLEAN ENERGY, hereinafter referred to as "MCE", and FRANKLIN ENERGY SERVICES, LLC, hereinafter referred to as "Implementer", dated **April 20, 2023** ("Agreement").

Implementer 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 Statement of Work:

[List scope of services]

Billing:
Implementer shall bill monthly and according to the rate schedule listed in Exhibit B of the Master Services Agreement dated **DATE**. In no event shall the total cost to MCE for the services provided under this Statement of Work exceed the maximum sum of **\$0,000** for the term of the Agreement.

Term of Statement of Work:
This Statement of Work shall commence on **DATE** and shall terminate on **DATE**.

IN WITNESS WHEREOF, the parties have executed this Statement of Work – Schedule A.1 on the date first above written.

APPROVED BY
Marin Clean Energy:

CONTRACTOR:

By: _____

By: _____

Name: _____

Name: _____

Date: _____

Date: _____

By: _____

Chairperson

Date: _____

AI #07_C.2_Att. B: MSA with Franklin Energy

EXHIBIT B
RATE SCHEDULE

For Services provided under this Agreement, MCE shall pay Implementer in accordance with the rate schedule as specified below and in accordance with the payment structure listed in a Statement of Work:

Implementer Key Staff Rates

Name	Title	Hourly Rate (\$/hour)
Isai Reyes	Senior Program Manager	\$160
Justin Kjeldsen	Pacific Regional Director	\$165
Eric Perez	Project Specialist	\$85
Brett Bishop	Director of Contract Services	\$165
Nic Schueller	Engineering Manager	\$101.50
Leonel Campoy	Engineering Manager	\$101.50
Danna Perry	Marketing Manager	\$90
Harrison Fegley	IT Project Manager	\$160
Delfino Quezada	Customer Care Center Supervisor	\$80

Implementer shall bill according to these rates and the payment structure listed in a Statement of Work. Implementer shall not exceed the maximum contract sum listed in any Statement of Work.

EXHIBIT C
Energy Efficiency Program Terms

The terms below shall apply to all Implementer Parties providing Services under the Home Energy Savings ("Program").

1. BILLING, ENERGY USE, AND PROGRAM TRACKING DATA.

- a) Implementer shall comply with and timely cooperate with all CPUC directives, activities, and requests regarding the Program and Project evaluation, measurement, and verification ("EM&V"). For the avoidance of doubt, it is the responsibility of Implementer to be aware of all CPUC requirements applicable to the Services of this Agreement.
- b) Implementer shall make available to MCE upon demand, detailed descriptions of the program, data tracking systems, baseline conditions, and participant data, including financial assistance amounts.
- c) Implementer shall make available to MCE any revisions to Implementer's program theory and logic model ("PTLM") and results from its quality assurance procedures, and comply with all MCE EM&V requirements, including reporting of progress and evaluation metrics.

2. WORKFORCE STANDARDS.

At all times during the Term of the Agreement, Implementer shall comply with, and shall cause all Implementer Parties to comply with, the workforce qualifications, certifications, standards and requirements set forth in this Exhibit C, Section 2 ("Workforce Standards"). The Workforce Standards shall be included in their entirety in MCE's Final Implementation Plan. If applicable, "Final Implementation Plan" is defined in the deliverables for the Services listed in the applicable SOW. Prior to commencement of any Services, once per calendar year, and at any other time as may be requested by MCE, Implementer shall provide all documentation necessary to demonstrate to MCE's reasonable satisfaction that Implementer has complied with the Workforce Standards.

3. COORDINATION WITH OTHER PROGRAM ADMINISTRATORS.

Implementer shall coordinate with other Program Administrators, including investor-owned utilities and local government agencies authorized by the CPUC to implement CPUC-directed energy efficient programs, administering energy efficiency programs in the same geographic area as MCE. These other Program Administrators include: Pacific Gas and Electric Company and Bay Area Regional Energy Network. The CPUC may develop further rules related to coordination between Program Administrators in the same geographic area, and any Implementer is required to comply with such rules.

4. MEASUREMENT AND VERIFICATION REQUIREMENTS, INCLUDING GUIDELINES ABOUT NORMALIZED METERED ENERGY CONSUMPTION ("NMEC") DESIGN REQUIREMENTS

Implementer shall:

1. Only enroll customers that qualify for Program services.
2. Comply with current policies, procedures, and other required documentation as required by MCE;
3. Report Customer Participation Information to MCE.
4. Work with MCE's evaluation team to define Program-specific data collection and evaluability requirements, and in the case of NMEC which independent variables shall be normalized.

Throughout the Term, MCE may identify new net lifecycle energy savings estimates, net-to- gross ratios, effective useful lives, or other values that may alter Program Net Lifecycle Energy Savings, as defined in the applicable SOW, if applicable. Implementer shall use modified values upon MCE's request, provided MCE modifies Implementer's Program budget and/or overall Program net lifecycle Energy Savings consistent with the requested change. MCE shall determine any budget increases or decreases in its sole discretion.

For Programs claiming to-code savings: Implementer shall comply with Applicable Law and work with MCE to address elements in its Program designs and Implementation Plans, such as:

1. Identifying where to-code savings potential resides;
2. Specifying which equipment types, building types, geographic allocations, and/or customer segments promise cost-effective to-code savings;
3. Describing the barriers that prevent code-compliant equipment replacements;
4. Explaining why natural turnover is not occurring within certain markets or for certain technologies; and
5. Detailing the program interventions that would effectively accelerate equipment turnover.



December 6, 2023

TO: MCE Executive Committee

FROM: Alex Valenti, Manager of Customer Programs

RE: Proposed First Agreement with Resource Innovations, Inc.
(Agenda Item #07_C3)

ATTACHMENT: First Agreement with Resource Innovations, Inc.

Dear Executive Committee Members:

Summary:

The proposed First Agreement with Resource Innovations, Inc. ("RI") would support MCE's new Commercial Equity Program ("Program"). The Program has secured funding from the California Public Utilities Commission ("CPUC") to provide customers with equity-driven energy saving incentives from 2024 through 2027.

The Program's overarching goal is to implement energy, health, and cost-saving measures tailored to businesses situated in disadvantaged communities and low-income census tracts within MCE's service area.

MCE released a solicitation for a Program implementer in the fall of 2022, and The Energy Alliance Association ("TEAA") was the winning bidder. MCE entered into an agreement with TEAA in February 2023. Midway through the first year of the two-year term, however, it became evident that TEAA was unable to meet the staffing requirements essential for the Program's success. Consequently, in July 2023, MCE and TEAA agreed to transition TEAA's role away from the Program, and MCE decided that a different bidder would be better suited as the Program implementer.

In MCE's 2022 solicitation, RI's bid stood out due to their experience in successfully running similar equity-focused programs, building a robust stakeholder engagement plan, and meeting modern reporting and auditing needs. This expertise was reflected in their high ranking in our evaluation, placing them as the second-highest bidder RI's

demonstrated capabilities make them a suitable choice for fulfilling the Program implementer role.

If approved, the services encompassed in the proposed First Agreement with RI would include stakeholder engagement, Program development, marketing, and overall management throughout the proposed contract term (January 2, 2024 - December 31, 2026).

The budget associated with the proposed First Agreement with RI is still in negotiation and is not final at this time, however the maximum cost would not exceed \$3,126,542 during the term of January 2, 2024 through December 31, 2026.

Fiscal Impacts: The cost of the proposed First Agreement with RI would not exceed \$3,126,542. Expenditures related to the proposed First Agreement with RI would be funded completely from energy efficiency program funds allocated by the CPUC.

Recommendation: Authorize the Chief Executive Officer to finalize negotiations and execute the proposed First Agreement with Resource Innovations, Inc.

MARIN CLEAN ENERGY

STANDARD SHORT FORM CONTRACT FOR VENDORS RECEIVING MCE DATA

FIRST AGREEMENT

BY AND BETWEEN

MARIN CLEAN ENERGY AND RESOURCE INNOVATIONS, INC.

THIS FIRST AGREEMENT ("Agreement") is made and entered into on **December 6, 2023** by and between MARIN CLEAN ENERGY (hereinafter referred to as "MCE") and Resource Innovations, Inc., a Delaware corporation with principal address at: 719 Main Street, Suite A, Half Moon Bay, CA 94019 (hereinafter referred to as "Implementer") (each, a "Party," and, together, the "Parties").

RECITALS:

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

WHEREAS, Implementer 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:

Implementer 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 Implementer 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"). Implementer shall provide MCE with Implementer's Federal Tax I.D. number prior to submitting the first invoice. Implementer is responsible for billing MCE in a timely and accurate manner. Implementer shall email invoices to MCE 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.

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 **\$3,126,542**.

4. TERM OF AGREEMENT:

This Agreement shall commence on **January 2, 2024** ("Effective Date") and shall terminate on **December 31, 2026**, unless earlier terminated pursuant to the terms and conditions set forth in Section 12.

5. REPRESENTATIONS; WARRANTIES; COVENANTS:

5.1. IMPLEMENTER REPRESENTATIONS AND WARRANTIES. Implementer 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 **Delaware**, (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, Implementer 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, Implementer 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

AI #07 C.3 Att.: First Agrmt By & Between MCE & Resource Innovations, Inc.
for the operation of its business and the performance of the Services. Implementer shall promptly provide copies of such licenses and registrations to MCE at the request of MCE.

- 5.4. NONDISCRIMINATORY EMPLOYMENT:** Implementer shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, gender identity, age or condition of disability. Implementer understands and agrees that Implementer 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, Implementer 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, Implementer shall also maintain any payment and/or performance assurances as may be requested by MCE, and subsequently agreed to by the parties during the performance of the Services.
- 5.6. SAFETY.** At all times during the performance of the Services, Implementer 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 applicable to the Services;
 - (b) abide by all applicable MCE security procedures, rules and regulations provided to Implementer in writing 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 Implementer in writing 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 of 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 Implementer 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) Implementer hereby represents, warrants and covenants that any employees, members, officers, contractors, subcontractors, and agents of Implementer, but excluding Installers (as defined in Exhibit A) (each, an "Implementer Party," and, collectively, the "Implementer 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 immediately preceding the individual's date of assignment to perform the Services.
 - (b) Notwithstanding the foregoing and to the extent permitted by applicable law, in no event shall Implementer 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, Implementer 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, Implementer shall notify MCE if any of its Covered Personnel is charged with or convicted of a Serious Offense during the term of this Agreement. Implementer shall also immediately prevent that employee, representative, or agent from performing any Services.

- 5.8. FITNESS FOR DUTY.** Implementer 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. Implementer 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.** Implementer 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 Implementer shall not substitute any personnel for those specifically named in the Scope of Work, included as Exhibit A, 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:** Implementer shall be responsible for obtaining any and all access rights for Implementer Parties, from customers and other third parties to the extent necessary to perform the Services. Implementer shall also procure any and all access rights from Implementer Parties, customers and other third parties in order for MCE and California Public Utilities Commission (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, Implementer 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 Implementer. 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, except those required by Section 6.4 which may be provided on a claims-made basis consistent with the criteria noted therein. Coverages may be provided by a combination of primary or excess insurance policies so long as the provision does not inhibit MCE's ability to recover insurance coverage and excess insurance policies are used only to augment coverage after the primary insurance limit is exhausted. Implementer shall provide evidence of both primary and excess insurance policies as applicable.

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

Should Implementer 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 Implementer for any Services provided during any period of time that insurance was not in effect and until such time as the Implementer provides adequate evidence that Implementer has obtained the required insurance coverage.

- 6.1. GENERAL LIABILITY.** The Implementer shall maintain a commercial general liability insurance policy in an amount of no less than **million dollars (\$2,000,000) with a four million dollar (\$4,000,000)** 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 (REQUIRED IF CHECKED ☒).** Where the Services to be provided under this Agreement involve or require the use of any type of vehicle by Implementer in order to perform said Services, Implementer 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 Implementer 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 Implementer 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. PROFESSIONAL LIABILITY INSURANCE (REQUIRED IF CHECKED ☒.** Implementer shall maintain professional liability insurance with a policy limit of not less than \$1,000,000 per claim. If the deductible or self-insured retention amount exceeds \$200,000, MCE may ask for evidence that Implementer has segregated amounts in a special insurance reserve fund, or that Implementer's general insurance reserves are adequate to provide the necessary coverage and MCE may conclusively rely thereon. Coverages required by this subsection must be provided on a claims-made basis with a retroactive

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date (how far back in time a loss can occur for the professional liability policy to cover the claim) prior to the Effective Date. If coverage is cancelled or non-renewed, it must be replaced with another claims made policy form with a "retroactive date" prior to the Effective Date.

6.5. PRIVACY AND CYBERSECURITY LIABILITY (REQUIRED IF CHECKED ☒ Implementer 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 claim / \$2,000,000 aggregate.

7. FINANCIAL STATEMENTS:

Implementer shall deliver financial statements as may be reasonably requested by MCE from time to time subject to confidential treatment by MCE in accordance with the Confidentiality Agreement between the Parties dated November 21, 2023. 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 Implementer 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 Implementer hires a subcontractor under this Agreement (a "Subcontractor"), Subcontractor shall be bound by all applicable terms and conditions of this Agreement, and Implementer 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 Implementer 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 Implementer under this Agreement, and shall name MCE as an additional insured under such policies. Implementer 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.** Subcontractor shall not be permitted to further subcontract any obligations under this Agreement.

Implementer 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, Implementer 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 Implementer of any of its duties or obligations under this Agreement. Implementer's obligation to pay its Subcontractors is an independent obligation from MCE's obligation to make payments to Implementer. As a result, MCE shall have no obligation to pay or to enforce the payment of any monies to any Subcontractor. For the avoidance of doubt, Installers (defined in Exhibit A) will not be considered Subcontractors under this Agreement.

9. RETENTION OF RECORDS AND AUDIT PROVISION:

Implementer 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 Implementer's premises or, at MCE's option, Implementer shall provide all records within a maximum of fifteen (15) days upon receipt of written request from MCE. Audits shall be at MCE's expense, unless discrepancies are found during the Audit and, in such cases, Implementer will reimburse MCE for the reasonable costs of the audit and Implementer shall refund any monies erroneously charged. Implementer 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. Any such audit will be conducted upon at least thirty (30) days' prior written notice to Implementer.

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 (defined below); 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 Implementer 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 Implementer. MCE Data shall also include all data and materials provided by or made available to Implementer 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 **November 21, 2023**.

10.2. 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. Implementer shall comply with all applicable federal, state and local laws, rules, and regulations related to the use, collection, storage, and transmission of Personal Information.

10.3. MCE DATA SECURITY MEASURES. Prior to Implementer receiving any MCE Data, Implementer 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 **November 21, 2023**, and as set forth in MCE Policy 001 - Confidentiality. MCE's Security Measures and Confidentiality provisions require Implementer 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.

10.4. IMPLEMENTER DATA SECURITY MEASURES. Additionally, Implementer 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.

10.5. RETURN OF MCE DATA. Promptly after this Agreement terminates, (i) Implementer 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 Implementer's attorney shall be permitted to retain a copy of such records or materials solely for legal purposes.

10.6. 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, subject to Implementer's rights in Implementer's Pre-existing Materials, any and all materials, information, or other intellectual property created, prepared, accumulated or developed by Implementer or any Implementer 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 Implementer or to any other party. Implementer shall, at MCE's expense, provide Intellectual Property to MCE or to any party MCE may designate upon written request. Implementer 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, Implementer may keep one copy of Intellectual Property if otherwise agreed to in writing by MCE.
- c) **Intellectual Property shall be owned by MCE upon its creation.** Implementer 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.
- d) **Implementer's Pre-Existing Materials.** If, and to the extent Implementer retains any preexisting ownership rights in any of the materials furnished to be used to create, develop, and prepare the Intellectual Property, excluding Implementer Technology and the SaaS Services, Implementer 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 Implementer or any Implementer Party for the sole purpose of using such intellectual property for the conduct of MCE's business and for disclosure to the CPUC

AJ #07 C.3 Att.: First Agrmt By & Between MCE & Resource Innovations, Inc.
for governmental and regulatory purposes related thereto. Unless otherwise expressly agreed to by the Parties, Implementer shall retain all of its rights, title and interest in Implementer's Pre-Existing Materials (defined below). Any such Pre-Existing Material that is modified using Intellectual Property under this Agreement is owned by MCE.

"Implementer's Pre-Existing Materials" means (a) Implementer's name, logo, internet domains and all the names, logos, and trademarks associated with its services; (b) products, software, platforms, systems, databases, technology, and tools that are proprietary to Implementer or to its third party licensors ("Implementer Technology"); (c) Implementer's proprietary cloud-based products and its associated documentation, content, data, software, and technology that Implementer markets under the name iEnergy® and that is made available by Implementer on a software-as-a-service basis for the deployment, management and monitoring of energy efficiency programs and for the engagement and management of trade ally networks (the "SaaS Services"); and (d) any other materials and information in any form or medium including any methodologies, procedures, designs, algorithms, techniques, concepts, ideas, know-how, documents, data, content, specifications, equipment and components and other property; that are: (y) owned, developed, licensed, or otherwise acquired by Implementer prior to the Effective Date; or (z) developed, licensed, or otherwise acquired by Implementer after the Effective Date, including during the course of providing Services under this Agreement but without using any MCE Data. Notwithstanding anything to the contrary, Implementer or its licensors retain all rights, title and interests, including without limitation all patents, copyrights, mask works, trade secrets, trademarks, and any other intellectual property and proprietary rights, enhancements, derivative works, and modifications in or related to any Implementer's Pre-Existing Materials.

MCE acknowledges and agrees that Implementer may use Implementer Technology and the SaaS Services internally to perform the Services and that nothing in this Agreement shall grant MCE any rights in or to Implementer's Pre-Existing Materials that are not expressly granted in this Section 10.6(d) or in the Scope of Services contained in Exhibit A. To the extent that any Implementer's Pre-Existing Materials, excluding Implementer Technology and the SaaS Services, is incorporated or embedded in a deliverable that is provided to MCE under this Agreement and upon payment of Software Configuration fixed fee, Implementer grants MCE a perpetual, non-exclusive, non-transferable, non-sublicensable, royalty-free license to use such Implementer's Pre-Existing Materials as necessary for MCE's use in accordance with the Scope of Services contained in Exhibit A and purpose of the Agreement. If MCE will be provided access to Implementer Technology or the SaaS Services, as specified in the Scope of Services contained in Exhibit A, MCE will receive an as-needed, non-exclusive, royalty-free license to access such technology during the term of the Agreement and to bring matters to an orderly conclusion after the termination or conclusion of the Agreement.

MCE and Implementer will work together to ensure that, before each MCE customer or Installer (defined in Exhibit A) receives log in credentials to Implementer Technology or the SaaS Services, that the MCE customer or Installer agrees to a valid and enforceable participation agreement that includes, among other terms, (i) terms protective of Implementer and its rights to ownership of the Implementer Technology; and (ii) a consumer-facing privacy policy in accordance with applicable law that completely and accurately describes the information collection, use and disclosure practices on the user portal. The participation agreement is subject to written approval by both Parties.

"Content" is all information, text and other content provided by MCE or its customers or Installers in or for use with Implementer Technology or the SaaS Services, including, but not limited to, any copyrightable material, or trademarks, service marks and trade names that have been independently developed or acquired by MCE and are provided by MCE to Implementer for inclusion in the Content. Content may include MCE Data and/or Confidential Information as defined in the Agreement. MCE retains all rights, title, and interest in all Content. MCE grants Implementer a non-perpetual, non-exclusive, non-transferable, non-sublicensable, royalty-free license to use the Content in its performance of the Services under the Agreement. In accordance with section 10.5, upon termination, Implementer shall, at the choice of MCE and with a written request received within thirty (30) days of termination, return all Content transferred and the copies thereof to MCE or shall destroy all the Content and certify to MCE that it has done so.

10.6(d)(i) Disclaimer of Warranties. EXCEPT AS EXPRESSLY PROVIDED HEREIN, IMPLEMENTER MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE WITH RESPECT TO THE SAAS SERVICES OR IMPLEMENTER TECHNOLOGY. IMPLEMENTER HEREBY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. Implementer (a) does not warrant that the SaaS Services or Implementer Technology will (i) be free from errors, (ii) run properly on any or all computer hardware operating systems, (iii) meet requirements of MCE, or (iv) operate in an uninterrupted or error free manner; however, in the event that (i)-(iv) occurs, Implementer will make commercially reasonable efforts to correct them as promptly as possible; (b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the Internet, and MCE acknowledges that the SaaS Service and Implementer Technology may be subject to limitations, delays and other problems inherent in the use of such communication facilities; and (c) is not responsible for any failure or deficiency caused by or associated with circumstances beyond Implementer's reasonable control or acts or omissions of MCE, its employees, or its agents, including without limitation custom scripting or coding, any negligence, willful misconduct, or use of the Implementer Technology or the SaaS Services outside the scope of this Agreement.

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10.7. 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 Implementer shall have the right to obtain immediate equitable relief to enjoin any unauthorized use or disclosure of Implementer'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.** If the Implementer fails to provide the Services required under this Agreement, otherwise fails to comply with the material terms of this Agreement, violates any Applicable Law, makes an assignment of any general arrangement for the benefit of creditors, files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors, or has such petition filed against it, otherwise becomes bankrupt or insolvent (however evidenced), or becomes unable to pay its debts as they fall due, and is unable to cure such breach within fifteen (15) calendar days after written notice from MCE, then MCE may terminate this Agreement by giving five (5) business days' written notice to Implementer.
- 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 Implementer, the Implementer 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. Implementer 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, Implementer shall have delivered to MCE any and all Intellectual Property (as defined in Section 10.1(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, Implementer shall and shall cause each Implementer 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(a) 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 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, 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 Implementer and may not be transferred or assigned without the express prior written consent of MCE; provided, however, that Implementer may assign this Agreement in its entirety or its rights, duties or obligations under this Agreement without MCE's consent to an affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets but only: if the assignee is capable of and willing to perform all the obligations under this Agreement and has a satisfactory financial standing as determined by MCE; and upon 60 days' advance written notice to 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 Implementer'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 Implementer 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 Implementer cannot reach an agreement within a reasonable period of time (but in no event more than 30 calendar days), MCE and Implementer 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, Implementer shall indemnify, defend, and hold MCE and its employees, officers, directors, representatives, and agents ("MCE Parties"), harmless from and against any and all third party actions, claims, liabilities, losses, costs, damages, and expenses (including, but not limited to, reasonable litigation costs, attorney's fees and costs, physical damage to or loss of tangible property, and injury or death of any person) arising out of, resulting from, or caused by: a) the negligence, recklessness, intentional misconduct, fraud of all Implementer Parties; b) the failure of a Implementer 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 Implementer Party; provided that (1) MCE provides prompt written notice to Implementer of such claim and reasonable information, assistance and cooperation in defending the claim and (2) Implementer assumes and controls the defense and settlement of such claim giving MCE a right to consent to any decision that would be binding upon MCE.

18. LIMITATION OF LIABILITY:

To the extent not prohibited by applicable law, Implementer shall not be liable under the contract for any special, indirect, consequential, incidental, exemplary or punitive damages of any kind, including, but not limited to loss of use or loss of profit, except as otherwise expressly provided in this Agreement, regardless of (1) the legal theory on which such liability is based, (2) Implementer having been advised of the possibility of such loss or damage, or (3) whether such loss or damage were reasonably foreseen. In no event shall Implementer's maximum liability in the aggregate arising out of, connected with, or resulting from the Agreement or the performance or breach thereof, exceed the total fee without incentives under this Agreement as found in Table 5. Program Budget in Exhibit B; however, the limitations set forth in this paragraph shall not apply to Implementer's confidentiality obligations, Implementer's indemnification obligations under Section 17 with respect to third party claims, or to the extent caused by Implementer's or its Subcontractors' gross negligence, willful misconduct, or fraud. Nothing in this paragraph is intended to limit recovery available to the extent covered under the insurance policies stipulated in Section 6 (Insurance).

19. 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 Implementer Party shall have rights and nor shall any Implementer Party make any claims, take any actions, or assert any remedies against any of MCE's constituent members in connection with this Agreement.

20. 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:

At #07_C.3_Att.: First Agrmt By & Between MCE & Resource Innovations, Inc.
Email Address: invoices@mcecleanenergy.org

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

Contract Manager: Monique McCool
MCE Address: 1125 Tamalpais Avenue
San Rafael, CA 94901
Email Address: contracts@mcecleanenergy.org
Telephone No.: (415) 464-6049

Notices shall be given to Implementer at the following address:

Implementer: Resource Innovations, Inc.
Implementer Address: 400 N. Michigan Avenue, S600
Chicago, IL 60611
Email Address: generalcounsel@resource-innovations.com
Telephone No.: (650) 761-6456

21. 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>IMPLEMENTER'S INITIALS</u>	<u>MCE'S INITIALS</u>
<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/>	Scope of Services		
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	Fees and Payment		
<u>EXHIBIT C.</u>	<input checked="" type="checkbox"/>	Energy Efficiency Program Terms		
<u>EXHIBIT D.</u>	<input checked="" type="checkbox"/>	MCE CRM Access Protocols		

22. 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.

23. INDEPENDENT CONTRACTOR:

Implementer 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 Implementer Party. Neither MCE nor any Implementer 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.

24. TIME:

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

25. THIRD PARTY BENEFICIARIES:

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

26. 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.

27. 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.

28. 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, Implementer agrees to provide information to MCE regarding Implementer'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, Implementer agrees to complete and deliver MCE's Supplier Diversity Survey, found at the following link: <https://forms.gle/DUBkcdFCskb7NNcA8> (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, Implementer 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. Implementer shall provide all such information in the timeframe reasonably requested by MCE.

29. 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:

IMPLEMENTER:

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

By: _____

Chairperson

Date: _____

MODIFICATIONS TO STANDARD SHORT FORM

☒ Standard Short Form Content Has Been Modified

List sections affected: 5.5, 5.6, 5.7(a), 5.9, 5.10, 6, 6.4, 6.5, 7, 8, 9, 10.6(b), 10.6(d), 10.6(d)(i) (added), 12.1, 13, 17, 18 (added)

Approved by MCE Counsel: _____

Date: _____

EXHIBIT A SCOPE OF SERVICES

The Implementer 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:

Overview: Implementer shall provide program implementation services for the Commercial Equity Program ("Program"). The Program is focused on providing energy and cost savings measures to MCE commercial customers located in areas that are categorized by the CPUC as disadvantaged or low income ("Eligible Participant(s)" or "Customer(s)"). The Program is designed to provide energy efficiency ("EE") education, comprehensive facility audits, no-cost direct install ("DI") measures, as well as point of sale ("POS") rebates for additional measures to Eligible Participants. "Project" is defined as one or more measures installed at an Eligible Participant site, either immediately or in phases.

For purpose of the Agreement and this Scope of Services, "Installer" means an individual, company, trade ally or trade professional, or other third party who performs any assessment, installation, and construction work for the purpose of putting into service and making operational the EE measure(s) identified in an approved Customer's Project (collectively, "Measure Installation") under the Program. Without limiting Implementer's other obligations under this Agreement in respect to Installers, Implementer shall ensure the following requirements are met: (a) Installers shall not be an employee of the Implementer; (b) Installer shall perform the Measure Installation in accordance with the authorized Installer Participation Agreement; (c) Installers performing Measure Installations shall have entered into a separate written agreement directly with the end-Customer for an approved Customer Project in compliance with the authorized Installer Participation Agreement; and (d) except for Implementer's pass through payment to Installer of the direct install or incentive payment for their Measure Installation under this Agreement, Installers shall not otherwise receive any other payment from the Implementer for the Measure Installation, and the Implementer shall not receive any compensation from the Installer or the end-customer for such Measure Installation services performed by the Installer.

1. Program Planning & Launch Readiness

Task 1.A) Program Implementation Plan

Implementer will develop and execute a Program Implementation Plan ("PIP"), subject to MCE's approval. The PIP will be based on the current CPUC program templates provided by MCE. MCE staff will work with Implementer to refine and create a final Program framework. MCE and Implementer will meet biweekly in order to finalize the PIP.

The PIP will include, but not be limited to, the following:

- Program description and narrative;
- Marketing and Outreach plan ("M&O Plan"), subject to MCE Public Affairs team approval;
- Customer incentive details and delivery;
- Customer technical support description;
- Customer qualifying questionnaire;
- Program Quality Assurance Procedures;
- Details surrounding the stakeholder feedback meetings which will occur twice per year;
- Program performance metrics, including energy and non-energy benefits; and
- Evaluation, Measurement & Verification plan ("EM&V Plan").

Implementer will assist MCE in developing materials for, and hosting, a public CPUC webinar prior to finalizing the PIP. MCE will invite EE stakeholders to provide feedback and input on the draft PIP, which will be reviewed during the webinar. Once the PIP is filed, the Program is considered launched.

Implementer will provide periodic updates to the PIP, as needed, when significant Program modifications are made.

Task 1.A) DELIVERABLE: Implementer to develop and execute PIP.

Estimated Delivery: Within 30 days of Effective Date, with periodic updates as needed.

Task 1.B) Marketing and Outreach Planning

Implementer will develop an M&O Plan to attract and engage Eligible Participants. Implementer will collaborate with the MCE Public Affairs team for all related marketing activities.

The M&O Plan will follow the required CPUC-template, and include the following information (to be approved by MCE Public Affairs team):

- Coordinate with MCE's brand look and feel that resonates with Customers and adheres to MCE standards.
- Document how Implementer, Environment Innovations ("EI") (or other qualified subcontractor with equivalent or superior qualifications as documented in writing), local community-based organizations ("CBO"), and Installers will use marketing materials.
- Describe how CBOs and Installers will be sourced to ensure that they can build trust with a diverse set of Eligible Participants who may have been historically denied energy assistance due to size or inequity factors.
- Provide a list of marketing collateral that will be developed to educate Customers on their equipment and energy usage, support the installation of energy savings measures and provide referrals to other services and incentives. Identify who will lead development of the materials (RI, EI or MCE). Materials will be multilingual.
- Develop a multi-channel marketing campaign strategy, in collaboration with MCE, that identifies preferred channels, distribution process, leads and type of content.

Task 1.B) DELIVERABLE: Implementer to develop and finalize M&O Plan.

Estimated Delivery: Within 60 days of Effective Date.

Task 1.C) Measure Development

Implementer will document installed DI or POS measures from the Savings Measure List (Exhibit B, Table 3). All identified measures will save energy (kWh and/or therms) and/or provide health and comfort non-energy benefits as developed by the CPUC. The Savings Measure List may be updated with added, modified, or removed measures as needed upon 60 days' notice from MCE or Implementer and written confirmation of the update.

Implementer will:

- Identify active measure packages, retired measure packages, and MCE-approved calculation methodologies to use as reference points when determining kWh, therms, and bill savings in addition to non-energy benefits.
- Finalize and continue to update the Savings Measure List for review and approval by MCE.
- Integrate Savings Measure List, bill savings and related permutations into iEnergy, Implementer's project facilitation tool.
- Provide a minimum of 30 days' notice to outreach team (which includes outreach managers, Installers, CBOs, the California Green Business Network ["CAGBN"]) of any necessary measure changes.

Task 1.C) DELIVERABLE: Implementer to define Program Savings Measure List.

Estimated Delivery: Within 30 days of Effective Date, with periodic updates as needed.

Task 1.D) Partner Engagement

Implementer will be responsible for developing a strong partner network that includes recruiting qualified Installers and outreach team members. Implementer will subcontract with EI (or other qualified subcontractor with equivalent or superior qualifications as documented in writing) as well as CBOs to conduct direct outreach to Eligible Participants.

- EI will manage CBOs, who will host events and recruit Eligible Participants by assisting with Program enrollment.
- EI will manage the CAGBN and green business programs ("GBP"), the staff of which will perform facility assessments, and will refer installation of more projects to qualified Installers, as well as coordinate with Installers to develop Program pipeline and achieve Program outcomes. CAGBN and GBPs will receive an upfront payment for these services.

- Implementer will recruit and manage a roster of Installers to conduct all installations which require licensing and/or permitting. MCE will have the opportunity to provide input on qualification criteria and approval of Installer roster.
- Implementer will manage the Installers directly, providing and monitoring key performance indicators ("KPIs") which promote high customer satisfaction and excellent customer service.
- Implementer will provide Outreach Managers to conduct facility assessments, transfer leads to Installers, and provide project management for projects that require multiple Installers.

Task 1.D) DELIVERABLE: Implementer to engage EI and Installer partners.

Estimated Delivery: On-going.

Task 1.E) Software Configuration

Implementer will configure an instance of iEnergy. iEnergy will provide: a public user interface to customers for enrollment; an onsite assessment tool for Outreach Managers, GBP staff, and CBOs to facilitate targeted walkthrough assessments to identify eligible bill savings measures and to allow Outreach Managers to develop optimized project scopes with the customer in real-time; and articulate project/measure benefits and costs. iEnergy will also educate Customers on complementary programs via the project summary report, which will be customized with MCE branding and provided to Customers. The project summary report will include project details, financing options, return on investment information, next steps, and supplemental information on complementary programs.

Implementer will work with MCE to configure the tool in accordance with the details as described below:

- Set up connection to MCE customer data to support enrollment, targeting and reporting.
- Collect and document requirements related to integration with MCE Customer Relationship Management ("CRM") tool.
- Document eligibility criteria for enrollment screening process. Integrate all required databases to accommodate enrollment screening.
- Develop a workflow for Customer participation, from enrollment to final approval of projects.
- Configure iEnergy Public User Interface, Onsite, and Program Management tools based on requirements and workflow.
- Configure and provide software licenses to Trade Ally Connect ("TAC"), to be accessed by Installers and Implementer.
- Conduct training with all users, including MCE staff as requested.

Task 1.E) DELIVERABLE: Implementer to configure iEnergy instance for Program use.

Estimated Delivery: Within 30 days of Effective Date, with periodic updates as needed.

Task 1.F) Customer Relationship Management Integration

Subject to the CRM Access Protocols included in Exhibit D below, Implementer will integrate with MCE CRM platform to provide Program data.

Implementer will:

- Deploy an integration using a web services Application Programming Interface ("API") that will get customer details from MCE and will update MCE's CRM with Program data on projects and customer interactions by:
 - Defining the data requirements for ongoing data exchange.
 - Consuming the MCE API specifications to map and sync desired data.
 - Building, testing, and integrating with MCE CRM.

Task 1.F) DELIVERABLE: Implementer to integrate CRMs between Implementor and MCE systems.

Estimated Delivery: Within 60 days of Effective Date, with periodic updates as needed.

Task 1.G) Document Development

Implementer will develop all required legal documents to facilitate Program delivery, in partnership with and requiring approval from MCE staff as required.

Agreements may include:

- Subcontractor Task Orders
- Installer Participation Agreement
- CBO Memorandum of Understanding
- GBP Memorandum of Understanding
- Customer Participation Agreement, including:
 - Program Terms and Conditions
 - Customer Consent Form
 - Self-Attestation of Program eligibility

Task 1.G) DELIVERABLE: Implementer to develop suite of Program documents.

Estimated Delivery: Within 30 days of Effective Date, with periodic updates as needed.

2. Program Management and Delivery

Task 2.A) Program M&O

Implementer, EI, and MCE will collectively conduct outreach and Customer acquisition activities, timing, and will document results. Implementer will work with EI to leverage a mix of marketing and in-person Customer engagement.

Implementer will:

- Meet with MCE as needed and/or requested by MCE.
- Document implementation strategies, Customer engagement process, recruitment pathways and estimated numbers of Customers by recruitment pathway in the M&O Plan.
- Maintain and provide weekly updates to a Program marketing schedule, including information on upcoming marketing campaign activities.
- Provide training to Outreach Team on Customer eligibility requirements and how to use the iEnergy tool to validate eligibility with the customer's physical address when in the field.
- Support MCE in the development and dissemination of marketing collateral through direct mail, email and social media channels. Implementer may be asked to provide input on copy for marketing materials.
- Ensure all marketing materials are approved by MCE prior to publication.
- Equip Outreach Team with tools and training to quickly assess each customer's facility, determine the optimal project plan, and communicate project plan to the Customer's key decision-maker.
- Collect data on the number of Customers engaged or enrolled in the Program, events attended by Outreach Team, and which Outreach Team member was involved.
- Translate materials into the most common languages in MCE territory, such as Spanish, Chinese, Vietnamese, Tagalog, Korean, and Khmer. Final language selection will be determined in the M&O plan.

Task 2.A) DELIVERABLE: Implementer to provide Program marketing support.

Estimated Delivery: On-going.

Task 2.B) Participant Services

Implementer will engage 1,400-1,600 Customers as either market support participants ("MSP") or resource acquisition participants ("RAP"). MSPs will have the option to receive a free facility assessment, receive energy savings and education tips, and will be offered a menu of DI measures. Customers who are recruited through the Program will receive information about the Program services and how to sign up. RAPs will be provided with direct installation of no-cost bill savings and health, safety, and comfort ("HSC") measures, and may also choose to continue with deeper savings through incentivized POS measures and sustained engagement with Program personnel.

Implementer will:

- For MSPs, provide a minimum of one of the following services during an in-person visit from an Implementer Outreach Manager or CAGBN team member:
 - Energy savings education/tips
 - Facility assessment
 - Information and/or application assistance for other relevant programs
 - Information about MCE's additional programs and services and how to sign up
 - Referral to an Outreach Manager or Installer for RAP services
- For RAPs, provide one or more of the following services in addition to MSP services:
 - Project management services for projects with multiple technologies
 - No-cost direct installation of energy-saving measures resulting in bill savings
 - Incentives for additional EE measures (i.e., POS measures)
 - Referrals / Assistance to participate in relevant programs (e.g., SGIP HPWH, Green Business Program Certification)
- Provide around 1,200 Customers with MSP Services
- Provide around 900 Customers with RAP Services (of the 1,400-1,600 who already received MSP Services)
- Achieve an 80% conversion rate from MSP Services to RAP Services

Task 2.B) DELIVERABLE: Implementer to engage 1,400- 1,600 MCE customers. Provide MSP Services to around 1,200 Customers and RAP Services to around 900 Customers.

Estimated Delivery: On-going.

Task 2.C) Subcontractor Management

Implementer will be responsible for contracting with and managing EI (or other qualified subcontractor with equivalent or superior qualifications as documented in writing) as a Subcontractor and Implementer Party.

Implementer will:

- Negotiate and execute a contract with EI that includes all required flow downs from this Agreement.
- Provide biweekly data reports to EI to demonstrate Program status, progress towards goal, and areas for improvement.
- Meet with EI on a regular cadence to discuss Program, upcoming changes, opportunities for continuous improvement and system requirements.

Task 2.C) DELIVERABLE: Implementer to manage EI (or other qualified subcontractor with equivalent or superior qualification as documented in writing) to support the Program.

Estimated Delivery: On-going.

Task 2.D) Installer Management

Implementer will recruit, train and manage Installers. Installers are required to adhere to all terms detailed in the Installer Participation Agreement, which will define Program participation requirements, KPIs, measure pricing requirements, and measure and equipment requirements. Implementer will manage an Installer network of up to 10 Installers at the peak of the Program. This number can be increased or decreased based on demand and goals.

Implementer will enter into an agreement with Installers (the Installer Participation Agreement), and Installers will not be considered Subcontractors or Implementer Parties.

Implementer will:

- Develop an Installer Participation Agreement that will be reviewed and approved by MCE, which will be signed by Installers on an annual basis.
- Recruit Installers who specialize in serving small businesses, provide quality service, and are diverse in the type of technologies they provide, and preferably have home-bases in disadvantaged communities with varied ownership structures. Implementer will prioritize recruiting Installers who have local or regional offices within MCE territory.

- Train Installers virtually and cover Program requirements, measure and equipment requirements, and use of the iEnergy system. Training will occur over 3-4 sessions and will be initiated within 90 days of Effective Date. Training will also be recorded and available on-demand.
- Meet with Installer leads on a regular cadence to discuss Program, upcoming changes, opportunities for continuous improvement and to review system requirements.
- Offer weekly “Office Hours” to answer questions that come up as Installers and CAGBN staff are conducting outreach, assessments, installations, and project submittals.
- Pair Outreach Managers, Installers and CAGBN staff in the field to learn from each other and cross train.
- Prioritize paying incentives directly to the Installer, applying it to the project’s cost, instantly reducing upfront costs for the Customer.
- Distribute all Installer payments after ensuring that Program requirements are met prior to payment.

Task 2.D) DELIVERABLE: Implementer to recruit and manage Installers to support the Program.

Estimated Delivery: On-going.

Task 2.E) GBP and CBO Management

EI will lead and manage partnerships with all four GBPs operating in the counties of Contra Costa, Marin, Napa, and Solano. CAGBN will use its existing contracts with CBOs, made possible through existing state funding, to expand its reach to targeted Eligible Participants.

Through EI, Implementer will:

- Provide up to \$10,000 to one or more of these GBPs and/or CBOs that will use the funding to recruit a diverse range of businesses including those owned by Black, Brown, Indigenous, People of Color (BBIPOCs), LGBTQIA+ individuals, or worker-owned models to become Eligible Participants to enroll in the Program.
- Train GBPs on Program requirements, how to conduct comprehensive assessments, and how to use the iEnergy system.
- Provide relevancy, legitimacy and awareness of the Program offerings.
- Conduct direct outreach to Eligible Participants.
- Assist in identifying potential projects and coordinate with Program Installers.
- Assist in identifying workforce development opportunities for individuals from underprivileged backgrounds (as directed by the CPUC), within the Program’s geographical focus, offering opportunities for internships and employment in support of the Program.
- Connect with CPUC-designated environmental and social justice communities and rural communities to ensure uptake.
- Scope, recruit, and manage potential CBO partnerships.

Task 2.E) DELIVERABLE: Implementer to manage GBPs and CBOs.

Estimated Delivery: On-going.

Task 2.F) Project Management

Implementer will employ Outreach Managers who are responsible for Customer recruitment, MSP Services, and project management of RAP Services. Through the Outreach Managers,

Implementer will:

- Act as the Customer’s energy concierge, managing the project and Customer Program applications.
- Provide Customer support.
- Offer POS measures for ongoing engagement to encourage the persistence of energy and bill savings.
- With Customer written consent, prepare and submit complementary program applications to simplify the participation process.
- Provide communications to Customers regarding the project process to ensure high Customer satisfaction.

- Track projects and support solutions to barriers to completion.

Task 2.F) DELIVERABLE: Implementer to provide program Outreach Managers.

Estimated Delivery: On-going.

Task 2.G) Incentive Payment Management

Implementer will pay Installers incentive payments based on the successful completion and approval of projects by MCE. Incentive payments will be fixed by measure, as described in the Savings Measure List (Exhibit B, Table 3). No-cost DI measures will receive an incentive that is equivalent to the agreed-upon labor and material cost. POS measures will receive a set incentive amount, which the Implementer will apply to a market-rate invoice.

Implementer will:

- Agree to prefunding for 10% of the overall incentive budget in the Customer Incentive Delivery and Details section of the PIP.
- Collect and/or provide all required documentation for issuance of incentives and related tax obligations (i.e., W-2, ACH, and 1099)

Task 2.G) DELIVERABLE: Implementer to distribute incentives to Installers.

Estimated Delivery: On-going.

Task 2.H) On-Bill Financing Application Support

Implementer will educate Customers on the requirements, benefits and process for Pacific Gas & Electric Co. On Bill Financing, GoGreen Business Financing and any future MCE financing programs/offers. If a Customer chooses to move forward with submitting an application for On Bill Financing or GoGreen Business Financing, Implementer will provide these services at an additional fee (see Exhibit B).

Implementer will:

- Present financing options with each Customer's project summary report.
- Manage application and provide status updates to Customer.

Task 2.H) DELIVERABLE: Implementer to provide on-bill financing support.

Estimated Delivery: On-going.

3. Program Measurement and Verification

Task 3.A) Customer Satisfaction

Implementer will monitor and evaluate Customer satisfaction on an ongoing basis via online survey tools, developed by Implementer's Advisory Services team.

- Survey will include a net promoter score for the Program and Installer and an evaluation of the Customer's experience.
- Follow-up surveys will request information on the HCS benefits experienced by the Customer.
- Data will be collected monthly and provided to MCE. Implementer will evaluate data to inform continuous improvement to the Program design and operations.

Task 3.A) DELIVERABLE: Implementer to complete Customer satisfaction surveys.

Estimated Delivery: Data collected monthly upon Program launch. On-going.

Task 3.B) Quality Assurance Procedures

Implementer will provide Installers with initial training and ongoing mentorship so that MCE Customers receive quality project installations. All Program and measure requirements, including minimal qualifications and performance criteria, will be memorialized and agreed to through an Installer Participation Agreement, which will be submitted by Implementer to MCE for approval. By reinforcing Program training in the field, Implementer will verify that Installers understand and adhere to the Program requirements while simultaneously increasing Customer satisfaction with MCE and the Program while also reducing the post-installation verification costs. All activities will be tracked in the iEnergy tool.

Implementer will:

- Provide Installers with ongoing mentorship and installation training including sales assistance, hands-on technical assistance, and verification of skill proficiency and adherence to Program specifications.
- Train Installers on how to optimize the performance of select installed equipment.
- Perform inspections for 100% of each Installer's first five completed projects; inspection numbers will then be lowered to 10% of submitted projects, randomly selected, pending satisfactory work in the first five completed projects. Inspections may be conducted as ride-alongs during installation or post-installation. Inspections for simple measures (i.e., smart strips, air filters, etc.) may be done virtually, but only if screenshots can be taken to prove installation meets Program standards.
- Perform desk-based review of 100% of Customer information, baseline condition equipment details, measures installed including geotagged photographs, copies of invoices, number and cost of units, incentives applied, and dates of installation for verification.
- Host monthly one on one meetings to provide data-driven reviews with Installers to discuss training opportunities, performance and satisfaction with the process to determine if adjustments are needed.

Task 3.B) DELIVERABLE: Implementer to provide initial Program training and ongoing support to Installers.

Estimated Delivery: On-going.

Task 3.C) Measurement and Verification

Implementer will capture the project information in iEnergy (Implementer's program management platform) making it easily accessible to reviewers and inspectors via the platform. Verification for MSPs will be tracked within the Program Management Platform for those receiving energy education/energy tips and/or assessments. This will include Customer contact information, date of interaction, and any other Program outcomes (e.g., referral to another program, referral to an Installer for DI measures). Verification for RAPs will happen at the project level with Installers submitting Customer information, baseline condition equipment details, measures installed including geotagged photographs, copies of invoices, number and cost of units, incentives applied, and dates of installation. iEnergy has an online checklist to validate projects and uses specific criteria to conduct inspections based on each project's approved measures. During the post-inspection process, Implementer will:

- Select projects based on a randomized sampling or based on past performance of the Installer.
- Verify measure eligibility, installation, and quality of commissioning by completing checklists based on established procedures and criteria.
- Work with the Customer and/or Installer to resolve any discrepancies, if applicable; and
- Finalize, record, and track all quality assurance findings and any necessary project remediations.
- Monitor the approval, expiration, and modifications of CPUC workpapers as well as Database for Energy Efficiency Resources ("DEER") updates to inform Program eligible energy savings and the possible adjustments of Customer estimated bill savings.

Task 3.C) DELIVERABLE: Implementer to provide measurement and verification of project sites.

Estimated Delivery: On-going.

4. Program Reporting

Task 4.A) Bill Savings Tracking and Reporting

Implementer will drive estimated bill savings as the primary outcome of the Program. Bill savings will be estimated by multiplying projected energy savings based on specific measure permutations for approved Savings Measure List. For the purposes of calculating bill savings, Implementer will use \$0.31/kWh and \$1.50/Therm multiplied by relevant measure permutation data as defined in the applicable measure package (see Table 3).

Implementer will:

- Provide a monthly report to MCE detailing savings measures installed and estimated bill savings.

Task 4.A) DELIVERABLE: Implementer will calculate and report bill savings to MCE.

Estimated Delivery: On-going monthly reporting.

Task 4.B) CPUC Required Reporting

Implementer will provide measure-level detail for measures installed that are claimable to the CPUC for portfolio energy savings, encompassing detailed site information, contact information, and all pertinent project documentation monthly.

Implementer will:

- Define the relevant data needed to be reported within the first 30 days after contract signature.
- Provide Program-level detail for Equity Metrics. A preliminary list of equity metrics was adopted in D23-06-055 and final program-specific metrics will be defined in the PIP, in accordance with CPUC requirements.

Task 4.B) DELIVERABLE: Implementer to provide CPUC reporting as defined by CPUC.

Estimated Delivery: On-going monthly reporting. Ad-hoc reporting, as required by CPUC.

Task 4.C) Performance Tracking & Reporting

Implementer will use a data-driven approach to provide effective and comprehensive end-to-end data collection, analysis, and reporting to drive continuous improvement to reduce risk and increase participation, savings, forecast accuracy, and cost-efficiencies.

Implementer will:

- Provide monthly outreach and marketing reports to MCE to track effectiveness of marketing channels (i.e., Pipeline, Referrals)
- Evaluate Customer data and firmographics to assess and develop projects, maintain effective Customer communications, track program operations and Customer satisfaction KPIs (i.e., facility data, system and equipment info, CPP status, satisfaction ratings, contact information)
- Assess overall Program performance versus goals, review energy/bill savings and Program operations, KPIs, and identify underperforming areas and create action plans.
- Highlight areas for improvement, identify Installers and Subcontractors for rewards and recognition, forecast and allocate resources, and track and report on Customer satisfaction and Program KPIs.

Task 4.C) DELIVERABLE: Implementer to provide monthly performance reports to MCE.

Estimated Delivery: On-going monthly reporting.

EXHIBIT B

FEES AND PAYMENT SCHEDULE

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

1. Cost of Deliverables

Task 1.B) M&O Plan

For the development and approval of the M&O Plan deliverable per MCE's requirements, Implementer will be compensated for the plan via an annual fixed fee of \$13,950, billable at the first year upon MCE approval of completed M&O Plan, then billable at the beginning of each of the subsequent two Program years.

Task 1.E) Software Configuration

For the configuration and launch of the iEnergy Software deliverable per MCE's requirements, Implementer will be compensated with a fixed fee of \$109,700 after the first Customer energy savings project (RAP) is installed and verified by an onsite inspection, required documentation is provided by iEnergy (i.e., project summary report) and submitted to MCE for review, and agreed upon project details are populated automatically in MCE's CRM through the API.

Task 2.B) Participant Services

For the implementation costs associated with delivering the Program, Implementer will be compensated based on a combination of a Fixed Fee and a Pay for Performance structure (Table 2). "Project" is defined in Exhibit A and here as one or more measures installed at an Eligible Participant site, either immediately or in phases. Implementer performance payment will be dependent on the calculated bill savings achieved, as defined in Table 1.

Table 1. Performance Compensation Rates

Calculated Monthly Bill Savings Achieved	Correlating RAP Payment per Project Bill Savings
\$0-\$25	[\$currently in negotiation]
\$26-\$100	[\$currently in negotiation]
\$101+	[\$currently in negotiation]

Table 2. Participant Services Monthly Fixed Fee + Pay for Performance

Payment Type	Not to Exceed Amount	Payment	Deliverable
Fixed Fee	\$439,992	\$12,222	By Monthly Report
Performance Payment	[\$currently in negotiation]	[\$currently in negotiation] dependent on calculated monthly bill savings achieved due to RAP	By MCE Approved RAP Project*
Total Payment	[\$currently in negotiation]		

*If measures are installed at a site in phases such that increased site bill savings are achieved after the initial RAP payment, MCE will pay Implementer the additional correlating payment on a subsequent invoice. Implementer will clearly note on invoices when this is the case by stating "Additional RAP Payment due to increased monthly bill savings achieved." Measures must be installed at the same site as the original project.

Task 2.E) GBP and CBO Grants

For the grants awarded to Green Business Partners and/or Community Based organizations, Implementer will be compensated with a fixed fee of \$10,000 per signed annual agreement, not to exceed \$120,000. All funds invoiced for this task will be passed directly through to the GBP or CBO, with specific terms and KPIs. Funds will be delivered to GBP or CBO based partially on performance (i.e., 50% paid upon agreement execution, and the remaining 50% paid upon successful completion of deliverables).

Task 2.G) Incentive Payment Management

For the incentive payments that are passed through to Installers (either as a payment to cover pre-defined labor and material costs for DI measures or an incentive to buy-down the cost of POS measures), Implementer will be compensated through a Pay for Performance structure based on the installed Project's calculated monthly bill savings achieved (Table 1). Additional measures may be added, or measure details may be altered, after this Agreement is executed and will include agreed-upon on Labor & Materials / Incentive costs. Budget will not exceed \$[currently in negotiation].

Table 3. Savings Measure List

<u>Measures</u>	<u>DI or POS</u>	<u>Unit</u>	<u>Labor & Materials</u>	<u>Incentive</u>	<u>Measure Package</u>
LED troffer kits and fixtures 2X4	DI	Each	\$205.00	n/a	SWLG012-01
LED troffer kits 2X2	DI	Each	\$175.00	n/a	SWLG012-01
LED troffer kits 1X4	DI	Each	\$175.00	n/a	SWLG012-02
Refrigerator Gaskets	DI	Each	\$99.00	n/a	PGECOREF105
Room air purifiers	DI	Each	\$419.50	n/a	SWAP008-01
LED recessed downlight retrofit kit	DI	Each	\$25.00	n/a	SCE17LG103.2
Smart outlets and timers for vending machines	DI	Each	\$214.00	n/a	SWWH017-02
Type A LED Tube	DI	Each	\$7.00	n/a	PGECOLTG175
Smart thermostats	DI	Each	\$315.00	n/a	SWHC039-04
Occupancy sensing wall switches	DI	Each	\$155.00	n/a	PGE3PLTG183
Pipe insulation	DI	Linear Foot	\$11.50	n/a	PGECOREF113
LED lamps (int and ext) pin and screw-based lamps	DI	Each	\$10.50	n/a	PGECOLTG165
Bluetooth smart power strips	DI	Each	\$89.00	n/a	SWAP010-01
Auto door closers – Walk-in	DI	Each	\$350.00	n/a	SWCR005-02
Faucet aerators	DI	Each	\$14.45	n/a	SWWH019-03
Pre rinse spray valves	DI	Each	\$117.24	n/a	SWFS013-01
Interior LED Fixtures - General	POS	Each	n/a	\$75.00	SWLG012-01
Auto door closers – Reach-in	POS	Each	n/a	\$100.00	SWCR005-02
LED Linear Ambient Fixture Retrofit Kit	POS	Each	n/a	\$50.00	SWLG012-01
Type B LED Tube	POS	Each	n/a	\$25.00	SWLG018-01
2-Lamp Linear LED Lamp Hardwired retrofit (Type C)	POS	Each	n/a	\$20.00	SWLG018-01
3-Lamp Linear LED Lamp Hardwired retrofit (Type C)	POS	Each	n/a	\$30.00	SWLG018-01
4-Lamp Linear LED Lamp Hardwired retrofit (Type C)	POS	Each	n/a	\$40.00	SWLG018-01
Window Film	POS	Glass Square Foot	n/a	\$5.00	SCE13HC002.2
Electric to Electric Water Heater	POS	Each	n/a	\$500.00	SWWH031-01
Refrigerated Display Lighting	POS	Linear Foot	n/a	\$2.00	PGECOLTG174
Heat pump replacing a gas furnace	POS	CAP-Tons	n/a	\$1,000.00	SWHC046-01
Heat pump replacing a heat pump	POS	CAP-Tons	n/a	\$1,000.00	SWHC014-02
Evaporator fan coolers for walk in	POS	Each	n/a	\$50.00	SWCR004-01
Variable Frequency Drive Motors	POS	Rated-HP	n/a	\$50.00	SWHC018-02
Heat Pump Water Heater, Commercial, Fuel Substitution	POS	Each	n/a	\$1,000.00	SWWH027-03
LED, High or Low Bay	POS	Each	n/a	\$75.00	SWLG011-04
Lighting Retrofit/New- Exterior Wall Mounted	POS	Each	n/a	\$75.00	SCE13LG108

Lighting Retrofit/New- Exterior Pole Mounted	POS	Each	n/a	\$100.00	SCE13LG102
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Task 2.H) Financing Application Support

For demonstrating proof of delivery of an approved financing pre-application to the relevant agency or utility, Implementer will receive a fixed fee of \$200 per application, not to exceed \$15,000.

2. Time & Materials Rates

Tasks not outlined in this scope of work may be provided on an ad hoc basis, with written approval by MCE. Hours will be billed based on Staff Billing Rates included in Table 4.

Table 4. Staff Billing Rates

Position	Hourly Rates**
Table Vice President, West Coast	\$250
Director, CA	\$215
Program Manager	\$185
Deputy Program Manager	\$145
Partner Manager	\$185
Senior Energy Engineer	\$185
Energy Engineer II	\$175
Energy Engineer I	\$165
Sr Director, Marketing	\$225
Marketing Manager	\$185
iEnergy Manager	\$160

** Hourly rates shall remain in effect for the entire term of the Agreement.

3. Overall Budget

The following are the budget amounts for each of the tasks and subprograms described herein. Budget amounts listed include 2023-2026 Program years. Upon written request of the Implementer and written approval of MCE Manager of Customer Programs, funds may shift between Deliverables to accomplish the Scope of Services outlined in this Agreement.

Table 5. Program Budget

Deliverable	Total Cost	Payment Structure	Cost Category
Task 1.B) M&O Plan	\$41,850	Segmented Fixed Fee, according to details included in Cost of Deliverables section above	Marketing
Task 1.E) Software Configuration	\$109,700	Fixed Fee, according to details included in Cost of Deliverables section above	Administration
Task 2.B) Participant Services	[\$currently in negotiation]	Fixed Fee and Pay for Performance structure Per Project, according to details included in Cost of Deliverables section above	Administration [%currently in negotiation] Direct Install Non-Incentive [%currently in negotiation]

Task 2.E) GBP and CBO Grants	\$120,000	Per signed agreement, according to details included in Cost of Deliverables section above	Direct Install Non-Incentive
Task 2.G) Incentive Payments***	[\$ <i>currently in negotiation</i>]	Pay for Performance Per Unit Installed, according to details included in Cost of Deliverables section above	Incentives
Task 2.H) Financing Application Support	\$15,000	Per Approved Pre-Application (Not to Exceed)	Direct Install Non-Incentive
Total Not to Exceed Amount (including incentives)	\$3,126,542		

*** MCE will provide Implementer with 10% of the incentive cost at Program launch to hold in a separate FDIC-insured incentive account in order to expedite Installer and Customer payments. When incentive payments cause the incentive account balance to fall below 5% of the incentive budget, Implementer will bill MCE for another 5% of the incentive budget until the incentive budget is exhausted. Any unspent incentive funds will be returned to MCE at the termination of the Agreement.

Implementer shall bill monthly. Implementer will provide an itemized invoice to MCE Manager of Customer Programs for all Services rendered the month prior. Payment of itemized invoice is subject to MCE Manager of Customer Programs' written approval. In no event shall the total cost to MCE for the services provided herein exceed the **maximum sum of \$3,126,542** for the term of the Agreement.

EXHIBIT C
Energy Efficiency Program Terms

The terms below shall apply to all Implementer Parties and Installers providing Services under the Commercial Equity Program ("Program").

1. BILLING, ENERGY USE, AND PROGRAM TRACKING DATA:

- a) Implementer shall comply with and timely cooperate with all CPUC directives, activities, and requests regarding the Program and Project evaluation, measurement, and verification ("EM&V"). For the avoidance of doubt, it is the responsibility of Implementer to be aware of all CPUC requirements applicable to the Services of this Agreement.
- b) Implementer shall make available to MCE upon demand, detailed descriptions of the program, data tracking systems, baseline conditions, and participant data, including financial assistance amounts.
- c) Implementer shall make available to MCE any revisions to Implementer's program theory and logic model ("PTLM") and results from its quality assurance procedures, and comply with all MCE EM&V requirements, including reporting of progress and evaluation metrics.

2. WORKFORCE STANDARDS:

At all times during the Term of the Agreement, Implementer shall comply with, and shall cause all Implementer Parties to comply with, the workforce qualifications, certifications, standards and requirements set forth in this Exhibit D, Section 2 ("Workforce Standards"). The Workforce Standards shall be included in their entirety in MCE's Final Implementation Plan. If applicable, "Final Implementation Plan" is defined in the deliverables for the Services listed in Exhibit A. Prior to commencement of any Services, once per calendar year, and at any other time as may be requested by MCE, Implementer shall provide all documentation necessary to demonstrate to MCE's reasonable satisfaction that Implementer has complied with the Workforce Standards.

2.1. HVAC STANDARDS. For any non-residential project pursuant to this Agreement installing, modifying or maintaining a Heating Ventilation and Air Conditioning ("HVAC") system or component with incentives valued at \$3,000 or more, Implementer shall ensure that each worker or technician involved in the project, including all employees and agents of its Subcontractors, meets at least one of the following workforce criteria:

- a) Completed an accredited HVAC apprenticeship;
- b) Is enrolled in an accredited HVAC apprenticeship;
- c) Completed at least five years of work experience at the journey level as defined by the California Department of Industrial Relations, Title 8, Section 205, of the California Code of Regulations, passed a practical and written HVAC system installation competency test, and received credentialed training specific to the installation of the technology being installed; or
- d) Has a C-20 HVAC Implementer license issued by the California Implementer's State Licensing Board.

This standard shall not apply where the incentive is paid to any manufacturer, distributor, or retailer of HVAC equipment, unless the manufacturer, distributor, or retailer installs or contracts for the installation of the equipment.

2.2. ADVANCED LIGHTING CONTROLS STANDARDS. For any non-residential project pursuant to this Agreement involving installation, modification, or maintenance of lighting controls with incentives valued at \$2,000 or more, Implementer shall ensure that all workers or technicians involved in the project, including those of its Subcontractors are certified by the California Advanced Lighting Controls Training Program ("CALTP"). This requirement shall not apply where the incentive is paid to a manufacturer, distributor, or retailer of lighting controls unless the manufacturer, distributor, or retailer installs or contracts for installation of the equipment.

3. COORDINATION WITH OTHER PROGRAM ADMINISTRATORS:

Implementer shall coordinate with other Program Administrators, including investor-owned utilities and local government agencies authorized by the CPUC to implement CPUC-directed energy efficient programs, administering energy efficiency programs in the same geographic area as MCE. These other Program Administrators include: Pacific Gas and Electric Company and Bay Area Regional Energy Network. The CPUC may develop further rules related to coordination between Program Administrators in the same geographic area, and any Implementer is required to comply with such rules.

4. MEASUREMENT AND VERIFICATION REQUIREMENTS, INCLUDING GUIDELINES ABOUT NORMALIZED METERED ENERGY CONSUMPTION ("NMEC") DESIGN REQUIREMENTS:

Implementer shall:

1. Only enroll customers that qualify for Program services.
2. Comply with current policies, procedures, and other required documentation as required by MCE;
3. Report Customer Participation Information to MCE.

4. Work with MCE's evaluation team to define Program-specific data collection and evaluability requirements, and in the case of NMEC which independent variables shall be normalized.

Throughout the Term, MCE may identify new net lifecycle energy savings estimates, net-to- gross ratios, effective useful lives, or other values that may alter Program Net Lifecycle Energy Savings, as defined in Exhibit A, if applicable. Implementer shall use modified values upon MCE's request, provided MCE modifies Implementer's Program budget and/or overall Program net lifecycle Energy Savings consistent with the requested change. MCE shall determine any budget increases or decreases in its sole discretion.

For Programs claiming to-code savings: Implementer shall comply with Applicable Law and work with MCE to address elements in its Program designs and Implementation Plans, such as:

1. Identifying where to-code savings potential resides;
2. Specifying which equipment types, building types, geographic allocations, and/or customer segments promise cost-effective to-code savings;
3. Describing the barriers that prevent code-compliant equipment replacements;
4. Explaining why natural turnover is not occurring within certain markets or for certain technologies; and
5. Detailing the program interventions that would effectively accelerate equipment turnover.

EXHIBIT D
MCE CRM ACCESS PROTOCOLS

Implementer 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 Implementer to access MCE CRM, Implementer must first agree to and comply with the following protocols:

1. MCE CRM access is subject to the NDA between the Parties dated November 21, 2023 .
2. MCE CRM login information, passwords, and any information retrieved from MCE CRM shall be treated as Confidential Information.
 - Confidential Information shall have the same meaning as defined in the MCE NDA between the Parties dated
 - No Implementer employee is to give, tell, or hint at their login information or password to another person under any circumstance.
 - MCE CRM passwords are required to be changed every 90 days.
 - MCE encourages strong passwords (such as minimum character length, and use of special characters) that are not reused for other logins.
 - 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.
 - MCE CRM access shall only be provided to those employees of Implementer who have a "need to access" such information in the course of their duties with respect to Implementer's Services.
 - Implementer employees who access MCE CRM shall only update or view fields related to the tasks assigned.
 - Implementer shall maintain a list of Implementer employees that have been authorized to access MCE CRM.
 - The list shall be updated and verified by Implementer quarterly, upon Implementer employee turnover, and upon MCE's request.
 - Implementer employees who access MCE CRM shall first review and agree to be bound by these MCE CRM Access Protocols.
 - Implementer's use of the CRM is restricted to that which is necessary to provide the Services described in Exhibit A.
 - Except for data obtained by Implementer from MCE's CRM via an MCE-authorized application programming interface, Implementer shall not copy, download, record or reproduce in any way any data from MCE's CRM.
 - Implementer shall only use the MCE-authorized application programming interface to the extent its use is necessary for the completion of contracted work as included in Exhibit A.
5. In the event of an employment status change for an Implementer employee who had been granted access to MCE CRM, Implementer shall provide the following information to MCE:
 - Name and email of pertinent Implementer employee.
 - Notification to MCE within 3 days of employment status change.
6. Implementer having any interaction with an MCE customer shall do the following:
 - Implementer 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 Implementer. Failure of Implementer 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.
 - Implementer 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, Implementer and Subcontractors are to provide two options for customer contact (email and phone). Implementer shall provide MCE with a process to document any customer issues, escalations and resolutions.



December 6, 2023

TO: MCE Board of Directors

FROM: Dave Garti, Community Development Manager

RE: 2023 Charles F. McGlashan Advocacy Award
Nominations (Agenda Item #09)

ATTACHMENTS: List of Past Charles F. McGlashan Advocacy Award Recipients

Dear Executive Committee Members:

Summary:

The Charles F. McGlashan Advocacy Award was established by MCE in 2011 to recognize individuals and organizations who have demonstrated passion, dedication, and leadership on behalf of MCE. The annual award also honors and commemorates the life and legacy of environmental leadership of founding MCE Chair Charles F. McGlashan.

Recipients of the award are recognized with a ceremony held at a regular meeting of the MCE Board of Directors, typically in February. Recipients will also have their names inscribed on a plaque that shares past awardees and is displayed outside the Charles McGlashan Room at the MCE office in San Rafael. The recipient will also be recognized in MCE's e-newsletter, online blog, and social media.

2023 Charles F. McGlashan Award Nominees:

- Chris Benz, Napa Climate NOW!
- Karen Madden, Marin School of Environmental Leadership (SEL)
- Tom White and Ruthie Levin, Eden Housing

Chris Benz with Napa Climate NOW!

Chris Benz is a Napa-based environmental advocate who cofounded Napa Climate NOW!, a nonprofit organization that champions local action to lower emissions and restore natural climate systems. Through her leadership with Napa Climate NOW!, Chris played an instrumental role in organizing the inaugural Napa Climate Summit in 2023. The Summit convened over 170 stakeholders including state and local elected

officials, municipal staff, and community partners to accelerate climate action throughout Napa County. As part of the summit, MCE staff participated in a panel on available funding opportunities for climate action which led to productive connections with municipal staff.

Chris has been a vocal and active proponent of MCE. She regularly promotes the benefits of MCE service at municipal meetings, and consistently urges local elected officials to utilize MCE programs as a component of climate action planning in Napa County. Through the partnership between MCE and Napa Climate NOW!, Chris has organized six community events in the past year to foster climate action, including an electric vehicle showcase, a multifamily property owner resource fair, and Earth Day events. Through her tireless efforts, Chris has demonstrated how organizing at the local level can create meaningful partnerships to address the climate crisis.

Karen Madden with Marin School of Environmental Leadership

Karen Madden serves as the Lead Teacher for the Marin School of Environmental Leadership, a seminar program at Terra Linda High School in San Rafael that focuses on developing future environmental leaders. In 2023, Karen partnered with MCE staff to develop a curriculum for ninth grade students focused on renewable energy. MCE staff served in a “Community Partner” role with Karen’s class and met on a bi-weekly basis with Karen and her students to develop a comprehensive, student led renewable energy outreach and engagement campaign.

As part of their final project, students from Karen’s ninth grade class:

- Presented to the City of San Rafael’s Sustainability Commission about key components of renewable energy generation,
- Developed an Instagram page with over 150 followers that contained top tips and tricks about making energy efficient choices,
- Held community tabling events at Green Change Marin’s annual Earth Day Fair in Mill Valley, and
- Attended Venetia Valley’s annual Spring carnival to distribute flyers and key information about MCE’s EV charging programs, Deep Green, and general information about community choice energy.

Under her leadership, Karen’s students encouraged their peers, parent network, and broader community to adopt renewable energy and build awareness of MCE.

Karen recognizes that young people are crucial change agents in addressing the climate crisis and empowered her students to be community minded and civically engaged over the course of the spring 2023 semester.

Tom White and Ruthie Levin with Eden Housing

Through the leadership of Tom White and Ruthie Levin, Eden Housing is currently in the process of electrifying a 91-unit multifamily property in Contra Costa County. Tom

and Ruthie worked with MCE to participate in our Multifamily Energy Savings (MFES) and Low-Income Family and Tenants (LIFT) programs, as well as the Strategic Energy Management (SEM) program to ensure that the property saves both energy and money. Transition of gas appliances to electric options at multifamily housing sites allows greater use of MCE's clean electricity generation to reduce the use of fossil fuels. The current work scope, which includes converting existing gas wall furnaces to electric appliances with space heating and cooling, will reduce greenhouse gas emissions while providing greater comfort to residents.

By utilizing SEM, MFES, and LIFT, Tom and Ruthie have demonstrated their commitment to long term solutions and behavioral changes to support energy resiliency in affordable housing. Eden Housing is consistently on the cutting edge of MCE programs, helping us to design and implement creative solutions that improve the customer experience.

Fiscal Impacts:

None.

Recommendation:

Select the 2023 recipient(s) of the Charles F. McGlashan Advocacy Award to be presented at a future meeting of the MCE Board of Directors.

Past Charles F. McGlashan Advocacy Award Recipients

2011	Barbara George, Women's Energy Matters
2012	The Mainstreet Moms
2013	Lea Dutton of the San Anselmo Quality, Life Commission
2014	Doria Robinson, Urban Tilt
2015	Constance Beutel, Benicia's Community Sustainability Commission
2016	Sustainable Napa County
2017	The El Cerrito Environmental Quality Committee
2018	Sustainable Lafayette Resilient Neighborhoods Verna Causby-Smith, EAH Affordable Housing
2019	Sustainable Rossmore and the National Council for Jewish Women, Contra Costa Division Gloria Castillo, Canal Alliance
2020	Deborah Elliott, County of Napa Fairfax Climate Action Committee Marin Center for Independent Living (MCIL), Disability Services Legal Center (DSLCL), the Independent Living Resources of Solano and Contra Costa (ILRSCC), and Vi Ibarra, Developmental Disabilities Council of Contra Costa County
2021	Sustainable Contra Costa
2022	Matt Belasco, Pittsburg Unified School District Sara Bellafronte, City of Pittsburg Napa Green



December 6, 2023

TO: MCE Executive Committee

FROM: Jenna Tenney, Manager of Communications and Community Engagement
John Dalessi, Pacific Energy Advisors

RE: Revised MCE Implementation Plan to Include the City of Hercules (Agenda Item #10)

ATTACHMENT: Addendum No. 9 to the MCE Implementation Plan and Statement of Intent to the CPUC

Dear Executive Committee Members:

Summary:

On November 16, 2023, your Board approved Resolution No. 2023-12 Approving the City of Hercules as a Member of MCE. On February 8, 2017, the California Public Utilities Commission (CPUC) passed Resolution E-4907, which delays the timeline by which a new member jurisdiction may begin service with a community choice aggregator.

CPUC Resolution E-4907 also requires the submission of an Addendum to MCE's Implementation Plan and Statement of Intent by the end of 2023 to start service in 2025. If the CPUC approves the addendum, customers in Hercules would be eligible for enrollment starting January 1, 2025. Staff would likely recommend enrollment in April 2025, in alignment with the timing of previous new community enrollments.

At the November Board meeting, your Board approved a draft version of Addendum No. 9 to the MCE Implementation Plan and Statement of Intent to the CPUC (Implementation Plan) adding the City of Hercules and authorizing the Executive Committee to approve the final version. Consistent with California Public Utilities Code § 366.2, Staff have completed the draft and now present the final Implementation plan for your approval.

Fiscal Impacts:

None to submit the Implementation Plan. All other fiscal impacts for the addition of the City of Hercules, which are expected to be limited due to the relatively small size of the customer base, have been reviewed at the November 16, 2023 meeting. Specific budgetary impacts would be reflected in FY 2025/26.

Recommendation:

Approve Addendum No. 9 to the MCE Implementation Plan and Statement of Intent and direct Staff to submit to the CPUC.

MARIN CLEAN ENERGY

ADDENDUM NO. 9 TO THE REVISED COMMUNITY CHOICE AGGREGATION IMPLEMENTATION PLAN AND STATEMENT OF INTENT

TO ADDRESS MCE EXPANSION TO THE CITY OF HERCULES



November 16, 2023

For copies of this document contact Marin Clean Energy in San Rafael, California or visit www.mcecleanenergy.org

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CHAPTER 1 – INTRODUCTION

The purpose of this document is to make certain revisions to the Marin Clean Energy Implementation Plan and Statement of Intent in order to address the expansion of Marin Clean Energy (“MCE”) to the City of Hercules. MCE is a public agency that was formed in December 2008 for purposes of implementing a community choice aggregation (“CCA”) program and other energy-related programs targeting significant greenhouse gas emissions (“GHG”) reductions. At that time, the Member Agencies of MCE included eight of the twelve municipalities located within the geographic boundaries of Marin County: the cities/towns of Belvedere, Fairfax, Mill Valley, San Anselmo, San Rafael, Sausalito and Tiburon and the County of Marin (together the “Members” or “Member Agencies”). In anticipation of CCA program implementation and in compliance with state law, MCE submitted the Marin Energy Authority Community Choice Aggregation Implementation Plan and Statement of Intent (“Implementation Plan”) to the California Public Utilities Commission (“CPUC” or “Commission”) on December 9, 2009. Consistent with its expressed intent, MCE successfully launched the Marin Clean Energy CCA program (“MCE” or “Program”) on May 7, 2010 and has been serving customers since that time.

During the second half of 2011, four additional municipalities within Marin County, the cities of Novato and Larkspur and the towns of Ross and Corte Madera, joined MCE, and a revised Implementation Plan reflecting updates related to this expansion was filed with the CPUC on December 3, 2011.

Subsequently, the City of Richmond, located in Contra Costa County, joined MCE, and a revised Implementation Plan reflecting updates related to this expansion was filed with the CPUC on July 6, 2012.

A revision to MCE’s Implementation Plan was then filed with the Commission on November 6, 2012 to ensure compliance with Commission Decision 12-08-045, which was issued on August 31, 2012. In Decision 12-08-045, the Commission directed existing CCA programs to file revised Implementation Plans to conform to the privacy rules in Attachment B of the aforementioned Decision.

During 2015, the County of Napa and the Cities of Benicia, El Cerrito, and San Pablo joined MCE; service was extended to customers in unincorporated Napa County during February 2015 and to customers in Benicia, El Cerrito and San Pablo during May 2015. To address the anticipated effects of these expansions, MCE filed with the Commission a revision to its Implementation Plan on July 18, 2014 to address expansion to the County of Napa (the Commission subsequently certified this revision on September 15, 2014). Following the Commission’s certification of this revision, MCE submitted Addendum No. 1 to the Revised Community Choice Aggregation Implementation Plan and Statement of Intent to Address MCE Expansion to the City of San Pablo (“Addendum No. 1”) on September 25, 2014 (and the Commission subsequently certified Addendum No. 1 on October 29, 2014); and Addendum No. 2 to the Revised Community Choice Aggregation Implementation Plan and Statement of Intent to Address MCE Expansion to the City of Benicia (“Addendum No. 2”) on November 21, 2014 (the Commission subsequently certified

Addendum No. 2 on December 1, 2014); and Addendum No. 3 to the Revised Community Choice Aggregation Implementation Plan and Statement of Intent to Address MCE Expansion to the City of El Cerrito ("Addendum No. 3") on January 7, 2015 (the Commission subsequently certified Addendum No. 3 on January 16, 2015).

On April 21, 2016, MCE's Board of Directors (the "Board" or "Governing Board") unanimously adopted Resolution No. 2016-01, which approved the cities of American Canyon, Calistoga, Lafayette, Napa, St. Helena and Walnut Creek as well as the Town of Yountville as members of MCE. On this date, MCE's Board also approved the related Addendum No. 4 to its Revised Community Choice Aggregation Implementation Plan and Statement of Intent ("Addendum No. 4"), which addressed expansion to such Communities. Addendum No. 4 was submitted to the Commission on April 22, 2016; Addendum No. 4 was certified by the Commission thereafter on May 6, 2016.

On July 20, 2017, MCE's Board adopted Resolution No. 2017-06, which approved Contra Costa County (unincorporated areas); the cities of Concord, Martinez, Oakley, Pinole, Pittsburg and San Ramon; and the towns of Danville and Moraga as members of MCE. On this date, MCE's Board also approved the related Addendum No. 5 to its Revised Community Choice Aggregation Implementation Plan and Statement of Intent ("Addendum No. 5"), which addressed expansion to such Communities. Addendum No. 5 was submitted to the Commission on September 25, 2017; Addendum No. 5 was certified by the Commission thereafter on December 21, 2017.

On October 18, 2018, MCE's Board approved the membership request of Solano County (unincorporated areas) via Resolution No. 2018-12, which also approved the related Addendum No. 6 to MCE's Revised Community Choice Aggregation Implementation Plan and Statement of Intent ("Addendum No. 6"), addressing service delivery within the unincorporated areas of Solano County. Addendum No. 6 was submitted to the Commission on November 20, 2018; Addendum No. 6 was certified by the Commission thereafter on February 19, 2019.

Following the aforementioned expansions, MCE's Board approved the membership requests of the cities of Pleasant Hill and Vallejo on November 21, 2019 via Resolution No. 2019-05, which also approved the related Addendum No. 7 to MCE's Revised Community Choice Aggregation Implementation Plan and Statement of Intent ("Addendum No. 7"), which addressed service delivery within the cities of Pleasant Hill and Vallejo. Addendum No. 7 was submitted to the Commission on December 6, 2019; Addendum No. 7 was certified by the Commission thereafter on March 9, 2020.

MCE's Board approved the membership request of the City of Fairfield on November 19, 2020 via Resolution No. 2020-03 (attached hereto as Appendix A), and similarly approved this Addendum No. 8 to MCE's Revised Community Choice Aggregation Implementation Plan and Statement of Intent ("Addendum No. 8"), which addresses service delivery within the City of Fairfield. Addendum No. 8 was submitted to the Commission on DATE; Addendum No. 8 was certified by the Commission thereafter on DATE.

More recently, MCE's Board approved the membership request of the City of Hercules on November 16, 2023 via Resolution No. 2023-12 (attached hereto as Appendix A), and similarly approved this Addendum No. 9 to MCE's Revised Community Choice Aggregation Implementation Plan and Statement of Intent ("Addendum No. 9"), which addresses service delivery within the City of Hercules.

The MCE program now provides electric generation service to approximately 585,000 customers, including a cross section of residential and commercial accounts. During its more than thirteen-year operating history, non-member municipalities have monitored MCE's progress, evaluating the potential opportunity for membership, which would enable customer choice with respect to electric generation service. In response to such inquiries, MCE's Board adopted Policy 007, which established a formal process and specific criteria for new member additions. In particular, this policy identifies several threshold requirements, including the specification that any prospective member evaluation demonstrate rate-related savings (based on prevailing market prices for requisite energy products at the time of each analysis) as well as environmental benefits (as measured by anticipated reductions in greenhouse gas emissions and increased renewable energy sales to CCA customers) before proceeding with expansion activities, including the filing of related revisions/addenda to this Implementation Plan. As MCE receives new membership requests, staff will follow the prescribed evaluative process of Policy 007 and will present related results at future public meetings. To the extent that membership evaluations demonstrate favorable results and any new community completes the process of joining MCE, this Implementation Plan will be revised through a related addendum, highlighting key impacts and consequences associated with the addition of such new community/communities.

In response to public interest and MCE's successful operational track record, the City of Hercules requested MCE membership, consistent with MCE Policy 007, and adopted the requisite ordinance for joining MCE. As previously noted, MCE's Board approved such membership request at a duly noticed public meeting on November 16, 2023 through the adoption of Resolution No. 2023-12.

This Addendum No. 9 describes MCE's expansion plans to include the City of Hercules. MCE intends to enroll such customers in its CCA Program during the month of April 2025, consistent with the Commission's requirements described in Resolution E-4907, which define relevant timing for Implementation Plan filing in advance of service commencement. According to the Commission, the Energy Division is required to receive and review a revised MCE implementation plan reflecting changes/consequences of additional members. With this in mind, MCE has reviewed its revised Implementation Plan, which was filed with the Commission on July 18, 2014, as well as previously filed and certified Addendums, and has identified certain information that requires updating to reflect the changes and consequences of adding the City of Hercules as well as other forecast modifications, which reflect the most recent historical electric energy use within MCE's existing service territory. This Addendum No. 9 reflects pertinent changes that are expected to result from the new member addition as well as updated projections that are considerate of recent operations. This document format, including references to MCE's

most recent Implementation Plan revision (filed with the Commission on July 18, 2014 and certified by the Commission on September 15, 2014), which is incorporated by reference and attached hereto as Appendix D, addresses all requirements identified in Public Utilities Code Section 366.2(c)(4), including universal access, reliability, equitable treatment of all customer classes and any requirements established by state law or by the CPUC concerning aggregated service, while streamlining public review of pertinent changes related to MCE's anticipated expansion.

CHAPTER 2 – CHANGES TO ADDRESS MCE EXPANSION TO THE CITY OF HERCULES

As previously noted, this Addendum No. 9 addresses the anticipated impacts of MCE's planned expansion to the City of Hercules, as well as other forecast modifications reflecting the most recent historical electric energy use within MCE's existing service territory. As a result of this member addition, certain assumptions regarding MCE's future operations have changed, including customer energy requirements, peak demand, renewable energy purchases, revenues, expenses and various other items. The following section highlights pertinent changes related to this planned expansion. To the extent that certain details related to membership expansion are not specifically discussed within this Addendum No. 9, MCE represents that such information shall remain unchanged relative to the July 18, 2014 Implementation Plan revision.

With regard to the defined terms Members and Member Agencies, the following Communities are now signatories to the MCE Joint Powers Agreement and represent MCE's current membership:

Member Agencies
City of American Canyon
City of Belvedere
City of Benicia
City of Calistoga
City of Concord
County of Contra Costa
Town of Corte Madera
Town of Danville
City of El Cerrito
Town of Fairfax
City of Fairfield
City of Hercules
City of Lafayette
City of Larkspur
County of Marin
City of Martinez
City of Mill Valley
Town of Moraga
City of Napa
County of Napa
City of Novato
City of Oakley
City of Pinole
City of Pittsburg
City of Pleasant Hill
City of Richmond
Town of Ross
Town of San Anselmo
City of Saint Helena
City of San Pablo
City of San Rafael
City of San Ramon
City of Sausalito
County of Solano
Town of Tiburon
City of Vallejo
City of Walnut Creek
Town of Yountville

Throughout this document, use of the terms Members and Member Agencies refer to the aforementioned Communities. To the extent that the discussion herein addresses the process of

aggregation and MCE organization, each of these communities is now an MCE Member and the electric customers of such jurisdictions have been or will be offered CCA service consistent with the noted phase-in schedule.

Aggregation Process

MCE's aggregation process was discussed in Chapter 2 of MCE's July 18, 2014 Revised Implementation Plan. This first paragraph of Chapter 2 is replaced in its entirety with the following verbiage:

As previously noted, MCE successfully launched its CCA Program, MCE, on May 7, 2010 after meeting applicable statutory requirements and in consideration of planning elements described in its initial Implementation Plan. At this point in time, MCE plans to expand agency membership to include the City of Hercules. This community has requested MCE membership, and MCE's Board of Directors subsequently approved this membership request at a duly noticed public meeting on November 16, 2023

Program Phase-In

Program phase-in was discussed in Chapter 5 of MCE's July 18, 2014 Revised Implementation Plan. Chapter 5 is replaced in its entirety with the following verbiage:

MCE will continue to phase-in the customers of its CCA Program as communicated in this Implementation Plan. To date, nine complete phases have been successfully implemented. A tenth phase, which will commence in April 2025, will include service commencement to customers located within the City of Hercules, as reflected in the following table.

MCE Phase No.	Status & Description of Phase	Implementation Date
Phase 1: 8,500 Accounts	Complete: MCE Member (municipal) accounts & a subset of residential, commercial and/or industrial accounts, comprising approximately 20 percent of total customer load within MCE's original Member Agencies.	May 7, 2010
Phase 2A: 6,100 Accounts	Complete: Additional commercial and residential accounts, comprising approximately 20 percent of total customer load within MCE's original Member Agencies (incremental addition to Phase 1).	August 2011
Phase 2B: 79,000 Accounts	Complete: Remaining accounts within Marin County.	July 2012
Phase 3: 35,000 Accounts	Complete: Residential, commercial, agricultural, and street lighting accounts within the City of Richmond.	July 2013

MCE Phase No.	Status & Description of Phase	Implementation Date
Phase 4A: 14,000 Accounts	Complete: Residential, commercial, agricultural, and street lighting accounts within the unincorporated areas of Napa County, subject to economic and operational constraints.	February 2015
Phase 4B: 30,000 Accounts	Complete: Residential, commercial, agricultural, and street lighting accounts within the City of San Pablo, the City of Benicia and the City of El Cerrito, subject to economic and operational constraints.	May 2015
Phase 5: 83,000 Accounts	Complete: Residential, commercial, agricultural, and street lighting accounts within the Cities of American Canyon, Calistoga, Lafayette, Napa, Saint Helena, Walnut Creek and the Town of Yountville.	September 2016
Phase 6: 216,000 Accounts	Complete: Residential, commercial, agricultural, and street lighting accounts within Contra Costa County (unincorporated areas); the cities of Concord, Martinez, Oakley, Pinole, Pittsburg and San Ramon; and the towns of Danville and Moraga.	April 2018
Phase 7: 11,000 Accounts	Complete: Residential, commercial, agricultural, and street lighting accounts within Solano County (unincorporated areas).	April 2020
Phase 8: 58,000 Accounts	Complete: Residential, commercial, agricultural, and street lighting accounts within the Cities of Pleasant Hill and Vallejo	April 2021
Phase 9: 38,000 Accounts	Complete: Residential, commercial, agricultural, and street lighting accounts within the City of Fairfield	April 2022
Phase 10: ~10,000	Pending Implementation Plan Certification: Residential, commercial, agricultural, and street lighting accounts within the City of Hercules	April 2025 (planned, pending Implementation Plan Certification)

This approach has provided MCE with the ability to start slow, addressing problems and unforeseen challenges associated with a small, manageable CCA program before offering service to successively larger groups of customers. Following completion of Phase 10 customer enrollments, MCE expects to serve a customer base of approximately 595,000 accounts. This approach has also allowed MCE and its energy suppliers to address all system requirements (billing, collections and payments) under a phase-in approach that was designed to minimize potential exposure to uncertainty and financial risk by “walking” (when serving relatively small

account totals) prior to “running” (when serving much larger account totals). The Board may evaluate other phase-in options based on future market conditions, statutory requirements and regulatory considerations as well as other factors potentially affecting the integration of additional customer accounts.

Sales Forecast

With regard to MCE’s sales forecast, which is addressed in Chapter 6, Load Forecast and Resource Plan, MCE assumes that total annual retail sales will increase to approximately 5,600 GWh following Phase 10 expansion. The following tables have been updated to reflect the impacts of planned expansion to MCE’s new membership.

Chapter 6, Resource Plan Overview

Marin Clean Energy Proposed Resource Plan (GWh) 2010 to 2026																	
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
MCE Demand (GWh)																	
Retail Demand	-91	-187	-574	-1,116	-1,265	-1,712	-2,241	-2,901	-4,545	-5,543	-5,749	-5,729	-6,007	-6,158	-6,113	-6,185	-6,266
Distributed Generation	0	2	4	5	9	14	135	121	139	472	565	719	891	980	1,078	1,186	1,304
Energy Efficiency	0	0	0	0	1	3	3	5	7	10	16	19	26	45	60	75	90
EV Demand	0	0	0	0	0	0	-22	-29	-38	-75	-95	-357	-447	-536	-613	-683	-737
Losses and UFE	-5	-11	-34	-67	-75	-102	-128	-168	-266	-308	-316	-321	-332	-340	-335	-336	-337
Total Demand	-97	-197	-604	-1,177	-1,330	-1,797	-2,253	-2,973	-4,703	-5,444	-5,578	-5,669	-5,869	-6,009	-5,924	-5,943	-5,945
MCE Supply (GWh)																	
<u>Renewable Resources</u>																	
Generation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Power Purchase Contracts	23	50	291	566	652	927	1,165	1,631	2,582	3,148	3,234	3,284	3,409	3,602	3,737	3,985	4,220
Total Renewable Resources	23	50	291	566	652	927	1,165	1,631	2,582	3,148	3,234	3,284	3,409	3,602	3,737	3,985	4,220
<u>Conventional/Hydro Resources</u>																	
Generation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Power Purchase Contracts	74	147	314	611	678	870	1,088	1,342	2,121	2,296	2,344	2,385	2,460	2,407	2,186	1,958	1,725
Total Conventional/Hydro Resources	74	147	314	611	678	870	1,088	1,342	2,121	2,296	2,344	2,385	2,460	2,407	2,186	1,958	1,725
Total Supply	97	197	604	1,177	1,330	1,797	2,253	2,973	4,703	5,444	5,578	5,669	5,869	6,009	5,924	5,943	5,945
Energy Open Position (GWh)																	
	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Chapter 6, Customer Forecast

Marin Clean Energy Enrolled Retail Service Accounts Phase-In Period (End of Month)												
	May-10	Aug-11	Jul-12	Jul-13	Feb-15	May-15	Sep-16	Apr-18	Apr-20	Apr-21	Apr-22	Apr-25
MCE Customers												
Residential	7,354	12,503	77,345	106,510	120,204	145,874	225,128	421,325	430,493	485,540	522,629	537,793
Commercial & Industrial	579	1,114	9,913	13,098	15,316	17,884	27,274	44,708	46,226	50,627	54,085	54,607
Street Lighting & Traffic	138	141	443	748	1,014	1,156	1,866	3,670	3,973	4,470	4,741	5,268
Ag & Pumping	-	<15	113	109	1,467	1,467	1,700	2,051	3,274	3,292	3,314	3,249
Total	8,071	13,759	87,814	120,465	138,001	166,381	255,968	471,754	483,966	543,929	584,769	600,917

Marin Clean Energy Retail Service Accounts (End of Year) 2010 to 2026																	
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
MCE Customers																	
Residential	7,354	12,503	77,345	106,510	106,510	145,874	225,128	226,254	421,325	423,432	430,493	485,540	522,629	524,010	526,630	537,793	540,482
Commercial & Industrial	579	1,114	9,913	13,098	13,098	17,884	27,274	27,410	44,708	44,932	46,226	50,627	54,085	53,659	53,927	54,607	54,880
Street Lighting & Traffic	138	141	443	748	748	1,156	1,866	1,875	3,670	3,688	3,973	4,470	4,741	5,103	5,129	5,268	5,294
Ag & Pumping	-	<15	113	109	109	1,467	1,700	1,709	2,051	2,061	3,274	3,292	3,314	3,217	3,233	3,249	3,265
Total	8,071	13,759	87,814	120,465	120,465	166,381	255,968	257,248	471,754	474,113	483,966	543,929	584,769	585,989	588,919	600,918	603,922

Chapter 6, Sales Forecast

Marin Clean Energy Energy Requirements (GWh) 2010 to 2026																	
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
MCE Energy Requirements (GWh)																	
Retail Demand	91	187	574	1,116	1,265	1,712	2,241	2,901	4,545	5,543	5,749	5,729	6,007	6,158	6,113	6,185	6,266
Distributed Generation	0	-2	-4	-5	-9	-14	-135	-121	-139	-472	-565	-719	-891	-980	-1,078	-1,186	-1,304
Energy Efficiency	0	0	0	0	-1	-3	-3	-5	-7	-10	-16	-19	-26	-45	-60	-75	-90
EV Demand	0	0	0	0	0	0	22	29	38	75	95	357	447	536	613	683	737
Losses and UFE	5	11	34	67	75	102	128	168	266	308	316	321	332	340	335	336	337
Total Load Requirement	97	197	604	1,177	1,330	1,797	2,253	2,973	4,703	5,444	5,578	5,669	5,869	6,009	5,924	5,943	5,945

Chapter 6, Capacity Requirements

Marin Clean Energy Capacity Requirements (MW) 2010 to 2026																	
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
Demand (MW)																	
Retail Demand	28	46	182	233	234	318	441	682	1,068	1,293	1,445	1,564	1,725	1,746	1,800	1,859	1,925
Distributed Generation	-	(1)	(2)	(3)	(5)	(8)	(77)	(81)	(94)	(337)	(394)	(483)	(598)	(658)	(724)	(796)	(876)
Energy Efficiency	-	-	-	-	-	-	(1)	(1)	(2)	(2)	(16)	(47)	(47)	(47)	(47)	(47)	(47)
EV Load	-	-	-	-	-	-	10	13	18	34	43	92	115	138	158	176	190
Losses and UFE	2	3	11	14	14	19	22	37	59	59	65	68	72	71	71	72	72
Total Net Peak Demand	30	47	191	244	243	328	396	650	1,050	1,048	1,143	1,194	1,267	1,250	1,259	1,263	1,264
Reserve Requirement (%)	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%	16%	17%	17%	17%
Capacity Reserve Requirement	4	7	29	37	36	49	59	97	157	157	171	179	190	200	214	215	215
Capacity Requirement Including Reserve	34	55	220	281	279	378	455	747	1,207	1,205	1,314	1,373	1,457	1,450	1,473	1,478	1,478

Chapter 6, Renewables Portfolio Standards Energy Requirements

	Marin Clean Energy RPS Requirements (MWh) 2010 to 2026																
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
Total Retail Sales (MWh)	91,219	185,493	570,144	1,110,487	1,254,794	1,695,274	2,125,091	2,804,277	4,436,963	5,136,159	5,262,209	5,347,756	5,537,211	5,668,782	5,588,339	5,607,000	5,608,858
RPS Procurement Quantity Requirement (%)	20%	20%	20%	20%	22%	23%	25%	27%	29%	31%	33%	36%	39%	41%	44%	47%	49%
Gross RPS Procurement Quantity Requirement (MWh)	18,244	37,099	114,029	222,097	272,290	394,999	531,273	757,155	1,286,719	1,592,209	1,736,529	1,914,497	2,131,826	2,341,207	2,458,869	2,618,469	2,765,167

Marin Clean Energy RPS Requirements and Program Renewable Energy Targets (MWh) 2010 to 2026																	
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
Total Retail Sales (MWh)	91,219	185,493	570,144	1,110,487	1,254,794	1,695,274	2,125,091	2,804,277	4,436,963	5,136,159	5,262,209	5,347,756	5,537,211	5,668,782	5,588,339	5,607,000	5,608,858
Gross RPS Procurement Quantity Requirement	18,244	37,099	114,029	222,097	272,290	394,999	531,273	757,155	1,286,719	1,592,209	1,736,529	1,914,497	2,131,826	2,341,207	2,458,869	2,618,469	2,765,167
65% L/T Requirement (2021 Forward)	-	-	-	-	-	-	-	-	-	-	-	1,244,423	1,385,687	1,521,784	4,057,134	6,938,943	10,092,860
Program Renewable Target (MWh)	24,543	51,525	166,522	364,363	646,619	866,365	1,160,620	1,671,167	2,756,266	3,168,446	3,233,866	3,284,063	3,409,133	3,601,660	3,737,378	3,985,212	4,220,323
Program Target (% of Retail Sales)	27%	28%	29%	33%	52%	51%	55%	60%	62%	62%	61%	61%	62%	64%	67%	71%	75%
Voluntary Margin of Overprocurement (MWh)	6,299	14,426	52,493	142,266	374,329	471,366	629,347	914,012	1,469,547	1,576,237	1,497,337	1,369,566	1,277,306	1,260,453	1,278,509	1,366,743	1,455,156
Annual Increase (MWh)	24,543	26,982	114,997	197,841	282,256	219,746	294,255	510,547	1,085,099	412,180	65,420	50,197	125,069	192,527	135,718	247,834	235,112

Chapter 6, Energy Efficiency

Marin Clean Energy Energy Efficiency Savings Goals (GWH) 2010 to 2026																	
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
MCE Retail Demand	91	187	574	1,116	1,265	1,712	2,241	2,901	4,545	5,543	5,749	5,729	6,007	6,158	6,113	6,185	6,266
MCE Energy Efficiency Goal	0	0	0	0	-1	-3	-3	-5	-7	-10	-16	-19	-26	-45	-60	-75	-90

Chapter 6, Distributed Generation

Marin Clean Energy Distributed Generation Projections (MW) 2010 to 2026																	
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
DG Capacity	-	1	2	3	5	8	77	81	94	337	394	483	598	658	724	796	876

Financial Plan

With regard to MCE's financial plan, which is addressed in Chapter 7, Financial Plan, MCE has updated its expected operating results, which now include projected impacts related to service expansion within the City of Hercules. The following table reflects updated operating projections in consideration of this planned expansion.

Chapter 7, CCA Program Operating Results

Marin Clean Energy Summary of CCA Program Phase-In (January 2010 through December 2026)																	
CATEGORY	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
I. REVENUES FROM OPERATIONS (\$)																	
ELECTRIC SALES REVENUE	10,610,804	16,454,790	44,052,111	78,782,938	96,577,968	134,474,212	165,289,480	212,418,679	329,232,524	379,396,284	459,417,279	461,045,535	576,803,370	766,613,247	820,082,624	833,976,835	869,810,588
LESS UNCOLLECTIBLE ACCOUNTS	(29,176)	(140,371)	(299,942)	(540,077)	(662,078)	(921,934)	(1,126,363)	(1,442,225)	(2,351,872)	(2,642,638)	(6,578,102)	(6,165,288)	(15,847,699)	(21,545,823)	(16,922,434)	(17,206,925)	(17,938,543)
TOTAL REVENUES	10,581,628	16,314,419	43,752,169	78,242,861	95,915,890	133,552,278	164,163,116	210,976,455	326,880,652	376,753,646	452,839,177	454,880,247	560,955,671	745,067,424	803,160,190	816,769,910	851,872,045
II. COST OF OPERATIONS (\$)																	
(A) ADMINISTRATIVE AND GENERAL (A&G)																	
STAFFING	321,117	430,659	1,077,759	1,386,303	1,825,000	2,710,500	4,728,650	6,151,600	6,920,156	7,571,804	10,918,118	12,643,711	14,826,470	16,597,853	13,917,602	14,335,130	14,765,184
CONTRACT SERVICES	1,035,333	848,063	3,131,840	4,457,964	4,572,751	4,838,757	6,326,457	7,370,528	9,017,602	9,244,578	11,040,677	15,404,604	10,544,475	11,273,052	17,106,672	17,535,437	17,860,044
IOU FEES (INCLUDING BILLING)	19,548	60,794	287,618	584,729	660,114	877,953	1,124,270	1,261,350	1,775,059	1,873,962	2,080,744	2,246,449	2,279,677	2,562,100	2,787,124	2,920,852	3,023,045
OTHER A&G	191,261	189,204	249,729	302,806	373,125	610,500	791,750	1,284,784	1,398,107	2,057,959	3,466,146	3,735,212	2,795,821	3,133,908	2,325,747	2,395,520	2,467,385
SUBTOTAL A&G	1,567,259	1,528,720	4,746,946	6,731,802	7,430,990	9,037,711	12,971,126	16,068,262	19,110,924	20,748,303	27,505,685	34,029,976	30,446,443	33,566,913	36,137,146	37,186,939	38,115,659
(B) COST OF ENERGY	7,418,662	11,881,494	35,805,704	68,624,319	84,358,061	118,264,445	144,457,641	190,345,081	264,842,182	297,178,130	382,216,527	420,577,364	542,017,581	552,282,880	691,035,929	743,125,503	773,930,119
(C) DEBT SERVICE	654,595	394,777	747,729	1,195,162	1,195,162	2,451,457	458,000	228,875	21,945	82,833	198,766	178,989	183,332	197,063	220,000	220,000	220,000
TOTAL COST OF OPERATION	9,640,516	13,804,991	41,300,380	76,551,283	92,984,212	129,753,613	157,886,767	206,642,218	283,975,051	318,009,266	409,920,978	454,786,329	572,647,356	586,046,856	727,393,075	780,532,441	812,265,778
CCA PROGRAM SURPLUS/(DEFICIT)	941,112	2,509,428	2,451,789	1,691,578	2,931,677	3,798,665	6,276,350	4,334,236	42,905,601	58,744,380	42,918,199	93,918	(11,691,685)	159,020,568	75,767,115	36,237,469	39,606,267

Expansion Addendum Appendices

Appendix A: Marin Clean Energy Resolution 2023-12

Appendix B: Joint Powers Agreement

Appendix C: City of Hercules Ordinance

Appendix D: Marin Clean Energy Revised Implementation Plan and Statement of Intent
(July 18, 2014) [to be added for submission]

Appendix A: Marin Clean Energy Resolution 2023-12

RESOLUTION NO. 2023-12**A RESOLUTION OF THE BOARD OF DIRECTORS OF MCE APPROVING THE CITY OF HERCULES AS A MEMBER OF MCE**

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

WHEREAS, the Act expressly authorizes participation in a CCA program through a joint powers agency, and on December 19, 2008, Marin Clean Energy (“MCE”), (formerly the Marin Energy Authority) was established as a joint power authority pursuant to a Joint Powers Agreement, as amended from time to time (“MCE Joint Powers Agreement”); and,

WHEREAS, on February 2, 2010, the California Public Utilities Commission certified the “Implementation Plan” of MCE, confirming MCE’s compliance with the requirements of the Act; and,

WHEREAS, MCE members include the following communities: the County of Contra Costa, the County of Marin, the County of Napa, the County of Solano, the City of American Canyon, the City of Belvedere, the City of Benicia, the City of Calistoga, the City of Concord, the Town of Corte Madera, the Town of Danville, the City of El Cerrito, the City of Fairfield, the Town of Fairfax, the City of Lafayette, the City of Larkspur, the City of Martinez, the City of Mill Valley, the City of Moraga, the City of Napa, the City of Novato, the City of Oakley, the City of Pinole, the City of Pittsburg, the City of Pleasant Hill, the City of Richmond, the Town of Ross, the Town of San Anselmo, the City of San Pablo, the City of San Rafael, the City of San Ramon, the City of Sausalito, the City of St. Helena, the Town of Tiburon, the City of Vallejo, the City of Walnut Creek, and the Town of Yountville; and

WHEREAS, requested membership in MCE was made by the City of Hercules, June 13, 2023; and,

WHEREAS, the ordinance approving membership in MCE was approved by the City of Hercules; and,

WHEREAS, the applicant analysis for the City of Hercules was completed in October 2023, and yielded a potentially positive result;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, by the Board of Directors of MCE that the City of Hercules is approved as a member of MCE.

PASSED AND ADOPTED at a regular meeting of the MCE Board of Directors on the sixteenth day of November 2023 by the following vote:

	AYES	NOES	ABSTAIN	ABSENT
County of Marin				X
Contra Costa County				X
County of Napa	X			
County of Solano	X			
City of American Canyon	X			
City of Belvedere				X
City of Benicia	X			
City of Calistoga	X			
City of Concord	X			
Town of Corte Madera	X			
Town of Danville	X			
City of El Cerrito	X			
Town of Fairfax				X
City of Fairfield				X
City of Lafayette	X			
City of Larkspur	X			
City of Martinez	X			
City of Mill Valley	X			
Town of Moraga	X			
City of Napa	X			
City of Novato	X			
City of Oakley	X			
City of Pinole	X			
City of Pittsburg	X			
City of Pleasant Hill	X			
City of San Ramon	X			
City of Richmond	X			
Town of Ross	X			
Town of San Anselmo	X			
City of San Pablo	X			
City of San Rafael				X
City of Sausalito	X			
City of St. Helena	X			
Town of Tiburon	X			

City of Vallejo				X
City of Walnut Creek	X			
Town of Yountville	X			

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SHANELLE SCALES-PRESTON, CHAIR

ATTEST:

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DAWN WEISZ, SECRETARY

Appendix B: Joint Powers Agreement

**Marin Energy Authority
- Joint Powers Agreement -**

Effective December 19, 2008

**As amended by Amendment No. 1 dated December 3, 2009
As further amended by Amendment No. 2 dated March 4, 2010
As further amended by Amendment No. 3 dated May 6, 2010
As further amended by Amendment No. 4 dated December 1, 2011
As further amended by Amendment No. 5 dated July 5, 2012
As further amended by Amendment No. 6 dated September 5, 2013
As further amended by Amendment No. 7 dated December 5, 2013
As further amended by Amendment No. 8 dated September 4, 2014
As further amended by Amendment No. 9 dated December 4, 2014
As further amended by Amendment No. 10 dated April 21, 2016 As
further amended by Amendment No. 11 dated May 19, 2016
As further amended by Amendment No. 12 dated July 20, 2017
As further amended by Amendment No. 13 dated October 18, 2018
As further amended by Amendment No. 14 dated November 21, 2019
As further amended by Amendment No. 15 dated November 19, 2020
As further amended by Amendment No. 16 dated November 16, 2023**

Among the Following Parties:

**City of American Canyon
City of Belvedere
City of Benicia
City of Calistoga
City of Concord
Town of Corte Madera
Town of Danville
City of El Cerrito
Town of Fairfax
City of Fairfield
City of Hercules
City of Lafayette
City of Larkspur
City of Martinez
Town of Moraga
City of Mill Valley
City of Napa
City of Novato
City of Oakley
City of Pinole**

City of Pittsburg
City of Pleasant Hill
City of Richmond
Town of Ross
Town of San Anselmo
City of San Pablo
City of San Rafael
City of San Ramon
City of Sausalito
City of St. Helena
Town of Tiburon
City of Vallejo
City of Walnut Creek
Town of Yountville
County of Contra Costa
County of Marin
County of Napa
County of Solano

MARIN ENERGY AUTHORITY JOINT POWERS AGREEMENT

This **Joint Powers Agreement** (“Agreement”), effective as of December 19, 2008, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the parties set forth in Exhibit B (“Parties”). The term “Parties” shall also include an incorporated municipality or county added to this Agreement in accordance with Section 3.1.

RECITALS

1. The Parties are either incorporated municipalities or counties sharing various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.
2. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32 which will require local government to develop programs to reduce greenhouse emissions.
3. The purposes for the Initial Participants (as such term is defined in Section 2.2 below) entering into this Agreement include addressing climate change by reducing energy related greenhouse gas emissions and securing energy supply and price stability, energy efficiencies and local economic benefits. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to solar and wind energy production.
4. The Parties desire to establish a separate public agency, known as the Marin Energy Authority (“Authority”), under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 et seq.) (“Act”) in order to collectively study, promote, develop, conduct, operate, and manage energy programs.
5. The Initial Participants have each adopted an ordinance electing to implement through the Authority Community Choice Aggregation, an electric service enterprise agency available to cities and counties pursuant to California Public Utilities Code Section 366.2 (“CCA Program”). The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program. Regardless of whether or not Program Agreement 1 is approved and the CCA Program becomes operational, the parties intend for the Authority to continue to study, promote, develop, conduct, operate and manage other energy programs.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

ARTICLE 1 CONTRACT DOCUMENTS

1.1 Definitions. Capitalized terms used in the Agreement shall have the meanings specified in Exhibit A, unless the context requires otherwise.

1.2 Documents Included. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

Exhibit A:	Definitions
Exhibit B:	List of the Parties
Exhibit C:	Annual Energy Use
Exhibit D:	Voting Shares

1.3 Revision of Exhibits. The Parties agree that Exhibits B, C and D to this Agreement describe certain administrative matters that may be revised upon the approval of the Board, without such revision constituting an amendment to this Agreement, as described in Section 8.4. The Authority shall provide written notice to the Parties of the revision of any such exhibit.

ARTICLE 2 FORMATION OF MARIN ENERGY AUTHORITY

2.1 Effective Date and Term. This Agreement shall become effective and Marin Energy Authority shall exist as a separate public agency on the date this Agreement is executed by at least two Initial Participants after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(10). The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 7.4, subject to the rights of the Parties to withdraw from the Authority.

2.2 Initial Participants. During the first 180 days after the Effective Date, all other Initial Participants may become a Party by executing this Agreement and delivering an executed copy of this Agreement and a copy of the adopted ordinance required by Public Utilities Code Section 366.2(c)(10) to the Authority. Additional conditions, described in Section 3.1, may apply (i) to either an incorporated municipality or county desiring to become a Party and is not an Initial Participant and (ii) to Initial Participants that have not executed and delivered this Agreement within the time period described above.

- 2.3 Formation.** There is formed as of the Effective Date a public agency named the Marin Energy Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. The debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A Party who has not agreed to assume an Authority debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of the Authority. Notwithstanding Section 8.4 of this Agreement, this Section 2.3 may not be amended unless such amendment is approved by the governing board of each Party.
- 2.4 Purpose.** The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs, and to exercise all other powers necessary and incidental to accomplishing this purpose. Without limiting the generality of the foregoing, the Parties intend for this Agreement to be used as a contractual mechanism by which the Parties are authorized to participate as a group in the CCA Program, as further described in Section 5.1. The Parties intend that subsequent agreements shall define the terms and conditions associated with the actual implementation of the CCA Program and any other energy programs approved by the Authority.
- 2.5 Powers.** The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following:
- 2.5.1** make and enter into contracts;
 - 2.5.2** employ agents and employees, including but not limited to an Executive Director;
 - 2.5.3** acquire, contract, manage, maintain, and operate any buildings, works or improvements;
 - 2.5.4** acquire by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property;
 - 2.5.5** lease any property;
 - 2.5.6** sue and be sued in its own name;
 - 2.5.7** incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Section 53850 et seq. and authority under the Act;
 - 2.5.8** issue revenue bonds and other forms of indebtedness;
 - 2.5.9** apply for, accept, and receive all licenses, permits, grants, loans or other aids from any federal, state or local public agency;

- 2.5.10** submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;
 - 2.5.11** adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority (“Operating Rules and Regulations”); and
 - 2.5.12** make and enter into service agreements relating to the provision of services necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services.
- 2.6** **Limitation on Powers.** As required by Government Code Section 6509, the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by the County of Marin.
- 2.7** **Compliance with Local Zoning and Building Laws.** Notwithstanding any other provisions of this Agreement or state law, any facilities, buildings or structures located, constructed or caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed.

ARTICLE 3 AUTHORITY PARTICIPATION

- 3.1** **Addition of Parties.** Subject to Section 2.2, relating to certain rights of Initial Participants, other incorporated municipalities and counties may become Parties upon (a) the adoption of a resolution by the governing body of such incorporated municipality or such county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority, (b) the adoption, by an affirmative vote of the Board satisfying the requirements described in Section 4.9.1, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the adoption of an ordinance required by Public Utilities Code Section 366.2(c)(10) and execution of this Agreement and other necessary program agreements by the incorporated municipality or county, (d) payment of the membership payment, if any, and (e) satisfaction of any conditions established by the Board. Notwithstanding the foregoing, in the event the Authority decides to not implement a CCA Program, the requirement that an additional party adopt the ordinance required by Public Utilities Code Section 366.2(c)(10) shall not apply. Under such circumstance, the Board resolution authorizing membership of an additional incorporated municipality or county shall be adopted in accordance with the voting requirements of Section 4.10.

- 3.2 Continuing Participation.** The Parties acknowledge that membership in the Authority may change by the addition and/or withdrawal or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Section 3.1. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

ARTICLE 4 GOVERNANCE AND INTERNAL ORGANIZATION

- 4.1 Board of Directors.** The governing body of the Authority shall be a Board of Directors ("Board") consisting of one director for each Party appointed in accordance with Section 4.2.
- 4.2 Appointment and Removal of Directors.** The Directors shall be appointed and may be removed as follows:
- 4.2.1** The governing body of each Party shall appoint and designate in writing one regular Director who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body of each Party also shall appoint and designate in writing one alternate Director who may vote on matters when the regular Director is absent from a Board meeting. The person appointed and designated as the Director or the alternate Director shall be a member of the governing body of the Party. As an alternative to appointing its own Director and alternate Director, the governing body of any Party may elect to designate another Party within the same county (the "designated Party") to represent it on the Board with the Director and alternate Director from the designated Party (the "consolidated Parties"). Notwithstanding any provision in this Agreement to the contrary, in the case of such an election by one or more Parties in the same county, the designated Party shall have the combined votes and voting shares of the consolidated Parties and shall vote on behalf of the consolidated Parties. The governing body of a Party may revoke its designation of another Party to vote on its behalf at any time. Neither an election by a Party to designate another Party to vote on its behalf or a revocation of this election shall be effective unless provided in a written notice to the Authority.
- 4.2.2** The Operating Rules and Regulations, to be developed and approved by the Board in accordance with Section 2.5.11, shall specify the reasons for and process associated with the removal of an individual Director for cause. Notwithstanding the foregoing, no Party shall be deprived of its right to seat a Director on the Board and any such Party for which its

Director and/or alternate Director has been removed may appoint a replacement.

- 4.3 Terms of Office.** Each Director shall serve at the pleasure of the governing body of the Party that the Director represents, and may be removed as Director by such governing body at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director in accordance with the provisions of Section 4.2 within 90 days of the date that such position becomes vacant.
- 4.4 Quorum.** A majority of the Directors shall constitute a quorum, except that less than a quorum may adjourn from time to time in accordance with law.
- 4.5 Powers and Function of the Board.** The Board shall conduct or authorize to be conducted all business and activities of the Authority, consistent with this Agreement, the Authority Documents, the Operating Rules and Regulations, and applicable law.
- 4.6 Executive Committee.** The Board may establish an executive committee consisting of a smaller number of Directors. The Board may delegate to the executive committee such authority as the Board might otherwise exercise, subject to limitations placed on the Board's authority to delegate certain essential functions, as described in the Operating Rules and Regulations. The Board may not delegate to the Executive Committee or any other committee its authority under Section 2.5.11 to adopt and amend the Operating Rules and Regulations.
- 4.7 Commissions, Boards and Committees.** The Board may establish any advisory commissions, boards and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, other energy programs and the provisions of this Agreement.
- 4.8 Director Compensation.** Compensation for work performed by Directors on behalf of the Authority shall be borne by the Party that appointed the Director. The Board, however, may adopt by resolution a policy relating to the reimbursement of expenses incurred by Directors.
- 4.9 Board Voting Related to the CCA Program.**
- 4.9.1.** To be effective, on all matters specifically related to the CCA Program, a vote of the Board shall consist of the following: (1) a majority of all Directors shall vote in the affirmative or such higher voting percentage expressly set forth in Sections 7.2 and 8.4 (the "percentage vote") and (2) the corresponding voting shares (as described in Section 4.9.2 and Exhibit D) of all such Directors voting in the affirmative shall exceed 50%, or such other higher voting shares percentage expressly set forth in Sections 7.2 and 8.4 (the "percentage voting shares"), provided that, in instances in which such other higher voting share percentage would result in any one

Director having a voting share that equals or exceeds that which is necessary to disapprove the matter being voted on by the Board, at least one other Director shall be required to vote in the negative in order to disapprove such matter.

- 4.9.2.** Unless otherwise stated herein, voting shares of the Directors shall be determined by combining the following: (1) an equal voting share for each Director determined in accordance with the formula detailed in Section 4.9.2.1, below; and (2) an additional voting share determined in accordance with the formula detailed in Section 4.9.2.2, below.

4.9.2.1 Pro Rata Voting Share. Each Director shall have an equal voting share as determined by the following formula: $(1/\text{total number of Directors})$ multiplied by 50, and

4.9.2.2 Annual Energy Use Voting Share. Each Director shall have an additional voting share as determined by the following formula: $(\text{Annual Energy Use}/\text{Total Annual Energy})$ multiplied by 50, where (a) “Annual Energy Use” means, (i) with respect to the first 5 years following the Effective Date, the annual electricity usage, expressed in kilowatt hours (“kWhs”), within the Party’s respective jurisdiction and (ii) with respect to the period after the fifth anniversary of the Effective Date, the annual electricity usage, expressed in kWhs, of accounts within a Party’s respective jurisdiction, and any additional jurisdictions which they represent, that are served by the Authority and (b) “Total Annual Energy” means the sum of all Parties’ Annual Energy Use. The initial values for Annual Energy use are designated in Exhibit C, and shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year

4.9.2.3 The voting shares are set forth in Exhibit D. Exhibit D may be updated to reflect revised annual energy use amounts and any changes in the parties to the Agreement without amending the Agreement provided that the Board is provided a copy of the updated Exhibit D.

- 4.10** **Board Voting on General Administrative Matters and Programs Not Involving CCA.** Except as otherwise provided by this Agreement or the Operating Rules and Regulations, each member shall have one vote on general administrative matters, including but not limited to the adoption and amendment of the Operating Rules and Regulations, and energy programs not involving CCA. Action on these items shall be determined by a majority vote of the quorum present and voting on the item or such higher voting percentage expressly set forth in Sections 7.2 and 8.4.

4.11 Board Voting on CCA Programs Not Involving CCA That Require Financial Contributions.

The approval of any program or other activity not involving CCA that requires financial contributions by individual Parties shall be approved only by a majority vote of the full membership of the Board subject to the right of any Party who votes against the program or activity to opt-out of such program or activity pursuant to this section. The Board shall provide at least 45 days prior written notice to each Party before it considers the program or activity for adoption at a Board meeting. Such notice shall be provided to the governing body and the chief administrative officer, city manager or town manager of each Party. The Board also shall provide written notice of such program or activity adoption to the above-described officials of each Party within 5 days after the Board adopts the program or activity. Any Party voting against the approval of a program or other activity of the Authority requiring financial contributions by individual Parties may elect to opt-out of participation in such program or activity by providing written notice of this election to the Board within 30 days after the program or activity is approved by the Board. Upon timely exercising its opt-out election, a Party shall not have any financial obligation or any liability whatsoever for the conduct or operation of such program or activity.

4.12 Meetings and Special Meetings of the Board.

The Board shall hold at least four regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings may be adjourned to another meeting time. Special meetings of the Board may be called in accordance with the provisions of California Government Code Section 54956. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law. All meetings of the Board shall be conducted in accordance with the provisions of the Ralph M. Brown Act (California Government Code Section 54950 et seq.).

4.13 Selection of Board Officers.

4.13.1 Chair and Vice Chair. The Directors shall select, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office of the Chair and Vice Chair shall continue for one year, but there shall be no limit on the number of terms held by either the Chair or Vice Chair. The office of either the Chair or Vice Chair shall be declared vacant and a new selection shall be made if: (a) the person serving dies, resigns, or the Party that the person represents removes the person as its representative on the Board or (b) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

4.13.2 Secretary. The Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of

all meetings of the Board and all other official records of the Authority.

4.13.3 Treasurer and Auditor. The Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom needs to be a member of the Board. If the Board so designates, and in accordance with the provisions of applicable law, a qualified person may hold both the office of Treasurer and the office of Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depository of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Board may require the Treasurer and/or Auditor to file with the Authority an official bond in an amount to be fixed by the Board, and if so requested the Authority shall pay the cost of premiums associated with the bond. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time. The duties and obligations of the Treasurer are further specified in Article 6.

4.14 Administrative Services Provider. The Board may appoint one or more administrative services providers to serve as the Authority's agent for planning, implementing, operating and administering the CCA Program, and any other program approved by the Board, in accordance with the provisions of a written agreement between the Authority and the appointed administrative services provider or providers that will be known as an Administrative Services Agreement. The Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement and the circumstances under which the Administrative Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to hire its own employees to administer the CCA Program or any other program.

ARTICLE 5 IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

5.1 Preliminary Implementation of the CCA Program.

- 5.1.1 Enabling Ordinance.** Except as otherwise provided by Section 3.1, prior to the execution of this Agreement, each Party shall adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(10) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.
- 5.1.2 Implementation Plan.** The Authority shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Board in the manner provided by Section 4.9.
- 5.1.3 Effect of Vote On Required Implementation Action.** In the event that two or more Parties vote to approve Program Agreement 1 or any earlier action required for the implementation of the CCA Program (“Required Implementation Action”), but such vote is insufficient to approve the Required Implementation Action under Section 4.9, the following will occur:
- 5.1.3.1** The Parties voting against the Required Implementation Action shall no longer be a Party to this Agreement and this Agreement shall be terminated, without further notice, with respect to each of the Parties voting against the Required Implementation Action at the time this vote is final. The Board may take a provisional vote on a Required Implementation Action in order to initially determine the position of the Parties on the Required Implementation Action. A vote, specifically stated in the record of the Board meeting to be a provisional vote, shall not be considered a final vote with the consequences stated above. A Party who is terminated from this Agreement pursuant to this section shall be considered the same as a Party that voluntarily withdrew from the Agreement under Section 7.1.1.1.
 - 5.1.3.2** After the termination of any Parties pursuant to Section 5.1.3.1, the remaining Parties to this Agreement shall be only the Parties who voted in favor of the Required Implementation Action.
- 5.1.4 Termination of CCA Program.** Nothing contained in this Article or this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any

time in accordance with any applicable requirements of state law.

- 5.2 Authority Documents.** The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution, including but not necessarily limited to the Operating Rules and Regulations, the annual budget, and specified plans and policies defined as the Authority Documents by this Agreement. The Parties agree to abide by and comply with the terms and conditions of all such Authority Documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Article 7.

ARTICLE 6 FINANCIAL PROVISIONS

- 6.1 Fiscal Year.** The Authority's fiscal year shall be 12 months commencing April 1 and ending March 31. The fiscal year may be changed by Board resolution.

6.2 Depository.

- 6.2.1** All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.
- 6.2.2** All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times. The Board shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority, which shall be conducted in accordance with the requirements of Section 6505 of the Act.
- 6.2.3** All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board.

6.3 Budget and Recovery Costs.

- 6.3.1 Budget.** The initial budget shall be approved by the Board. The Board may revise the budget from time to time through an Authority Document as may be reasonably necessary to address contingencies and unexpected

expenses. All subsequent budgets of the Authority shall be prepared and approved by the Board in accordance with the Operating Rules and Regulations.

6.3.2 County Funding of Initial Costs. The County of Marin shall fund the Initial Costs of the Authority in implementing the CCA Program in an amount not to exceed \$500,000 unless a larger amount of funding is approved by the Board of Supervisors of the County. This funding shall be paid by the County at the times and in the amounts required by the Authority. In the event that the CCA Program becomes operational, these Initial Costs paid by the County of Marin shall be included in the customer charges for electric services as provided by Section 6.3.4 to the extent permitted by law, and the County of Marin shall be reimbursed from the payment of such charges by customers of the Authority. The Authority may establish a reasonable time period over which such costs are recovered. In the event that the CCA Program does not become operational, the County of Marin shall not be entitled to any reimbursement of the Initial Costs it has paid from the Authority or any Party.

6.3.3 CCA Program Costs. The Parties desire that, to the extent reasonably practicable, all costs incurred by the Authority that are directly or indirectly attributable to the provision of electric services under the CCA Program, including the establishment and maintenance of various reserve and performance funds, shall be recovered through charges to CCA customers receiving such electric services.

6.3.4 General Costs. Costs that are not directly or indirectly attributable to the provision of electric services under the CCA Program, as determined by the Board, shall be defined as general costs. General costs shall be shared among the Parties on such basis as the Board shall determine pursuant to an Authority Document.

6.3.5 Other Energy Program Costs. Costs that are directly or indirectly attributable to energy programs approved by the Authority other than the CCA Program shall be shared among the Parties on such basis as the Board shall determine pursuant to an Authority Document.

ARTICLE 7 WITHDRAWAL AND TERMINATION

7.1 Withdrawal.

7.1.1 General.

7.1.1.1 Prior to the Authority's execution of Program Agreement 1, any Party may withdraw its membership in the Authority by giving no less than 30 days advance written notice of its election to do so, which notice shall be given to the Authority and each Party. To permit consideration by the governing body of each Party, the Authority shall provide a copy of the proposed Program Agreement 1 to each Party at least 90 days prior to the consideration of such agreement by the Board.

7.1.1.2 Subsequent to the Authority's execution of Program Agreement 1, a Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year, by giving no less than 6 months advance written notice of its election to do so, which notice shall be given to the Authority and each Party, and upon such other conditions as may be prescribed in Program Agreement 1.

7.1.2 Amendment. Notwithstanding Section 7.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement in the manner provided by Section 8.4.

7.1.3 Continuing Liability; Further Assurances. A Party that withdraws its membership in the Authority may be subject to certain continuing liabilities, as described in Section 7.3. The withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority. The Operating Rules and Regulations shall prescribe the rights if any of a withdrawn Party to continue to participate in those Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party.

7.2 Involuntary Termination of a Party. This Agreement may be terminated with respect to a Party for material non-compliance with provisions of this Agreement or the Authority Documents upon an affirmative vote of the Board in which the minimum percentage vote and percentage voting shares, as described in Section 4.9.1, shall be no less than 67%, excluding the vote and voting shares of the Party subject to possible termination. Prior to any vote to terminate this Agreement with respect to a Party, written notice of the proposed termination and the reason(s) for such termination shall be delivered to the Party whose termination is proposed at least 30 days prior to the regular Board meeting at which such matter shall first be discussed as an agenda item. The written notice of proposed termination shall specify the particular provisions of this Agreement or the Authority Documents that the Party has allegedly violated. The Party subject to possible termination

shall have the opportunity at the next regular Board meeting to respond to any reasons and allegations that may be cited as a basis for termination prior to a vote regarding termination. A Party that has had its membership in the Authority terminated may be subject to certain continuing liabilities, as described in Section 7.3. In the event that the Authority decides to not implement the CCA Program, the minimum percentage vote of 67% shall be conducted in accordance with Section 4.10 rather than Section 4.9.1.

- 7.3 Continuing Liability; Refund.** Upon a withdrawal or involuntary termination of a Party, the Party shall remain responsible for any claims, demands, damages, or liabilities arising from the Party's membership in the Authority through the date of its withdrawal or involuntary termination, it being agreed that the Party shall not be responsible for any claims, demands, damages, or liabilities arising after the date of the Party's withdrawal or involuntary termination. In addition, such Party also shall be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority, to cover the Party's liability for the costs described above. Any amount of the Party's funds held on deposit with the Authority above that which is required to pay any liabilities or obligations shall be returned to the Party.
- 7.4 Mutual Termination.** This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its membership in the Authority, and thus terminate this Agreement with respect to such withdrawing Party, as described in Section 7.1.
- 7.5 Disposition of Property upon Termination of Authority.** Upon termination of this Agreement as to all Parties, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any program documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 8 MISCELLANEOUS PROVISIONS

- 8.1 Dispute Resolution.** The Parties and the Authority shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Should

such efforts to settle a dispute, after reasonable efforts, fail, the dispute shall be settled by binding arbitration in accordance with policies and procedures established by the Board.

- 8.2 Liability of Directors, Officers, and Employees.** The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment or duties in the manner provided by Government Code Section 995 et seq. Nothing in this section shall be construed to limit the defenses available under the law, to the Parties, the Authority, or its Directors, officers, or employees.
- 8.3 Indemnification of Parties.** The Authority shall acquire such insurance coverage as is necessary to protect the interests of the Authority, the Parties and the public. The Authority shall defend, indemnify and hold harmless the Parties and each of their respective Board or Council members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.
- 8.4 Amendment of this Agreement.** This Agreement may be amended by an affirmative vote of the Board in which the minimum percentage vote and percentage voting shares, as described in Section 4.9.1, shall be no less than 67%. The Authority shall provide written notice to all Parties of amendments to this Agreement, including the effective date of such amendments. A Party shall be deemed to have withdrawn its membership in the Authority effective immediately upon the vote of the Board approving an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board. As described in Section 7.3, a Party that withdraws its membership in the Authority in accordance with the above-described procedure may be subject to continuing liabilities incurred prior to the Party's withdrawal. In the event that the Authority decides to not implement the CCA Program, the minimum percentage vote of 67% shall be conducted in accordance with Section 4.10 rather than Section 4.9.1.
- 8.5 Assignment.** Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 8.5 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the

successors and assigns of the Parties. This Section 8.5 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

- 8.6 Severability.** If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.
- 8.7 Further Assurances.** Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.
- 8.8 Execution by Counterparts.** This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.
- 8.9 Parties to be Served Notice.** Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 48 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties.

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: Leon Garcia

Name: Leon Garcia

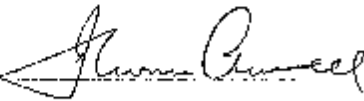
Title: Mayor

Date: 4.7.16

Party: City of American Canyon

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: 

Name: Thomas Cromwell

Title: Mayor


Date: December 8, 2008

Party: City of Belvedere

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 
Name: Elizabeth Patterson
Title: Mayor
Date: 12.29.14
Party: City of Benicia

APPROVED AS TO FORM

CITY ATTORNEY

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 

Name: Dylan Fark

Title: City Manager

Date: April 7, 2016

Party: City of Calistoga

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By:



Name: Valerie J. Barodie

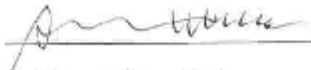
Title: City Manager

Date: July 24, 2017

Party: City of Concord

**ARTICLE 9
SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: 
Name: Alexandra Cock
Title: Mayor
Date: December 6, 2011
Party: Town of Corte Madera

ATTEST


Christine Green, Town Clerk

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By:



Name: Joseph A. Calabriga

Title: Town Manager

Date: July 17, 2017

Party: Town of Danville

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Scott Eakin

Title: City Manager

Date: _____

Party: City of El Cerrito

**ARTICLE 9
SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: David Weinsoff

Name: David Weinsoff

Title: Mayor

Date: 2.12.09

Party: Town of Fairfax

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 



Name: Sean P. Quinn

Title: Interim City Manager

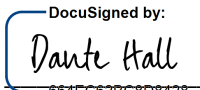
Date: 12/17/19

Party: City of Fairfield

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By:  _____
664EC62BC8D6428...

Name: Dante Hall

Title: City Manager

Date: 10/20/2023

Party: City of Hercules

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____



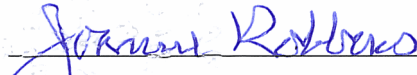
Name: Mark Mitchell

Title: Mayor

Date: 3-14-16

Party: City of Lafayette

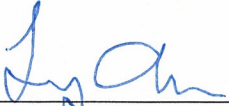
Attest:



Joanne Robbins, City Clerk

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: 
Name: Larry Chu
Title: Mayor, Larkspur
Date: November 16, 2011
Party: CITY OF LARKSPUR

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 

Name: Brad Kilger

Title: City Manager

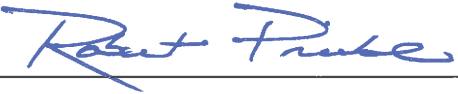
Date: 7/26/17

Party: City of Martinez

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 

Name: Robert Priebe

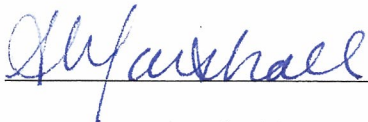
Title: Town Manager

Date: July 24, 2017

Party: Town of Moraga

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: 

Name: Shawn E. Marshall

Title: Mayor

Date: December 2, 2008

Party: City of Mill Valley

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: Mike Parness

Title: City Manager

Date: 4-11-16

Party: City of Napa

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: Madeline R. Kellner

Name: Madeline R. Kellner

Title: Mayor

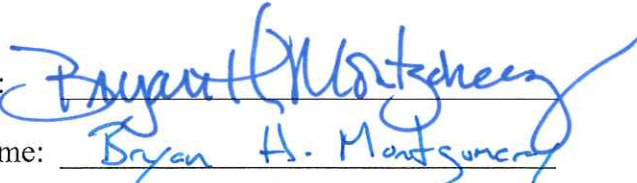
Date: October 7, 2011

Party: City of Novato

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 
Name: Bryan H. Montgomery
Title: City Manager
Date: 8/1/17

Party: City of Oakley

**ARTICLE 9
SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: Michelle Fitzer

Name: Michelle Fitzer

Title: City Manager

Date: 7/5/17

Party: City of Pinole

Approved as to form:

By: Eric Casher

Name: Eric Casher

Title: City Attorney

Date: 7/5/17

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: _____

Name: _____

Title: _____

Date: _____

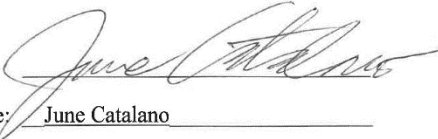
Party: _____

City of Pittsburg

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 

Name: June Catalano

Title: City Manager

Date: June 19, 2019

Party: City of Pleasant Hill

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority

By: *Deane McLaughlin*
Name: *Deane McLaughlin*
Title: *Mayor*
Date: *7/5/12*
Party: *City of Richmond*

**ARTICLE 9
SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: 

Name: Carla Small

Title: Mayor

Date: 11/16/11

Party: Town of Rock

**ARTICLE 9
SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: 

Name: Peter Breen

Title: Mayor

Date: January 9, 2009

Party: Town of San Anselmo

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 

Name: Paul V. Morris

Title: Mayor, City of San Pablo

Date: SEPT. 16, 2014

Party: City of San Pablo

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement
establishing the Marin Energy Authority,

By: Cyr N. Miller

Name: Cyr N. Miller

Title: Vice Mayor

Date: December 1, 2008

Party: CITY OF SAN RAFAEL

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By:  _____

Name: JOE GORTON

Title: CITY MANAGER

Date: 7/31/17

Party: City of San Ramon

**ARTICLE 9
SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: Amy Belser

Name: Amy Belser

Title: Mayor

Date: November 18, 2008

Party: City of Sausalito

Attest:

Isabel Rodriguez
Deputy City Clerk

Item: 5A
Meeting Date: 11-18-08
Page #: 24

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: Alan Galbraith
Name: Alan Galbraith
Title: Mayor
Date: 4/14/16

Party: City of St. Helena

**ARTICLE 9
SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint
establishing the Marin Energy Authority.

By:



Name: ALICE FREDERICKS


Title: MAYOR

Date: 2/10/09

Party: TOWN OF TIBURON

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 
Greg Nyhoff

Name:

Title: - ~~City Manager~~ - - - - -

Date: - ~~June 12, 2019~~ - - - - -

Party: City of Vallejo

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: Luella Haskew

Name: LOELLA HASKEW

Title: MAYOR

Date: 4/13/16

Party: City of Walnut Creek

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 

Name: Steven R. Rogers

Title: Town Manager

Date: 4/12/16

Party: Town of Yorkville

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By:



Name: Federal D. Glover

Title: Chair, Board of Supervisors

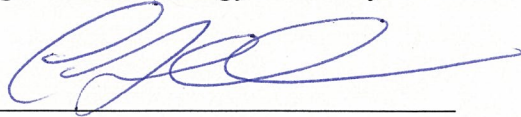
Date: August 1, 2017

Party: Contra Costa County

**ARTICLE 9
SIGNATURE**

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the Marin Energy Authority.

By: _____



Name: _____

CHARLES F. McGRATH

Title: _____

PRESIDENT, Bd of SUPERVISORS

Date: _____

NOVEMBER 18 2008

Party: _____

COUNTY OF MARIN

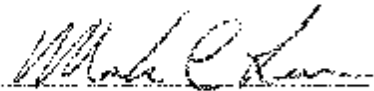
ARTICLE 9

Marin Clean Energy JPA Agreement

SIGNATURE

Amendment No. 8

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 

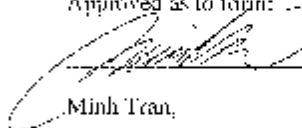
Name: Mark Luce,

Title: Chairman, Napa County Board of Supervisors

Date: 7/22/14

Party: Napa County

Approved as to form:

 Date 7/24/14

Minh Tran,

County Counsel

ARTICLE 9

SIGNATURE

IN WITNESS WHEREOF, the parties hereto have executed this Joint Powers Agreement establishing Marin Clean Energy (formerly, Marin Energy Authority)

By: 

Name: Birgitta E. Corsello

Title: County Administrator

Date: 9/26/18

Party: County of Solano

APPROVED AS TO FORM:


Solano County Counsel

Exhibit A

**To the
Joint Powers Agreement
Marin Energy Authority**

-Definitions-

“AB 117” means Assembly Bill 117 (Stat. 2002, ch. 838, codified at Public Utilities Code Section 366.2), which created CCA.

“Act” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*)

“Administrative Services Agreement” means an agreement or agreements entered into after the Effective Date by the Authority with an entity that will perform tasks necessary for planning, implementing, operating and administering the CCA Program or any other energy programs adopted by the Authority.

“Agreement” means this Joint Powers Agreement.

“Annual Energy Use” has the meaning given in Section 4.9.2.2.

“Authority” means the Marin Energy Authority.

“Authority Document(s)” means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions and activities of the Authority, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.

“Board” means the Board of Directors of the Authority.

“CCA” or “Community Choice Aggregation” means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.

“CCA Program” means the Authority’s program relating to CCA that is principally described in Sections 2.4 and 5.1.

“Director” means a member of the Board of Directors representing a Party.

“Effective Date” means the date on which this Agreement shall become effective and the Marin Energy Authority shall exist as a separate public agency, as further described in Section 2.1.

“Implementation Plan” means the plan generally described in Section 5.1.2 of this Agreement that is required under Public Utilities Code Section 366.2 to be filed with the

California Public Utilities Commission for the purpose of describing a proposed CCA Program.

“Initial Costs” means all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as the hiring of an Executive Director and any administrative staff, any required accounting, administrative, technical and legal services in support of the Authority’s initial activities or in support of the negotiation, preparation and approval of one or more Administrative Services Provider Agreements and Program Agreement 1. Administrative and operational costs incurred after the approval of Program Agreement 1 shall not be considered Initial Costs.

“Initial Participants” means, for the purpose of this Agreement, the signatories to this JPA as of May 5, 2010 including City of Belvedere, Town of Fairfax, City of Mill Valley, Town of San Anselmo, City of San Rafael, City of Sausalito, Town of Tiburon and County of Marin.

“Operating Rules and Regulations” means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

“Parties” means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 2.2 or 3.2 such that it is considered a member of the Authority.

“Party” means, singularly, a signatory to this Agreement that has satisfied the conditions in Sections 2.2 or 3.2 such that it is considered a member of the Authority.

“Program Agreement 1” means the agreement that the Authority will enter into with an energy service provider that will provide the electricity to be distributed to customers participating in the CCA Program.

“Total Annual Energy” has the meaning given in Section 4.9.2.2.

Exhibit B

To the Joint Powers Agreement Marin Energy Authority

-List of the Parties-

City of American Canyon
City of Belvedere
City of Benicia
City of Calistoga
City of Concord
Town of Corte Madera
Town of Danville
City of El Cerrito
Town of Fairfax
City of Fairfield
City of Hercules
City of Lafayette
City of Larkspur
City of Martinez
Town of Moraga
City of Mill Valley
City of Napa
City of Novato
City of Oakley
City of Pinole
City of Pittsburg
City of Pleasant Hill City
of Richmond Town of
Ross
Town of San Anselmo
City of San Pablo
City of San Rafael
City of San Ramon
City of Sausalito
St. Helena
Town of Tiburon
City of Vallejo
City of Walnut Creek
Town of Yountville
County of Contra Costa
County of Marin County
of Napa
County of Solano

Marin Clean Energy

- Annual Energy Use -

This Exhibit C is effective as of November 16, 2023.

MCE Member Community	kWh (2022)
City of American Canyon	81,427,344
City of Belvedere	8,237,519
City of Benicia	94,928,828
City of Calistoga	28,672,196
City of Concord	464,522,261
Town of Corte Madera	40,679,971
County of Contra Costa	641,627,822
Town of Danville	154,016,934
City of El Cerrito	55,954,420
Town of Fairfax	17,441,179
City of Fairfield*	452,596,498
City of Hercules**	75,602,000
City of Lafayette	91,628,665
City of Larkspur	41,529,142
City of Martinez	144,050,725
City of Mill Valley	44,544,689
County of Marin	225,874,556
Town of Moraga	42,086,139
City of Napa	273,494,891
County of Napa	296,199,222
City of Novato	188,226,487
City of Oakley	111,135,099
City of Pinole	57,339,339
City of Pittsburg	232,985,737
City of Pleasant Hill	130,900,910
City of Richmond	387,473,558
Town of Ross	9,860,762
Town of San Anselmo	31,648,284
City of San Ramon	270,273,787
City of Saint Helena	44,870,258
City of San Pablo	63,297,704
City of San Rafael	206,521,192
City of Sausalito	30,635,006
County of Solano	177,643,279
Town of Tiburon	27,721,503
City of Vallejo	335,923,675
City of Walnut Creek	323,700,192
Town of Yountville	30,326,651
MCE Total Energy Use	5,935,598,420

*2020 usage data as provided by PG&E.

**2021/2022 usage data as provided by PG&E.

All other usage data reflects MCE customer billing records for 2022.

Marin Clean Energy

- Voting Shares -

This Exhibit D is effective as of November 16, 2023.

MCE Member Community	kWh (2022)	Section 4.9.2.1	Section 4.9.2.2	Voting Share
City of American Canyon	81,427,344	1.32%	0.69%	2.00%
City of Belvedere	8,237,519	1.32%	0.07%	1.39%
City of Benicia	94,928,828	1.32%	0.80%	2.12%
City of Calistoga	28,672,196	1.32%	0.24%	1.56%
City of Concord	464,522,261	1.32%	3.91%	5.23%
Town of Corte Madera	40,679,971	1.32%	0.34%	1.66%
County of Contra Costa	641,627,822	1.32%	5.40%	6.72%
Town of Danville	154,016,934	1.32%	1.30%	2.61%
City of El Cerrito	55,954,420	1.32%	0.47%	1.79%
Town of Fairfax	17,441,179	1.32%	0.15%	1.46%
City of Fairfield*	452,596,498	1.32%	3.81%	5.13%
City of Hercules**	75,602,000	1.32%	0.64%	1.95%
City of Lafayette	91,628,665	1.32%	0.77%	2.09%
City of Larkspur	41,529,142	1.32%	0.35%	1.67%
City of Martinez	144,050,725	1.32%	1.21%	2.53%
City of Mill Valley	44,544,689	1.32%	0.38%	1.69%
County of Marin	225,874,556	1.32%	1.90%	3.22%
Town of Moraga	42,086,139	1.32%	0.35%	1.67%
City of Napa	273,494,891	1.32%	2.30%	3.62%
County of Napa	296,199,222	1.32%	2.50%	3.81%
City of Novato	188,226,487	1.32%	1.59%	2.90%
City of Oakley	111,135,099	1.32%	0.94%	2.25%
City of Pinole	57,339,339	1.32%	0.48%	1.80%
City of Pittsburg	232,985,737	1.32%	1.96%	3.28%
City of Pleasant Hill	130,900,910	1.32%	1.10%	2.42%
City of Richmond	387,473,558	1.32%	3.26%	4.58%
Town of Ross	9,860,762	1.32%	0.08%	1.40%
Town of San Anselmo	31,648,284	1.32%	0.27%	1.58%
City of San Ramon	270,273,787	1.32%	2.28%	3.59%
City of Saint Helena	44,870,258	1.32%	0.38%	1.69%
City of San Pablo	63,297,704	1.32%	0.53%	1.85%
City of San Rafael	206,521,192	1.32%	1.74%	3.06%
City of Sausalito	30,635,006	1.32%	0.26%	1.57%
County of Solano	177,643,279	1.32%	1.50%	2.81%
Town of Tiburon	27,721,503	1.32%	0.23%	1.55%
City of Vallejo	335,923,675	1.32%	2.83%	4.15%
City of Walnut Creek	323,700,192	1.32%	2.73%	4.04%
Town of Yountville	30,326,651	1.32%	0.26%	1.57%
MCE Total Energy Use	5,935,598,420	50.00%	50.00%	100.00%

*2020 usage data as provided by PG&E.

**2021/2022 usage data as provided by PG&E.

All other usage data reflects MCE customer billing records for 2022.

Appendix C: City of Hercules Ordinance

ORDINANCE NO. 546**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES APPROVING THE MARIN CLEAN ENERGY JOINT POWERS AGREEMENT AND AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM.**

WHEREAS, the City of Hercules has been actively investigating options to provide electric services to constituents within its service area with the intent of promoting use of renewable energy and competitive retail choice and reducing -energy-related greenhouse gas emissions ; and

WHEREAS, Assembly Bill (AB) 117 (Stat. 2002, ch. 838; see California Public Utilities Code section 366.2 *et seq.*; hereinafter referred to as the "Act") authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation ("CCA"); and

WHEREAS, AB 32 was signed into law in 2006 establishing the goal of reducing the State's greenhouse gas emissions to 1990 levels by 2020; and

WHEREAS, the Act expressly authorizes participation in a CCA program through a joint powers agency, and to this end, the City of Hercules has been evaluating a CCA program through Marin Clean Energy ("MCE"), established as a joint powers authority pursuant to California Government Code § 6500 *et seq.*; and

WHEREAS, on February 2, 2010, the California Public Utilities Commission certified the Implementation Plan of MCE, confirming MCE's compliance with the requirements of the Act; and

WHEREAS, electricity in Hercules is generated and provided by Pacific Gas and Electric (PG&E) and there is not currently an alternative provider in the City. PG&E is currently working to add more renewable energy to its power mix under California's renewable portfolio standard and offered 48 percent renewable energy in 2021; and

WHEREAS, the City of Hercules is committed to the development of renewable energy generation and energy efficiency improvements, reduction of greenhouse gases, and protection of the environment and fully supports MCE's current electricity procurement plan, which targets more than 60 percent renewable energy content; and

WHEREAS, the City of Hercules finds it important that its residents, businesses, and public facilities have alternative choices to energy procurement beyond PG&E; and

WHEREAS, the City of Hercules finds that joining MCE will offer Hercules customers choice

in their power provider and will help the City meet the State goal set out in AB 32; and

WHEREAS, in order to become a member of MCE, the MCE Joint Powers Agreement requires the City to adopt an ordinance electing to implement a CCA program within its jurisdiction by and through its participation in MCE; and

WHEREAS, MCE will govern and operate the CCA program on behalf of the City. The City's participation in MCE will include membership on the Board of Directors as provided in the Joint Powers Agreement; and

WHEREAS, MCE will enter into agreements with electric power suppliers and other services providers and, based on these agreements, MCE plans to provide power to residents and businesses at rates that are competitive with those of the incumbent utility; and

WHEREAS, California Public Utilities Code § 366.2 allows customers the right to opt out of the MCE CCA program and continue to receive service from PG&E. Customers who desire to continue to receive service from PG&E will be able to do so at any time; and

WHEREAS, on May 9, 2023, the City Council held a public meeting at which time interested persons had an opportunity to testify either in support or in opposition to implementation of the MCE CCA program within the City.

NOW, THEREFORE, the City Council of the City of Hercules does ordain as follows:

SECTION 1. CEQA. This ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines, as it is not a "project" and has no potential to result in a direct or reasonably foreseeable indirect physical change to the environment because it involves an organizational activity of a local government. 14 Cal. Code Regs. § 15378(a). The ordinance is expressly exempt from CEQA because it is an organizational or administrative activity of governments that will not result in direct or indirect physical change in the environment. 14 Cal. Code Regs. § 15378(b)(5). The ordinance is also exempt from CEQA because it is merely a change in organization of local agencies. 14 Cal. Code Regs. § 15320. Further, the ordinance is exempt from CEQA because there is no possibility that the ordinance or its implementation, which would only result in the formation of a governmental organization, would have a significant negative effect on the environment. 14 Cal. Code Regs. § 15061(b)(3).

SECTION 2. AUTHORIZATION TO IMPLEMENT A COMMUNITY CHOICE AGGREGATION PROGRAM. Based upon the foregoing, the City hereby elects to implement a CCA program within the jurisdiction of the City by participating in the MCE CCA program, as described in the MCE Joint Powers Agreement (Exhibit 1), and authorizes the City Manager, or designee, to execute the Joint Powers Agreement.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held for any reason to be invalid or unconstitutional by a decision of any

court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect 30 days after its adoption.

Within fifteen days after the passage of this ordinance, the City Clerk shall cause it or a summary of it to be posted in the three places designated by resolution of the City Council.

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Hercules held on the 9th day of May, 2023.

ADOPTED and ordered posted at a meeting of the City Council of the City of Hercules, held on the 23rd day of May, 2023, by the following vote of the Council:

AYES: Council Members: Tiffany Grimsley, Chris Kelley, Dion Bailey and
Mayor Walker - Griffin

NOES: Vice Mayor Dan Romero

ABSTAIN: NONE

ABSENT: NONE

DS



ATTEST

DocuSigned by:

FFC7BABD57C6457...

Alexander Walker-Griffin, Mayor

Eibleis Melendez, City Clerk