



### Consent Item 6

<b>To:</b>	Ava Community Energy Authority
<b>From:</b>	Russell Mills, CFO
<b>Subject:</b>	<i>Approving a RESOLUTION OF THE BOARD OF DIRECTORS OF AVA COMMUNITY ENERGY AUTHORIZING THE REPLACEMENT OF THE TRUSTEE AND CUSTODIAN FOR CERTAIN CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY CLEAN ENERGY PROJECT REVENUE BONDS WITH U.S. BANK, AND CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH</i>
<b>Date:</b>	March 18, 2026

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#### **Summary/Recommendation**

This Staff Report proposes the Board authorize the execution and delivery of necessary agreements and notices to name U.S. Bank as successor trustee and custodian in connection with Ava's five California Community Choice Finance Authority ("CCCFA") Clean Energy Project revenue bond energy prepayment transactions to support operational visibility and cost efficiencies for the program. While this change is administrative in nature and not legally required, bond counsel has noted that obtaining authorization from governing bodies is a best practice for these changes that need investor notice.

#### **Financial Impact**

By shifting to US Bank, Ava expects to save up to \$64,900 per year in annual fees related to trustee and custodial services for its five energy prepayment transactions (or roughly \$13,000 per transaction). These fees are funded by Ava through the administrative fee payments it makes to CCCFA annually for each transaction.

Ava will incur bond counsel fees for drafting legal notices and amendments to transition to the successor trustee and custodian but expects these to be lower than the first-year fee savings

from switching to the new bank. Ava will share these expenses with Silicon Valley Clean Energy (“SVCE”), who is also switching their prepaids to utilize US Bank as trustee and custodian.

## **Analysis and Context**

### **Energy prepayment transactions**

Energy prepayment financings are unique financing structures that enable tax-exempt entities that sell power to end-use customers a mechanism to provide more affordable energy through savings received by the energy recipient for buying the power through long-term contracts. These are complex transactions with several entities. At a minimum, an energy recipient (e.g. Ava), a commodity supplier, a conduit bond issuer (e.g. CCCFA), and a third-party trustee and custodian are involved.

Ava has entered five energy prepayment transactions to date in conjunction with CCCFA, including two transactions that closed in 2025. Morgan Stanley serves as the commodity supplier in four transactions, while Goldman Sachs serves as the commodity supplier in the fifth. Ava entered its first energy prepayment transaction in 2021, in a transaction that included SVCE, and used Bank of New York Mellon (“BNY”) as trustee and custodian. Ava then used BNY for the four that followed.

### **Role of Trustee and Custodian**

The role of the trustee and custodian in energy prepayment transactions is to act as third-party administrator to maintain custody of the dedicated bank accounts for each transaction and to administer payments to bondholders and various counterparties. The trustee maintains a fiduciary duty to ensure that payments are made on time to avoid penalties and potential payment default. Appointment of a reputable trustee plays a critical role in mitigating risk and meeting compliance requirements with the agreements.

Ava performs certain administrative functions on behalf of CCCFA for its transactions, including ensuring that Ava and CCCFA’s contractual obligations are met. Ava interfaces with the trustee and custodian each month to review invoice documentation, process monthly payments and withdrawals, and review bank account balances and activity.

### **U.S. Bank as Successor Trustee and Custodian**

Ava intends to name U.S. Bank to assume the following roles in each of its energy prepayment transactions:

- Trustee role in Trust Indentures, governing the terms of the bonds.
- Custodian role in Master Custodial Agreements, overseeing payments between the commodity supplier and CCCFA.
- Custodian role in PPA Custodial Agreements, overseeing payments related to the underlying Ava power purchase agreements.

- Custodian role in Front-End Custodial Agreements, overseeing commodity swap payments facing CCCFA.
- Custodian role in Back-End Custodial Agreements, overseeing commodity swap payments facing the commodity supplier.

U.S. Bank is the leading municipal trustee and custodial service provider in the United States. It has deep experience in energy prepayment transactions and serves as trustee for many other CCA transactions. At year-end 2025, the U.S. Bank Global Trust group had over \$9.2 trillion assets under management across 194,000 transactions. At such time, it the largest market share (45%) for trust services for U.S. municipal issuances, higher than the next four service providers combined.

In addition to the financial impact benefits above, Ava has decided to move to U.S. Bank for operational reasons, including:

- U.S. Bank offers a more robust web-based platform for downloading key transaction information not previously available with the legacy trustee/custodian.
- Staff concerns with performance and latency of responsiveness with the legacy trustee/custodian.
- In general, using a single trustee/custodian to serve all transactions is more operationally efficient for staff than using multiple institutions and/or bifurcating the trustee/custodian roles within a single transaction.

In addition to entering new Custodial Agreements with U.S. Bank, a transition would require Ava and CCCFA to issue notices of termination for the existing Custodial Agreements. CCCFA would then enter a Tri-Party Agreement with BNY and US Bank to effectuate the change in roles under the Trust Indenture.

### **Attachments**

- A. Resolution
- B. PowerPoint used for Executive Committee on March 4<sup>th</sup>, 2026

**RESOLUTION R-2026-\_\_**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF AVA COMMUNITY ENERGY AUTHORIZING THE REPLACEMENT OF THE TRUSTEE AND CUSTODIAN FOR CERTAIN CALIFORNIA COMMUNITY CHOICE FINANCING AUTHORITY CLEAN ENERGY PROJECT REVENUE BONDS WITH U.S. BANK, AND CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH**

**WHEREAS**, Ava Community Energy (formerly East Bay Community Energy) (“Ava”) was formed as a community choice aggregation agency (“CCA”) on December 1, 2016, under the Joint Exercise of Power Act, California Government Code sections 6500 et seq. (the “Act”), among the County of Alameda, and the Cities of Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Piedmont, Oakland, San Leandro, and Union City to study, promote, develop, conduct, operate, and manage energy-related climate change programs in all of the member jurisdictions. The cities of Newark and Pleasanton, located in Alameda County, along with the City of Tracy, located in San Joaquin County, were added as members of Ava and parties to the Joint Powers Agreement (as defined below) in March of 2020. The City of Stockton, located in San Joaquin County, was added as a member of Ava and party to the Joint Powers Agreement in 2022. The County of Alameda was added as a member of Ava and party to the Joint Powers Agreement in 2024. San Joaquin County was added as a member to Ava in July 2024;

**WHEREAS**, pursuant to the provisions of the Act, Ava and certain other California “community choice aggregators” entered into a joint powers agreement (the “Joint Powers Agreement”) pursuant to which the California Community Choice Financing Authority (the “Issuer”) was organized for the purpose, among other things, of entering into contracts and issuing bonds to assist Ava in financing the acquisition of supplies of clean energy;

**WHEREAS**, the Issuer is authorized by its Joint Powers Agreement to acquire supplies of clean energy by any means and to issue revenue bonds to finance the cost of acquisition of such supplies, and is vested with all powers necessary to accomplish the purposes for which it was created;

**WHEREAS**, the Issuer previously issued its (a) Clean Energy Project Revenue Bonds, Series 2021B-1 (Term Rate) and Series 2021B-2 (SIFMA Index Rate) (collectively, the “Series 2021B Bonds”), (b) Clean Energy Project Revenue Bonds, Series 2022A-1 (Term Rate) and Series 2022A-2 (SOFR Index Rate) (collectively, the “Series 2022A Bonds”), (c) Clean Energy Project Revenue Bonds, Series 2023E-1 (Term Rate) and Series 2023E-2 (SOFR Index Rate) (collectively, the “Series 2023E Bonds”), (d) Clean Energy Project Revenue Bonds, Series 2025C (Term Rate) (the “Series 2025C Bonds”), and (e) Clean Energy Project Revenue Bonds, Series 2025E (Term Rate) (the “Series 2025E Bonds” and, collectively with the Series 2021B Bonds, the Series 2022A Bonds, the Series

2023E Bonds and the Series 2025C Bonds, the “Bonds”), the proceeds of which were applied to purchase certain quantities of clean energy on a prepaid basis which clean energy was sold to Ava (and, with respect to the Series 2021B Bonds, to another Project Participant);

**WHEREAS**, each series of Bonds was issued pursuant to an Indenture of Trust (collectively, the “Indentures”) between the Issuer and The Bank of New York Mellon Trust Company, N.A. (“BNYM”), as trustee (the “Trustee”);

**WHEREAS**, each Indenture provides that, so long as no Event of Default, or an event which, with notice or passage of time, or both, would become an Event of Default, shall have occurred and be continuing, the Trustee may be removed at any time with 30 days’ prior written notice, with or without cause, by delivery of a written certificate of the Issuer to the Trustee, which removal shall not be effective until a successor Trustee has been appointed, and that at any time the Trustee is removed, a successor Trustee may be appointed by the Issuer;

**WHEREAS**, Ava has determined that it is desirable to direct the Issuer to remove BNYM as Trustee and appoint U.S. Bank Trust Company, National Association (“U.S. Bank”) as successor Trustee and Custodian under each Indenture (such transactions, collectively, the “Trustee Replacement”);

**WHEREAS**, Ava has determined to authorize the officers of Ava to take all necessary action to accomplish the Trustee Replacement; and

**NOW THEREFORE, BE IT RESOLVED** by the Ava Board of Directors, as follows:

Section 1. The Board hereby approves the Trustee Replacement.

Section 2. Any of the Chief Executive Officer, Chief Financial Officer or Chair of the Board (each an “Authorized Officer”) is hereby authorized and directed, for and in the name and on behalf of Ava, to execute and deliver any and all documents, instruments, agreements, amendments and certificates, including, without limitation, any requests, notices or directions with respect to the Trustee Replacement and any documents necessary to effect the replacement of BNYM with U.S. Bank under any other transaction documents executed with respect to the Bonds, the approval of such documents and certificates by an Authorized Officer to be conclusively evidenced by the execution and delivery thereof, and to take any and all actions which may be necessary or advisable, in the discretion of such Authorized Officers, to effectuate the actions which Ava has approved in this Resolution, for the Trustee Replacement, including any subsequent amendments, waivers or consents entered into or given under or in accordance with such documents.

Section 3. All actions heretofore taken by the Authorized Officers with respect to the Trustee Replacement are hereby ratified, confirmed and approved.

Section 4. An Authorized Officer may direct the payment to professionals that provided services to Ava in connection with the Trustee Replacement. These professional services include legal counsel, bond counsel, tax counsel, Municipal Financial Advisor, Swap Advisor, and any other consultant needed to complete the transactions contemplated herein for Ava. Payment to these professionals will be made pursuant to the terms of the applicable agreement executed with Ava.

Section 5. An Authorized Officer may direct the payment to additional vendors and/or parties to any documents entered into with respect to the Trustee Replacement to complete the Trustee Replacement. These vendors, if any, will be paid pursuant to an agreement for services rendered in completing the Trustee Replacement.

Section 6. This Resolution shall take effect immediately.

**ADOPTED AND APPROVED** at a regular meeting of the Ava Board of Directors on this 18<sup>th</sup> day of March, 2026.

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Betsy Andersen, Chair

**Attest:**

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Adrian Bankhead, Clerk of the Board



# Prepay Trustee Bank Replacement

Rusty Mills

March 18, 2026



# Role of Trustee/Custodian in the Prepay Transactions

**Ava has entered five energy prepayments in conjunction with CCCFA, including two transactions that closed in 2025.**

- All five have Bank of New York Mellon (BNY) as Trustee.
- Started using BNY with first prepay in 2021 with SVCE – through Morgan Stanley

## **Trustee and Custodial Services within the Prepay Structure**

- Trustee acts as a third-party administrator to maintain custody of the dedicated accounts for each transaction and make payments to bondholders and various counterparties on a timely basis.
- Ava interfaces with the Trustee and Custodian each month to deliver invoices, review documentation, process monthly payments and withdrawals, and review account activity.

## **More efficient to use Single Custodial Bank**

- In general, using a single Trustee / Custodian to serve all transactions is more operationally-efficient for staff than using multiple institutions and/or bifurcating the Trustee / Custodian roles within a single transaction.

# Ava Seeking Approval to Replace Trustee/Custodian

**Ava staff has determined it beneficial to replace its legacy Trustee and Custodian, BNY from its role for all five prepays for operational and financial reasons and utilize US Bank.**

- US Bank offers a more robust web-based platform for downloading key transaction information not previously available with the legacy Trustee / Custodian.
- Staff concerns with performance and latency of responsiveness with the legacy Trustee / Custodian.
- Ava expects to save up to \$64,900 per year in trustee and custodial fees (or roughly \$13,000 per transaction).
  - Ava will incur bond counsel expenses in drafting legal notices and amendments to transition to the successor Trustee and Custodian – less than \$50k to be split with SVCE

## **US Bank - the leading municipal trustee and custodial service providers in the United States**

- Deep experience in energy prepayment transactions; serves as trustee for almost all other CCA transactions.
- At year-end 2025, the U.S. Bank Global Trust group had over \$9.2 trillion assets under management across 194,000 transactions.
- Has the largest market share (45%) for trust services for U.S. municipal issuances.

## Bond Counsel has recommended that Staff seek an approving Resolution from our Board and from CCCFA's Board

- SVCE concurrently seeking approval from its Board
- With Ava approval, CCCFA Board will have it agendaized at their March 26th meeting for approval
- Notices will be filed to the investment community ahead of the substitution on May 1st