

Staff Report Item 12

TO: MBCP Operations Board of Directors

FROM: Tom Habashi, Chief Executive Officer

SUBJECT: Authorize CEO to Execute EEI Master Power Purchase and Sale Agreement and Confirmation Letters with Calpine Energy Services, L.P. with Effective Dates of March 9, 2018 for purchase of Resource Adequacy Capacity for 2019 through 2023 (*Action Item*)

DATE: May 2, 2018

RECOMMENDATION:

Authorize the CEO to execute the EEI agreement for the purchase of Resource Adequacy (RA) Capacity as necessary to meet MBCP's regulatory obligations, with terms consistent with those contained in the attached agreements. Resource Adequacy Delivery Term: January 1, 2019 to December 31, 2023.

BACKGROUND:

MBCP must ensure sufficient generation capacity is available to reliably meet the electric needs of its customers. Under the state's RA program, all load serving entities must commit to making electric generators available for dispatch by the California Independent System Operator (CAISO). RA capacity is a separate product from energy, and no entitlements to energy or other attributes are conveyed through the purchase of RA capacity. The RA capacity obligation is equivalent to 115% of the load serving entity's projected peak demand for each month. A portion of the total RA obligation must be met with RA capacity meeting certain locational and operational attributes to support local area reliability and ensure that sufficient amounts of flexible generating units are available for dispatch by the CAISO.

DISCUSSION/ANALYSIS:

Due to the highly competitive and constrained RA market, MBCP and consultants have forecasted MBCPs expected RA needs for future years. In order to hedge MBCP's risk, staff and consultants have negotiated RA contracts with Calpine Energy Services, L.P. to meet a portion of its obligations for 2019 through 2023.

CONCLUSION:

MBCP staff is recommending that the Operations Board authorize the CEO to execute the EEI agreement and accompanying confirmations with Calpine Energy Services, L.P. in order to procure RA for the periods of 2019 through 2023. By entering into this agreement MBCP will have met approximately 90% of local Bay Area RA for the next 5 years and 50% of System RA requirements for the next 2 years.

ATTACHMENTS:

1. Calpine Energy Services, L.P., Master Power Purchase and Sale Agreement
2. Calpine Energy Services, L.P. Confirmations

MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This Master Power Purchase and Sale Agreement (“Master Agreement”) is made as of the following date: March 9, 2018 (“Effective Date”). The Master Agreement, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the “Agreement.” The Parties to this *Master Agreement* are the following:

Name: **Calpine Energy Services, L.P.** (“Calpine” or “Party A”)

Name: **Monterey Bay Community Power Authority, a California joint powers authority** (“MBCP” or “Party B”)

All Notices:

Address: 717 Texas Avenue, Suite 1000
Houston, TX 71002

All Notices:

Address: 70 Garden Court #300
Monterey, CA 93940

Attn: Contracts Administration
Phone: _____
Facsimile: 713-830-8751
E-mail: CommodityContracts@calpine.com
Duns: ██████████
Federal Tax ID Number: ██████████

Attn: Tom Habashi
Phone: 831-313-5557
Facsimile: _____
E-mail: tom.habashi@mbcommunitypower.org
Duns: _____
Federal Tax ID Number: ██████████

With a copy to:

Address: 4160 Dublin Blvd., Suite 100
Dublin, CA 94568
Attn: Legal Department
Facsimile: 925-470-9608

Invoices:

Attn: Power Accounting
Phone: 713-830-2000
Facsimile: 713-830-8868
E-Mail: _____

Invoices:

Attn: Tom Habashi
Phone: 831-313-5557
Facsimile: _____
E-mail: tom.habashi@mbcommunitypower.org

Confirmations:

Attn: Confirmations Department
Address: _____
Phone: 713-830-8723
Facsimile: 713-830-8868
E-mail: _____

Confirmations:

Attn: Tom Habashi
Address: Same as Above
Phone: 831-313-5557
Facsimile: _____
E-mail: tom.habashi@mbcommunitypower.org

Scheduling:

Attn: Scheduling
Phone: 713-830-8353
Facsimile: 713-830-8749

Payments:

Attn: Power Accounting
Phone: 713-830-2000
Facsimile: 713-830-8749
E-Mail: _____

Wire Transfer:

BNK: _____
ABA: _____
ACCT: _____

Credit and Collections:

Attn: Director of Corporate Credit
Phone: 713-332-5257
Facsimile: 713-570-4764

With additional Notices of an Event of Default or Potential Event of Default to:

Attn: Risk Management Counsel
Facsimile: 713-830-8751

With a copy to:

Attn: Chief Legal Officer
Facsimile: 832-325-1508

and:

Attn: Assistant General Counsel
Facsimile: 925-479-9608

Scheduling:

Attn: Tom Habashi
Phone: 831-313-5557
Facsimile: _____
E-mail: tom.habashi@mbcommunitypower.org

Payments:

Attn: Tom Habashi
Phone: 831-313-5557
Facsimile: _____
E-mail: tom.habashi@mbcommunitypower.org

Wire Transfer:

BNK: _____
ABA: _____
ACCT: _____

Credit and Collections:

Attn: Tom Habashi
Phone: 831-313-5557
Facsimile: _____

With additional Notices of an Event of Default or Potential Event of Default to:

Attn: Troutman Sanders LLP
100 SW Main St. Ste. 1000
Portland, OR 97204
Attn: Stephen Hall
Phone: 503-290-2336
Email: Steve.Hall@troutmansanders.com

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff Tariff Rate Schedule #1 Dated: Sept. 21, 2000 Docket Number: ER00-3562-000

Party B Tariff N/A

Article Two

Transaction Terms and Conditions Optional provision in Section 2.4. If not checked, inapplicable.

Article Four

Remedies for Failure to Deliver or Receive Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies Cross Default for Party A:

Party A: Cross Default Amount \$ _____

Other Entity: Calpine Corp. Cross Default Amount
[REDACTED]

Cross Default for Party B:

Party B: Cross Default Amount
[REDACTED]

Other Entity: _____ Cross Default Amount \$ _____

5.6 Closeout Setoff

- Option A (Applicable if no other selection is made.)
- Option B - Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: _____

- Option C (No Setoff)

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: _____
- Option C Specify: _____

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, the provisions of Section 8.1 (c) of the Agreement shall be replaced by the provisions of the Collateral Annex attached hereto.

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

- It shall be a Downgrade Event for Party B if Party B's Guarantor's Credit Rating falls below _____ from S&P and _____ from Moody's or if Party B's Guarantor is not rated by either S&P or Moody's.
- Other:
Specify: _____

(e) Guarantor for Party B:

Guarantee Amount: N/A

8.2 Party B Credit Protection:

(a) Financial Information:

- Option A
- Option B Specify: Calpine Corporation
- Option C Specify: as available

(b) Credit Assurances:

- Not Applicable
- Applicable

(c) Collateral Threshold:

- Not Applicable
- Applicable

If applicable, the provisions of Section 8.2 (c) of the Agreement shall be replaced by the provisions of the Collateral Annex attached hereto.

(d) Downgrade Event:

- Not Applicable
- Applicable

If applicable, complete the following:

It shall be a Downgrade Event for Party A if Party A's Guarantor's Credit Rating falls below _____ from S&P and _____ from Moody's or if Party A's Guarantor is not rated by either S&P or Moody's.

Other:
Specify:

(e) Guarantor for Party A: Not Applicable

Guarantee Amount: N/A

Article 10

Confidentiality

Confidentiality Applicable If not checked, inapplicable.

Schedule M

Party A is a Governmental Entity or Public Power System

Party B is a Governmental Entity or Public Power System

Add Section 3.6. If not checked, inapplicable

Add Section 8.6. If not checked, inapplicable

Other Changes

Specify, if any: See "Other Changes" Attached Hereto.

AGREEMENT

ARTICLE ONE: GENERAL DEFINITIONS

Section 1.1 is amended by adding the following sentence at the end of the definition of “Affiliate”: “The Parties hereby agree and acknowledge that the members of Party B shall not constitute or otherwise be deemed an “Affiliate” for the purposes of this Master Agreement or any Confirmation executed in connection therewith.”

Section 1.12 is amended by deleting the word “issues” and replacing it with the word “issuer”.

Section 1.23 is amended by adding at the end of clause (iii) the phrase “(except to the extent caused by an event or circumstance that would otherwise constitute Force Majeure)”.

Section 1.27 is amended by adding at the end of the first sentence “; provided that a Party may only transfer the Letter of Credit to any person or entity succeeding to all or substantially all of the assets of such Party.”

Section 1.50 (Recording) is hereby deleted in its entirety.

Section 1.51 is amended by (i) adding the phrase “for delivery” immediately before the phrase “at the Delivery Point” in the second line and (ii) deleting the phrase “at Buyer’s option” from the fifth line and replacing it with the phrase “absent a purchase”.

Section 1.53 is amended by (i) deleting the phrase “at the Delivery Point” from the second line and (ii) deleting the phrase “at Seller’s option” from the fifth line and replacing it with the phrase “absent a sale”.

ARTICLE TWO: TRANSACTIONS TERMS AND CONDITIONS

Section 2.1 is amended by deleting “orally or, if expressly required by either Party with respect to a particular Transaction,” in the 2nd line.

In Section 2.4, delete “either orally or” after “agreed to” in the 7th line.

Section 2.5 is hereby deleted in its entirety.

The following shall be added as Section 2.6:

Index Transactions. If the Contract Price for a Transaction is determined by reference to a Price Source, then:

- (a) Market Disruption. If a Market Disruption Event occurs on any one or more days during a Determination Period (each day, a “Disrupted Day”), then:

The fallback Floating Price, if any, specified by the Parties in the relevant Confirmation shall be the Floating Price for each Disrupted Day.

If the Parties have not specified a fallback Floating Price, then the Parties will endeavor, in good faith and using commercially reasonable efforts, to agree on a substitute Floating Price, taking into consideration without limitation, guidance, protocols or other recommendations or conventions issued or employed by trade organizations or industry groups in response to the

Market Disruption Event and other prices published by the Price Source or alternative price sources with respect to the Delivery Point or comparable Delivery Points that may permit the Parties to derive the Floating Price based on historical differentials.

If the Price Source retrospectively issues a Floating Price in respect of a Disrupted Day (a “Delayed Floating Price”) before the parties agree on a substitute Floating Price for such day, then the Delayed Floating Price shall be the Floating Price for such Disrupted Day. If a Delayed Price is issued by the Price Source in respect of a Disrupted Day after the Parties agree on a substitute Floating Price for such day, the Substitute Floating Price agreed upon by the Parties will remain the Floating Price without adjustment unless the Parties expressly agree otherwise.

If the Parties cannot agree on a substitute Floating Price and the Price Source does not retrospectively publish or announce a Floating Price, in each case, on or before the fifth Business Day following the first Trading Day on which the Market Disruption Event first occurred or existed, then the Floating Price for each Disrupted Day shall be determined by taking the arithmetic mean of quotations requested from four leading dealers in the relevant market that are unaffiliated with either Party and mutually agreed upon by the Parties (“Specified Dealers”), without regard to the quotations with the highest and lowest values, subject to the following qualifications:

- 1) If exactly three quotations are obtained, the Floating Price for each such Disrupted Day will be the quotation that remains after disregarding the quotations having the highest and lowest values.
- 2) If fewer than three quotations are obtained, the Floating Price for each such Disrupted Day will be the average of the quotations obtained.
- 3) If the Parties cannot agree upon four Specified Dealers, then each of the Parties will, acting in good faith and in a commercially reasonable manner, select up to two Specified Dealers separately, and those selected dealers shall be the Specified Dealers.

Unless otherwise agreed, if at any time the Parties agree on a substitute Floating Price for any Disrupted Day, then such substitute Floating Price shall be the Floating Price for such Disrupted Day, notwithstanding the subsequent publication or announcement of a Delayed Floating Price by the relevant Price Source or any quotations obtained from Specified Dealers.

“Determination Period” means each calendar month a part or all of which is within the Delivery Period of a Transaction.

“Exchange” means, in respect of a Transaction, the exchange or principal trading market specified as applicable to the relevant Transaction.

“Floating Price” means a Contract Price specified in a Transaction that is based upon a Price Source.

“Market Disruption Event” means, with respect to any Price Source, any of the following events:

- (a) the failure of the Price Source to announce, publish or make available the specified Floating Price or information necessary for determining the Floating Price for a particular day;
- (b) the failure of trading to commence on a particular day or the permanent discontinuation or material suspension of trading in the relevant options contract or

commodity on the Exchange. RTO or in the market specified for determining a Floating Price; (c) the temporary or permanent discontinuance or unavailability of the Price Source; (d) the temporary or permanent closing of any Exchange or RTO specified for determining a Floating Price; or (e) a material change in the formula for or the method of determining the Floating Price by the Price Source or a material change in the composition of the Product.

“Price Source” means, in respect of a Transaction, a publication or such other origin of reference, including an Exchange or RTO, containing or reporting or making generally available to market participants (including by electronic means) a price, or prices or information from which a price is determined, as specified in the relevant Transaction.

“RTO” means any regional transmission operator or independent system operator.

“RTO Transaction” means a Transaction in which the Price Source is an RTO.

“Trading Day” means a day in respect of which the relevant Price Source ordinarily would announce, publish or make available the Floating Price.

- (b) Corrections to Published Prices. If the Floating Price published, announced or made available on a given day and used or to be used to determine a relevant price is subsequently corrected by the relevant Price Source (i) within 30 days of the original publication, announcement or availability, or (ii) in the case of RTO Transactions only, within such longer time period as is consistent with the RTO’s procedures and guidelines, then either Party may notify the other Party of that correction and the amount (if any) that is payable as a result of that correction. If not later than thirty (30) days after publication or announcement of that correction, a Party gives notice that an amount is so payable, the Party that originally either received or retained such amount will, not later than three (3) Business Days after such notice is effective, pay, subject to any applicable conditions precedent, to the other Party that amount, together with interest at the Interest Rate for the period from and including the day on which payment originally was (or was not) made to but excluding the day of payment of the refund or payment resulting from that correction. Notwithstanding the foregoing, corrections shall not be made to any Floating Prices agreed upon by the Parties or determined based on quotations from Specified Dealers pursuant to paragraph (a) above unless the Parties expressly agree otherwise.
- (c) Rounding. When calculating a Floating Price, all numbers shall be rounded to four (4) decimal places. If the fifth (5th) decimal number is five (5) or greater, then the fourth (4th) decimal number shall be increased by one (1), and if the fifth (5th) decimal number is less than five (5), then the fourth (4th) decimal number shall remain unchanged.

ARTICLE FIVE: EVENTS OF DEFAULT; BEMEDIES

Section 5.1(a) is amended by changing “three (3) Business Days” to “five (5) Business Days”.

Section 5.1(b) is amended by adding the following after “repeated”: “, and such breach is not remedied within thirty (30) days after written notice from the other Party”.

Section 5.1(c) is amended by changing “three (3) Business Days” to “thirty (30) days”.

Section 5.1(d) is amended by adding the following after “Bankrupt”: “, provided, however, if the presentation of an involuntary petition for the winding-up or liquidation of a party (an “Involuntary Proceeding”) is commenced, such Involuntary Proceeding shall not be a Default in respect of that party

unless the Involuntary Proceeding has not been withdrawn, dismissed, discharged, Stayed or restrained within 60 days of its commencement and in such event the other party shall be entitled to exercise its rights and remedies under this Agreement in respect thereof.”.

Section 5.1 (g) is amended by (i) adding “after the Effective Date of this Agreement” after the words “occurrence and continuation” and (ii) deleting the phrase “, or becoming capable at such time of being declared,” after the word “becoming” and before the word “immediately” in the eighth and ninth lines , and (iii) adding “provided, however, that no default or event of default shall be deemed to have occurred under this Section 5.1(g) to the extent that any applicable cure period or grace period is available;” at the end of the last clause.

Section 5.2 is amended to reverse the placement of “(i)” and “to” in the first sentence.

Section 5.2 is amended to delete the following phrase from the last two lines: “under applicable law on the Early Termination Date, as soon thereafter as is reasonably practicable).”

The following shall be added to the end of Section 5.2:

“under applicable law on the Early Termination Date, then each such Transaction (individually, an “Excluded Transaction” and collectively, the “Excluded Transactions”) shall be terminated as soon thereafter as reasonably practicable), and upon termination shall be deemed to be a Terminated Transaction and the Termination Payment payable in connection with .all such Transactions shall be calculated in accordance with Section 5.3 below. The Gains and Losses for each Terminated Transaction shall be determined by calculating the amount that would be incurred or realized to replace or to provide the economic equivalent of the remaining payments or deliveries in respect of that Terminated Transaction. The Non- Defaulting Party (or its agent) may determine its Gains and Losses by reference to information either available to it internally or supplied by one or more third parties including, without limitation, quotations (either firm or indicative) of relevant rates, prices, yields, yield curves, volatilities, spreads or other relevant market data in the relevant markets. Third parties supplying such information may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. If the Non-Defaulting Party’s aggregate Gains exceeds its aggregate Losses and Costs, if any, resulting from the termination of this Agreement, the Settlement Amount shall be zero, notwithstanding any provision in this Section or any provision in this Agreement to the contrary.”

In Section 5.7, delete “(a)” and the phrase “or (b) a Potential Event of Default” in the second line.

ARTICLE SEVEN: LIMITATIONS

Section 7.1 shall be amended by: (a) deleting “Except as set forth herein” from the first sentence and “Unless expressly herein provided” from the fifth sentence and (b) adding “Notwithstanding anything in this Agreement to the contrary” to the beginning of the fifth sentence, and “set forth in this Agreement” after “indemnity provision” and before “or otherwise”, also in the fifth sentence.

ARTICLE EIGHT: CREDIT AND COLLATERAL REQUIREMENTS

Section 8.1(a) is amended by adding the phrase “, provided however, for the purposes of this (i) and (ii), if Party B’s financial statements are publicly available electronically, then Party B shall be deemed to have met this requirement” after the phrase “a copy of Party B’s quarterly report containing unaudited consolidated financial statements for such fiscal quarter”.

Section 8.2 (a) is amended by adding the phrase “, provided however, for the purposes of this (i) and (ii), if Party A’s financial statements are publicly available electronically, then Party A shall be deemed to have met this requirement” after the phrase “a copy of Party A’s quarterly report containing unaudited consolidated financial statements for such fiscal quarter”.

ARTICLE TEN: MISCELLANEOUS

Section 10.4 is amended to add the phrase “unless a Claim is due to such Party’s gross negligence, willful misconduct or bad faith” at the end of the first sentence of Section 10.4.

In Section 10.5, in clause (ii) thereof replace the words “affiliate” and “affiliate’s” with, respectively, “Affiliate” and “Affiliate’s”, and in clause (iii) thereof immediately after the words “substantially all of the assets” insert the words “of such Party and”.

In Section 10.5, delete the phrase “which consent may be withheld in the exercise of its sole discretion” in the first line and replace it with “which consent shall not be unreasonably withheld.”

In Section 10.6 change “State of New York” to “State of California” and add the following after the last line: “FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, OR IF SUCH FEDERAL COURTS DO NOT HAVE JURISDICTION, TO THE EXCLUSIVE JURISDICTION OF THE STATE COURTS OF THE STATE OF CALIFORNIA LOCATED IN SAN FRANCISCO, CALIFORNIA, AND EACH PARTY EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM.”

Section 10.8 is amended by adding the following to the last sentence: “and the rights of either Party pursuant to (i) Article 5, (ii) Section 7.1, (iii) Section 10.11, (iv) Waiver of Jury Trial provisions, if applicable, (v) Arbitration provisions, if applicable, (vi) the obligation of either Party to make payments hereunder, (vii) Section 10.6, and (viii) Section 10.13 shall also survive the termination of the Agreement or any Transaction.”

Section 10.11 Confidentiality is amended to read in its entirety as follows:

“If the Parties have elected on the Cover Sheet to make this Section 10.11 applicable to this Master Agreement. the contents of the Transactions and all other documents relating to this Agreement, if any, and any information made available by a Party and/or any guarantor of a Party (“Disclosing Party”) to the other Party (“Non-Disclosing Party”) with respect to this Agreement or any Transaction, if any, are confidential and shall not be disclosed to my third party, except for such information (i) as may become generally available to the public, (ii) as may be required or appropriate in response to any summons, subpoena, request from a regulatory body, or otherwise in connection with any litigation or to comply with any applicable law, order, regulation, ruling, regulatory request, accounting disclosure rule or standard or any exchange control area or independent system operator rule, (iii) as may be obtained from a non-confidential source that disclosed such information in a manner that did not violate its obligations to the Disclosing Party, if any in making such disclosure: or (iv) as may be furnished to the Non-Disclosing Party’s Affiliates, and to each of such person’s auditors, attorneys, advisors or lenders which are required to keep the information that in disclosed in confidence. Notwithstanding the foregoing, a Party may disclose any one or more of the commercial terms of a Transaction (other than the name of the other Party unless otherwise agreed to in writing by the Parties) to any industry price source for the purpose of aggregating and reporting such information in the form of a published energy price index. The Parties shall be entitled to all remedies available at

law or in equity to enforce, or seek relief in connection with, this confidentiality obligation. Party A and Party B acknowledge and agree that the Master Agreement and any Confirmations executed in connection therewith are subject to the California Public Records Act (Government Code Section 6250 et seq.). Party B will notify Party A in writing promptly upon receipt of any request for information regarding the Master Agreement and/or any Confirmations executed in connection therewith pursuant to the California Public Records Act (Government Code Section 6250 et seq.).”

The following shall be added as Section 10.12:

- (a) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such Party), a non-party or FERC acting sua sponte, shall be the “public interest” standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S.332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S.348 (1956) and clarified by NRG Power Marketing LLC v. Maine Pub.Util. Comm’n., 58 U.S. (2010) (commonly known as the “Mobile-Sierra” doctrine).
- (b) In addition, and notwithstanding the foregoing subsection (a), to the fullest extent permitted by applicable law, each Party, for itself and its successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain; an order from FERC changing any section of this Agreement specifying the rate, charge, classification, or other term or condition agreed to by the Parties, it being the express intent of the Parties that, to the fullest extent permitted by applicable law, neither Party shall unilaterally seek to obtain from FERC any relief changing the rate, charge, classification, or other term or condition of this Agreement, notwithstanding any subsequent changes in applicable law or market conditions that may occur. In the event it were to be determined that applicable law precludes the Parties from waiving their rights to seek changes from FERC to their market- based power sales contracts (including entering into covenants not to do so) then this subsection (b) shall not apply, provided that, consistent with the foregoing subsection (a) neither Party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in the foregoing section (a).

The following new Section shall be added as Section 10.13:

Party A hereby acknowledges and agrees that Party B is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Government Code Section 6500 et seq.) pursuant to a Joint Powers Agreement dated February 21, 2017 (the “Joint Power Agreement”) and is a public entity separate from its members. Party B shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this Agreement and Seller agrees that it shall have no rights and shall not make any claim, take any actions or assert any remedies against any of Party B’s members in connection with this Agreement or any of the Transactions.

SCHEDULE P: PRODUCTS AND RELATED DEFINITIONS

The following definition is hereby added to Schedule P:

“CAISO Firm” means with respect to a Transaction, a Product under which the Seller shall sell and

the Buyer shall purchase a quantity of energy equal to the hourly quantity without Ancillary Services (as defined in the California Independent System Operator (“CAISO”) Tariff) that is or will be scheduled as a schedule coordinator to schedule coordinator transaction pursuant to the applicable tariff and protocol provisions of the CAISO tariff as amended from time to time, for which the only excuse for failure to deliver or receive is “an Uncontrollable Force” as defined in the CAISO Tariff.

[Signature page follows]

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the Effective Date.

CALPINE ENERGY SERVICES, L.P.



By:

Name: Andrew Novotny

Title: Vice President

**MONTEREY BAY COMMUNITY POWER
AUTHORITY, a California joint powers
authority**

By: _____

Name: _____

Title: _____

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

**MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
MONTEREY BAY COMMUNITY POWER**

This confirmation letter ("Confirmation") confirms the Transaction between **Calpine Energy Services, L.P.**, a Delaware company ("Seller") and **Monterey Bay Community Power**, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of March 9, 2018 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of March 9, 2018, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

**1.
DEFINITIONS**

- 1.1** "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer in accordance with the terms of Section 4.5.
- 1.2** "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.
- 1.3** "Availability Incentive Payments" shall mean as set forth in the Tariff.
- 1.4** "Availability Standards" shall mean Availability Standards as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.
- 1.5** "Buyer" has the meaning specified in the introductory paragraph hereof.
- 1.6** "CAISO" means the California Independent System Operator or its successor.
- 1.7** "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the definition of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."
- 1.8** "Confirmation" has the meaning specified in the introductory paragraph hereof.
- 1.9** "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.
- 1.10** "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.
- 1.11** "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.

ATTACHMENT 2

Calpine Deal: 2237625
3/9/2018

- 1.12** "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.
- 1.13** "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, and 17-06-027 and subsequent decisions related to resource adequacy issued from time to time by the CPUC.
- 1.14** "CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE's to demonstrate compliance with the CPUC's resource adequacy program.
- 1.15** "Delivery Period" has the meaning specified in Section 4.1 hereof.
- 1.16** "Delivery Point" has the meaning specified in Section 4.2 hereof.
- 1.17** "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product for such Showing Month including the amount of Contract Quantity that Seller has elected to provide Alternate Capacity with respect to, minus any reductions to Contract Quantity specified in Section 4.4 with respect to which Seller has not elected to provide Alternate Capacity.
- 1.18** "Effective Flexible Capacity" means the flexible capacity of a resource that can be counted towards an LSE's FCR obligation, as identified from time to time by the Tariff, the CPUC Decisions, LRA, or other Governmental Body having jurisdiction.
- 1.19** "FCR Attributes" means, with respect to a Unit, any and all FCR attributes that can be counted toward an LSE's FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA, or other Governmental Body having jurisdiction that can be counted toward FCR and are consistent with the operational limitations and physical characteristics of such Unit. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines the FCR Attributes of a Unit, then such change will not result in a change in obligations or payments made pursuant to this Transaction.
- 1.20** "FCR Showings" means the FCR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.
- 1.21** "Firm RA Product" has the meaning specified in the Section 3.3 hereof.
- 1.22** "Flexible Capacity Requirements" or "FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.
- 1.23** "Flexible RA Product" has the meaning specified in the Section 3.2 hereof.
- 1.24** "GADS" means the Generating Availability Data System or its successor.
- 1.25** "Generic RA Product" means Designated RA Capacity consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.
- 1.26** "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully

exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

- 1.27** "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA having jurisdiction over the LSE, as implemented in the Tariff. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.
- 1.28** "LAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR and are consistent with the operational limitations and physical characteristics of such Unit, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in obligations or payments made pursuant to this Transaction.
- 1.29** "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA having jurisdiction over the LSE.
- 1.30** "LRA" has the meaning set forth in the Tariff.
- 1.31** "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).
- 1.32** "Master Agreement" has the meaning specified in the introductory paragraph hereof.
- 1.33** "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.
- 1.34** "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.
- 1.35** "NERC" means the North American Electric Reliability Council, or its successor.
- 1.36** "NERC/GADS Protocols" means the GADS protocols established by NERC, as may be updated from time to time.
- 1.37** "Net Qualifying Capacity" has the meaning set forth in the Tariff.
- 1.38** "Non-Availability Charges" has the meaning set forth in the Tariff.
- 1.39** "Outage" means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).
- 1.40** "Planned Outage" means, subject to and as further described in the CPUC Decisions and the Tariff (Planned Outage referred to as "Approved Maintenance Outage" under the Tariff), a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

ATTACHMENT 2

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- 1.41 "Product" has the meaning specified in Article 3 hereof.
- 1.42 "RA Availability" means, for each Unit, expressed as a percentage, (a) the Unit's Designated RA Capacity for a Monthly Delivery Period, divided by (b) the Contract Quantity, provided that a Unit's RA Availability shall not exceed 1.00.
- 1.43 "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR, LAR, and FCR purposes for the Delivery Period, as determined by the CAISO, or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RAR Attributes, LAR Attributes and FCR Attributes of the capacity provided by a Unit, as applicable pursuant to this Confirmation.
- 1.44 "RA Capacity Flat Price" means the price specified in the RA Capacity Flat Price Table in Section 4.9 hereof.
- 1.45 "RAR" means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.
- 1.46 "RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the Tariff, the CPUC Decisions, LRA, or any Governmental Body having jurisdiction, that can be counted toward RAR and are consistent with the operational limitations and physical characteristics of such Unit, exclusive of any LAR Attributes or FCR Attributes.
- 1.47 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Tariff, the CPUC Decisions or LRA having jurisdiction.
- 1.48 "Replacement Capacity" has the meaning specified in Section 4.7 hereof.
- 1.49 "Replacement Unit" means a generating unit meeting the requirements specified in Section 4.5.
- 1.50 "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.
- 1.51 "Scheduling Coordinator" has the same meaning as in the Tariff.
- 1.52 "Seller" has the meaning specified in the introductory paragraph hereof.
- 1.53 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, LAR showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.
- 1.54 "Supply Plan" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.
- 1.55 "Tariff" means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.
- 1.56 "Transaction" has the meaning specified in the introductory paragraph hereof.

- 1.57** "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.
- 1.58** "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Net Qualifying Capacity.
- 1.59** "Unit EFC" means the Effective Flexible Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Effective Flexible Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lesser of (i) the Unit EFC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Effective Flexible Capacity. To the extent the Confirmation Effective Date of this Confirmation occurs prior to the CAISO's setting of a Unit EFC for the applicable Unit, the Unit EFC shall be as agreed to by the Parties and specified in Article 2, and Seller represents that, to the best of its knowledge, this Unit EFC is consistent with the CAISO's methodology for determining Unit EFC as of the Confirmation Effective Date. To the extent the CAISO creates new categories of flexible capacity during the term of this Transaction and a Unit can count toward such new categories of flexible capacity while operating consistent with the operational limitation and physical characteristics of such Unit, any and all such new categories of flexible capacity shall be deemed to be part of the Effective Flexible Capacity of that Unit. The above notwithstanding, to the extent the CAISO decides to reduce the applicable Unit EFC, Seller shall not be liable for any costs or damages related to such reduction and the Unit EFC shall be reduced per Section 4.4 of this Confirmation.

2.
UNIT INFORMATION

Name: Los Medanos Energy Center Aggregate

Location: Pittsburg, CA

CAISO Resource ID: LMEC_1_PL1X3

Resource Type: I_Phys_Res

Resource Category (1, 2, 3 or 4): 4

Point of interconnection with the CAISO Controlled Grid ("Substation"): Pittsburg

Path 26 (North, South or None): North

Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment:
None

Run Hour Restrictions: None

LAR Attributes (Yes/No): Local

If yes: Local Capacity Area (as of Confirmation Effective Date): Greater Bay Area

Product Type (Flexible/Generic): Generic

If Generic: Unit NQC (as of the Confirmation Effective Date): Varies by Month

If Flexible: Unit EFC (as of the Confirmation Effective Date): N/A

Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): N/A

3.**RESOURCE ADEQUACY CAPACITY PRODUCT**

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity in the amount of the Contract Quantity of (i) RAR Attributes and, if applicable, LAR Attributes, and (ii) FCR Attributes, if Flexible RA Product is specified in Section 3.2, and the Contract Quantity shall be either a Firm RA Product or a Contingent Firm RA Product, as specified in either Section 3.3 or 3.4 (the "Product"). The Product does not confer to Buyer any right to the electrical output from the Units, other than the right to include the Designated RA Capacity associated with the Contract Quantity in RAR Showings, LAR Showings, and FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell pursuant to the Tariff any RA Capacity from a Unit that is in excess of that Unit's Contract Quantity and any RAR Attributes, LAR Attributes or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RAR and LAR Attributes

Seller shall provide Buyer with the Designated RA Capacity of RAR Attributes and, if applicable, LAR Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

3.2 Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of FCR Attributes from the Units in the amount of the applicable Contract Quantity.

3.3 Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the Contract Quantity. If the Units are not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any Outage or any adjustment of the RA Capacity of any Unit, pursuant to Section 4.4, then, Seller shall provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with replacement Designated RA Capacity from Replacement Units pursuant to Section 4.5, then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the applicable Contract Quantity; provided, however, that if (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity for (x) a reason other than a Force Majeure, Planned Outage or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

**4.
DELIVERY AND PAYMENT****4.1 Delivery Period**

The Delivery Period shall be January 1, 2019 through December 31, 2023, inclusive.

4.2 Delivery Point

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity of each Unit for each Monthly Delivery Period shall be:

Contract Quantity (MWs)

Month	Contract Quantity (MWs)
January	■
February	■
March	■
April	■
May	■
June	■
July	■
August	■
September	■
October	■
November	■
December	■

4.4 Adjustments to Contract Quantity

- (a) Planned Outages: Seller's obligation to deliver the Contract Quantity for any Showing Month may be reduced at Seller's option if any portion of the Unit is scheduled for a Planned Outage during the applicable Showing Month; provided, Seller notifies Buyer, no later than fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer's RAR Showings, LAR Showings, and/or FCR Showings applicable to that month as a result of such Planned Outage.

If Seller is unable to provide the applicable Contract Quantity for a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such Showing Month from Replacement Units,

provided, Seller provides and identifies such Replacement Units in accordance with Section 4.5. If Seller chooses not to provide Product from Replacement Units and a Unit is on a Planned Outage for the applicable Showing Month, then, the Contract Quantity shall be revised in accordance with any applicable adjustments stipulated by the CPUC Filing Guide or CAISO Tariff in effect for the applicable Showing Month in which the Planned Outage occurs.

- (b) Reductions in Unit NQC: If Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller's obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit NQC as determined by the CAISO. Seller's potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit NQC was reduced since Confirmation Effective Date, divided by (c) Unit NQC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit NQC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.
- (c) If Product is both (i) Flexible RA Product specified under Section 3.2, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller's obligation to deliver the applicable Contract Quantity of Product for any Showing Month may also be reduced if the Unit experiences a reduction in Unit EFC as determined by the CAISO. Seller's potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit EFC was reduced since Confirmation Effective Date, divided by (c) Unit EFC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5

4.5 Alternate Capacity and Replacement Units

- (a) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer of its intent (i) not to provide or (ii) to provide Alternative Capacity and identify Replacement Units meeting the above requirements no later than fifteen (15) Business Days before that Showing Month's applicable deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.

- (b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if the failure to deliver the full Contract Quantity is due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit and Seller notified Buyer, no later than ten (10) Business Days before that Showing Month's relevant deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings, as applicable, of Seller's intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month consistent with the following:

- (a) Seller shall, on a timely basis, submit, or cause the Unit's SC to submit, Supply Plans to identify and confirm the Designated RA Capacity provided to Buyer for each Showing Month so that the total amount of Designated RA Capacity identified and confirmed for such Showing Month equals the Designated RA Capacity, unless specifically requested not to do so by the Buyer.
- (b) Seller shall cause the Unit's Scheduling Coordinator to submit written notification to Buyer, no later than fifteen (15) Business Days before the applicable RAR Showings, LAR Showings and/or FCR Showings deadlines for each Showing Month, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit's Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month then the following shall apply:

- (a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RAR Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller, provided, that, if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having RAR Attributes and no LAR Attributes (such capacity shall also include FCR Attributes if this is a Flexible Capacity Product) and no such RAR capacity is available, then Buyer may replace such portion of the Designated RA Capacity with other capacity having RAR Attributes and LAR Attributes (as well as FCR Attributes if this is a Flexible Capacity Product) ("Replacement Capacity"). Such Replacement Capacity may be provided by CAISO to Buyer pursuant to the Tariff. Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

- (b) Seller shall pay to Buyer at the time set forth in Section 4.1 of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, plus (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a), and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Article Six of the Master Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

- (a) Seller's failure to provide any portion of the Designated RA Capacity;
- (b) Seller's failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Section 4.6;
- (c) A Unit Scheduling Coordinator's failure to timely submit Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder; or
- (d) A Unit Scheduling Coordinator's failure to submit accurate Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit's Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).

RA CAPACITY PRICE TABLE

Contract Year/Month	RA Capacity Price (\$/kW-month)
January	■
February	■
March	■
April	■
May	■
June	■
July	■
August	■
September	■
October	■
November	■
December	■

4.10 Allocation of Other Payments and Costs

Seller may retain any revenues it may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) capacity revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller's account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller's account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (c) above). In accordance with Section 4.9 of this Confirmation and Article Six of the Master Agreement, all such revenues received by Seller, or a Unit's SC, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Buyer does not receive, and Seller shall pay such revenues to Buyer if the Unit's SC, owner, or operator fails to remit those revenues to Buyer. If Seller fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

5.**CAISO OFFER REQUIREMENTS**

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event of Force Majeure that results in a partial or full Outage of that Unit, Seller shall either schedule or cause the Unit's Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit's Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit's Scheduling Coordinator, owner, or operator for such noncompliance.

6.**RESERVED****7.****OTHER BUYER AND SELLER COVENANTS**

- (a) Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's RAR, LAR and/or FCR, as applicable. Such commercially reasonable actions (neither Party shall be required to spend more than \$10,000 in total under the Agreement in support of such actions) shall include, without limitation:
- (b) Cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CAISO, the CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Period the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, the CAISO or other Governmental Body having jurisdiction to administer RAR, LAR or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to "deliverability" standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and
- (c) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and FCR, so as to maintain the purpose of the benefits of the bargain struck by the Parties on the Confirmation Effective Date.

7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

- (a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, CAISO, CPUC or other jurisdictional LRA, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;

- (b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy RAR, LAR, FCR or such analogous capacity obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit's owner or operator;
- (c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR, FCR, or analogous capacity obligations in any non-CAISO market;
- (d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;
- (e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;
- (f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity and, as applicable, RAR, LAR and/or FCR;
- (g) If Seller is the owner of any Unit, the respective cumulative sums of LAR Attributes, RAR Attributes, and FCR Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit's RA Capacity;
- (h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit's SC is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, and RAR, LAR and FCR;
- (i) Seller has notified the SC of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff;
- (j) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit's SC to provide to the Buyer, at least five (5) Business Days before the relevant deadline for each RAR Showing, LAR Showing, and/or FCR Showing, as applicable, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and
- (k) Seller has notified each Unit's SC that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

8.**CONFIDENTIALITY**

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction in order to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans.

**9.
BUYER'S RE-SALE OF PRODUCT**

Buyer may re-sell all or a portion of the Product hereunder.

**10.
[MARKET BASED RATE AUTHORITY]**

Seller agrees, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, to, upon request of Buyer, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller also agrees that it will not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

**11.
COLLATERAL REQUIREMENTS**

Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

Monterey Bay Community Power



By:
Name: Andrew Novotny
Title: Vice President

By: _____
Name: _____
Title: _____

**MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
MONTEREY BAY COMMUNITY POWER**

This confirmation letter ("Confirmation") confirms the Transaction between **Calpine Energy Services, L.P.**, a Delaware company ("Seller") and **Monterey Bay Community Power**, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of March 9, 2018 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of March 9, 2018, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

**1.
DEFINITIONS**

- 1.1** "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer in accordance with the terms of Section 4.5.
- 1.2** "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.
- 1.3** "Availability Incentive Payments" shall mean as set forth in the Tariff.
- 1.4** "Availability Standards" shall mean Availability Standards as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.
- 1.5** "Buyer" has the meaning specified in the introductory paragraph hereof.
- 1.6** "CAISO" means the California Independent System Operator or its successor.
- 1.7** "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the definition of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."
- 1.8** "Confirmation" has the meaning specified in the introductory paragraph hereof.
- 1.9** "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.
- 1.10** "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.
- 1.11** "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.

ATTACHMENT 2

Calpine Deal: 2237629
3/9/2018

- 1.12** "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.
- 1.13** "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, and 17-06-027 and subsequent decisions related to resource adequacy issued from time to time by the CPUC.
- 1.14** "CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE's to demonstrate compliance with the CPUC's resource adequacy program.
- 1.15** "Delivery Period" has the meaning specified in Section 4.1 hereof.
- 1.16** "Delivery Point" has the meaning specified in Section 4.2 hereof.
- 1.17** "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product for such Showing Month including the amount of Contract Quantity that Seller has elected to provide Alternate Capacity with respect to, minus any reductions to Contract Quantity specified in Section 4.4 with respect to which Seller has not elected to provide Alternate Capacity.
- 1.18** "Effective Flexible Capacity" means the flexible capacity of a resource that can be counted towards an LSE's FCR obligation, as identified from time to time by the Tariff, the CPUC Decisions, LRA, or other Governmental Body having jurisdiction.
- 1.19** "FCR Attributes" means, with respect to a Unit, any and all FCR attributes that can be counted toward an LSE's FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA, or other Governmental Body having jurisdiction that can be counted toward FCR and are consistent with the operational limitations and physical characteristics of such Unit. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines the FCR Attributes of a Unit, then such change will not result in a change in obligations or payments made pursuant to this Transaction.
- 1.20** "FCR Showings" means the FCR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.
- 1.21** "Firm RA Product" has the meaning specified in the Section 3.3 hereof.
- 1.22** "Flexible Capacity Requirements" or "FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.
- 1.23** "Flexible RA Product" has the meaning specified in the Section 3.2 hereof.
- 1.24** "GADS" means the Generating Availability Data System or its successor.
- 1.25** "Generic RA Product" means Designated RA Capacity consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.
- 1.26** "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully

exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.

- 1.27** "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA having jurisdiction over the LSE, as implemented in the Tariff. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.
- 1.28** "LAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR and are consistent with the operational limitations and physical characteristics of such Unit, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in obligations or payments made pursuant to this Transaction.
- 1.29** "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA having jurisdiction over the LSE.
- 1.30** "LRA" has the meaning set forth in the Tariff.
- 1.31** "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).
- 1.32** "Master Agreement" has the meaning specified in the introductory paragraph hereof.
- 1.33** "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.
- 1.34** "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.
- 1.35** "NERC" means the North American Electric Reliability Council, or its successor.
- 1.36** "NERC/GADS Protocols" means the GADS protocols established by NERC, as may be updated from time to time.
- 1.37** "Net Qualifying Capacity" has the meaning set forth in the Tariff.
- 1.38** "Non-Availability Charges" has the meaning set forth in the Tariff.
- 1.39** "Outage" means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).
- 1.40** "Planned Outage" means, subject to and as further described in the CPUC Decisions and the Tariff (Planned Outage referred to as "Approved Maintenance Outage" under the Tariff), a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

- 1.41 "Product" has the meaning specified in Article 3 hereof.
- 1.42 "RA Availability" means, for each Unit, expressed as a percentage, (a) the Unit's Designated RA Capacity for a Monthly Delivery Period, divided by (b) the Contract Quantity, provided that a Unit's RA Availability shall not exceed 1.00.
- 1.43 "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR, LAR, and FCR purposes for the Delivery Period, as determined by the CAISO, or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RAR Attributes, LAR Attributes and FCR Attributes of the capacity provided by a Unit, as applicable pursuant to this Confirmation.
- 1.44 "RA Capacity Flat Price" means the price specified in the RA Capacity Flat Price Table in Section 4.9 hereof.
- 1.45 "RAR" means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.
- 1.46 "RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the Tariff, the CPUC Decisions, LRA, or any Governmental Body having jurisdiction, that can be counted toward RAR and are consistent with the operational limitations and physical characteristics of such Unit, exclusive of any LAR Attributes or FCR Attributes.
- 1.47 "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Tariff, the CPUC Decisions or LRA having jurisdiction.
- 1.48 "Replacement Capacity" has the meaning specified in Section 4.7 hereof.
- 1.49 "Replacement Unit" means a generating unit meeting the requirements specified in Section 4.5.
- 1.50 "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.
- 1.51 "Scheduling Coordinator" has the same meaning as in the Tariff.
- 1.52 "Seller" has the meaning specified in the introductory paragraph hereof.
- 1.53 "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, LAR showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.
- 1.54 "Supply Plan" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.
- 1.55 "Tariff" means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.
- 1.56 "Transaction" has the meaning specified in the introductory paragraph hereof.

- 1.57** "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.
- 1.58** "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Net Qualifying Capacity.
- 1.59** "Unit EFC" means the Effective Flexible Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Effective Flexible Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lesser of (i) the Unit EFC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Effective Flexible Capacity. To the extent the Confirmation Effective Date of this Confirmation occurs prior to the CAISO's setting of a Unit EFC for the applicable Unit, the Unit EFC shall be as agreed to by the Parties and specified in Article 2, and Seller represents that, to the best of its knowledge, this Unit EFC is consistent with the CAISO's methodology for determining Unit EFC as of the Confirmation Effective Date. To the extent the CAISO creates new categories of flexible capacity during the term of this Transaction and a Unit can count toward such new categories of flexible capacity while operating consistent with the operational limitation and physical characteristics of such Unit, any and all such new categories of flexible capacity shall be deemed to be part of the Effective Flexible Capacity of that Unit. The above notwithstanding, to the extent the CAISO decides to reduce the applicable Unit EFC, Seller shall not be liable for any costs or damages related to such reduction and the Unit EFC shall be reduced per Section 4.4 of this Confirmation.

2.
UNIT INFORMATION

Name: Los Medanos Energy Center Aggregate

Location: Pittsburg, CA

CAISO Resource ID: LMEC_1_PL1X3

Resource Type: I_Phys_Res

Resource Category (1, 2, 3 or 4): 4

Point of interconnection with the CAISO Controlled Grid ("Substation"): Pittsburg

Path 26 (North, South or None): North

Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment:
None

Run Hour Restrictions: None

LAR Attributes (Yes/No): Local

If yes: Local Capacity Area (as of Confirmation Effective Date): Greater Bay Area

Product Type (Flexible/Generic): Flexible

If Generic: Unit NQC (as of the Confirmation Effective Date): N/A

If Flexible: Unit EFC (as of the Confirmation Effective Date): Varies by Month

Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): Base

3.**RESOURCE ADEQUACY CAPACITY PRODUCT**

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity in the amount of the Contract Quantity of (i) RAR Attributes and, if applicable, LAR Attributes, and (ii) FCR Attributes, if Flexible RA Product is specified in Section 3.2, and the Contract Quantity shall be either a Firm RA Product or a Contingent Firm RA Product, as specified in either Section 3.3 or 3.4 (the "Product"). The Product does not confer to Buyer any right to the electrical output from the Units, other than the right to include the Designated RA Capacity associated with the Contract Quantity in RAR Showings, LAR Showings, and FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell pursuant to the Tariff any RA Capacity from a Unit that is in excess of that Unit's Contract Quantity and any RAR Attributes, LAR Attributes or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RAR and LAR Attributes

Seller shall provide Buyer with the Designated RA Capacity of RAR Attributes and, if applicable, LAR Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

3.2 Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of FCR Attributes from the Units in the amount of the applicable Contract Quantity.

3.3 Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the Contract Quantity. If the Units are not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any Outage or any adjustment of the RA Capacity of any Unit, pursuant to Section 4.4, then, Seller shall provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with replacement Designated RA Capacity from Replacement Units pursuant to Section 4.5, then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the applicable Contract Quantity; provided, however, that if (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the Designated RA Capacity for (x) a reason other than a Force Majeure, Planned Outage or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

4.
DELIVERY AND PAYMENT

4.1 Delivery Period

The Delivery Period shall be January 1, 2019 through December 31, 2023, inclusive.

4.2 Delivery Point

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity of each Unit for each Monthly Delivery Period shall be:

Contract Quantity (MWs)

Month	Contract Quantity (MWs)
January	■
February	■
March	■
April	■
May	■
June	■
July	■
August	■
September	■
October	■
November	■
December	■

4.4 Adjustments to Contract Quantity

- (a) Planned Outages: Seller's obligation to deliver the Contract Quantity for any Showing Month may be reduced at Seller's option if any portion of the Unit is scheduled for a Planned Outage during the applicable Showing Month; provided, Seller notifies Buyer, no later than fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer's RAR Showings, LAR Showings, and/or FCR Showings applicable to that month as a result of such Planned Outage.

If Seller is unable to provide the applicable Contract Quantity for a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such Showing Month from Replacement Units,

provided, Seller provides and identifies such Replacement Units in accordance with Section 4.5. If Seller chooses not to provide Product from Replacement Units and a Unit is on a Planned Outage for the applicable Showing Month, then, the Contract Quantity shall be revised in accordance with any applicable adjustments stipulated by the CPUC Filing Guide or CAISO Tariff in effect for the applicable Showing Month in which the Planned Outage occurs.

- (b) Reductions in Unit NQC: If Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller's obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit NQC as determined by the CAISO. Seller's potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit NQC was reduced since Confirmation Effective Date, divided by (c) Unit NQC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit NQC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.
- (c) If Product is both (i) Flexible RA Product specified under Section 3.2, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller's obligation to deliver the applicable Contract Quantity of Product for any Showing Month may also be reduced if the Unit experiences a reduction in Unit EFC as determined by the CAISO. Seller's potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit EFC was reduced since Confirmation Effective Date, divided by (c) Unit EFC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5

4.5 Alternate Capacity and Replacement Units

- (a) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer of its intent (i) not to provide or (ii) to provide Alternative Capacity and identify Replacement Units meeting the above requirements no later than fifteen (15) Business Days before that Showing Month's applicable deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.

- (b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if the failure to deliver the full Contract Quantity is due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit and Seller notified Buyer, no later than ten (10) Business Days before that Showing Month's relevant deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings, as applicable, of Seller's intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month consistent with the following:

- (a) Seller shall, on a timely basis, submit, or cause the Unit's SC to submit, Supply Plans to identify and confirm the Designated RA Capacity provided to Buyer for each Showing Month so that the total amount of Designated RA Capacity identified and confirmed for such Showing Month equals the Designated RA Capacity, unless specifically requested not to do so by the Buyer.
- (b) Seller shall cause the Unit's Scheduling Coordinator to submit written notification to Buyer, no later than fifteen (15) Business Days before the applicable RAR Showings, LAR Showings and/or FCR Showings deadlines for each Showing Month, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit's Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month then the following shall apply:

- (a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RAR Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller, provided, that, if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having RAR Attributes and no LAR Attributes (such capacity shall also include FCR Attributes if this is a Flexible Capacity Product) and no such RAR capacity is available, then Buyer may replace such portion of the Designated RA Capacity with other capacity having RAR Attributes and LAR Attributes (as well as FCR Attributes if this is a Flexible Capacity Product) ("Replacement Capacity"). Such Replacement Capacity may be provided by CAISO to Buyer pursuant to the Tariff. Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.

- (b) Seller shall pay to Buyer at the time set forth in Section 4.1 of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, plus (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a), and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Article Six of the Master Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

- (a) Seller's failure to provide any portion of the Designated RA Capacity;
- (b) Seller's failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Section 4.6;
- (c) A Unit Scheduling Coordinator's failure to timely submit Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder; or
- (d) A Unit Scheduling Coordinator's failure to submit accurate Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties, fines or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit's Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).

RA CAPACITY PRICE TABLE

Contract Year/Month	RA Capacity Price (\$/kW-month)
January	■
February	■
March	■
April	■
May	■
June	■
July	■
August	■
September	■
October	■
November	■
December	■

4.10 Allocation of Other Payments and Costs

Seller may retain any revenues it may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) capacity revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller's account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller's account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (c) above). In accordance with Section 4.9 of this Confirmation and Article Six of the Master Agreement, all such revenues received by Seller, or a Unit's SC, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Buyer does not receive, and Seller shall pay such revenues to Buyer if the Unit's SC, owner, or operator fails to remit those revenues to Buyer. If Seller fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

5.**CAISO OFFER REQUIREMENTS**

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event of Force Majeure that results in a partial or full Outage of that Unit, Seller shall either schedule or cause the Unit's Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit's Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit's Scheduling Coordinator, owner, or operator for such noncompliance.

6.**RESERVED****7.****OTHER BUYER AND SELLER COVENANTS**

- (a) Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's RAR, LAR and/or FCR, as applicable. Such commercially reasonable actions (neither Party shall be required to spend more than \$10,000 in total under the Agreement in support of such actions) shall include, without limitation:
- (b) Cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CAISO, the CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Period the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, the CAISO or other Governmental Body having jurisdiction to administer RAR, LAR or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to "deliverability" standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and
- (c) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and FCR, so as to maintain the purpose of the benefits of the bargain struck by the Parties on the Confirmation Effective Date.

7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

- (a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, CAISO, CPUC or other jurisdictional LRA, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;

ATTACHMENT 2

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- (b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy RAR, LAR, FCR or such analogous capacity obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit's owner or operator;
- (c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR, FCR, or analogous capacity obligations in any non-CAISO market;
- (d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;
- (e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;
- (f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity and, as applicable, RAR, LAR and/or FCR;
- (g) If Seller is the owner of any Unit, the respective cumulative sums of LAR Attributes, RAR Attributes, and FCR Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit's RA Capacity;
- (h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit's SC is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, and RAR, LAR and FCR;
- (i) Seller has notified the SC of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff;
- (j) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit's SC to provide to the Buyer, at least five (5) Business Days before the relevant deadline for each RAR Showing, LAR Showing, and/or FCR Showing, as applicable, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and
- (k) Seller has notified each Unit's SC that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

8.

CONFIDENTIALITY

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction in order to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans.

**9.
BUYER'S RE-SALE OF PRODUCT**

Buyer may re-sell all or a portion of the Product hereunder.

**10.
[MARKET BASED RATE AUTHORITY]**

Seller agrees, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, to, upon request of Buyer, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller also agrees that it will not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

**11.
COLLATERAL REQUIREMENTS**

Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

Monterey Bay Community Power



By:
Name: Andrew Novotny
Title: Vice President

By: _____
Name: _____
Title: _____

REVISED

**MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
Monterey Bay Community Power Authority**

This confirmation letter ("Confirmation") confirms the Transaction between **Calpine Energy Services, L.P.**, a Delaware company ("Seller") and **Monterey Bay Community Power Authority**, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of March 28, 2018 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of March 9, 2018, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

**1.
DEFINITIONS**

- 1.1** "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer in accordance with the terms of Section 4.5.
- 1.2** "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.
- 1.3** "Availability Incentive Payments" shall mean as set forth in the Tariff.
- 1.4** "Availability Standards" shall mean Availability Standards as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.
- 1.5** "Buyer" has the meaning specified in the introductory paragraph hereof.
- 1.6** "CAISO" means the California Independent System Operator or its successor.
- 1.7** "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the definition of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."
- 1.8** "Confirmation" has the meaning specified in the introductory paragraph hereof.
- 1.9** "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.
- 1.10** "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.

- 1.11** "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.
- 1.12** "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.
- 1.13** "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, and 17-06-027 and subsequent decisions related to resource adequacy issued from time to time by the CPUC.
- 1.14** "CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE's to demonstrate compliance with the CPUC's resource adequacy program.
- 1.15** "Delivery Period" has the meaning specified in Section 4.1 hereof.
- 1.16** "Delivery Point" has the meaning specified in Section 4.2 hereof.
- 1.17** "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product for such Showing Month including the amount of Contract Quantity that Seller has elected to provide Alternate Capacity with respect to, minus any reductions to Contract Quantity specified in Section 4.4 with respect to which Seller has not elected to provide Alternate Capacity.
- 1.18** "Effective Flexible Capacity" means the flexible capacity of a resource that can be counted towards an LSE's FCR obligation, as identified from time to time by the Tariff, the CPUC Decisions, LRA, or other Governmental Body having jurisdiction.
- 1.19** "FCR Attributes" means, with respect to a Unit, any and all FCR attributes that can be counted toward an LSE's FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA, or other Governmental Body having jurisdiction that can be counted toward FCR and are consistent with the operational limitations and physical characteristics of such Unit. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines the FCR Attributes of a Unit, then such change will not result in a change in obligations or payments made pursuant to this Transaction.
- 1.20** "FCR Showings" means the FCR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.
- 1.21** "Firm RA Product" has the meaning specified in the Section 3.3 hereof.
- 1.22** "Flexible Capacity Requirements" or "FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.
- 1.23** "Flexible RA Product" has the meaning specified in the Section 3.2 hereof.
- 1.24** "GADS" means the Generating Availability Data System or its successor.
- 1.25** "Generic RA Product" means Designated RA Capacity consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.

- 1.26** "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.
- 1.27** "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA having jurisdiction over the LSE, as implemented in the Tariff. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.
- 1.28** "LAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR and are consistent with the operational limitations and physical characteristics of such Unit, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in obligations or payments made pursuant to this Transaction.
- 1.29** "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA having jurisdiction over the LSE.
- 1.30** "LRA" has the meaning set forth in the Tariff.
- 1.31** "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).
- 1.32** "Master Agreement" has the meaning specified in the introductory paragraph hereof.
- 1.33** "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.
- 1.34** "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.
- 1.35** "NERC" means the North American Electric Reliability Council, or its successor.
- 1.36** "NERC/GADS Protocols" means the GADS protocols established by NERC, as may be updated from time to time.
- 1.37** "Net Qualifying Capacity" has the meaning set forth in the Tariff.
- 1.38** "Non-Availability Charges" has the meaning set forth in the Tariff.
- 1.39** "Outage" means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).
- 1.40** "Planned Outage" means, subject to and as further described in the CPUC Decisions and the Tariff (Planned Outage referred to as "Approved Maintenance Outage" under the Tariff), a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the

Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

- 1.41** "Product" has the meaning specified in Article 3 hereof.
- 1.42** "RA Availability" means, for each Unit, expressed as a percentage, (a) the Unit's Designated RA Capacity for a Monthly Delivery Period, divided by (b) the Contract Quantity, provided that a Unit's RA Availability shall not exceed 1.00.
- 1.43** "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR, LAR, and FCR purposes for the Delivery Period, as determined by the CAISO, or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RAR Attributes, LAR Attributes and FCR Attributes of the capacity provided by a Unit, as applicable pursuant to this Confirmation.
- 1.44** "RA Capacity Flat Price" means the price specified in the RA Capacity Flat Price Table in Section 4.9 hereof.
- 1.45** "RAR" means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.
- 1.46** "RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the Tariff, the CPUC Decisions, LRA, or any Governmental Body having jurisdiction, that can be counted toward RAR and are consistent with the operational limitations and physical characteristics of such Unit, exclusive of any LAR Attributes or FCR Attributes.
- 1.47** "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Tariff, the CPUC Decisions or LRA having jurisdiction.
- 1.48** "Replacement Capacity" has the meaning specified in Section 4.7 hereof.
- 1.49** "Replacement Unit" means a generating unit meeting the requirements specified in Section 4.5.
- 1.50** "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.
- 1.51** "Scheduling Coordinator" has the same meaning as in the Tariff.
- 1.52** "Seller" has the meaning specified in the introductory paragraph hereof.
- 1.53** "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, LAR showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.
- 1.54** "Supply Plan" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.

- 1.55** "Tariff" means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.
- 1.56** "Transaction" has the meaning specified in the introductory paragraph hereof.
- 1.57** "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.
- 1.58** "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Net Qualifying Capacity.
- 1.59** "Unit EFC" means the Effective Flexible Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Effective Flexible Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lesser of (i) the Unit EFC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Effective Flexible Capacity. To the extent the Confirmation Effective Date of this Confirmation occurs prior to the CAISO's setting of a Unit EFC for the applicable Unit, the Unit EFC shall be as agreed to by the Parties and specified in Article 2, and Seller represents that, to the best of its knowledge, this Unit EFC is consistent with the CAISO's methodology for determining Unit EFC as of the Confirmation Effective Date. To the extent the CAISO creates new categories of flexible capacity during the term of this Transaction and a Unit can count toward such new categories of flexible capacity while operating consistent with the operational limitation and physical characteristics of such Unit, any and all such new categories of flexible capacity shall be deemed to be part of the Effective Flexible Capacity of that Unit. The above notwithstanding, to the extent the CAISO decides to reduce the applicable Unit EFC, Seller shall not be liable for any costs or damages related to such reduction and the Unit EFC shall be reduced per Section 4.4 of this Confirmation.

2.**UNIT INFORMATION**

Name: Delta Energy Center Aggregate

Location: Pittsburg, CA

CAISO Resource ID: DELTA_2_PL1X4

Resource Type: I_Phys_Res

Resource Category (1, 2, 3 or 4): 4

Point of interconnection with the CAISO Controlled Grid ("Substation"): Pittsburg 230 kV

Path 26 (North, South or None): North

Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment:
None

Run Hour Restrictions: None

LAR Attributes (Yes/No): No

If yes: Local Capacity Area (as of Confirmation Effective Date): N/A

Product Type (Flexible/Generic): Generic

If Generic: Unit NQC (as of the Confirmation Effective Date): Varies by Month

If Flexible: Unit EFC (as of the Confirmation Effective Date): N/A

Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): N/A

3.

RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity in the amount of the Contract Quantity of (i) RAR Attributes and, if applicable, LAR Attributes, and (ii) FCR Attributes, if Flexible RA Product is specified in Section 3.2, and the Contract Quantity shall be either a Firm RA Product or a Contingent Firm RA Product, as specified in either Section 3.3 or 3.4 (the "Product"). The Product does not confer to Buyer any right to the electrical output from the Units, other than the right to include the Designated RA Capacity associated with the Contract Quantity in RAR Showings, LAR Showings, and FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell pursuant to the Tariff any RA Capacity from a Unit that is in excess of that Unit's Contract Quantity and any RAR Attributes, LAR Attributes or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RAR and LAR Attributes

Seller shall provide Buyer with the Designated RA Capacity of RAR Attributes and, if applicable, LAR Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

3.2 Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of FCR Attributes from the Units in the amount of the applicable Contract Quantity.

3.3 Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the Contract Quantity. If the Units are not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any Outage or any adjustment of the RA Capacity of any Unit, pursuant to Section 4.4, then, Seller shall provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with replacement Designated RA Capacity from Replacement Units pursuant to Section 4.5, then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the applicable Contract Quantity; provided, however, that if (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the

Designated RA Capacity for (x) a reason other than a Force Majeure, Planned Outage or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

**4.
DELIVERY AND PAYMENT**

4.1 Delivery Period

The Delivery Period shall be January 1, 2019 through December 31, 2020, inclusive.

4.2 Delivery Point

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity of each Unit for each Monthly Delivery Period shall be:

Contract Quantity (MWs)

Month	Contract Quantity (MWs)
January 2019	■
February 2019	■
March 2019	■
April 2019	■
May 2019	■
June 2019	■
July 2019	■
August 2019	■
September 2019	■
October 2019	■
November 2019	■
December 2019	■
January 2020	■
February 2020	■
March 2020	■
April 2020	■
May 2020	■
June 2020	■
July 2020	■

August 2020	■
September 2020	■
October 2020	■
November 2020	■
December 2020	■

4.4 **Adjustments to Contract Quantity**

- (a) **Planned Outages:** Seller's obligation to deliver the Contract Quantity for any Showing Month may be reduced at Seller's option if any portion of the Unit is scheduled for a Planned Outage during the applicable Showing Month; provided, Seller notifies Buyer, no later than fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer's RAR Showings, LAR Showings, and/or FCR Showings applicable to that month as a result of such Planned Outage.

If Seller is unable to provide the applicable Contract Quantity for a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such Showing Month from Replacement Units, provided, Seller provides and identifies such Replacement Units in accordance with Section 4.5. If Seller chooses not to provide Product from Replacement Units and a Unit is on a Planned Outage for the applicable Showing Month, then, the Contract Quantity shall be revised in accordance with any applicable adjustments stipulated by the CPUC Filing Guide or CAISO Tariff in effect for the applicable Showing Month in which the Planned Outage occurs.

- (b) **Reductions in Unit NQC:** If Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller's obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit NQC as determined by the CAISO. Seller's potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit NQC was reduced since Confirmation Effective Date, divided by (c) Unit NQC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit NQC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.
- (c) If Product is both (i) Flexible RA Product specified under Section 3.2, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller's obligation to deliver the applicable Contract Quantity of Product for any Showing Month may also be reduced if the Unit experiences a reduction in Unit EFC as determined by the CAISO. Seller's potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit EFC was reduced since Confirmation Effective Date, divided by (c) Unit EFC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller has the option, but not the obligation, to provide the applicable

Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5

4.5 Alternate Capacity and Replacement Units

- (a) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer of its intent (i) not to provide or (ii) to provide Alternative Capacity and identify Replacement Units meeting the above requirements no later than fifteen (15) Business Days before that Showing Month's applicable deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.
- (b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if the failure to deliver the full Contract Quantity is due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit and Seller notified Buyer, no later than ten (10) Business Days before that Showing Month's relevant deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings, as applicable, of Seller's intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month consistent with the following:

- (a) Seller shall, on a timely basis, submit, or cause the Unit's SC to submit, Supply Plans to identify and confirm the Designated RA Capacity provided to Buyer for each Showing Month so that the total amount of Designated RA Capacity identified and confirmed for such Showing Month equals the Designated RA Capacity, unless specifically requested not to do so by the Buyer.
- (b) Seller shall cause the Unit's Scheduling Coordinator to submit written notification to Buyer, no later than fifteen (15) Business Days before the applicable RAR Showings, LAR Showings and/or FCR Showings deadlines for each Showing Month, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit's Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month then the following shall apply:

- (a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RAR Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller, provided, that, if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having RAR Attributes and no LAR Attributes (such capacity shall also include FCR Attributes if this is a Flexible Capacity Product) and no such RAR capacity is available, then Buyer may replace such portion of the Designated RA Capacity with other capacity having RAR Attributes and LAR Attributes (as well as FCR Attributes if this is a Flexible Capacity Product) ("Replacement Capacity"). Such Replacement Capacity may be provided by CAISO to Buyer pursuant to the Tariff. Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.
- (b) Seller shall pay to Buyer at the time set forth in Section 4.1 of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, plus (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a), and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Article Six of the Master Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

- (a) Seller's failure to provide any portion of the Designated RA Capacity;
- (b) Seller's failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Section 4.6;
- (c) A Unit Scheduling Coordinator's failure to timely submit Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder; or
- (d) A Unit Scheduling Coordinator's failure to submit accurate Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties,

finer or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit's Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).

RA CAPACITY PRICE TABLE

Contract Year/Month	RA Capacity Price (\$/kW-month)
January 2019	■
February 2019	■
March 2019	■
April 2019	■
May 2019	■
June 2019	■
July 2019	■
August 2019	■
September 2019	■
October 2019	■
November 2019	■
December 2019	■
January 2020	■
February 2020	■
March 2020	■
April 2020	■
May 2020	■
June 2020	■
July 2020	■
August 2020	■
September 2020	■
October 2020	■
November 2020	■
December 2020	■

4.10 Allocation of Other Payments and Costs

Seller may retain any revenues it may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) capacity revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller's account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller's account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (c) above). In accordance with Section 4.9 of this Confirmation and Article Six of the Master Agreement, all such revenues received by Seller, or a Unit's SC, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Buyer does not receive, and Seller shall pay such revenues to Buyer if the Unit's SC, owner, or operator fails to remit those revenues to Buyer. If Seller fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

5.**CAISO OFFER REQUIREMENTS**

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event of Force Majeure that results in a partial or full Outage of that Unit, Seller shall either schedule or cause the Unit's Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit's Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit's Scheduling Coordinator, owner, or operator for such noncompliance.

6.**RESERVED****7.****OTHER BUYER AND SELLER COVENANTS**

- (a) Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's RAR, LAR and/or FCR, as applicable. Such commercially reasonable actions (neither Party shall be required to spend more than \$10,000 in total under the Agreement in support of such actions) shall include, without limitation:

- (b) Cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CAISO, the CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Period the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, the CAISO or other Governmental Body having jurisdiction to administer RAR, LAR or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to "deliverability" standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and
- (c) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and FCR, so as to maintain the purpose of the benefits of the bargain struck by the Parties on the Confirmation Effective Date.

7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

- (a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, CAISO, CPUC or other jurisdictional LRA, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;
- (b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy RAR, LAR, FCR or such analogous capacity obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit's owner or operator;
- (c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR, FCR, or analogous capacity obligations in any non-CAISO market;
- (d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;
- (e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;
- (f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity and, as applicable, RAR, LAR and/or FCR;
- (g) If Seller is the owner of any Unit, the respective cumulative sums of LAR Attributes, RAR Attributes, and FCR Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit's RA Capacity;

- (h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit's SC is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, and RAR, LAR and FCR;
- (i) Seller has notified the SC of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff;
- (j) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit's SC to provide to the Buyer, at least five (5) Business Days before the relevant deadline for each RAR Showing, LAR Showing, and/or FCR Showing, as applicable, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and
- (k) Seller has notified each Unit's SC that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

8.**CONFIDENTIALITY**

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction in order to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans.

9.**BUYER'S RE-SALE OF PRODUCT**

Buyer may re-sell all or a portion of the Product hereunder.

10.**[MARKET BASED RATE AUTHORITY]**

Seller agrees, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, to, upon request of Buyer, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller also agrees that it will not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

11.**COLLATERAL REQUIREMENTS**

Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

Monterey Bay Community Power Authority



By:

By: _____

Name: Andrew Novotny

Name: _____

Title: Vice President

Title: _____

Monterey Bay Community Power Authority

By: _____

Name: _____

Title: _____

REVISED**MASTER POWER PURCHASE AND SALE AGREEMENT
CONFIRMATION LETTER
BETWEEN
CALPINE ENERGY SERVICES, L.P.
AND
MONTEREY BAY COMMUNITY POWER AUTHORITY**

This confirmation letter ("Confirmation") confirms the Transaction between **Calpine Energy Services, L.P.**, a Delaware company ("Seller") and **Monterey Bay Community Power Authority**, a California joint powers authority ("Buyer"), each individually a "Party" and together the "Parties", dated as of March 28, 2018 (the "Confirmation Effective Date"), in which Seller agrees to provide to Buyer the right to the Product, as such term is defined in Article 3 of this Confirmation. This Transaction is governed by the Edison Electric Institute Master Power Purchase and Sale Agreement between the Parties, and that certain Cover Sheet, effective as of March 9, 2018, along with any annexes and amendments thereto (collectively, the "Master Agreement"). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement". Capitalized terms used but not otherwise defined in this Confirmation have the meanings ascribed to them in the Master Agreement or the Tariff (as defined herein).

**1.
DEFINITIONS**

- 1.1** "Alternate Capacity" means any replacement Product which Seller has elected to provide to Buyer in accordance with the terms of Section 4.5.
- 1.2** "Applicable Laws" means any law, rule, regulation, order, decision, judgment, or other legal or regulatory determination by any Governmental Body having jurisdiction over one or both Parties or this Transaction, including without limitation, the Tariff.
- 1.3** "Availability Incentive Payments" shall mean as set forth in the Tariff.
- 1.4** "Availability Standards" shall mean Availability Standards as defined in FERC filing ER09-1064 or such other similar term as modified and approved by FERC thereafter to be incorporated in the Tariff or otherwise applicable to CAISO.
- 1.5** "Buyer" has the meaning specified in the introductory paragraph hereof.
- 1.6** "CAISO" means the California Independent System Operator or its successor.
- 1.7** "Capacity Replacement Price" means (a) the price actually paid for any Replacement Capacity purchased by Buyer pursuant to Section 4.7 hereof, plus costs reasonably incurred by Buyer in purchasing such Replacement Capacity, or (b) absent a purchase of any Replacement Capacity, the market price for such Designated RA Capacity not provided at the Delivery Point. The Buyer shall determine such market prices in a commercially reasonable manner. For purposes of the definition of Section 1.51 of the Master Agreement, "Capacity Replacement Price" shall be deemed to be the "Replacement Price."
- 1.8** "Confirmation" has the meaning specified in the introductory paragraph hereof.
- 1.9** "Confirmation Effective Date" has the meaning specified in the introductory paragraph hereof.
- 1.10** "Contingent Firm RA Product" has the meaning specified in Section 3.4 hereof.

- 1.11** "Contract Price" means, for any Monthly Delivery Period, the price specified under the RA Capacity Price Table in Section 4.9.
- 1.12** "Contract Quantity" means, with respect to any particular Showing Month of the Delivery Period, the amount of Product (in MWs) set forth in table in Section 4.3 which Seller has agreed to provide to Buyer from the Unit for such Showing Month.
- 1.13** "CPUC Decisions" means CPUC Decisions 04-01-050, 04-10-035, 05-10-042, 06-06-064, 06-07-031, 07-06-029, 08-06-031, 09-06-028, 10-06-036, 11-06-022, 12-06-025, 13-06-024, 14-06-050, 15-06-063, 16-06-045, and 17-06-027 and subsequent decisions related to resource adequacy issued from time to time by the CPUC.
- 1.14** "CPUC Filing Guide" means the annual document issued by the CPUC which sets forth the guidelines, requirements and instructions for LSE's to demonstrate compliance with the CPUC's resource adequacy program.
- 1.15** "Delivery Period" has the meaning specified in Section 4.1 hereof.
- 1.16** "Delivery Point" has the meaning specified in Section 4.2 hereof.
- 1.17** "Designated RA Capacity" shall be equal to, with respect to any particular Showing Month of the Delivery Period, the Contract Quantity of Product for such Showing Month including the amount of Contract Quantity that Seller has elected to provide Alternate Capacity with respect to, minus any reductions to Contract Quantity specified in Section 4.4 with respect to which Seller has not elected to provide Alternate Capacity.
- 1.18** "Effective Flexible Capacity" means the flexible capacity of a resource that can be counted towards an LSE's FCR obligation, as identified from time to time by the Tariff, the CPUC Decisions, LRA, or other Governmental Body having jurisdiction.
- 1.19** "FCR Attributes" means, with respect to a Unit, any and all FCR attributes that can be counted toward an LSE's FCR, as they are identified from time to time by the CPUC Decisions, the Tariff, an LRA, or other Governmental Body having jurisdiction that can be counted toward FCR and are consistent with the operational limitations and physical characteristics of such Unit. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines the FCR Attributes of a Unit, then such change will not result in a change in obligations or payments made pursuant to this Transaction.
- 1.20** "FCR Showings" means the FCR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions and the Tariff, or to an LRA having jurisdiction over the LSE.
- 1.21** "Firm RA Product" has the meaning specified in the Section 3.3 hereof.
- 1.22** "Flexible Capacity Requirements" or "FCR" means the flexible capacity requirements established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.
- 1.23** "Flexible RA Product" has the meaning specified in the Section 3.2 hereof.
- 1.24** "GADS" means the Generating Availability Data System or its successor.
- 1.25** "Generic RA Product" means Designated RA Capacity consisting of RAR Attributes and, if applicable, LAR Attributes, which does not include FCR Attributes.

- 1.26** "Governmental Body" means (i) any federal, state, local, municipal or other government; (ii) any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise any administrative, executive, judicial, legislative, police, regulatory or taxing authority or power; and (iii) any court or governmental tribunal.
- 1.27** "LAR" means local area reliability, which is any program of localized resource adequacy requirements established for jurisdictional LSEs by the CPUC pursuant to the CPUC Decisions, or by another LRA having jurisdiction over the LSE, as implemented in the Tariff. LAR may also be known as local resource adequacy, local RAR, or local capacity requirement in other regulatory proceedings or legislative actions.
- 1.28** "LAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes (or other locational attributes related to system reliability), as they are identified as of the Confirmation Effective Date by the CPUC Decisions, CAISO, LRA, or other Governmental Body having jurisdiction, associated with the physical location or point of electrical interconnection of the Unit within the CAISO Control Area, that can be counted toward LAR and are consistent with the operational limitations and physical characteristics of such Unit, but exclusive of any RAR Attributes which are not associated with where in the CAISO Control Area the Unit is physically located or electrically interconnected. For clarity, it should be understood that if the CAISO, LRA, or other Governmental Body, defines new or re-defines existing local areas, then such change will not result in a change in obligations or payments made pursuant to this Transaction.
- 1.29** "LAR Showings" means the LAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and, to the extent authorized by the CPUC, to the CAISO) pursuant to the CPUC Decisions, or to an LRA having jurisdiction over the LSE.
- 1.30** "LRA" has the meaning set forth in the Tariff.
- 1.31** "LSE" means load-serving entity. LSEs may be an investor-owned utility, an electric service provider, a community aggregator or community choice aggregator, or a municipality serving load in the CAISO Control Area (excluding exports).
- 1.32** "Master Agreement" has the meaning specified in the introductory paragraph hereof.
- 1.33** "Monthly Delivery Period" means each calendar month during the Delivery Period and shall correspond to each Showing Month.
- 1.34** "Monthly RA Capacity Payment" has the meaning specified in Section 4.9 hereof.
- 1.35** "NERC" means the North American Electric Reliability Council, or its successor.
- 1.36** "NERC/GADS Protocols" means the GADS protocols established by NERC, as may be updated from time to time.
- 1.37** "Net Qualifying Capacity" has the meaning set forth in the Tariff.
- 1.38** "Non-Availability Charges" has the meaning set forth in the Tariff.
- 1.39** "Outage" means disconnection, separation, or reduction in the capacity of any Unit that relieves all or part of the offer obligations of the Unit consistent with the Tariff. For the avoidance of doubt, Outage shall be deemed to include Planned Outage (defined below).
- 1.40** "Planned Outage" means, subject to and as further described in the CPUC Decisions and the Tariff (Planned Outage referred to as "Approved Maintenance Outage" under the Tariff), a CAISO-approved planned or scheduled disconnection, separation or reduction in capacity of the

Unit that is conducted for the purposes of carrying out routine repair or maintenance of such Unit, or for the purposes of new construction work for such Unit.

- 1.41** "Product" has the meaning specified in Article 3 hereof.
- 1.42** "RA Availability" means, for each Unit, expressed as a percentage, (a) the Unit's Designated RA Capacity for a Monthly Delivery Period, divided by (b) the Contract Quantity, provided that a Unit's RA Availability shall not exceed 1.00.
- 1.43** "RA Capacity" means the qualifying and deliverable capacity of the Unit for RAR, LAR, and FCR purposes for the Delivery Period, as determined by the CAISO, or other Governmental Body authorized to make such determination under Applicable Laws. RA Capacity encompasses the RAR Attributes, LAR Attributes and FCR Attributes of the capacity provided by a Unit, as applicable pursuant to this Confirmation.
- 1.44** "RA Capacity Flat Price" means the price specified in the RA Capacity Flat Price Table in Section 4.9 hereof.
- 1.45** "RAR" means the resource adequacy requirements, exclusive of LAR and FCR, established for LSEs by the CPUC pursuant to the CPUC Decisions, or by an LRA or other Governmental Body having jurisdiction.
- 1.46** "RAR Attributes" means, with respect to a Unit, any and all resource adequacy attributes, as they are identified as of the Confirmation Effective Date by the Tariff, the CPUC Decisions, LRA, or any Governmental Body having jurisdiction, that can be counted toward RAR and are consistent with the operational limitations and physical characteristics of such Unit, exclusive of any LAR Attributes or FCR Attributes.
- 1.47** "RAR Showings" means the RAR compliance showings (or similar or successor showings) an LSE is required to make to the CPUC (and/or, to the extent authorized by the CPUC, to the CAISO), pursuant to the Tariff, the CPUC Decisions or LRA having jurisdiction.
- 1.48** "Replacement Capacity" has the meaning specified in Section 4.7 hereof.
- 1.49** "Replacement Unit" means a generating unit meeting the requirements specified in Section 4.5.
- 1.50** "Resource Category" shall be as described in the CPUC Filing Guide, as such may be modified, amended, supplemented or updated from time to time.
- 1.51** "Scheduling Coordinator" has the same meaning as in the Tariff.
- 1.52** "Seller" has the meaning specified in the introductory paragraph hereof.
- 1.53** "Showing Month" shall be the calendar month during the Delivery Period that is the subject of the RAR Showing, LAR showing, and/or FCR Showing, as applicable, as set forth in the CPUC Decisions. For illustrative purposes only, pursuant to the CPUC Decisions in effect as of the Confirmation Effective Date, the monthly RAR Showing made in June is for the Showing Month of August.
- 1.54** "Supply Plan" means the supply plans, or similar or successor filings, that each Scheduling Coordinator representing RA Capacity submits to the CAISO, LRA, or other Governmental Body, pursuant to Applicable Laws, in order for that RA Capacity to count for its RAR Attributes, LAR Attributes, and/or FCR Attributes.

- 1.55** "Tariff" means the tariff and protocol provisions of the CAISO, including associated rules, procedures and business practice manuals, as amended or supplemented from time to time.
- 1.56** "Transaction" has the meaning specified in the introductory paragraph hereof.
- 1.57** "Unit" or "Units" shall mean the generation assets described in Article 2 hereof (including any Replacement Units), from which RA Capacity is provided by Seller to Buyer.
- 1.58** "Unit NQC" means the Net Qualifying Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Net Qualifying Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit NQC shall be deemed the lesser of (i) the Unit NQC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Net Qualifying Capacity.
- 1.59** "Unit EFC" means the Effective Flexible Capacity set by the CAISO for the applicable Unit. If the CAISO adjusts the Effective Flexible Capacity of a Unit after the Confirmation Effective Date, then for the period in which the adjustment is effective, the Unit EFC shall be deemed the lesser of (i) the Unit EFC as of the Confirmation Effective Date, and (ii) the CAISO-adjusted Effective Flexible Capacity. To the extent the Confirmation Effective Date of this Confirmation occurs prior to the CAISO's setting of a Unit EFC for the applicable Unit, the Unit EFC shall be as agreed to by the Parties and specified in Article 2, and Seller represents that, to the best of its knowledge, this Unit EFC is consistent with the CAISO's methodology for determining Unit EFC as of the Confirmation Effective Date. To the extent the CAISO creates new categories of flexible capacity during the term of this Transaction and a Unit can count toward such new categories of flexible capacity while operating consistent with the operational limitation and physical characteristics of such Unit, any and all such new categories of flexible capacity shall be deemed to be part of the Effective Flexible Capacity of that Unit. The above notwithstanding, to the extent the CAISO decides to reduce the applicable Unit EFC, Seller shall not be liable for any costs or damages related to such reduction and the Unit EFC shall be reduced per Section 4.4 of this Confirmation.

2.**UNIT INFORMATION**

Name: Delta Energy Center Aggregate

Location: Pittsburg, CA

CAISO Resource ID: DELTA_2_PL1X4

Resource Type: I_Phys_Res

Resource Category (1, 2, 3 or 4): 4

Point of interconnection with the CAISO Controlled Grid ("Substation"): Pittsburg 230 kV

Path 26 (North, South or None): North

Deliverability restrictions, if any, as described in most recent CAISO deliverability assessment:
None

Run Hour Restrictions: None

LAR Attributes (Yes/No): No

If yes: Local Capacity Area (as of Confirmation Effective Date): N/A

Product Type (Flexible/Generic): Flexible

If Generic: Unit NQC (as of the Confirmation Effective Date): N/A

If Flexible: Unit EFC (as of the Confirmation Effective Date): Varies by Month

Flexible Capacity Category (Base/Peak/Super-peak) (as of the Confirmation Effective Date): Base

3.

RESOURCE ADEQUACY CAPACITY PRODUCT

During the Delivery Period, Seller shall provide to Buyer, pursuant to the terms of this Confirmation, the Designated RA Capacity in the amount of the Contract Quantity of (i) RAR Attributes and, if applicable, LAR Attributes, and (ii) FCR Attributes, if Flexible RA Product is specified in Section 3.2, and the Contract Quantity shall be either a Firm RA Product or a Contingent Firm RA Product, as specified in either Section 3.3 or 3.4 (the "Product"). The Product does not confer to Buyer any right to the electrical output from the Units, other than the right to include the Designated RA Capacity associated with the Contract Quantity in RAR Showings, LAR Showings, and FCR Showings, as applicable, and any other capacity or resource adequacy markets or proceedings as specified in this Confirmation. Specifically, no energy or ancillary services associated with any Unit is required to be made available to Buyer as part of this Transaction and Buyer shall not be responsible for compensating Seller for Seller's commitments to the CAISO required by this Confirmation. Seller retains the right to sell pursuant to the Tariff any RA Capacity from a Unit that is in excess of that Unit's Contract Quantity and any RAR Attributes, LAR Attributes or FCR Attributes not otherwise transferred, conveyed, or sold to Buyer under this Confirmation.

3.1 RAR and LAR Attributes

Seller shall provide Buyer with the Designated RA Capacity of RAR Attributes and, if applicable, LAR Attributes from each Unit, as measured in MWs, in accordance with the terms and conditions of this Agreement.

3.2 Flexible RA Product

Seller shall provide Buyer with Designated RA Capacity of FCR Attributes from the Units in the amount of the applicable Contract Quantity.

3.3 Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the Contract Quantity. If the Units are not available to provide the full amount of the Contract Quantity for any reason other than Force Majeure, including without limitation any Outage or any adjustment of the RA Capacity of any Unit, pursuant to Section 4.4, then, Seller shall provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with replacement Designated RA Capacity from Replacement Units pursuant to Section 4.5, then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

3.4 Contingent Firm RA Product

Seller shall provide Buyer with Designated RA Capacity from the Units in the amount of the applicable Contract Quantity; provided, however, that if (i) the Units are not available to provide the full amount of the Contract Quantity due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit, and (ii) Seller has given Buyer timely notice pursuant to Section 4.5, then, Seller may either reduce the Contract Quantity or provide Buyer with Designated RA Capacity from one or more Replacement Units pursuant to Section 4.5 hereof. If Seller fails to provide Buyer with any portion of the

Designated RA Capacity for (x) a reason other than a Force Majeure, Planned Outage or reduction of the RA Capacity of any Unit, or (y) Seller failed to give Buyer timely notice pursuant to Section 4.5(a), then Seller shall be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof.

**4.
DELIVERY AND PAYMENT**

4.1 Delivery Period

The Delivery Period shall be January 1, 2019 through December 31, 2020, inclusive.

4.2 Delivery Point

The Delivery Point for each Unit shall be the CAISO Control Area, and if applicable, the LAR region in which the Unit is electrically interconnected.

4.3 Contract Quantity

The Contract Quantity of each Unit for each Monthly Delivery Period shall be:

Contract Quantity (MWs)

Month	Contract Quantity (MWs)
January 2019	■
February 2019	■
March 2019	■
April 2019	■
May 2019	■
June 2019	■
July 2019	■
August 2019	■
September 2019	■
October 2019	■
November 2019	■
December 2019	■
January 2020	■
February 2020	■
March 2020	■
April 2020	■
May 2020	■
June 2020	■
July 2020	■

August 2020	■
September 2020	■
October 2020	■
November 2020	■
December 2020	■

4.4 Adjustments to Contract Quantity

- (a) Planned Outages: Seller’s obligation to deliver the Contract Quantity for any Showing Month may be reduced at Seller’s option if any portion of the Unit is scheduled for a Planned Outage during the applicable Showing Month; provided, Seller notifies Buyer, no later than fifteen (15) Business Days before the relevant deadlines for the corresponding RAR Showings, LAR Showings and/or FCR Showings applicable to that Showing Month, of the amount of Product from the Unit Buyer is permitted to include in Buyer’s RAR Showings, LAR Showings, and/or FCR Showings applicable to that month as a result of such Planned Outage.

If Seller is unable to provide the applicable Contract Quantity for a Showing Month because of a Planned Outage of a Unit, Seller has the option, but not the obligation, to provide Product for such Showing Month from Replacement Units, provided, Seller provides and identifies such Replacement Units in accordance with Section 4.5. If Seller chooses not to provide Product from Replacement Units and a Unit is on a Planned Outage for the applicable Showing Month, then, the Contract Quantity shall be revised in accordance with any applicable adjustments stipulated by the CPUC Filing Guide or CAISO Tariff in effect for the applicable Showing Month in which the Planned Outage occurs.

- (b) Reductions in Unit NQC: If Product is both (i) Generic RA Product, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity for any Showing Month may also be reduced if the Unit experiences a reduction in Unit NQC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit NQC was reduced since Confirmation Effective Date, divided by (c) Unit NQC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit NQC, then Seller has the option, but not the obligation, to provide the applicable Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5.

- (c) If Product is both (i) Flexible RA Product specified under Section 3.2, and (ii) Contingent Firm RA Product specified under Section 3.4, then Seller’s obligation to deliver the applicable Contract Quantity of Product for any Showing Month may also be reduced if the Unit experiences a reduction in Unit EFC as determined by the CAISO. Seller’s potential reduction in Contract Quantity for each remaining Showing Month shall equal the product of (a) the applicable Showing Month Contract Quantity and (b) the total amount (in MW) Unit EFC was reduced since Confirmation Effective Date, divided by (c) Unit EFC as of the Confirmation Effective Date. If the Unit experiences such a reduction in Unit EFC, then Seller has the option, but not the obligation, to provide the applicable

Contract Quantity for such Showing Month from (i) the same Unit, provided the Unit has sufficient remaining and available Product and/or (ii) from Replacement Units, provided, that in each case Seller provides and identifies such Replacement Units in accordance with Section 4.5

4.5 Alternate Capacity and Replacement Units

- (a) If Seller is unable to provide the full Contract Quantity for any Showing Month for any reason, including, without limitation, due to one of the reasons specified in Section 4.4, or Seller desires to provide the Contract Quantity for any Showing Month from a different generating unit other than the Unit, then Seller may, at no cost to Buyer, provide Buyer with Alternate Capacity from one or more Replacement Units, with the total amount of Product provided to Buyer from the Unit and Replacement Units up to an amount equal to the Contract Quantity for the applicable Showing Month; provided that in each case, Seller shall notify Buyer of its intent (i) not to provide or (ii) to provide Alternative Capacity and identify Replacement Units meeting the above requirements no later than fifteen (15) Business Days before that Showing Month's applicable deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings. If Seller notifies Buyer in writing as to the particular Replacement Units and such Units meet the requirements of this Section 4.5, then such Replacement Units shall be automatically deemed a Unit for purposes of this Confirmation for that Showing Month.
- (b) With respect to a Contingent Firm RA Product, if Seller does not provide Alternate Capacity in an amount equal to the Contract Quantity for that Showing Month, then Buyer may, but shall not be required to, purchase replacement Product. Seller shall not be liable for damages and/or required to indemnify Buyer for penalties or fines pursuant to the terms of Sections 4.7 and 4.8 hereof if the failure to deliver the full Contract Quantity is due to Force Majeure, any Planned Outage or any reduction of the RA Capacity of any Unit and Seller notified Buyer, no later than ten (10) Business Days before that Showing Month's relevant deadlines for Buyer's RAR Showings, LAR Showings, and/or FCR Showings, as applicable, of Seller's intent not to provide Alternate Capacity in an amount equal to the Contract Quantity of that Showing Month.

4.6 Delivery of Product

Seller shall provide Buyer with the Designated RA Capacity of Product for each Showing Month consistent with the following:

- (a) Seller shall, on a timely basis, submit, or cause the Unit's SC to submit, Supply Plans to identify and confirm the Designated RA Capacity provided to Buyer for each Showing Month so that the total amount of Designated RA Capacity identified and confirmed for such Showing Month equals the Designated RA Capacity, unless specifically requested not to do so by the Buyer.
- (b) Seller shall cause the Unit's Scheduling Coordinator to submit written notification to Buyer, no later than fifteen (15) Business Days before the applicable RAR Showings, LAR Showings and/or FCR Showings deadlines for each Showing Month, that Buyer will be credited with the Designated RA Capacity for such Showing Month in the Unit's Scheduling Coordinator Supply Plan so that the Designated RA Capacity credited equals the Designated RA Capacity for such Showing Month.

4.7 Damages for Failure to Provide Designated RA Capacity

If Seller fails to provide Buyer with the Designated RA Capacity of Product for any Showing Month then the following shall apply:

- (a) Buyer may, but shall not be required to, replace any portion of the Designated RA Capacity not provided by Seller with capacity having equivalent RAR Attributes, LAR Attributes and/or FCR Attributes as the Designated RA Capacity not provided by Seller, provided, that, if any portion of the Designated RA Capacity that Buyer is seeking to replace is Designated RA Capacity having RAR Attributes and no LAR Attributes (such capacity shall also include FCR Attributes if this is a Flexible Capacity Product) and no such RAR capacity is available, then Buyer may replace such portion of the Designated RA Capacity with other capacity having RAR Attributes and LAR Attributes (as well as FCR Attributes if this is a Flexible Capacity Product) ("Replacement Capacity"). Such Replacement Capacity may be provided by CAISO to Buyer pursuant to the Tariff. Buyer may enter into purchase transactions with one or more parties to replace any portion of Designated RA Capacity not provided by Seller. Additionally, Buyer may enter into one or more arrangements to repurchase its obligation to sell and deliver capacity to another party and, to the extent such transactions are done at prevailing market prices, such arrangements shall be considered equivalent to the procurement of Replacement Capacity. Buyer shall use commercially reasonable efforts to minimize damages when procuring any Replacement Capacity.
- (b) Seller shall pay to Buyer at the time set forth in Section 4.1 of the Master Agreement, the following damages in lieu of damages specified in Section 4.1 of the Master Agreement: an amount equal to the positive difference, if any, between (i) the sum of (A) the actual cost paid by Buyer for any Replacement Capacity, plus (B) each Capacity Replacement Price times the amount of the Designated RA Capacity neither provided by Seller nor purchased by Buyer pursuant to Section 4.7(a), and (ii) the Designated RA Capacity not provided for the applicable Showing Month times the Contract Price for that month. If Seller fails to pay these damages, then Buyer may offset those damages owed it against any future amounts it may owe to Seller under this Confirmation pursuant to Article Six of the Master Agreement.

4.8 Indemnities for Failure to Deliver Contract Quantity

Seller agrees to indemnify, defend and hold harmless Buyer from any penalties, fines or costs assessed against Buyer by the CPUC or the CAISO, resulting from any of the following:

- (a) Seller's failure to provide any portion of the Designated RA Capacity;
- (b) Seller's failure to provide notice of the non-availability of any portion of Designated RA Capacity as required under Section 4.6;
- (c) A Unit Scheduling Coordinator's failure to timely submit Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder; or
- (d) A Unit Scheduling Coordinator's failure to submit accurate Supply Plans that identify Buyer's right to the Designated RA Capacity purchased hereunder.

With respect to the foregoing, the Parties shall use commercially reasonable efforts to minimize such penalties, fines and costs; provided, that in no event shall Buyer be required to use or change its utilization of its owned or controlled assets or market positions to minimize these penalties and fines. If Seller fails to pay the foregoing penalties, fines or costs, or fails to reimburse Buyer for those penalties,

finer or costs, then Buyer may offset those penalties, fines or costs against any future amounts it may owe to Seller under this Confirmation.

4.9 Monthly RA Capacity Payment

In accordance with the terms of Article Six of the Master Agreement, Buyer shall make a Monthly RA Capacity Payment to Seller for each Unit, in arrears after the applicable Showing Month. Each Unit's Monthly RA Capacity Payment shall be equal to the product of (a) the applicable Contract Price for that Monthly Delivery Period, (b) the Designated RA Capacity for the Monthly Delivery Period, and (c) 1,000. The final product of this Monthly RA Capacity Payment calculation shall be rounded to the nearest penny (i.e., two decimal places).

RA CAPACITY PRICE TABLE

Contract Year/Month	RA Capacity Price (\$/kW-month)
January 2019	■
February 2019	■
March 2019	■
April 2019	■
May 2019	■
June 2019	■
July 2019	■
August 2019	■
September 2019	■
October 2019	■
November 2019	■
December 2019	■
January 2020	■
February 2020	■
March 2020	■
April 2020	■
May 2020	■
June 2020	■
July 2020	■
August 2020	■
September 2020	■
October 2020	■
November 2020	■
December 2020	■

4.10 Allocation of Other Payments and Costs

Seller may retain any revenues it may receive from the CAISO or any other third party with respect to any Unit for (a) start-up, shut-down, and minimum load costs, (b) capacity revenue for ancillary services, (c) energy sales, (d) any revenues for black start or reactive power services, or (e) the sale of the unit-contingent call rights on the generation capacity of the Unit to provide energy to a third party, so long as such rights do not confer on such third party the right to claim any portion of the RA Capacity sold hereunder in order to make an RAR Showing, LAR Showing, FCR Showing, or any similar capacity or resource adequacy showing with the CAISO or CPUC. Buyer acknowledges and agrees that all Availability Incentive Payments are for the benefit of Seller and for Seller's account, and that Seller shall receive, retain, or be entitled to receive all credits, payments, and revenues, if any, resulting from Seller achieving or exceeding Availability Standards. The Parties acknowledge and agree that any Non-Availability Charges are the responsibility of Seller, and for Seller's account and Seller shall be responsible for all fees, charges, or penalties, if any, resulting from Seller failing to achieve Availability Standards. However, Buyer shall be entitled to receive and retain all revenues associated with the Designated RA Capacity of any Unit during the Delivery Period (including any capacity or availability revenues from RMR Agreements for any Unit, Reliability Compensation Services Tariff, and Residual Unit Commitment capacity payments, but excluding payments described in clauses (a) through (c) above). In accordance with Section 4.9 of this Confirmation and Article Six of the Master Agreement, all such revenues received by Seller, or a Unit's SC, owner, or operator shall be remitted to Buyer, and Seller shall indemnify Buyer for any such revenues that Buyer does not receive, and Seller shall pay such revenues to Buyer if the Unit's SC, owner, or operator fails to remit those revenues to Buyer. If Seller fails to pay such revenues to Buyer, Buyer may offset any amounts owing to it for such revenues pursuant to Article Six of the Master Agreement against any future amounts it may owe to Seller under this Confirmation. If a centralized capacity market develops within the CAISO region, Buyer will have exclusive rights to offer, bid, or otherwise submit Designated RA Capacity provided to Buyer pursuant to this Confirmation for re-sale in such market, and retain and receive any and all related revenues.

5.**CAISO OFFER REQUIREMENTS**

During the Delivery Period, except to the extent any Unit is in an Outage, or is affected by an event of Force Majeure that results in a partial or full Outage of that Unit, Seller shall either schedule or cause the Unit's Scheduling Coordinator to schedule with, or make available to, the CAISO each Unit's Designated RA Capacity in compliance with the Tariff, and shall perform all, or cause the Unit's Scheduling Coordinator, owner, or operator, as applicable, to perform all obligations under the Tariff that are associated with the sale of Designated RA Capacity hereunder. Buyer shall have no liability for the failure of Seller or the failure of any Unit's Scheduling Coordinator, owner, or operator to comply with such Tariff provisions, including any penalties or fines imposed on Seller or the Unit's Scheduling Coordinator, owner, or operator for such noncompliance.

6.**RESERVED****7.****OTHER BUYER AND SELLER COVENANTS**

- (a) Buyer and Seller shall, throughout the Delivery Period, take all commercially reasonable actions and execute any and all documents or instruments reasonably necessary to ensure Buyer's right to the use of the Contract Quantity for the sole benefit of Buyer's RAR, LAR and/or FCR, as applicable. Such commercially reasonable actions (neither Party shall be required to spend more than \$10,000 in total under the Agreement in support of such actions) shall include, without limitation:

- (b) Cooperating with and providing, and in the case of Seller causing each Unit's Scheduling Coordinator, owner, or operator to cooperate with and provide requested supporting documentation to the CAISO, the CPUC, or any other Governmental Body responsible for administering RAR, LAR and/or FCR under Applicable Laws, to certify or qualify the Contract Quantity as RA Capacity and Designated RA Capacity. Such actions shall include, without limitation, providing information requested by the CAISO, the CPUC, or by an LRA having jurisdiction, to demonstrate for each month of the Delivery Period the ability to deliver the Contract Quantity from each Unit to the CAISO Controlled Grid for the minimum hours required to qualify as RA Capacity, and providing information requested by the CPUC, the CAISO or other Governmental Body having jurisdiction to administer RAR, LAR or FCR to demonstrate that the Contract Quantity can be delivered to the CAISO Controlled Grid, pursuant to "deliverability" standards established by the CAISO, or other Governmental Body having jurisdiction to administer RAR, LAR and/or FCR; and
- (c) Negotiating in good faith to make necessary amendments, if any, to this Confirmation to conform this Transaction to subsequent clarifications, revisions, or decisions rendered by the CPUC, CAISO, FERC, or other Governmental Body having jurisdiction to administer RAR, LAR and FCR, so as to maintain the purpose of the benefits of the bargain struck by the Parties on the Confirmation Effective Date.

7.2 Seller represents, warrants and covenants to Buyer that, throughout the Delivery Period:

- (a) Seller owns or has the exclusive right to the RA Capacity sold under this Confirmation from each Unit, and shall furnish Buyer, CAISO, CPUC or other jurisdictional LRA, or other Governmental Body with such evidence as may reasonably be requested to demonstrate such ownership or exclusive right;
- (b) No portion of the Contract Quantity has been committed by Seller to any third party in order to satisfy RAR, LAR, FCR or such analogous capacity obligations in CAISO markets, other than pursuant to an RMR Agreement between the CAISO and either Seller or the Unit's owner or operator;
- (c) No portion of the Contract Quantity has been committed by Seller in order to satisfy RAR, LAR, FCR, or analogous capacity obligations in any non-CAISO market;
- (d) Each Unit is connected to the CAISO Controlled Grid, is within the CAISO Control Area, or is under the control of CAISO;
- (e) The owner or operator of each Unit is obligated to maintain and operate each Unit using Good Utility Practice and, if applicable, General Order 167 as outlined by the CPUC in the Enforcement of Maintenance and Operation Standards for Electric Generating Facilities Adopted May 6, 2004, and is obligated to abide by all Applicable Laws in operating such Unit; provided, that the owner or operator of any Unit is not required to undertake capital improvements, facility enhancements, or the construction of new facilities;
- (f) The owner or operator of each Unit is obligated to comply with Applicable Laws, including the Tariff, relating to RA Capacity and, as applicable, RAR, LAR and/or FCR;
- (g) If Seller is the owner of any Unit, the respective cumulative sums of LAR Attributes, RAR Attributes, and FCR Attributes that Seller has sold, assigned or transferred for any Unit does not exceed that Unit's RA Capacity;

- (h) With respect to the RA Capacity provided under this Confirmation, Seller shall, and each Unit's SC is obligated to, comply with Applicable Laws, including the Tariff, relating to RA Capacity, and RAR, LAR and FCR;
- (i) Seller has notified the SC of each Unit that Seller has transferred the Designated RA Capacity to Buyer, and the SC is obligated to deliver the Supply Plans in accordance with the Tariff;
- (j) Seller has notified the SC of each Unit that Seller is obligated to cause each Unit's SC to provide to the Buyer, at least five (5) Business Days before the relevant deadline for each RAR Showing, LAR Showing, and/or FCR Showing, as applicable, the Designated RA Capacity of each Unit that is to be submitted in the Supply Plan associated with this Agreement for the applicable period; and
- (k) Seller has notified each Unit's SC that Buyer is entitled to the revenues set forth in Section 4.10 of this Confirmation, and such SC is obligated to promptly deliver those revenues to Buyer, along with appropriate documentation supporting the amount of those revenues.

**8.
CONFIDENTIALITY**

Notwithstanding Section 10.11 of the Master Agreement, the Parties agree that Buyer may disclose the Designated RA Capacity under this Transaction to any Governmental Body, the CPUC, the CAISO or any LRA having jurisdiction in order to support its LAR Showings, RAR Showings, and/or FCR Showings, as applicable, and Seller may disclose the transfer of the Designated RA Capacity under this Transaction to the SC of each Unit in order for such SC to timely submit accurate Supply Plans.

**9.
BUYER'S RE-SALE OF PRODUCT**

Buyer may re-sell all or a portion of the Product hereunder.

**10.
[MARKET BASED RATE AUTHORITY]**

Seller agrees, in accordance with Federal Energy Regulatory Commission (FERC) Order No. 697, to, upon request of Buyer, submit a letter of concurrence in support of any affirmative statement by Buyer that this contractual arrangement does not transfer "ownership or control of generation capacity" from Seller to Buyer as the term "ownership or control of generation capacity" is used in 18 CFR Section 35.42. Seller also agrees that it will not, in filings, if any, made subject to Order Nos. 652 and 697, claim that this contractual arrangement conveys ownership or control of generation capacity from Seller to Buyer.

**11.
COLLATERAL REQUIREMENTS**

Performance Assurance shall not be required from either Party in connection with this Transaction.

ACKNOWLEDGED AND AGREED TO AS OF THE CONFIRMATION EFFECTIVE DATE

Calpine Energy Services, L.P.

Monterey Bay Community Power Authority



By:

By: _____

Name: Andrew Novotny

Name: _____

Title: Vice President

Title: _____

Monterey Bay Community Power Authority

By: _____

Name: _____

Title: _____

Staff Report Item 13

TO: MBCP Operations Board of Directors

FROM: Tom Habashi, Chief Executive Officer

SUBJECT: Authorize CEO to Issue Request for Offers for Local Renewable Generation and Energy Storage Projects Between 1 to 3 Megawatts (*Action Item*)

DATE: May 2, 2018

RECOMMENDATION:

Authorize CEO to Issue Request for Offers (RFO) for Local Renewable Generation. Power Delivery Term: 5 to 20 years. Capacity: 1 to 3 MWs per project with a portfolio target of 20MWs.

BACKGROUND:

In order to meet requirements established by SB350, MBCP issued an RFO for Renewable Energy Generation in October 2017. The RFO required developers to propose renewable projects with a minimum capacity of 20MWs. MBCP received 87 unique responses and only one for a project located within MBCP's service territory. After the solicitation process staff noticed that tri-county developers did not respond due to the requirements of the original RFO. In order to give local developers a better opportunity, MBCP created the accompanying Go Local RFO with different requirements with a greater emphasis on local generation.

DISCUSSION/ANALYSIS:

MBCP met with customers and local developers and determined that issuing the Go Local RFO will provide MBCP with a better opportunity to contract locally and provide a platform for local developers to propose projects that meet MBCP's founding principles of local choice, clean

energy, and economic vitality. MBCP staff will consider the following criteria when determining the best proposals:

- Interconnection and capacity improvements
- Project location, technology, size, and term
- Job creation, local hiring, and prevailing wage
- Economic growth
- Increase in local investment
- Environmental impact
- Developer experience
- Project status

FISCAL IMPACT:

Fiscal impact will be determined once MBCP receives responses and has price discovery. Staff has identified a potential annual premium of up to \$3 million for 20MWs of local generation. MBCP may consider implementing a program to incentivize local generation and make it more competitive with other renewable power supply.

CONCLUSION:

Staff recommends that the Board review and authorize the CEO to issue the Go Local RFO for local renewable generation to stimulate the local economy, provide better service to customers, decrease emissions, and meet MBCP's regulatory requirements.

ATTACHMENT:

1. 2018 Request for Offers



2018 Request for Offers Procedural Overview & Instructions

1. Introduction

As part of its ongoing effort to deliver environmentally responsible, competitively priced retail electricity service options, and to stimulate economic vitality and job creation in the Tri-County region MBCP has established a Request for Offer for local generation (Go Local RFO) based within the service territory, that provides a competitive, objectively administered opportunity for qualified suppliers of various energy products to fulfill certain portions of MBCP’s future resource requirements.

MBCP’s 2018 Go Local RFO includes requests for two unique energy products, as defined below. General instructions for participating in MBCP’s Go Local RFO are described in the text of this document, below, while product-specific requirements for Products A and B are outlined in Appendices A and B respectively.

<u>Product</u>	<u>Offers Due</u>
A. Local Renewable Energy	Wednesday, July 11, 2018
B. Energy Storage	Wednesday, July 25, 2018

By participating in MBCP’s Go Local RFO process, respondents acknowledge that they have read, understand, and agree to the terms and conditions set forth in this Procedural Overview & Instructions. MBCP reserves the right to reject any offer that does not comply with the requirements identified herein. Furthermore, MBCP may, in its sole discretion and without notice, modify, suspend, or terminate the Local Generation without liability to any organization or individual. The Go Local RFO does not constitute an offer to buy or create an obligation for MBCP to enter into an agreement with any party, and MBCP shall not be bound by the terms of any offer until MBCP has entered into a fully executed agreement.

2. Schedule

Each product-specific solicitation of the Go Local RFO will be administered based on the following schedule:

- a. Offer submission: Offers must be received by MBCP no later than 5:00 P.M. Pacific Prevailing Time on the corresponding product-specific response deadline. Please see Appendices A and B for additional detail regarding product-specific timelines.
- b. Supplier interviews/Q&A: As necessary, MBCP may submit clarifying questions to certain respondents or conduct interviews, based on information provided in the Offer Form. MBCP shall retain the right, in its sole discretion, to request information without notifying other respondents. MBCP shall establish due dates for any request(s) for additional information, which shall be communicated to the affected respondent(s).
- c. Response evaluation and supplier notification: Following its review of proposed responses and clarifying materials, as well as any interview(s) that may be conducted during this process, MBCP will notify all selected suppliers of its intent to pursue contract negotiations. Those suppliers not selected during this process will be notified accordingly.
- d. Contract approval and execution: Contracting for each product will proceed via specific timelines outlined in Appendices A and B.

3. Offer Form

MBCP will only consider complete offers that conform to the product-specific requirements outlined in Appendices A and B. To be deemed a complete, conforming offer, each response shall:

- a. be submitted electronically to rfo@mbcommunitypower.org by 5pm PPT on the appropriate product-specific response deadline;
- b. include the following subject line: "Response to Go Local RFO – Product [A/B]";
- c. include a completed Go Local RFO Offer Form, which is available on MBCP's website via the following link: <http://mbcommunitypower.org/energy-procurement/>. The Offer Form has been prepared for certain requested products, and respondents should carefully review the Offer Form and associated instructions to ensure submittal of conforming responses; and
- d. indicate acceptance of MBCP's standard contract terms in the Instructions & Acknowledgments section of the Offer Form or include a markup, in redline form, reflecting all requested changes to the applicable standard form contract as Attachment I to the offer submittal. When considering changes to MBCP's form agreements, respondents should be aware of the following:
 - Ease of transaction, including adherence to MBCP's standard contract terms, is an important factor in MBCP's evaluative process; offers that accept MBCP's standard contract terms will be given preference during such evaluation;
 - MBCP will not accept or discuss substantive changes to its credit requirements, as reflected in MBCP's standard contract terms, nor will MBCP consider credit requirements that impose any obligations on its member municipalities;
 - Changes to MBCP's standard contract terms submitted after the response deadline may result in disqualification and, if applicable, forfeiture of the shortlist deposit.
 - Please see Appendices A and B for the specific contracts that will be used for each Product as well as a list of Attachments to be included.

e. Include all necessary Attachments

- Please see Appendices A and B for a list of all product-specific Attachments.

MBCP encourages Go Local RFO respondents to emphasize quality as opposed to quantity when considering the submittal of multiple responses. No more than three projects will be considered, per respondent; multiple pricing offers (e.g. different COD-dependent prices for the same project) will not be considered independent projects for the sake of this limitation.

4. Evaluation of Responses

MBCP will evaluate responses in consideration of a common set of criteria, a partial list of which is included below. This list may be revised at MBCP's sole discretion and includes:

- a. Overall quality of response, inclusive of completeness, timeliness, and conformity;
- b. Price and relative value within MBCP's supply portfolio;
- c. Project location and local benefits, including local hiring and prevailing wage considerations;
- d. Project development status, including but not limited to progress toward interconnection, deliverability, siting, zoning, permitting, and financing requirements;
- e. Qualifications, experience, financial stability, and structure of the prospective project team (including its ownership);
- f. Environmental impacts and related mitigation requirements;
- g. Acceptance of MBCP's standard contract terms; and
- h. Development milestone schedule, if applicable.

5. Supplier Diversity and Labor Practices

Consistent with the California Public Utilities Commission policy objectives, MBCP wishes to collect information regarding supplier diversity and labor practices from project developers and their subcontractors regarding past, current and/or planned efforts and policies. Respondents are asked to complete the Supplier Diversity and Labor Practices questionnaire in the Offer Form. Any contract successfully negotiated as a result of MBCP's Go Local RFO will have similar regular reporting requirements.

MBCP does not give preferential treatment based on race, sex, color, ethnicity, or national origin; responses to the aforementioned Supplier Diversity and Labor Practices questionnaire will not affect proposal evaluation or scoring. Furthermore, providing such information to MBCP will not impact the selection process or good standing of executed PPAs.

Product B, Local Renewable Energy, includes Local Hire and Prevailing Wage requirements in the PPA, and MBCP encourages respondents to review these prior to submitting an Offer.

6. MBCP Legal Obligations

MBCP is required to comply with the Public Records Act as it relates to the treatment of any information marked "confidential."

MBCP is not obligated to respond to any offer submitted as part of the Go Local RFO.

7. Shortlist Deposit

Following supplier notification (i.e., shortlist selection), the selected respondent(s) will be required to submit a Shortlist Deposit of \$3.00 per kilowatt for all short-listed project capacity within 10 business days of such notification. The Shortlist Deposit is generally intended to secure the obligations of any shortlisted respondent(s) during the negotiating period and to ensure that each offer has been carefully considered. The Shortlist Deposit must be in the form of either a cash deposit or a Letter of Credit. "Letter of Credit" means an irrevocable standby letter of credit, in a form reasonably acceptable to MBCP, issued either by (i) a U.S. commercial bank, or (ii) a U.S. branch of a foreign commercial bank that meets the following conditions: (A) it has sufficient assets in the U.S. as determined by MBCP, and

(B) it is acceptable to MBCP in its sole discretion. The issuing bank must have a Credit Rating of at least A- from S&P or A3 from Moody's, with a stable outlook designation. In the event the issuer is rated by both rating agencies and the ratings are not equivalent then the lower rating will apply. All costs of the Letter of Credit shall be borne by respondent. The Letter of Credit should be sent by overnight delivery to:

MBCP
70 Garden Court, Suite
300, Monterey, CA
94940

The Shortlist Deposit will be returned to respondent under one or more of the following conditions: 1) following execution of a PPA and posting of required collateral; 2) MBCP's rejection of the respondent's offer following shortlist selection; 3) failure of MBCP and the shortlisted respondent to agree on terms of the offer or PPA; or 4) MBCP's termination of the Go Local RFO process. Respondent will forfeit its deposit if: 1) material misrepresentations of information related to respondent's offer are identified during the negotiating process; 2) respondent fails to comply with the terms and conditions of this Go Local RFO process; or 3) respondent unilaterally withdraws the offer or attempts to materially modify the terms of its offer during the ninety-day (90-day) period immediately following supplier's acceptance of shortlist status. In addition, MBCP shall be able to retain any Letter of Credit provided as a Shortlist Deposit as security under any executed PPA resulting from the Go Local RFO process in the event that respondent fails to provide required security in accordance with the terms of such PPA.

Appendix A
Product A Specifications: Local Renewable Energy

Schedule

Announcement of MBCP’s Go Local RFO Solicitation: Wednesday, May 30, 2018.

Release of Renewable Energy Plus Storage PPA: For renewable energy projects that will incorporate energy storage, MBCP will provide via its website its, a standard Renewable Energy Plus Storage Power Purchase Agreement (“RE+S PPA”) on Wednesday, May 30, 2018.

Frequently Asked Questions (FAQs): Posted to MBCP’s website no later than Monday, June 4, 2018, 2018 and updated as necessary as additional questions are received.

Schedule

Announcement of MBCP’s Go Local RFO Solicitation: Wednesday, May 30, 2018.

Release of Renewable Energy Plus Storage PPA: For renewable energy projects that will incorporate energy storage, MBCP will provide via its website its standard Renewable Energy Plus Storage Power Purchase Agreement (“RE+S PPA”) on Wednesday, June 6, 2018.

Product A Webinar: Wednesday, June 13, 2018

Frequently Asked Questions (FAQs): Posted to MBCP’s website no later than Wednesday, June 6, 2018 and updated as necessary as additional questions are received.

Product A Offer Submission: Offers must be received by MBCP no later than 5:00 P.M. Pacific Prevailing Time on **Wednesday, July 11, 2018.**

- All responses should be submitted to rfo@mbcommunitypower.org and must include the following subject line: “Response to MBCP Go Local RFO – Product A”.
- A complete Offer Package must include the following:
 - Completed Offer Form
 - Attachment A – Financing Plan
 - Attachment B – Financial Statements
 - Attachment C – Organizational Chart
 - Attachment D – Interconnection Study or IA
 - Attachment E – Project Development Timeline
 - Attachment F – Permitting, Use and Zoning
 - Attachment G – Site Plan
 - Attachment H – Single Line Diagram
 - (If applicable) Attachment I - Requested changes via redline, to MBCP’s standard contract terms

Appendix A
Product A Specifications: Local Renewable Energy

Product-specific requirements for Product A (Local Renewable Energy):

- I. **Applicable Contract:** MBCP's Renewable Power Purchase Agreement
- II. **Resource Location:** Facility must be physically located and interconnected within any member jurisdiction of MBCP's service territory (the "Eligible Territory").
- III. **Product:** Should include Renewable Energy, Green Attributes/Renewable Energy Credits and Capacity Attributes (if available).

Appendix A
Product A Specifications: Local Renewable Energy

- IV. **Resource Eligibility:** All deliveries shall meet minimum specifications for the PCC1 as described in the Public Utilities Code and applicable regulations.
- V. **Generating Capacity:** The proposed generating resource must be between one (1) and three (3) megawatts (“MW”), AC.
- VI. **Term of Agreement:** Not less than one (1) years and not more than twenty (20) years, commencing on the Initial Date of Delivery.
- VII. **Initial Date of Delivery:** Respondents are encouraged to offer multiple pricing bids per facility, based on Initial Dates of Delivery that range from 2019 through 2024; please see the “Price” section of the “3) Project Information” tab of the Go Local RFO Form. MBCP prefers Initial Dates of Delivery in September of any given year.
- VIII. **Proposed Pricing:** Respondent should provide a single, flat price for each MWh of electric energy delivered from the proposed generating resource. This energy price shall remain constant throughout the entire delivery term and shall not be adjusted by periodic escalators or time of delivery adjustments. This energy price shall include procurement of the energy commodity, all Green Attributes/Renewable Energy Credits related thereto, Capacity Attributes (if available), transmission charges to the delivery point, including but not limited to CAISO imbalance costs, fees and penalties as well as scheduling fees associated with delivered energy volumes.
- Alternative pricing options may be proposed so long as the aforementioned single flat pricing requirement has been satisfied.
- IX. **Point of Delivery:** Respondents may propose product delivery under one of the following options. MBCP has a preference for option “a”:
- a. Respondent shall be financially and operationally responsible for delivery of all electric energy to the NP15 trading hub, as defined by the CAISO [TH_NP15_GEN-APND]. Respondent shall serve as its own scheduling coordinator or make arrangements for a third-party scheduling coordinator at no cost to MBCP.
 - b. Respondent shall be financially and operationally responsible for delivery of all electric energy to the generator’s applicable production node. MBCP shall serve as its own scheduling coordinator, or make arrangements for a third-party scheduling coordinator at MBCP’s sole expense, scheduling all electric energy from the generator’s applicable production node.
- X. **Minimum Development Progress:** To the extent that a proposed generating resource is not yet commercially operational, documentation substantiating achievement of the following development milestones must be provided by the respondent for each eligible generator at the time of offer submittal:

Appendix A

Product A Specifications: Local Renewable Energy

- a. documentation demonstrating full site control via ownership, lease or an option to lease upon PPA execution. Any site lease shall reflect a term length no less than the delivery term of the PPA.
 - b. documentation substantiating that the proposed generating resource has (a) passed all Fast Track screens, (b) passed Supplemental Review, (c) completed a System Impact Study in the Independent Study process, or (d) completed a Phase 1 Study in the Cluster Study Process with the interconnecting utility.
- XI. **Local Hire:** Seller will ensure that fifty percent (50%) of the construction workhours from its workforce (including contractors and subcontractors) providing work and services at the project site during the Construction Phase (e.g., the period from Full Notice to Proceed (NTP) through receipt of a Permission To Operate (PTO) letter from the interconnecting utility) are obtained from permanent residents who live within the same county in which the Eligible Resource will be located (the “Local Hire Requirement”). Seller’s construction of the Eligible Resource is also subject to any local hire requirements specific to the city or town where the proposed generating resource is located. As a condition precedent to commencement of the delivery term under the PPA, Seller must certify that it met the Local Hire Requirement and be able to demonstrate, upon request, compliance with this requirement via a certified payroll system and such other documentation reasonably requested by Buyer, including pursuant to an audit. Failure to comply with this requirement may, in MBCP’s sole discretion, result in termination of the PPA.
- XII. **Prevailing Wage:** To the extent not inconsistent with the requirements of subsection (XIII) below, Seller will ensure that all employees hired by Seller, and its contractors and subcontractors, that are performing work or providing services at the project site during the Construction Phase are paid wages at rates not less than those prevailing for workers performing similar work in the locality as provided by Division 2, Part 7, Chapter 1 of the California Labor Code (“Prevailing Wage Requirement”). Nothing herein shall require Seller, its contractors and subcontractors to comply with, or assume liability created by other inapplicable provisions of the California Labor Code. As a condition precedent to commencement of the delivery term under the PPA, Seller must certify that it met the Prevailing Wage Requirement, and be able to demonstrate, upon request, compliance with this requirement via a certified payroll system and such other documentation reasonably requested by Buyer, including pursuant to an audit. Failure to comply with this requirement may, in MBCP’s sole discretion, result in termination of the PPA.
- XIII. **Union Labor:** A proposed generating resource to be located in Monterey, Santa Cruz or San Benito Counties must agree to comply with the terms of that certain Letter Agreement between MBCP and IBEW Local 302, dated June 20, 2018, and attached project labor agreement (collectively, the “PLA”). The PLA applies to “Covered Work” (as defined therein) for solar photovoltaic and associated energy storage projects for which MBCP is the power supply off-taker. As a condition precedent to commencement of the delivery term under the, Seller must certify that it:

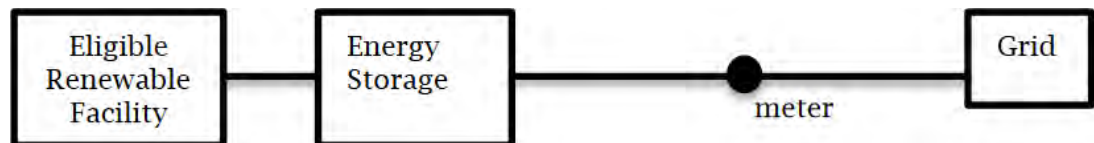
Appendix A

Product A Specifications: Local Renewable Energy

complied with the foregoing union labor requirements, and be able to demonstrate, upon request, compliance with this requirement via copies of executed PLAs or similar agreements, a certified payroll system and such other documentation reasonably requested by Buyer, including pursuant to an audit. Failure to comply with this requirement may, in MBCP’s sole discretion, result in termination of the PPA.

- XIV. **Description of Generating Resource:** At the time of offer submittal, the applicant must provide:
 - a. a to-scale Site Map of the generating resource showing the arrangement of all major components of the facility with the name of the facility, nameplate capacity, longitude and latitude of the centroid of the generating resource clearly labeled, in addition to labeling major cross streets and clearly marking the outer boundary of the facility, all Assessor Parcel Numbers included in and adjacent to the facility, and any environmentally sensitive areas;
 - b. a Single Line Diagram which includes to the generating resource’s point of interconnection on the electric distribution system; and
 - c. a 12 x 24 profile of expected generation output from the proposed Facility.

- XV. **Energy Storage:** A proposed generating resource may include storage in compliance with the current version of the CEC RPS Eligibility guidebook where the storage device is integrated into the generating resource such that the energy storage device is capable of storing only energy produced by the generating resource, either as an intermediary form of energy during the generation cycle or after electricity has been generated.
 - Regarding co-located renewable energy and storage, MBCP has the following preferences:
 - i. a minimum daily dispatch capacity of four (4) hours.
 - ii. Buyer to serve as the Scheduling Coordinator and to maintain all dispatch rights.
 - iii. Bids to include a “\$/MWh” energy price for renewable energy delivered and a “\$/kW-mo” capacity price for the storage capacity provided.
 - iv. projects ranging in size from a minimum 1 MW to 3 MW



- XVI. **Scheduling:** Unless a renewable energy facility includes energy storage, MBCP has a strong preference for the Seller to serve as the Scheduling Coordinator and for the Product to be scheduled in the day-ahead market. In the case that energy storage is included, MBCP prefers to maintain Scheduling Coordinator responsibility and dispatch rights.

Appendix B
Product B Specifications: Energy Storage

Overall Goals of MBCP’s Energy Storage Procurement

- Meet MBCP’s energy storage compliance obligation of 1% of 2020 peak demand under the [CPUC’s Decision Adopting Energy Storage Procurement Framework and Design Program](#). This decision established a target for community choice aggregators to procure energy storage by 2020 with installation no later than 2024. MBCP’s obligation is ~11 MW in aggregate. MBCP will consider projects ranging from a minimum 1 MW to 3 MW.
- Lower peak demand and stand-by service charges for MBCP customers choosing to host storage projects
- Shift MBCP generation to MBCP-selected hours (minimum four-hour duration)
- Provide cost effective energy in MBCP-selected hours
- Reduce congestion impacts of integrating renewable energy on the CAISO grid
- Reduce GHG emissions (while reducing the effective cost of compliance)
- Reduce the cost to integrate renewable generation
- Provide cost effective Resource Adequacy capacity
- Increase the grid’s overall flexibility, reliability and resiliency

Schedule

Announcement of MBCP’s Go Local RFO Solicitation: Wednesday, May 30, 2018.

Release of Energy Storage Offer Form and Term Sheet: MBCP will provide via its website its Energy Storage Offer Form and Term Sheet no later than 5:00 P.M. Pacific Prevailing Time on Wednesday, May 30, 2018.

Product B Webinar: MBCP will hold an energy storage webinar to answer prospective supplier questions during the week of June 18, 2018.

Product B Frequently Asked Questions (FAQs): Posted to MBCP’s website no later than the week of June 20, 2018 and updated as necessary as additional questions are received.

Product B Offer Submission: Offers must be received by MBCP no later than 5:00 P.M. Pacific Prevailing Time on **Wednesday, July 25, 2018**.

- All responses should be submitted to rfo@mbcommunitypower.org and must include the following subject line: “Response to MBCP Go Local RFO – Product B”.
- A complete Offer Package must include the following:
 - Completed Offer Form
 - One-page Project Description
 - Attachment A – Financing Plan

Appendix B
Product B Specifications: Energy Storage

- Attachment B – Financial Statements
- Attachment C – Organizational Chart
- Attachment D – Interconnection Study or IA
- Attachment E – Project Development Timeline
- Attachment F – Permitting, Use and Zoning
- Attachment G – Site Plan
- Attachment H – Single Line Diagram
- (If applicable) Attachment I - Requested changes via redline, to MBCP's Term Sheet

Product-specific requirements for Product B (Energy Storage):

- I. **Applicable Contract:** Energy Storage Term Sheet to be provided via MBCP's website no later than 5:00 P.M. Pacific Prevailing Time on Monday, June 16, 2018.
- II. **Resource Location:** Facility must be physically located and interconnected within any member jurisdiction of MBCP's service territory (the "Eligible Territory"). An eligible Grid Asset project must be located within MBCP's service territory. An eligible Behind-the-Meter project must be located within MBCP's service territory.
- III. **Product:** Types of Storage can include the following:
 - a) Grid Asset:
 - i) Preferred projects would shift generation to cover MBCP's Super Peak demand (typically HE 17 to HE 22), reduce congestion costs, provide Resource Adequacy capacity, as well as to arbitrage energy costs, provide proxy demand, and/or to bid into other CAISO markets. Resource Adequacy requirement is a minimum of four hours duration.
 - b) Behind-the-Meter:
 - i) Commercial & Industrial Energy Storage Systems
 - (1) An MBCP commercial or industrial customer would act as site host, with or without on- site generation would utilize a storage system to reduce demand charges and standby load charges. Likely candidates are on E-19 or E-20 tariffs. An example load profile will be provided as part of the Energy Storage Offer Form. If the RFO participant does not have site control and their use case is compelling, MBCP may assist a developer in acquiring a site host.

Appendix B
Product B Specifications: Energy Storage

ii) Aggregated Energy Storage Systems

- (1) Participants must qualify as Distributed Energy Resource Aggregations (DERP), which requires the resource to:
 - (a) Have a minimum sub-LAP aggregation of 0.5 MW;
 - (b) Not be net-metered;
 - (c) Provide energy and/or ancillary services from one or more Distributed Energy Resource Aggregations through a Scheduling Coordinator; and
 - (d) Abide by the applicable provisions of the CAISO tariff.

- IV. **Resource Eligibility:** All deliveries shall meet minimum specifications for energy storage as described in the Public Utilities Code and applicable regulations. Please specify whether the resource qualifies as a “System” RA resource, “Local” RA resource and specify which Local Resource Area (LRA) it is located, and whether the resource qualifies as “Flexible” under the CAISO tariff.
- V. **Generating Capacity:** The proposed generating resource must be no less than 0.5 MW per sub-LAP and no more than twenty (20) megawatts (“MW”), alternating current (“AC”).
- VI. **Term of Agreement:** Not less than one (1) year and not more than twenty (20) years, commencing on the Initial Date of Delivery.
- VII. **Initial Date of Delivery:** Respondents are encouraged to offer one bid per facility, based on Initial Dates of Delivery of September each year, 2019 through 2024; MBCP prefers Initial Dates of Delivery in September of any given year.
- VIII. **Proposed Pricing**

- a. **Energy:** Respondent should propose a single, flat price for each MWh of electric energy delivered from the proposed generating resource. This energy price shall remain constant throughout the entire delivery term and shall not be adjusted by periodic escalators or time of delivery adjustments. This energy price shall include the energy commodity, all Green Attributes/Renewable Energy Credits related thereto, transmission charges to the delivery point, including but not limited to CAISO imbalance costs, fees and penalties as well as scheduling fees associated with delivered energy volumes.
Alternative pricing options may be proposed so long as the aforementioned single flat pricing requirement has been satisfied.
- b. **Capacity Attributes (if available):** Respondent should propose a single, flat price in \$/kW-Month for each kW of Net Qualifying Capacity along with a table of monthly NQC values.

Appendix B
Product B Specifications: Energy Storage

- IX. **Point of Delivery:** Respondents may propose product delivery under one of the following options. MBCP has a preference for option “a”:
- a. Respondent shall be financially and operationally responsible for delivery of all electric energy to the NP15 trading hub, as defined by the CAISO [TH_NP15_GEN-APND]. Respondent shall serve as its own scheduling coordinator or make arrangements for a third-party scheduling coordinator at no cost to MBCP.
 - b. Respondent shall be financially and operationally responsible for delivery of all electric energy and RA capacity to the generator’s applicable production node. MBCP shall serve as Scheduling Coordinator or make arrangements for a third-party scheduling coordinator at MBCP’s sole expense, scheduling all electric energy and RA capacity from the generator’s applicable production node.
- X. **Minimum Development Progress:** To the extent that a proposed generating resource is not yet commercially operational, documentation substantiating achievement of the following development milestones must be provided by the respondent for each eligible generator at the time of offer submittal:
- a. documentation demonstrating full site control via ownership, lease or an option to lease upon PPA execution. Any site lease shall reflect a term length no less than the delivery term of the PPA.
 - b. documentation substantiating that the proposed generating resource has (a) passed all Fast Track screens, (b) passed Supplemental Review, (c) completed a System Impact Study in the Independent Study process, or (d) completed a Phase 1 Study in the Cluster Study Process with the interconnecting utility.
- XI. **Local Hire:** The proposed Project is to be located within MBCP’s Service area, requirements may apply regarding local hire, prevailing wage, and union labor. Please see the corresponding sections of Appendix A.
- XII. **Prevailing Wage:** The proposed Project is to be located within MBCP’s Service area, requirements may apply regarding local hire, prevailing wage, and union labor. Please see the corresponding sections of Appendix A.
- XIII. **Union Labor:** The proposed Project is to be located within MBCP’s Service area, requirements may apply regarding local hire, prevailing wage, and union labor. Please see the corresponding sections of Appendix A.

Appendix B
Product B Specifications: Energy Storage

- XIV. **Description of Generating Resource:** At the time of offer submittal, the applicant must provide:
- a. a to-scale Site Map of the generating resource showing the arrangement of all major components of the facility with the name of the facility, nameplate capacity, longitude and latitude of the centroid of the generating resource clearly labeled, in addition to labeling major cross streets and clearly marking the outer boundary of the facility, all Assessor Parcel Numbers included in and adjacent to the facility, and any environmentally sensitive areas; and
 - b. a Single Line Diagram which includes to the generating resource's point of interconnection on the electric distribution system.
 - c. A 12 x 24 profile of expected generation output from the proposed Facility.