

**POWER PURCHASE AND SALE AGREEMENT
BY AND BETWEEN THE CITY OF SANTA CLARA, CALIFORNIA
AND THE OLCESE WATER DISTRICT, CALIFORNIA**

This Power Purchase and Sale Agreement (“Agreement”) is by and between the City of Santa Clara, California, a chartered California municipal corporation doing business as Silicon Valley Power (“SVP” or “Buyer”) and THE OLCESE WATER DISTRICT a California Water District formed under California Water Code section 34000 et. Seq. (“THE OLCESE WATER DISTRICT” or “Counterparty” or “Seller”). SVP and THE OLCESE WATER DISTRICT may be referred to herein individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

WHEREAS:

- A. This Agreement will enable either Party to purchase, sell or exchange Services from, to, or with the other Party (“Transaction”) in accordance with the following terms and conditions; and
- B. This Agreement does not obligate either Party to engage in a Transaction, but it does provide the terms and conditions that shall govern Transactions entered into by the Parties in accordance with this Agreement.

In consideration of the following mutual covenants, agreements, and obligations, the Parties agree as follows:

AGREEMENT PROVISIONS

1.0 Definitions

Definitions of the terms used in this Agreement with initial capitalization are found either in the body of this Agreement, or in Exhibit A.

2.0 Term of Agreement

This Agreement shall become binding upon the Parties on the Effective Date and shall remain in effect until terminated by either Party upon thirty (30) days advance written notice to the other Party. However, no termination (except for default) shall be effective until the completion of any ongoing Transaction agreed to by the Parties.

3.0 Availability and Sale of Energy, Capacity and/or, Transmission Service, or Other Services

- 3.1 Transactions. At any time during the term of this Agreement, the Parties may notify each other that specified amounts of Services are available for purchase, sale or

exchange. The general terms and conditions for any Transaction with the other Party shall be in accordance with the terms and conditions of this Agreement. The specific terms and conditions of each Transaction shall be as agreed to by the Parties in advance of the Transaction and are referred to herein as "Economic Terms."

- 3.2 Economic Terms. The Economic Terms of each Transaction shall be agreed upon by the Operating Representatives, shall be reflected in a Transaction Sheet substantially in the form of the Transaction Sheet attached hereto as Exhibit "B." The Transaction Sheet shall include, at a minimum, the following terms and conditions: (1) Description of Product (e.g., financial, physical); (2) Buying Party; (3) Selling Party; (4) Delivery Period/Term; (5) Delivery Rate; (6) Delivery Point; (7) Contract Price (\$ US); (8) Interruption Rights (i.e.; firm, non-firm); and (9) Special Conditions.
- 3.3 Schedule Imbalances. Any discrepancy between (i) the amount scheduled by a Party with the other Party and (ii) the amount scheduled with an interconnecting utility shall be corrected by the Party responsible for the discrepancy in scheduled quantities without affecting the other Party. Any discrepancy between scheduled deliveries and actual receipts as recorded by Seller and as recorded by an interconnecting utility, shall be resolved by Seller and such interconnecting utility without affecting Buyer.
- 3.4 Transaction Sheets. A Transaction Sheet shall be completed prior to the commencement of the Transaction. The terms and conditions of a Transaction may supplement, but shall not conflict with, the terms and conditions of this Agreement. Said Transaction Sheet may be sent by United States mail, or by other means, which reduces the Transaction to writing, as agreed upon by the Parties. Each Transaction Sheet shall constitute an integral part of this Agreement and shall be read and construed as one with this Agreement. In the event of any conflict between the language of this Agreement and the Transaction Sheet, the language contained in this Agreement shall control, except with regard to Economic Terms, the Transaction Sheet shall control unless contradicted by the oral recording.
- 3.5 Recording of Transactions. Each Party consents to the recording of its Operating Representatives' telephone conversations and such recordings may be introduced into evidence to prove the existence and terms of any oral Transaction. To the extent terms in the Transaction Sheet contradict the oral recording, the oral recording shall govern. Unless such Transaction Sheet is signed by both Parties, only the additional Economic Terms that are in the tape recording of the oral agreement shall be deemed included in the Economic Terms for the Transaction.
- 3.6 Operating Representatives. Within thirty (30) calendar days after execution of this Agreement, each Party shall designate in writing one or more persons with authority to act on its behalf with respect to matters contained herein ("Operating Representatives"). Operating Representatives shall have the authority to negotiate

the Economic Terms of a Transaction provided, however, such Operating Representatives shall have no authority to modify any provision of this Agreement in any manner. Each Party shall give written notice to the other Party of the identity of its designated Operating Representatives and shall promptly notify the other Party of any subsequent changes in such designation.

- 3.7 Term of Transactions. For any single Transaction whose Delivery Term exceeds three hundred and sixty five (365) days, each Party shall provide the other Party with proof of authority to enter into such a Transaction.
- 3.8 Curtailment. In the event of sudden or emergency curtailment or interruption of energy deliveries hereunder, whichever Party first receives notice of the interruption or curtailment (whether by experiencing such curtailment or otherwise) shall contact the other Party's Operating Representatives as soon as possible after that Party becomes aware of the necessity for such curtailment or interruption. Such notification shall include the cause of the curtailment or interruption, the expected duration of the curtailment or interruption, and such other information as appropriate.

4.0 Title and Risk of Loss

As between the Parties, Seller shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of the Services prior to the Delivery Point and Buyer shall be deemed to be in exclusive control (and responsible for any damages or injury caused thereby) of the Services at and from the Delivery Point. Seller warrants that it will deliver to Buyer the Contract Quantity free and clear of all liens, claims and encumbrances arising prior to the Delivery Point.

- 4.1 Seller and Buyer, respectively, shall be responsible for any costs or charges imposed on or associated with the delivery of the Contract Quantity, including control area services, inadvertent energy flows, emission allowances and environmental charges, transmission losses and loss charges relating to the transmission of the Contract Quantity (i) up to the Delivery Point in the case of Seller and (ii) at and from the Delivery Point in the case of Buyer.
- 4.2 Seller shall arrange and be responsible for transmission service to the Delivery Point and shall schedule or arrange for scheduling services with its transmission providers to deliver the Services to the Delivery Point. Buyer shall arrange and be responsible for transmission service at and from the Delivery Point and shall schedule or arrange for scheduling services with its transmission providers to receive the Services at the Delivery Point.

5.0 Ancillary Services

For purposes of this section, Ancillary Services are defined as scheduling services and other services required to maintain voltage and supply reactive power requirements in accordance with

standard practices within the electric utility industry. The Seller shall provide such Ancillary Services as are necessary or appropriate to effect the Transactions agreed to hereunder up to the Delivery Point and the Buyer shall provide such Ancillary Services as are necessary or appropriate to effect the Transactions agreed hereunder at and after the Delivery Point.

6.0 Billing, Netting and Payment

- 6.1 All Transactions initiated under the terms of this Agreement shall be accounted for on the basis of scheduled hourly quantities. The billing cycle for Transactions under this Agreement shall be one calendar month. The Parties shall maintain records of hourly schedules for accounting and billing purposes.
- 6.2 Timing and billing will be outlined in the applicable Exhibit for each Service provided.
- 6.3 The Parties shall make a good faith effort to confer and attempt to promptly resolve any disagreements regarding items contained in any statement or invoice or any claim or dispute arising out of or relating to this Agreement in an amicable, prompt and mutually agreeable manner. The Parties agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all Transactions through netting, so that only the excess amount remaining due shall be paid by the Party who owes it. Neither Party may refuse to participate in the netting-out process provided for in this Agreement due to a disputed statement or invoice. In the event the Parties disagree about an amount owed, the Parties shall nevertheless agree to the payment of the disputed amount, pending resolution of the dispute, and shall proceed with the netting-out process. After a dispute is settled, any amount which is determined to be payable by either Party shall bear interest at the Interest Rate set forth in Exhibit A. If an overpayment existed, the refund shall bear interest from the date payment was made until the date of refund. If an underpayment existed, the payment shall bear interest from the original due date to the date payment is made. If, following reasonable efforts to amicably resolve the dispute, the Parties cannot reach resolution then the dispute resolution procedures set forth in this Agreement shall be followed.
- 6.4 All invoices to SVP shall be sent to:
 - City of Santa Clara
 - Silicon Valley Power
 - 1500 Warburton Avenue
 - Santa Clara, CA 95050
 - Attn.: Account Clerk
 - Email: SVP_AP@santaclaraca.gov

6.5 All billings to THE OLCESE WATER DISTRICT shall be sent to:

THE OLCESE WATER DISTRICT

P.O. Box 60679

Bakersfield, CA 93386-0679

Attn.: Blaine Hanson

Telephone No.: (661) 872-5050 x103

6.6 All payments to SVP shall be wire transferred to:

Name of Bank: Bank of America

ABA:

Credit: City of Santa Clara - Silicon Valley Power

Account no.:

6.7 All payments to THE OLCESE WATER DISTRICT shall be wire transferred to:

Name of Bank: Union Bank of California

ABA Routing No:

Account Number:

6.8 The terms and conditions of this Billing, Netting and Payment section apply to all Transactions between the Parties under this Agreement, including but not limited to physical energy purchase and sale Transactions, the physicals purchased and sold pursuant to an exchange of futures for physicals, and to any financial derivative transactions between the Parties, such as, but not limited to, swaps and options.

7.0 Audit

Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party statements evidencing the quantities of Energy delivered at the Delivery Point. If any such examination reveals inaccuracies in any invoice, a new invoice shall be prepared reflecting corrected amounts owed. Such amounts shall be due within ten (10) days of receipt, after which time interest shall accrue at the Interest Rate. No adjustment for any statement or payment will be made unless objection to the accuracy was made prior to the lapse of twelve (12) months from the Settlement Date.

8.0 Confidentiality

8.1 Confidential Information. The Contract Price and rate terms of each Transaction shall be treated as Confidential Information by each Party to this Agreement. Except as may be required by applicable law or order of any regulatory agency, court, or commodities exchange, neither Party will, without the express written agreement of the other Party, publish, disclose or otherwise divulge Confidential Information to any third party. Confidential Information does not include information that (i) at the

time of disclosure or thereafter is or becomes generally available to and known by the public (other than as a result of a disclosure by either Party in violation of this provision); or (ii) becomes available to a Party on a non-confidential basis from a source other than the either Party, provided that such source is not bound by a confidentiality Agreement with either Party, and as applicable, with respect to such information; or (iii) has been independently acquired or developed by a Party, and as applicable, without violating any of the acquiring Party's obligations under this Agreement.

- 8.2 Public Records. The Parties acknowledge that both Parties are public agencies subject to the requirements of the California Public Records Act Cal. Gov. Code section 6250 et seq. The Parties acknowledge that a Party may submit information to the other Party that is considered confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise not subject to disclosure pursuant to an exemption to the California Public Records Act (Government Code section 6254). Upon request or demand of any third person or entity not a party to this Agreement (“Requestor”) for production, inspection, and/or copying of information designated as “Confidential Information” by a Party disclosing the Confidential Information (“Disclosing Party”), the Party receiving the Confidential Information (“Receiving Party”) shall, as soon as practical but within three (3) days of receipt of the request, notify the Disclosing Party, in accordance with the notice provisions of this Agreement, that such request has been made. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action within five (5) days after receiving notice from the Receiving Party, the Receiving Party shall be permitted to comply with the Requestor’s demand and is not required to defend against it.
- 8.3 Liability. The Receiving Party may, in its sole discretion, cooperate with the Disclosing Party in any efforts to prevent release of the Confidential Information; however, the Receiving Party shall not be required to expend any monies in excess of the cost of notifying the Disclosing Party by telephone and/or mail of the pending demand for the Confidential Information. So long as the Receiving Party complies with the provisions of notification set forth in this Agreement, the Receiving Party shall not be liable for, and the Parties hereby release each other from, any liability for any damages arising from any requirement under the law that the Receiving Party release Confidential Information to a Requestor, and such release includes the officers, commissioners, employees, agents, council members, and directors, as those terms may apply to each Party hereto, without limitation.

9.0 Creditworthiness

- 9.1 As a condition to entering into this Power Purchase Agreement, either Party may demand a letter of credit, guarantee, or other satisfactory security (“Assurance”) if the other Party’s creditworthiness does not meet the required standards formally adopted and non-discriminately imposed by the Party requiring the Assurance.
- 9.2 If at any time one Party gives the other Party reasonable grounds to believe that it will commit a breach by non-performance of the terms or conditions of this Agreement, then the other Party may demand Assurance (regardless of whether or not Assurance was required as of the Effective Date of this Agreement) to the extent necessary to fully protect the demanding Party. Such Assurance shall be in a form satisfactory to the demanding Party and shall be delivered to the Party making the demand within two (2) Business Days after receipt of the demand.

10.0 Notice

All notices given pursuant to this Agreement shall be in writing and delivered by means of the United States Postal Service first-class mail, or private overnight delivery systems addressed as follows:

To SVP:

City of Santa Clara
Silicon Valley Power
1500 Warburton Avenue
Santa Clara, CA 95050
Attn.: Chief Electric Utility Officer
Telephone No.: (408) 261-2200

To The Olcese Water District:

Olcese Water District
P.O. Box 60679
Bakersfield, CA 9386-0679
Attn.: Jeff Siemens
Telephone No:661-872-5050 x116

Notices shall be deemed received the day following the date on which the Notice was sent via an overnight mail service, and five (5) days from the date postmarked by the United States Postal Service if sent by first-class mail. If Notice is given pursuant to two different methods receipt, shall be deemed to occur on the earlier date.

11.0 Necessary Authorization

Each Party represents that it has the necessary corporate and/or legal authority to enter into this Agreement and any Transaction[s] which it agrees to hereunder, and to perform each and every duty and obligation imposed by this Agreement, and that this Agreement, when executed by each Party, represents a valid, binding, and enforceable legal obligation of each Party. Each individual affixing a signature to this Agreement represents and warrants that he or she has been duly authorized to execute this Agreement on behalf of the Party he or she represents, and that by signing the Agreement a valid, binding, and enforceable legal obligation of said Party has been created.

12.0 Liability and Damages

- 12.1 Limitation of Remedies, Liability and Damages. For breach of any provision for which an express remedy or measure of damages is provided in this Agreement, such express remedy or measure of damages shall be the sole and exclusive remedy, and the obligor's liability shall be limited as set forth in such provision and all other remedies or damages at law or in equity are waived. If no remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to direct actual damages only, and all other remedies or damages at law or in equity are waived.
- 12.2 Consequential Damages. Unless agreed to in writing with respect to a specific Transaction, neither Party shall be liable to the other for any incidental, consequential, punitive, exemplary, or indirect damages, lost profits, other business interruption damages or other special damages arising out of the performance or nonperformance of any obligation under this Agreement, by statute, in tort or in contract or under any indemnity provision or otherwise.
- 12.3 Damages for Failure to Deliver or Receive. If either Party fails to deliver or receive, as the case may be, the Contract Quantity due under a Transaction (thereby becoming the Defaulting Party), the Non-Defaulting Party shall be entitled to receive from the Defaulting Party an amount calculated as follows (unless performance is excused by Uncontrollable Forces).
 - 12.3.1 Buyer Takes Less Than Contract Quantity. If the amount the Buyer scheduled or received in any hour is less than the hourly Contract Quantity agreed upon in the Transaction, then Buyer shall pay to the Seller an amount calculated as the product of:

- a. the amount, if any, by which the Contract Price exceeded the price for which Buyer's Contract Quantity, or portion thereof, was ultimately sold to a third Party, or absent such a resale, the market price for such quantity at the Delivery Point as determined by the Seller in a commercially reasonable manner (the "Re-sale Price"), and
- b. the amount by which the quantity received by the Buyer was less than the Contract Quantity; plus
- c. all other reasonable costs related to the replacement transaction (e.g. fixed charges, transmission losses, transmission service charges, commissions or other selling costs).

12.3.2 Seller Provides Less Than Contract Quantity. If the amount the Seller scheduled or delivered in any hour is less than the hourly Contract Quantity agreed upon, then Seller shall pay to the Buyer an amount calculated as the Product of:

- a. the amount, if any, by which the quantity delivered was less than the Contract Quantity, and
- b. the amount, if any, by which the Contract Price is exceeded by the price at which Buyer purchases Services to replace the Services not delivered by Seller, or absent such a purchase, the market price for such quantity at the Delivery Point, as determined by Buyer in a commercially reasonable manner (the "Replacement Price"); plus,
- c. all other reasonable costs related to the replacement transaction (e.g. fixed charges, losses incurred, transmission source charges, commissions or other purchasing costs).

13.0 Default and Remedies for Default

13.1 Immediate Default. This Agreement may be terminated immediately, without prior notice, by the Non-Defaulting Party upon the occurrence of any of the following:

13.1.1 Assignment or transfer of Defaulting Party's interest in this contract, whether voluntarily or by operation of Law, in violation of the provisions of this Agreement;

13.1.2 General assignment of assets for the benefit of Defaulting Party's creditors;

- 13.1.3 Approval of an order or decree concerning a petition for bankruptcy protection or reorganization or other arrangement under any law relating to the bankruptcy or insolvency of Defaulting Party;
- 13.1.4 In the event the Party owing damages for failure to deliver or receive fails to pay when due, the other Party shall have the right to (i) suspend performance under the Transaction for which the amounts are due until such amounts plus interest at the legal rate of interest have been paid, (ii) suspend performance under this Agreement, and/or (iii) exercise any remedy available at law or in equity to enforce payment of such amount plus interest
- 13.2 Default. This Agreement may be terminated by the Non-Defaulting Party upon the occurrence of a default by the Defaulting Party under this Agreement, and the Defaulting Party fails to cure the same within thirty (30) days or such shorter or longer period of time or times as are provided below, after its receipt of notice thereof from the Non-Defaulting Party, or, when the cure reasonably requires more than thirty (30) days, the failure of the Defaulting Party to commence curing the default within such thirty-day period and thereafter diligently and continuously prosecute such cure to completion, including, but not limited to, any of the following:
- 13.2.1 Failure to pay any tax when due;
- 13.2.2 Failure to observe, perform or comply with any material covenant, term, condition, or provision of this Agreement required to be observed, performed or complied with by the Defaulting Party;
- 13.2.3 Any representation, warranty, or statement made in this contract that shall prove to have been incorrect in any material respect when made;
- 13.2.4 The failure of Defaulting Party to pay any fee or charge when due, and such failure is not cured within ten (10) days after notice of default is given by the Non-Defaulting Party, unless there is a good faith dispute of all or any amount of such fee or charge, in which case only the undisputed portion shall be paid, until such dispute is resolved; or
- 13.2.5 Failure to provide Assurances when demanded, and such failure is not cured within three (3) Business Days after notice of default is given by the Non-Defaulting Party.
- 13.3 Remedies for Default. In addition to all other rights and remedies provided by law or otherwise provided in this contract, to which the Non-Defaulting Party may resort cumulatively, or in the alternative, the Non-Defaulting Party is entitled to any of the following:

- 13.3.1 Except as otherwise provided herein, keep this contract in effect and enforce all of its rights and remedies hereunder, including the right to collect fees and charges as they become due, by appropriate legal action;
- 13.3.2 Seek the specific performance of the Defaulting Party or other rights or remedies at law or in equity; or
- 13.3.3 Terminate for cause this contract by giving ten (10) days written notice of termination.

14.0 Uncontrollable Force

- 14.1 Neither Party shall be in default in the performance of any obligation under this Agreement when a failure to perform its obligations under this Agreement shall be due to an Uncontrollable Force (as defined in Exhibit A). For the duration of the Uncontrollable Force, but for no longer period, the obligations of the Party claiming the event (other than the obligations to make payments then due or becoming due with respect to performance prior to the event) shall be suspended to the extent required.
- 14.2 Either Party rendered unable to fulfill any of its obligations by reason of an Uncontrollable Force shall give prompt written notice and full details of the event, including the nature, cause, date of commencement of the event and the anticipated extent of any delay or interruption in performance, to be confirmed in writing to the other Party, as soon as possible, but in no event later than five (5) days after the occurrence. The Party claiming Uncontrollable Force shall exercise due diligence to remove such inability within a reasonable time period.
- 14.3 In the event a Party becomes aware of an Uncontrollable Force that will affect or may affect its ability to perform under this Agreement, it shall provide notice to the other Party as soon as possible after that Party becomes aware of the anticipated Uncontrollable Force, and in accordance with the notice procedures set forth in this Agreement.
- 14.4 If a Party is prevented from performing its material obligations under this Agreement for a period of 6 months or longer due to an Uncontrollable Force, the unaffected Party may terminate this Agreement, without liability of either Party to the other, upon thirty (30) calendar day's written notice at any time during the Uncontrollable Force event.

15.0 Assignment

Neither Party shall assign this Agreement or its rights or obligations hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. SVP may consider, without limitation, the following matters when considering consent: the net

worth of the proposed assignee, its intended or proposed use of the Premises of the Facility, and such assignee's reputation and experience in the energy industry. Any assignment made in compliance with this paragraph shall be documented through a consent to assignment instrument that retains responsibility with the assigning party for Transactions up to the date of assignment, and provides that this Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the assigning Party. Notwithstanding the foregoing, either Party may, following written notice to the other Party, but without the need for consent from the other Party (and without relieving itself from liability hereunder), (a) transfer, pledge, or assign this Agreement as security for any financing; (b) transfer or assign this Agreement to a legally related business entity of such Party, or (c) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets of such Party; provided, however, any such assignee shall agree to be bound by the terms and conditions of this Agreement.

16.0 Taxes

Seller will be responsible for payment of all Taxes due on the generation or transmission of the power prior to its delivery at the Delivery Point(s). Buyer will be responsible for payment of all Taxes applicable to the Transaction at or after the Delivery Point(s). Each Party shall use reasonable efforts to implement the provisions of and to administer this Agreement in accordance with their intent to minimize taxes, so long as neither Party is materially adversely affected by such efforts. Either Party, upon written request of the other, shall provide a certificate of exemption or other reasonably satisfactory evidence of exemption if either Party is exempt from taxes, and shall use reasonable efforts to obtain and cooperate with obtaining any exemption from or reduction of tax. Either Party with knowledge of a tax on the purchase or sale of power that may be applicable to a Transaction under this Agreement shall notify the other Party in advance of entering into a Transaction under this Agreement of the applicability of such tax, and shall also notify the other Party of any proposal to implement a new tax or apply an existing tax to the purchase, sale, delivery, or receipt of power hereunder. If either Party is required by a taxing authority to remit Taxes for which the other Party is responsible hereunder, such responsible Party will reimburse the remitting Party for such Taxes paid by the non-responsible Party hereunder.

17.0 Alternative Dispute Resolution

- 17.1 Any controversies between the Parties regarding the construction or application of this Agreement, and claims arising out of this Agreement or any Transaction subject to this Agreement, or breach thereof, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.
- 17.2 The Parties may agree on one (1) mediator. If they cannot agree on one (1) mediator, the Party demanding the mediation shall request that the Superior Court of the county in which the party is situated appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.

17.3 Each Party shall bear their own attorney's fees for the Alternative Dispute Resolution.

17.4 The costs of mediation shall be borne by the Parties equally.

17.5 Mediation under this paragraph is a condition precedent to filing an action in any court.

18.0 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflict of law rule. State and federal courts situated in the state of California shall have exclusive jurisdiction to resolve any disputes with respect to this Agreement.

19.0 Entire Agreement

This Agreement, the Exhibits hereto, and the Transaction Sheet for each Transaction constitute the entire agreement between the Parties relating to the subject matter hereof and supersedes any other agreements, written or oral, between the Parties concerning such subject matter.

20.0 Binding Effect

The terms and provisions of this Agreement, and the respective rights and obligations hereunder of each Party, shall be binding upon, and inure to the benefit of, its successors and assigns.

21.0 Non-Waiver of Defaults

No waiver by either Party of any default of the other Party under this Agreement shall operate as a waiver of a future default, whether of a like or different character.

22.0 Required Licenses

Each Party guarantees that it has obtained, and will continue to maintain throughout the term of this Agreement, all licenses required by the State of California, Federal, or local governments, and all applicable regulatory agencies for the work to be performed by each Party under the Agreement.

23.0 Credit Reports

If required, each Party agrees to supply the other Party with information regarding its creditworthiness, including but not limited to, agreeing to promptly fill out and return any credit information forms.

24.0 Independent Contractor

The Parties acknowledge that no agency, joint, or other fiduciary relationship shall be deemed to exist or arise with respect to the matters addressed in this Agreement.

25.0 Headings

The headings of the various sections, paragraphs, and subparagraphs are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

26.0 Written Amendments

No amendment, modification or change of the terms and provisions of this Agreement shall become effective unless by written amendment executed by the Parties.

27.0 Severability and Renegotiation

Should any provision of this Agreement for any reason be declared invalid or unenforceable by final and non-appealable order of any court or regulatory body having jurisdiction, such decision shall not affect the validity of the remaining portions of the Agreement, and the remaining portions shall remain in force and effect as if this Agreement had been executed without the invalid portion. In the event any provision of this Agreement is declared invalid and the original intent of the Agreement is altered, the Parties shall promptly renegotiate such provision(s) to restore this Agreement as near as possible to its original intent and effect.

28.0 Affordable Care Act Obligations

To the extent Counterparty is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Counterparty warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Counterparty's responsibilities under the Act.

29.0 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation
doing business as Silicon Valley Power

APPROVED AS TO FORM:

Dated: _____

BRIAN DOYLE
City Attorney

DEANNA J. SANTANA
City Manager
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“SVP”

OLCESE WATER DISTRICT
a California Water District

Dated: _____

By: _____

Name: JAMES L. NICKEL

Title: President

P.O. Box 60679 Bakersfield CA 93386

Local Address: 15701 Highway 178 Bakersfield CA 93306

Email Address: jlnickel@nflc.com

Telephone: (661) 872-5050

“Counterparty”

EXHIBIT “A” DEFINITIONS

Balancing Authority Area (“BAA”): Means the electric power system (or combination of electric power systems) under the operational control of the CAISO or any other electric power system under the operational control of another organization vested with authority comparable to that of the CAISO.

Business Day: Any day except a Saturday, Sunday, or a Federal Reserve Bank holiday and shall be between the hours of 8:00 a.m. and 5:00 p.m. local time for the relevant Party’s principal place of business where the relevant Party, in each instance unless otherwise specified, shall be the Party from whom the notice, payment or delivery is being sent and by whom the notice or payment or delivery is to be received.

Buyer: The Party to a Transaction which is obligated to purchase and receive, or cause to be received, Services during a Delivery Period.

CAISO: Is the California Independent System Operator Corporation, or its successor.

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

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

Capacity Attributes: Means the attributes, whether in existence as of the Effective Date or arising thereafter during the Agreement Term, to capacity, Resource Adequacy Attributes, Local Capacity Requirement Attributes, associated attributes or reserves, or any of the foregoing as may in the future be defined by the CAISO, or any other balancing authority, reliability entity or Governmental Authority, associated with the electric generating capability of the Facility, including the right to resell such rights.

CEC: Means California’s State Energy Resources Conservation and Development Commission, also known as the California Energy Commission. The CEC is the agency responsible for certifying eligible renewable resources and tracking the procurement of such resources.

CEC Certification: Means that the California Energy Commission (or its successor agency) has certified that the Facility is an ERR for purposes of the California Renewables Portfolio Standard and that all Energy produced by the Facility qualifies as generation from an ERR for purposes of the Facility.

Claiming Party: Has the meaning set forth in Exhibit A.

Conditions Precedent: Has the meaning set forth in Exhibit B.

Contract Capacity: Fourteen megawatts (14 MW) net capacity.

Contract Price: The agreed price in US dollars (unless otherwise provided for) to be paid by Buyer to Seller for the purchase of Energy and any other required charges, as specified in a Transaction.

Contract Quantity: The quantity of Services that Seller agrees to deliver, or cause to be delivered to Buyer, and that Buyer agrees to purchase and receive, or cause to be received, from Seller, Expressed in hourly, daily, or monthly amounts and quantities for the life of the Transaction.

Contract Year: Means a twelve (12) month period beginning on the Delivery Date and each successive twelve (12) month period thereafter during the Term.

Day-Ahead Market: has the meaning set forth in the CAISO Tariff.

Delivery Date: The date identified by the CAISO and mutually agreed upon both Buyer and Seller where generation may commence in the CAISO market.

Delivery Period: The period of time from the date physical delivery of Energy is to commence to the date physical delivery is to terminate under a Transaction.

Delivery Point: The agreed point (or points) of delivery and receipt of Energy, on an electric system, as specified in a Transaction.

Energy: Means three-phase, 60-cycle alternating current electric energy generated by the Generating Facility pursuant to this Agreement, as expressed in units of kWh or MWh as measured at the Meter(s) at the Delivery Point.

Environmental Attributes: Means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, whether currently identified or identified any time in the future, attributable to the generation of electrical energy, and its avoided emission of pollutants. Environmental Attributes include but are not limited to Renewable Energy Credits, as well as: (a) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by Law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (c) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state Law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local Law, regulation or bill, and international or foreign

emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Environmental Attributes associated with one (1) MWh of Energy. Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production or investment tax credits or grants associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the Project that are applicable to a state or federal income taxation obligation, or (iii) emission reduction credits encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits.

ERR: Means Eligible Renewable Resource as defined in the Renewables Portfolio Standard (RPS) Eligibility Guidebook (Ninth Edition, Revised), publication # CEC-300-2016-006-ED9-CMF-REV, adopted April 27, 2017.

Forecast: Means the expected hourly generation for the Facility based on various inputs such as weather, hydrology information, inflows, etc.

Facility: Has the meaning set forth in Exhibit E.

Firm Power: With respect to a Transaction, the only excuse of nonperformance or non-receipt of the Contract Power subject to the Transaction shall be the existence of Uncontrollable Force.

Interest Rate: For any day, the Prime Rate of interest established by the Bank of America, or its successor, at the close of business on such day or if not a Business Day, the immediately preceding Business Day, plus a differential of two percent (2%), but in no event greater than the maximum interest rate permitted by law.

Invoice Month: The month in which invoices are sent out for the prior Transaction Month.

Local Capacity Area: Transmission constrained area as defined in a CAISO Local Capacity Technical Study.

Local Capacity Requirement Attributes: Means, with respect to a Facility, any and all Resource Adequacy Attributes or other locational attributes for the Facility related to a Local Capacity Area, as may be identified from time to time by the CAISO or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Facility within the CAISO BAA, that can be counted toward a Local Capacity Requirement, but exclusive of any RA Attributes and Flexible RA Attributes.

Meter Service Agreement: An agreement entered into between the CAISO and a CAISO Metered Entity.

Net Electrical Output: The gross power generated by the Facility, less the power consumed within the facility.

Net Remittance Amount: After netting the total amount each Party owes to the other Party under the Transactions, any resulting difference in the balance owed between the Parties shall be paid by

the Party owing the greater amount to the Party owing the lesser amount.

Non-Firm Power: With respect to a Transaction, delivery or receipt of Energy may be interrupted for any reason at any time, without liability by either Party, subject to notice and any other agreed limitations contained in the terms of the Transaction.

Participating Generator: A Generator that has undertaken to be bound by the terms of the CAISO Tariff, in the case of a Generator through a Participating Generator Agreement.

Participating Generator Agreement: An agreement between the CAISO and a Participating Generator.

Qualifying Capacity: The maximum Resource Adequacy Capacity that a Resource Adequacy Resource may be eligible to provide.

Real-Time Market: has the meaning set forth in the CAISO Tariff.

RECs or Renewable Energy Credits: A certificate of proof issued by WREGIS that an Eligible Renewable Energy Resource (ERR) has generated one megawatt hour (MWh or 1,000 kWh) of electricity. A REC shall also have the same meaning as in California Public Utilities Code Section 399.12(h). Currently RECs are used to convey Environmental Attributes associated with electricity production by a renewable energy resource.

Renewable Unit Contingent Power: Unit Contingent Power from an ERR.

Resource Adequacy (RA): A program under the CAISO Tariff that seeks to ensure sufficient resources are available to ensure the safe and reliable operation of the CAISO grid.

Resource Adequacy Attributes: All Resource Adequacy Capacity and other Resource Adequacy products or benefits associated with a Resource Adequacy Resource, whether currently identified or identified any time in the future.

Resource Adequacy Capacity (RA Capacity): The supply capacity of a Resource Adequacy Resource listed on a Resource Adequacy Plan and a Supply Plan.

Resource Adequacy Resource (RA Resource): A resource that is designated in a Supply Plan to provide Resource Adequacy Capacity. The criteria for determining the types of resources that are eligible to provide Qualifying Capacity may be established by the California Public Utilities Commission or other applicable Local Regulatory Authority and provided to the CAISO.

RPS or Renewable Portfolio Standard Program: A regulation that places an obligation on electricity supply companies to produce a specified fraction of their electricity from renewable energy sources such as hydro, wind, solar, biomass, and geothermal.

RPS Certification: A certification by the CEC that the Project is an ERR for purposes of the RPS legislation and that all Energy produced by the Project, net of Station Service Load, qualifies as generation from an ERR.

SCADA or Supervisory Control and Data Acquisition: A control system architecture that uses computers, networked data communications and graphical user interfaces for high-level process supervisory management.

Schedule or Scheduling: The acts of Seller, Buyer, and/or their designated representatives, including each Party's transmission providers, if applicable, of notifying, requesting, and confirming to each other the quantity and type of Energy to be delivered hourly on any given day or days during the Period of Delivery at a specified Delivery Point.

Scheduling Coordinator: Seller, or its designee, shall be the Scheduling Coordinator. Scheduling Coordinator has the meaning set forth in the CAISO Tariff.

Scheduling Coordinator ID Code (SCID): The individual Identification Code provided by the CAISO to the Scheduling Coordinator.

Seller: The Party to a Transaction which is obligated to sell and deliver or cause to be delivered the Services covered by the Transaction during a Delivery Period.

Services: Provision of ancillary services, capacity, energy, Resource Adequacy Capacity, RECs or transmission.

Taxes: Shall include, but not be limited to: all ad valorem, occupation, utility, gross receipts, sales, use, excise or other income or net worth. Excluded from the forgoing definition of Taxes are any charges associated with restructuring of the electric utility industry, including but not limited to: public benefits charges, grid management charges, or any other governmentally mandated charges imposed or collected as a result of deregulation of the electric industry.

Transaction Month: Each calendar month in which wholesale transaction(s) occur.

Transaction Sheet: Written confirmation of the oral agreement between the Parties regarding the sale and purchase of electric energy and/or transmission capacity under the Agreement containing the following terms and conditions: (1) Description of Product (i.e.; Physical, Financial); (2) Buying Party; (3) Selling Party; (4) Delivery Period/Term; (5) Delivery Rate; (6) Point of Delivery; (7) Contract Price (\$ US); (8) Interruption Rights (i.e.; Firm, Non-firm); and (9) Special Conditions.

Transaction: Each sale, purchase, or transfer entered into under this Agreement.

Uncontrollable Force: Any cause that renders a Party ("Claiming Party") unable to meet its obligations to the other Party, in the exercise of due diligence, to avoid, overcome, or obtain a commercially reasonable substitute therefor, and is beyond the reasonable control of the Claiming

Party, including, without limitation: acts of God, such as floods and droughts, earthquakes, landslides, tornadoes, hurricanes, blizzards, or unusually severe storms; fires; explosions; civil or public disturbances, strikes, lockouts, or labor disputes; acts of the public enemy; invasions; wars; insurrections or riots; sabotage; action or restraint of any government or governmental authority (so long as the Claiming Party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such government action); labor or material shortage; force majeure under any supply contract affecting a transmission provider or supplier of electric services; fuel or supply curtailments; and threatened or actual system emergencies. The settlement of strikes, walkouts, lockouts, and other labor disputes shall be entirely within the discretion of a Party.

- a. Neither (i) the loss of Buyer's market nor Buyer's inability economically to use or resell Energy purchased hereunder, nor (ii) Seller's ability to sell Energy at a more advantageous price, shall constitute an event of Uncontrollable Force.
- b. In a firm Transaction, interruption by a transmission provider shall not be deemed to be an event of Uncontrollable Force unless (i) the Party contracting with the transmission provider shall have made arrangement with such transmission provider for the firm transmission of energy to be delivered hereunder, as defined in the transmission provider's tariff, and (ii) such interruption is due to Uncontrollable Force as defined under the transmission provider's tariff.
- c. The term "Uncontrollable Force" shall also specifically include unscheduled power flows which reduce transmission capacity used for the Transaction and are not anticipated, unanticipated deratings of transmission lines used for the Transaction, and forced outages of transmission facilities used for the Transaction.
- d. If a Party specifies the transmission path for the transaction, then neither Party shall be required to use due diligence to find alternate transmission paths in the event of an interruption. If a Party specifies a Delivery Point, then the Seller must use due diligence to deliver to the Delivery Point and the Buyer must take the energy delivered to the Delivery Point unless the Seller cannot deliver to the Delivery Point after exercising due diligence.
- e. In Transaction for financial derivatives, Uncontrollable Force will not stand as an excuse for nonperformance.

Unit Contingent Power: The delivery or receipt of the Product from the Facility may be interrupted for any reason such as CAISO curtailments, lack of fuel, unit disruptions, without liability on the part of either Party.

WREGIS: The Western Renewable Energy Generation Information System, or any successor renewable energy tracking system for implementing California's Renewables Portfolio Standard.

EXHIBIT “B” TRANSACTION SHEET

This Transaction Letter confirms the agreement between Silicon Valley Power and THE OLCESSE WATER DISTRICT regarding the sale and purchase of wholesale electric energy products and/or transmission capacity under the following terms and conditions:

- 1) Description of Services: Renewable Unit Contingent Power with bundled RECs and Resource Adequacy Capacity. The Seller has an obligation to deliver the total Energy, RECs and Capacity pursuant to the Agreement from Rio Bravo (RIOBRV_6_UNIT 1) hydroelectric facility.
- 2) Buying Party or “Buyer”: City of Santa Clara, DBA. Silicon Valley Power
- 3) Selling Party or “Seller”: The Olcese Water District
- 4) Term/Delivery Period: 5 years / September 1, 2019 – August 31, 2024
- 5) Delivery Rate and Delivery Hours: Variable/24/7
- 6) Delivery Point: Switch 23, in the Rio Bravo Switchyard
- 7) Price (\$ US): CAISO energy settlements + \$17/MWh as further defined in Exhibit D
- 8) Contract Quantity: As a Unit Contingent Power Transaction there is no specified quantity of Product to be delivered from Buyer to Seller other than the quantity that Buyer actually produces during the Term of the Transaction.
- 9) Firmness/Interruption Rights: Unit Contingent Power
- 10) Special Conditions: This unit is a run-of-the-river facility and the output is limited based on the hydro conditions.
- 11) Conditions Precedent. SVP’s obligation to purchase the Net Electrical Output from the Facility under this Agreement will commence on the first day of the term, provided the Seller attests that all of the conditions (a) through (g) below have been completed or otherwise satisfied.
 - a. All Facility systems necessary for continuous operation and metering are tested and certified, in each case as required by CAISO, including the installation of a Remote Intelligence Gateway (RIG) or equivalent for the purpose of telemetry of real-time data to the CAISO or SVP, as required;
 - b. All applicable agreements between Seller and CAISO which are required for Seller’s performance of this Agreement are signed and delivered, including but not limited to a Participating Generator Agreement, a Meter Service Agreement and any other agreements required under the CAISO Business Practices Manual (“BPM”) for Generator Management;
 - c. All applicable agreements between Seller and Pacific Gas and Electric Company (“PG&E”) as transmission provider which are required for Seller’s performance of this Agreement are signed and delivered, including the interconnection facilities agreement under PG&E’s tariff;
 - d. The electrical interconnection facilities of Seller have demonstrated the ability to accept the Contract Capacity;
 - e. All applicable regulatory authorizations, approvals and permits for the continuous operation of the Facility (“Governmental Approvals”) are obtained;
 - f. Seller shall have obtained the CEC Certification of the Facility as an ERR; and

- g. Seller shall have obtained a WREGIS account for the transfer of renewable attributes for the Facility.
- 12) Dedication of Output: Throughout the Term of this Agreement, Seller agrees that the Net Electrical Output from the Facility shall be sold exclusively to SVP, together with all Environmental Attributes, Capacity Attributes, and Resource Adequacy Attributes associated therewith (except for any period in which the Parties' obligations are suspended due to an Uncontrollable Force).
- 13) Purchase and Sale of Net Electrical Output: Throughout the Term of this Agreement, Seller shall sell and deliver to Buyer at the Delivery Point, and Buyer shall purchase, receive at the Delivery Point, and pay for, the Net Electrical Output produced by the Facility (the "Net Electrical Output"), and the Environmental Attributes, Capacity Attributes and Resource Adequacy Attributes generated by or associated with the Facility, as measured by the meter at the Delivery Point.
- a. Seller shall arrange and be responsible for all costs assessed by, and all associated requirements of, CAISO, PG&E or any other applicable transmission provider or BAA operator to deliver the Net Electrical Output up to the Delivery Point, including all costs associated with metering and telemetry.
 - b. Buyer shall arrange and be responsible for all scheduling and transmission service of Net Electrical Output at and from the Delivery Point, including all associated requirements of CAISO, PG&E or any other applicable transmission provider or BAA operator to schedule and receive the Net Electrical Output at and from the Delivery Point, and including any transmission Outages or curtailment at and from the Delivery Point. Seller shall be responsible and liable for any and all costs (including scheduling and transmission congestion costs), penalties, charges and losses arising up to and at the Delivery Point, any CAISO imbalance charges (including, but not limited to, energy charges) assessed based on imbalances between scheduled output and actual output; provided, that Seller shall be responsible for CAISO penalties resulting from Seller's failure to curtail when required in accordance with CAISO Tariff Section 7.7.2.
- 14) Environmental Attributes and Capacity Attributes: Throughout the Term, Seller shall transfer to Buyer, and Buyer shall receive from Seller, all rights, titles, and interest in and to the Environmental Attributes, Capacity Attributes and Resource Adequacy Attributes as a component of the Net Electrical Output purchased by Buyer from Seller hereunder. Seller agrees to transfer and make such Environmental Attributes, Capacity Attributes and Resource Adequacy Attributes available to Buyer to the fullest extent allowed by Applicable Law upon Seller's production or acquisition of the Environmental Attributes, Capacity Attributes and Resource Adequacy Attributes. Seller agrees that the Contract Price is the full compensation for all Energy, Environmental Attributes, Capacity Attributes and Resource Adequacy Attributes.
- a. No Assignment: Seller shall not assign, transfer, convey, encumber, sell or otherwise dispose of any portion of the Environmental Attributes, Capacity Attributes and Resource Adequacy Attributes to any Person other than Buyer.
 - b. RPS Compliance. No later than ninety (90) days following the Delivery Date, and subject to this Exhibit, Seller shall obtain CEC Certification for the Facility and, thereafter, Seller shall use commercially reasonable efforts to ensure that the Generating Facility maintains ERR status throughout the remainder of the Term of

- this Agreement. Seller shall cooperate reasonably with Buyer and provide such certifications or attestations to Buyer as are reasonably necessary to verify that all Environmental Attributes attributable to the Energy have been transferred to Buyer.
- c. Reporting Rights. During the Term, Seller shall not report to any Person that the Environmental Attributes, Capacity Attributes and Resource Adequacy Attributes granted hereunder to Buyer belong to anyone other than Buyer, and Buyer may report under any program that such attributes purchased hereunder belong to it.
 - d. Attestation. Seller shall be responsible for complying, at its own expense, with requests for information associated with the WREGIS and/or another entity, if any, that Buyer uses to verify its renewable energy purchases and that requires registration, inspections, certification or other evidence of the capability of the Project to produce Environmental Attributes or evidence of the quality and/or quantity of such Environmental Attributes produced.
 - e. Documentation. At Buyer's request, the Parties, each at their own expense, shall execute all such documents and instruments in order to effect the transfer of the Environmental Attributes specified in this Agreement to Buyer or its designees, as Buyer may reasonably request. Upon notification by an WREGIS and/or another entity that any transfers of Environmental Attributes contemplated by this Agreement will not be recorded, the Parties shall promptly cooperate in taking all reasonable actions necessary so that such transfer can be recorded. Each Party shall promptly give the other Party copies of all documents it submits to WREGIS and/or another entity to effectuate any transfers.
 - f. Future Environmental Attributes
 - i. The Parties acknowledge and agree that additional environmental attributes of the type sold under this Agreement, and generated and available to be provided by the Facility may be recognized by a Governmental Authority after the Delivery Date ("Future Environmental Attributes"). In such event, upon Buyer's election, such Future Environmental Attributes shall be sold by Seller and purchased by Buyer pursuant to the terms and conditions set forth in this Agreement at no additional increase in the Contract Price. Any additional costs associated with the sale, purchase, transfer, qualification, verification, registration and ongoing compliance for such Future Environmental Attributes shall be borne by Buyer. Seller shall deliver a good faith estimate of such additional costs to Buyer prior to incurring such costs, and following receipt of such estimate, Buyer shall notify Seller of its continued election to purchase the Future Environmental Attributes; provided that if the additional costs exceed Seller's good faith estimate by more than ten percent (10%), Buyer shall have the right to notify Seller of its election not to purchase such Future Environmental Attributes, and Seller shall not be required to incur any new additional costs. For the avoidance of doubt, Buyer shall remain liable to Seller for all costs incurred prior to Seller's receipt of Buyer's notice of Buyer's election not to purchase such Future Environmental Attributes.
 - ii. The Parties agree to negotiate in good faith further agreements and documentation necessary to effectuate the sale and purchase of such Future Environmental Attributes prior to any such sale or purchase, including

agreement with respect to (1) appropriate sale, purchase, delivery and risk of loss mechanisms, and (2) appropriate allocation of any additional costs, as set forth above; provided that the Parties acknowledge and agree that (x) such terms are not intended to alter the other material terms of this Agreement and (y) this Agreement will remain in full force and effect notwithstanding any such negotiations.

15) Scheduling Coordinator Services: Throughout the Term of this Agreement, Buyer shall provide (or cause to be provided), at its own expense, Scheduling Coordinator services for the Facility. Whereas, Seller shall fully defend, indemnify, and hold Buyer harmless from any and all claims, lawsuits, demands, causes of action, liability, loss, and damage of any kind whatsoever. Subject to the final paragraph of this Exhibit, Seller agrees to sign and deliver any documentation necessary to:

- a. Designate Buyer or its designee as Scheduling Coordinator for the Facility; and;
- b. Allow Buyer or its designee to perform its various Scheduling Coordinator duties including, but not limited to, scheduling output from the Facility in accordance with the CAISO Tariff.

Buyer reserves the right to substitute another entity ("Third Party SC") as Scheduling Coordinator for the Facility upon reasonable advance notice to Seller, provided that Buyer shall be responsible for all acts and omissions of Third Party SC and for all costs, charges and liabilities incurred by Third Party SC to the same extent that Buyer would be responsible under this Agreement for such acts, omissions, costs, charges and liabilities if taken, omitted or incurred by Buyer directly. Buyer and Third Party SC shall comply with all obligations as Scheduling Coordinator for the Facility under the CAISO Tariff and shall conduct all scheduling in full compliance with the terms of this Agreement, all Applicable Laws, and all CAISO requirements (including the CAISO Tariff).

16) Scheduling Service: Seller and Buyer acknowledge and agree that Seller will provide Buyer with a daily forecasted hourly generation profile of the facility via email to Buyer's Real Time Scheduling contact listed on Exhibit F, followed by a phone call to confirm receipt no later than 08:00 prior to the Day-Ahead market closure. Unless otherwise mutually agreed, Seller may make changes to Day-Ahead schedules in the Real-Time market by providing such changes to Buyer with a minimum of three (3) hours' notice before the active hour to be changed.

- a. Example: For power that is forecasted for generation or delivery in hour ending 15:00 (for the period from 14:01 to 15:00), changes must be submitted to Buyer no later than 11:00.
 - i. If such changes are to be made, Seller will provide Buyer with Real-Time changes to hourly generation profile of the facility via email followed by a phone call to confirm receipt of changes.
 - ii. Buyer will make commercially reasonable efforts to update the requested schedules prior to market close

At Seller's notification to Buyer, Buyer may modify generation schedules for unforeseen circumstances in accordance with the above forecasting timeline constraints and the Scheduling Coordinator Agreement that has been entered into between Buyer and CAISO (such agreement being the standard CAISO Scheduling Coordinator Agreement without deviations).

In the absence of forecasts as required by this Agreement or this Exhibit, Buyer shall utilize

the most current information provided by Seller in the development and submission of Buyer's "Energy Schedule" for the CAISO Day-Ahead and/or Real-Time markets.

17) CAISO Scheduling Coordinator ID ("SCID"): Buyer will procure a CAISO SCID named "RIOB" in order to allow direct settlement from CAISO to Seller.

18) Curtailments and Outage Reporting: For purposes of this section, Curtailments and Outage Reporting are required to be reported in accordance with the CAISO Tariff and the CAISO's Operating Procedures.

a. Curtailment. In the event of sudden or emergency curtailment or interruption of energy deliveries hereunder, whichever Party first receives notice of the interruption or curtailment (whether by experiencing such curtailment or otherwise) shall contact the other Party's Operating Representatives as soon as possible after that Party becomes aware of the necessity for such curtailment or interruption. Such notification shall include the cause of the curtailment or interruption, the expected duration of the curtailment or interruption, and such other information as appropriate.

b. Scheduled Outages.

i. Not later than September 1st each year prior to the commencement of any calendar year following the Delivery Date, Seller shall submit to Buyer its schedule of scheduled Outages for the upcoming year ("Outage Schedule"). Within ten (10) business days after its receipt of the Outage Schedule, Buyer shall notify Seller in writing of any reasonable request for changes to the Outage Schedule. If Buyer fails to provide such notice within the prescribed period, Buyer shall be deemed to have approved the Outage Schedule. If Buyer requests changes to the Outage Schedule, it shall suggest alternative dates in writing to Seller. If Seller can accommodate such alternate dates within accepted electrical practices and the operating requirements of the Facility, such alternate dates shall be accepted, otherwise Seller's proposed Outage Schedule shall remain unchanged. Seller may make reasonable requests to change the approved Outage Schedule. If Buyer can accommodate such alternate dates, or if the alternate dates are imposed on Seller by CAISO and/or PG&E under any rights CAISO or PG&E may have, such dates shall be accepted.

ii. On the first business day of each calendar quarter, Seller shall provide Buyer with any updates to the Outage Schedule, including any outages planned for the following twelve (12) months.

iii. No Outages shall be scheduled during April, May, June, July, August and September except as necessary to comply with manufacturer's recommendations for maintenance or Good Utility Practice.

c. Forced Outages means any unplanned Outage.

i. Seller shall comply with CAISO Tariff Section 9.3.10, as amended.

ii. Forced Outages shall be reported by Seller to Buyer within twenty (20) minutes of such outages or such longer time as may be required in the case of emergency; however, Seller shall comply with the reporting timelines as set forth in CAISO Tariff Section 9.3.10, as amended.

iii. Notice by Seller to Buyer of a Forced Outage shall include the reason for the Forced Outage (if known), expected duration of the Forced Outage, and

the amount of capacity reduction.

d. Outage Notification.

- i. Seller shall notify Buyer of any Outage not previously scheduled as soon as practicable after the condition becomes known to Seller. Changes, additions, or modifications will be processed as planned and/or Forced Outages pursuant to CAISO and/or PG&E protocols and timelines. At a minimum, Seller shall follow all CAISO and/or PG&E Outage coordination protocols.
- ii. Return to Service. Seller shall notify Buyer immediately whenever a generating unit is returned to service.

e. Notices.

- i. All Outage Schedules and other schedules and notices relating to Outages are to be submitted to Buyer by phone or email to the contacts listed in EXHIBIT F.

19) Metering Requirements: The transfer of all Net Electrical Output from Seller to Buyer shall be measured by CAISO certified revenue quality meters at the Delivery Point or corrected to the Delivery Point. Such Meters shall be selected, provided, installed, owned, maintained and operated, at Seller's sole cost and expense, by Seller or Transmission Provider or its designee in accordance with the CAISO Tariff. Seller shall exercise reasonable care in the maintenance and operation of the Meters, and Seller shall be held by CAISO accountable and will notify Buyer of any changes to the Meter.

This Transaction Letter is being provided pursuant to and in accordance with the Power Purchase and Sale Agreement dated the ____ day of ____, 2019_ between the Parties and constitutes part of and is subject to all the terms and conditions of such Agreement.

ACKNOWLEDGED AND AGREED TO:

Silicon Valley Power

THE OLCESE WATER DISTRICT

By:_____

By:_____

Title:_____

Title:_____

Date:_____

Date:_____

For any single Transaction whose Delivery Term exceeds three hundred and sixty five (365) days, the undersigned acknowledges that he/she has the necessary authorization to enter into such a Transaction.

EXHIBIT “C”
EXTENSIONS AND RENEWALS

Any extensions or renewals will require mutual written consent of intent to extend the term of this Agreement up to one (1) additional five (5) year term.

EXHIBIT “D”
CONTRACT PRICE AND CONTRACT QUANTITY

Contract Price

As noted in Exhibit B, the Price under this Agreement consists of \$17/MWh, plus the CAISO Locational Marginal Price (“LMP”) associated with the Facility from which the Product was generated, and will be inclusive of all CAISO related charge codes (i.e. Day-Ahead Energy, Instructed/Uninstructed Deviation Energy, Grid Management Charges (GMC), etc., as defined in the CAISO Tariff currently and as may be modified any time in the future) The Energy settlements received through the CAISO markets will depend on the scheduled information provided in accordance with Exhibit B Scheduling Service. The Scheduling Coordinator will submit bids and/or self-schedules to the CAISO Day-Ahead and/or Real-Time markets accordingly.

Billing, and Payment

The Buyer will provide access to CAISO settlement statements, invoices, and meter data to Seller for validation of daily transactions. Seller will review, validate, and reconcile CAISO settlement charges and credits. All charges and credits will be invoiced directly to Seller and be the sole responsibility of Seller to adhere to the CAISO’s guidelines. Any disputes will be reported to CAISO by Seller using the CAISO Customer Inquiry, Dispute & Information (“CIDI”) system.

All charges and credits invoiced by the CAISO will be charged or credited to Seller’s account as per the schedule outlined in the California ISO Payment Calendar. Following CAISO publication of the T+12 Business Days settlement statements for the Transaction Month, each Party shall furnish the other Party with an accounting setting out its preliminary calculation of the amount owed by the other Party for the previous Transaction Month. In addition to the revenues received by the CAISO, the Seller will invoice Buyer \$17/MWh for all of the RPS eligible RECs once issued and transferred into Buyer’s designated WREGIS account for the Net Energy Output from the Facility, with invoices issued on a monthly basis for REC’s issued and transferred during the preceding month. Seller shall transfer RECs to Buyer’s designated WREGIS account within 10 Business Days from the creation of RECs in Seller’s WREGIS account. Seller will render the invoice to Buyer based on actual quantities of RECs transferred to and accepted by Buyer in the Buyer’s WREGIS account.

The CAISO Administrative fee for a Scheduling Coordinator ID (“SCID”) is currently \$1,000/month (which is subject to change per the CAISO Tariff) and will be included in the CAISO Settlement Invoice. Buyer has agreed to pay 50% of this monthly administrative fee on months where such fee is incurred. This amount will be included in the Seller’s monthly invoice to Buyer.

The invoice may be furnished to Buyer by email or U.S. Mail. Within ten (10) business days of Buyer’s receipt of the invoice, Buyer shall pay Seller for the RECs transferred and accepted. If the Payment Date falls on a Saturday, Sunday, or Federal Energy Regulatory Commission (“FERC”) holiday or other non-banking day, payment shall be made on the next banking day.

EXHIBIT “E”
DESCRIPTION OF FACILITY

Description of Facility:

- The Olcese Water District owns and operates the Rio Bravo Small Hydroelectric facility, a 14 Megawatt (MW) hydroelectric project located 12 miles east of Bakersfield on State Route 178 in Kern County, California.
- The Rio Bravo Small Hydro facility is a canal drop hydroelectric facility operating under the terms of FERC license P-4129 that expires in 2033.
- The Rio Bravo Hydro Project is a run of the river hydroelectric plant.
- CAISO Resource ID RIOBRV_6_UNIT 1.
- Delivery Point is at Switch 23, in the Rio Bravo Switchyard

The Parties agree and acknowledge that the ownership and use of various assets, property, facilities and equipment related to the Facility (including transformers, substations, protection, metering, and other equipment, and permits, contract rights, and other assets and property (real or personal) (including the interconnection agreement itself)) may be subject to a co-tenancy or similar sharing agreements with other projects and project owners.

Seller may, from time to time, update or amend the description of the Facility in this Exhibit E by written notice to Buyer.

**EXHIBIT “F”
CITY/SVP (BUYER) CONTACTS**

1. Contract Management

Name: Moises Melgoza
Phone: (408) 615-6656
Email: mmelgoza@santaclaraca.gov

2. Billing/Invoice Issues

Name: Peter Virasak
Phone: (408) 615-6645
Email: pvirasak@santaclaraca.gov

3. Day Ahead Scheduling

Name: Carol Ohara
Phone: (408) 615-6695
Email: cohara@santaclaraca.gov and svpprescheduling@santaclaraca.gov
(Monthly, weekly and daily generation schedules as well as Planned Outages are to be provided to Day Ahead Scheduling contacts.)

4. Real Time Scheduling

Phone: (408) 615-6696 and (408) 615-6697
Email: svpsched@santaclaraca.gov
(All Real Time generation changes and Forced Outages are to be provided to Real Time Scheduling contacts.)

EXHIBIT "G"
(SELLER) CONTACTS

1. Contract Management

Name: Brian W. Grant
Phone: (661) 872-5050 x112
Email: bgrant@nflc.net

2. Billing/Invoice Issues

Name: Blaine Hanson
Phone: (661) 872-5050 x103
Email: bhanson@nflc.net

3. Day Ahead Scheduling, Real Time Scheduling, Plant Operators

Name: Jeff Siemens
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