Consent Item 6

To:	Ava Community Energy Authority
From:	Jim Dorrance – Director, Power Resources
Subject:	Authorizing the Chief Executive Officer to Negotiate and Execute Renewable Energy Agreements with Another Community Choice Aggregator to Facilitate Assignment of Renewable Energy into Ava's Energy Pre-Pay Transactions
Date:	November 18, 2026

Recommendation

Adopt a Resolution authorizing the Chief Executive Officer to negotiate and execute two renewable energy agreements with another Community Choice Aggregator ("CCA") using standard Western Systems Power Pool ("WSPP") agreement forms to facilitate the assignment of renewable energy into Ava Community Energy's Energy ("Ava") Pre-pay transactions.

Financial Impact

The proposed transaction is not expected to result in any incremental cost to Ava beyond the underlying transaction supporting the renewable energy swap. The transaction is intended to facilitate the assignment of renewable generation into Ava's Energy Pre-pay transactions, which could result in customer savings of more than $20 million over the 10-year term of the agreements.

Analysis and Context

Ava is seeking Board approval to enter into renewable energy agreements with another CCA using standard WSPP Agreement forms. Under the proposed structure, Ava would enter into two transactions with the same CCA: (1) Ava would sell renewable energy to the other CCA, and (2) Ava would purchase an equivalent quantity of renewable energy from that CCA at the same price. The two transactions would operate as an exchange or swap of renewable energy and are expected to involve approximately 160,000 MWh annually over a 10-year term. Pro forma copies of the WSPP Agreements are included as exhibits to this memo for the Board's review. The structure allows Ava to work directly with another CCA rather than coordinating

renewable energy assignments among multiple suppliers and financing parties, providing administrative efficiencies.

The proposed transaction is intended to facilitate the assignment of renewable generation into Ava's energy pre-pay transactions. Ava currently has seven energy pre-pay transactions that provide customer savings by leveraging Ava's ability, as a tax-exempt entity, to access tax-exempt bond financing. The proposed structure provides an efficient mechanism for assigning renewable generation to those transactions.

Because the transaction will be for a term of 10 years, Board approval is required and the transaction is proposed for consideration as a Consent Item at the November 2026 Board meeting.

Risk Assessment

The proposed transaction presents limited risk. The two-contract structure provides for equivalent renewable energy purchases and sales. Additionally, working directly with another CCA is expected to reduce administrative complexity associated with coordinating renewable energy assignments among multiple suppliers and financing parties.

Attachments

A. Resolution of the Board of Directors of Ava Community Energy Authorizing the Chief Executive Officer to Negotiate and Execute Renewable Energy Agreements with Another Community Choice Aggregator to Facilitate Assignment of Renewable Energy into Ava's Energy Pre-Pay Transactions
B. Pro Forma WSPP Agreement for the proposed renewable energy exchange agreements

RESOLUTION NO. R-2026-XX

A RESOLUTION OF THE BOARD OF DIRECTORS

OF AVA COMMUNITY ENERGY AUTHORIZING THE CHIEF EXECUTIVE OFFICER TO NEGOTIATE AND EXECUTE RENEWABLE ENERGY AGREEMENTS WITH ANOTHER COMMUNITY CHOICE AGGREGATOR TO FACILITATE ASSIGNMENT OF RENEWABLE ENERGY INTO AVA'S ENERGY PRE-PAY TRANSACTIONS

WHEREAS Ava Community Energy Authority ("Ava") was formed as a community choice aggregation agency ("CCA") on December 1, 2016, under the Joint Exercise of Powers Act, California Government Code sections 6500 et seq., 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 ("JPA") in March of 2020. The City of Stockton, located in San Joaquin County, was added as a member of Ava in September of 2022. The City of Lathrop, located in San Joaquin County, was added as a member to Ava in October of 2023. San Joaquin County was added as a member to Ava in July 2024. On October 24, 2023, Ava legally adopted the name Ava Community Energy Authority, where it had previously used the name East Bay Community Energy Authority since its inception; and

WHEREAS Ava seeks to contract for renewable generation with another Community Choice Aggregator to facilitate the efficient assignment of renewable energy into Ava's Energy Pre-Pay Transactions; and

WHEREAS Ava identified a CCA partner to transact renewable energy with, enabling each party to efficiently assign the associated generation; and

WHEREAS Ava intends to enter into two agreements with the CCA, consisting of (1) Ava selling renewable energy and (2) Ava purchasing an equivalent quantity of renewable energy from the CCA at the same price; and

NOW, THEREFORE, THE BOARD OF DIRECTORS OF AVA COMMUNITY ENERGY AUTHORITY DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The Chief Executive Officer, in consultation with staff and legal counsel, is hereby authorized to negotiate and execute renewable energy agreements with another Community Choice Aggregator to facilitate assignment of renewable energy into Ava's energy pre-pay transactions

ADOPTED AND APPROVED this 18th day of November, 2026.

_____

Betsy Andersen, Chair

ATTEST:

_____

Adrian Bankhead, Clerk of the Board

BUNDLED RENEWABLE ENERGY
WSPP PORTFOLIO CONTENT CATEGORY ONE ("PCC1") CONFIRMATION

This confirmation ("Confirmation") confirms the transaction described herein between [*Legal Name of Seller*] ("Seller") and [*Legal Name of Purchaser*] ("Purchaser"), each individually a "Party" and together the "Parties", entered into as of the last dated signature on the signature page hereto (the "Effective Date"), by which Seller agrees to sell and deliver, and Purchaser agrees to purchase and receive, the Product pursuant to the terms and conditions set forth herein (the "Transaction"). This Transaction is governed by the WSPP Agreement effective as of October 31, 2025 (the "WSPP Agreement"). This Confirmation incorporates Schedule R of the WSPP Agreement ("Schedule R"). The WSPP Agreement, this Confirmation, and any applicable appendices, exhibits or amendments hereto, shall be collectively referred to herein as the "Agreement" and will constitute a single agreement between the Parties with respect to the Transaction. Terms capitalized but not defined herein shall have the meaning as set forth in the WSPP Agreement, or, if not defined in the WSPP Agreement, then as set forth in the CAISO Tariff (as defined below).

The Parties agree as follows:

Product:	"Product" means Delivered Energy generated by the Generating Facility bundled with associated Green Attributes, evidenced by Renewable Energy Credits, which satisfies the CPUC's criteria for Portfolio Content Category 1. "Portfolio Content Category 1" or "PCC1" means Energy, along with the associated RECs, generated by an Eligible Renewable Energy Resource without substituting energy from another generating source (as defined by the CPUC in D.11-12-052), delivered on an hourly basis to the Delivery Point during the Delivery Term and meeting the RPS compliance requirements of California Public Utilities Code Section 399.16(b)(1) and CPUC Decision 11-12-052, as applicable to the Energy and RECs transferred hereunder. To the extent not inconsistent with the foregoing, the Product is a Firm Bundled REC as such is described under Section R-2.3.2 of Schedule R. The Product does not include any other non-renewable and environmental attributes (e.g., Ancillary Services or Resource Adequacy Capacity). The Parties acknowledge and agree that Product shall solely be limited to the Product identified by Seller pursuant to the "Scheduling" section of this Confirmation and then delivered pursuant to this Confirmation, up not to exceed the amount of the Contract Quantity, and that Purchaser is not entitled to any additional Energy or Green Attributes or RECs associated with the energy produced by the Generating Facilities above and beyond the Contract Quantity. Without limiting Seller's obligation to deliver the Contract Quantity of Product hereunder, Seller retains sole discretion to determine the rate at which when, and in what amount, Seller will deliver Product hereunder.
Contract Price:	For each MWh of the Product delivered to Purchaser, Purchaser shall pay Seller the Contract Price. The Contract Price shall be calculated as follows: Contract Price = (Energy Price + REC Price) - CAISO Credit

	Where: "CAISO Credit" means the Energy Price paid by the CAISO for the Energy associated with the Product. "Energy Price" means, for each MWh of Energy delivered, the applicable Locational Marginal Price (as defined in the CAISO Tariff and published by CAISO) at the Location (as defined in the CAISO Tariff) where CAISO models the physical injection of such Energy. "REC Price" is equal to the amount set forth below for the applicable REC Vintage associated with the delivered Product: REC Price Vintage 20XX: $XX.XX/MWh
Contract Quantity:	REC Vintage 20XX: XX,XXX MWh
Delivery Term:	January 1, 20XX through December 31, 20XX, inclusive; provided that, for the sole purpose of matching delivery of RECs with Energy generated on or before December 31, 20XX, such period will extend through April 30, 20XX.
Delivery Point:	CAISO balancing authority area
Generating Facilities:	The Product sold hereunder is produced by one or more of the generating facilities listed in Exhibit A, each of which is: (i) certified as an ERR for the California RPS and registered with WREGIS, and (ii) from which Seller is entitled, pursuant to ownership or contractual agreements, to the output of the Energy and associated RECs to be sold hereunder (each, a "Generating Facility" and collectively, the "Generating Facilities"). Purchaser acknowledges that Seller (i) may deliver the Product from any or all Generating Facilities, and (ii) may not have a contractual right to the entire output of such facilities. Seller may add additional eligible Generating Facilities (including wind, solar, and small hydro) to Exhibit A upon prior notice to Purchaser. The Parties acknowledge and agree that Seller is permitted to utilize any one or more of the Generating Facilities in order to satisfy its obligations hereunder.
Scheduling:	Seller or Seller's designee shall schedule and deliver the Energy portion of the Product, on behalf of Purchaser, to the Delivery Point, in accordance with the requirements and the prevailing protocols of the WECC and CAISO Tariff, as applicable. The Energy associated with the Product will be directly delivered from the Generating Facility on an hourly or sub-hourly basis to the Delivery Point without substituting electricity from another source.
Eligibility:	Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project's output delivered to Buyer qualifies

	under the requirements of the California Renewables Portfolio Standard. To the extent a Change in Law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC 6, Non-Modifiable. (Source: D.07-11-025, Attachment A.) D.08-04-009] For purposes of this provision, "commercially reasonable efforts" means commercially reasonable actions that do not result in increased costs to Seller in excess of $2,500 (the "Capped Amount").
Transfer of RECs:	Transfer of Renewable Energy Credits. Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the Renewable Energy Credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. [STC REC-1, Non-modifiable. D.11-01-025]. For purposes of this provision, "commercially reasonable efforts" means commercially reasonable actions that do not result in increased costs to Seller in excess of the Capped Amount. Tracking of RECs in WREGIS. Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under this contract. [STC REC-2, Non-modifiable. D.11-01-025] The Transfer of RECs shall be made in accordance with the rules and regulations of WREGIS. Purchaser and Seller agree that the obligation to deliver RECs hereunder shall be evidenced by the delivery of WREGIS Certificates in WREGIS. Seller shall transfer WREGIS Certificates from its WREGIS account to Purchaser's WREGIS account no later than April 15 following the end of the Reporting Year, which shall be the Transfer Date for this Transaction. Purchaser's WREGIS account ID is [_____], Name: [_____]. Title to and risk of loss for the RECs shall transfer from Seller to Purchaser upon completion of transfer of the associated WREGIS Certificates into Purchaser's designated WREGIS account for the applicable Reporting Year. After such transfer, Purchaser is solely responsible for any loss, retirement, further transfer or misuse of such WREGIS Certificates. If WREGIS or any successor tracking system is unavailable or unable to process transfers on or before the scheduled transfer date, the transfer deadline shall be tolled and Seller shall complete the transfer as soon as practicable after the WREGIS system resumes operations. Seller shall not

	be in default for any delay caused by such unavailability, provided Seller uses commercially reasonable efforts to effect the transfer when available.
Vintage:	Reporting Years 20XX
Payment:	Payment: For each month during the Delivery Term, (a) Purchaser shall pay the applicable Contract Price multiplied by the portion of the Contract Quantity that has been Delivered and Accepted during the prior month and (b) Seller shall retain all revenues associated with delivery of the Energy component of the Product to the CAISO at the Delivery Point in full satisfaction of Purchaser's payment obligation for the Energy component of the Contract Price for such Product. The Parties acknowledge that the actual CAISO revenues received by Seller may be greater than or less than the Energy Price but agree that the CAISO Credit shall fully offset the Energy Price component of the Contract Price. Monthly Invoice Timeline. Within ten (10) Business Days after delivery of the WREGIS Certificates to Purchaser's WREGIS Account pursuant to the "Transfer of RECs" section of this Confirmation, Seller shall provide Purchaser with an invoice with respect thereto. Such invoice shall be due and payable by Purchaser on or before the tenth (10th) Business Day after Purchaser's receipt of the invoice. Invoice Requirements. Each invoice shall provide Purchaser (a) records of metered data, including metering and CAISO transaction data sufficient to document and verify the amount of Delivered Energy by the Generating Facility during the applicable month, including the amount of Delivered Energy as set forth in the first CAISO settlement statement for the applicable month that includes meter data from the CAISO-approved meter; and (b) the applicable Contract Price.
Shortfall Damages:	If Seller fails to deliver the Contract Quantity, then, in lieu of any damages owed by Seller pursuant to the WSPP Agreement, including under Schedule R, Section R-9.1, Seller will pay Purchaser liquidated damages in an amount equal to the product of (a) the Contract Quantity for such Reporting Year, minus the aggregate amount of Product delivered by Seller hereunder for such Reporting Year ("Shortfall Quantity"), multiplied by (b) the positive difference, if any, of the Cover Price, minus the REC Price for the Contract Quantity such Reporting Year, where "Cover Price" means the average of the REC component of at least two broker quotes for substitute Product with a Vintage that is the Reporting Year immediately after the Reporting Year for which there was a shortfall using a pricing structure similar to the Contract Price, as determined by Purchaser in a commercially reasonable manner; provided that in no event shall Seller's aggregate liability for Shortfall Damages exceed 50% of the annual Contract Price for such Reporting Year. Notwithstanding the foregoing, before Shortfall Damages apply, Seller may, at its option, deliver Replacement RECs of the same REC Vintage (or, with Purchaser's consent, the immediately subsequent Vintage) meeting PCC1 requirements on or before June 30 following the Reporting Year. Delivery of Replacement RECs shall cure the corresponding

	shortfall. Shortfall Damages constitute Purchaser's sole and exclusive remedy for Seller's failure to deliver the Contract Quantity (including any Replacement RECs) in any Reporting Year.
RPS Program:	State of California Renewable Portfolio Standard Program (hereinafter referred to as "California RPS", "Renewables Portfolio Standards" or "RPS Program"), as codified at California Public Utilities Code Section 399.11, *et seq.*, and requiring that a specified percentage of a retail seller's retail sales should be supplied with electricity generated by eligible ERRs.
Tracking System:	RECs associated with the Product shall be tracked using WREGIS.
Representations and Warranties:	Seller represents, covenants and warrants to Purchaser that: (i) Seller has the right to sell the Product from the Generating Facilities; (ii) Seller has not sold the Product or any REC or other attributes of the Product to be transferred to Purchaser to any other person or entity; (iii) Energy and RECs to be purchased and sold pursuant to this Confirmation are not committed to another party; and Seller will not withhold or otherwise reduce deliveries of such Energy and RECs to sell to another entity or party; (iv) Seller represents and warrants that Product in the quantity of the Contract Quantity from the Generating Facilities is available to be procured by Purchaser, and Seller is not currently selling and will not sell the Energy component of the Contract Quantity produced by the Generating Facilities back to such Generating Facilities; (v) The Product is free and clear of all liens or other encumbrances; (vi) Seller shall sell and convey all Green Attributes associated with the Product produced from the Generating Facilities (other than resource adequacy attributes and ancillary services) to Purchaser consistent with California Public Utilities Code Section 399.16(b)(1) and as part of the Portfolio Content Category 1 Product being delivered; and (vii) Seller will cooperate reasonably with Purchaser, the CEC, and/or the CPUC to provide any documentation in Seller's possession or control that is required by the CPUC or CEC to support the Product's classification as a Portfolio Content Category 1 Product as set forth in California Public Utilities Code Section 399.16(b)(1). Seller further represents and warrants to Purchaser that, to the extent that the Product sold by Seller is a resale of part or all of a contract between Seller and one or more third parties, Seller represents, warrants and covenants that the resale complies with the following conditions in (i) through (iv) below as of the Effective Date and throughout the generation period:

	(i) The original upstream third-party contract(s) meets the criteria of California Public Utilities Code Section 399.16(b)(1); (ii) This Confirmation transfers only electricity and RECs that have not yet been generated prior to the Effective Date; (iii) The electricity transferred by this Confirmation is transferred to Purchaser in real time; and (iv) If the Project has an agreement to dynamically transfer electricity to a California balancing authority, the transactions implemented under this Confirmation are not contrary to any condition imposed by a balancing authority participating in the dynamic transfer arrangement. Seller makes no representation or warranty that the Product will comply with the California RPS if re-sold to a third party by Purchaser. In the event all or any portion of the Product purchased or to be purchased by Purchaser hereunder is re-sold by Purchaser, any such resale does not affect Purchaser's obligations hereunder and Purchaser remains primarily liable to Seller for all Purchaser's obligations hereunder.
Change in Law Provisions:	The Product shall be Not Regulatorily Continuing, as designated in Schedule R, Section R-5.2.2(c). If, due to any action, determination, interpretation or decision by the CPUC or any governmental authority or any change in Applicable Law after the Effective Date, Seller's ability to perform its obligations under this Confirmation is impacted (a "Change in Law"): (i) Seller shall use commercially reasonable efforts to obtain compliance with such Change in Law, provided that such costs shall not be greater than the Capped Amount and then only to the extent the expenditure of such costs would reasonably be expected to achieve compliance. This requirement shall not apply to any Product that was delivered prior to any Change in Law. (ii) Subject to Seller's obligation to use commercially reasonable efforts to obtain compliance with a Change in Law up to the Capped Amount, the Parties hereto agree to negotiate in good faith to amend this Confirmation to conform with such new statutes, regulations, or rules in order to maintain the original intent of the Parties under this Agreement. If the Parties are unable to reach agreement through good faith negotiations and the Change in Law results in the Product not satisfying the CPUC's criteria for Portfolio Content Category 1, then either Party may terminate this Confirmation subject to Purchaser's payment for Product delivered prior to such termination.
Credit Requirements:	Neither Party shall be required to post collateral or other security for this Transaction notwithstanding any provision in the WSPP Agreement to the contrary, including Section 27.

Audit/Review:	Each Party reserves the right to review during normal business hours and at its own expense, for up to one (1) year following delivery of the Product under this Confirmation, and with reasonable advance notice to the other Party, the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement, charge or computation made pursuant to this Confirmation.
Confidentiality:	The Parties acknowledge and agree that this Confirmation is subject to the requirements of the California Public Records Act (Government Code Section 7920 et seq.). If required by any law, statute, ordinance, a court, governmental authority or agency having jurisdiction over a Party, including the California Public Records Act, that Party may release information provided by the other party ("Confidential Information"), as required by the Applicable Law, statute, ordinance, decision, order or regulation; provided that such Party (a) provide prior notification to the other Party of the required disclosure and (b) use reasonable efforts to limit, to the extent possible, the ability of any such applicable governmental authority to further disclose such information.
Applicable Law/ Governing Law:	This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. [STC 17, (Source: D.07-11-025, Attachment A.) D.08-04-009]
No Recourse to Members of Seller:	Seller is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) and is a public entity separate from its constituent members. Seller will solely be responsible for all debts, obligations and liabilities accruing and arising out of this Confirmation. Purchaser will have no rights and will not make any claims, take any actions or assert any remedies against any of Seller's constituent members, or the officers, directors, advisors, contractors, consultants or employees of Seller or Seller's constituent members, in connection with this Confirmation.
Forward Contract:	This Confirmation constitutes a sale of a nonfinancial commodity for deferred shipment or delivery that the Parties intend to be physically settled and is excluded from the term "swap" as defined in the Commodity Exchange Act under 7 U.S.C. §1a(47) and the regulations of the Commodity Future Trading Commission and Securities and Exchange Commission, with further reference to 77 Fed. Reg. 48233-35.
Amendments To WSPP Agreement:	For this Transaction, the WSPP Agreement shall be amended as follows: (a) Section 9.4 is deleted in its entirety and replaced with the following: "In the event an invoice or portion thereof, or any other claim or adjustment arising hereunder, is disputed, payment of the undisputed portion of the invoice shall be required to be made when due, with

	notice of the objection given to the other Party. Any invoice dispute or invoice adjustment shall be in writing and shall state the basis for the dispute or adjustment. Payment of the disputed amount shall not be required until the dispute is resolved. Upon resolution of the dispute, any required payment shall be made within two (2) Business Days of such resolution along with interest accrued at the Interest Rate from and including the due date to but excluding the date paid. Inadvertent overpayments shall be returned upon request or deducted by the Party receiving such overpayment from subsequent payments, with interest accrued at the Interest Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment. Any dispute with respect to an invoice is waived unless the other Party is notified in writing within twelve (12) months after the invoice is rendered or any specific adjustment to the invoice is made. If an invoice is not rendered within twelve (12) months after the close of the month during which performance of a Transaction occurred, the right to payment for such performance is waived." (b) Assignment. Section 14, Transfer of Interest in Agreement, of the WSPP Agreement shall for purposes of this Confirmation be deleted in its entirety and replaced with the following: "Neither Party shall transfer, assign or sell its rights as set forth in this Confirmation, to any third party without first obtaining the prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, no such consent shall be required to the extent that the transfer, assignment, or sale occurs (i) to an affiliate of a Party by operation of law, through merger or acquisition, or as the result of the sale or transfer of all or substantially all of the transferring Party's assets, and the resulting entity's creditworthiness is equal to or higher than that of such Party as of the Effective Date, or the obligations of such Affiliate are guaranteed by such Party or its Guarantor, if any, in accordance with a guaranty agreement in form and substance satisfactory to the other Party, or (ii) to any person or entity succeeding to all or substantially all of the assets of such Party whose creditworthiness is equal to or higher than that of such Party as of the Effective Date." (c) Section 22.1(a) is amended to replace the phrase "by facsimile to the designated contact person for the Defaulting Party and also shall send the notice by overnight delivery to such contact person" with the following, "as provided in Exhibit B of the Confirmation." (d) Section 22.1 is modified by inserting the following new text at the end thereof: "(f) the failure of the Defaulting Party to pay its debts generally as they become due or the Defaulting Party's admission in a writing that is unable to pay its debts generally as they become due; (g) the institution, by the Defaulting Party, of a general assignment for the benefit of its creditors; or

	(h) the application for, consent to, or acquiescence to, by the Defaulting Party, the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets." (e) Section 22.2(b) is amended by inserting "and is continuing" after "Event of Default occurs" in the first line thereof and deleting the second sentence therein. (f) Section 22.3(c) is amended by deleting the third sentence thereof and replacing it with the following: "If the Non-Defaulting Party's aggregate Gains exceed its aggregate Losses and Costs, if any, resulting from the termination of this Agreement or a Confirmation, the Termination Payment for all such Terminated Transactions shall be zero, notwithstanding any provision in this Section or Agreement to the contrary." (g) In Section 22.3(e), delete the entire provision (including subsections) and replace it with the following: "[Intentionally omitted]" (h) In Section 22.3(f), delete the entire provision and replace it with the following: "If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, and provided that the Defaulting Party has paid the undisputed part of the Termination Payment to the Non-Defaulting Party as provided under Section 22.3(c), and that any amounts disputed by the Defaulting Party are disputed in good faith, then the Defaulting Party may submit the calculation issue to Dispute Resolution pursuant to Section 34." (i) Section 28.1 is applicable and the Parties shall net monthly payments in accordance with Exhibit A of the WSPP Agreement as if Purchaser and Seller had both executed Exhibit A of the WSPP Agreement. Both Parties intend for the netting provisions of Exhibit A to the WSPP Agreement to be effective on the Effective Date. (j) Section 30 is amended by inserting at the end of Section 30.1(6) prior to the semicolon the following: "or to Deliver RECs pursuant to the requirements of WREGIS". (k) Section 30.1 is amended by inserting "or requested" after the word "required" in Section 30.1(4) and by adding the following at the end of the first sentence: "; or (8) to the Party's and such Party's affiliates' lenders, counsel, accountants, advisors and agents who have a need to know such information and have agreed to keep such terms confidential". (l) Subsections 34.1 and 34.2 are hereby deleted and replaced with the following: "34.1 INFORMAL DISPUTE RESOLUTION IN THE EVENT OF ANY DISPUTE ARISING UNDER THE AGREEMENT WITH RESPECT TO THIS TRANSACTION,

	WITHIN TEN (10) DAYS FOLLOWING THE RECEIPT OF A WRITTEN NOTICE FROM EITHER PARTY IDENTIFYING SUCH DISPUTE, THE PARTIES SHALL MEET, NEGOTIATE AND ATTEMPT, IN GOOD FAITH, TO RESOLVE THE DISPUTE QUICKLY, INFORMALLY AND INEXPENSIVELY. IF THE PARTIES ARE UNABLE TO RESOLVE A DISPUTE ARISING HEREUNDER WITHIN THIRTY (30) DAYS AFTER RECEIPT OF SUCH NOTICE, THEN EITHER PARTY MAY SEEK ANY AND ALL REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY, SUBJECT TO THE LIMITATIONS SET FORTH IN THE AGREEMENT." "34.2 EXCLUSIVE JURISDICTION EACH PARTY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED IN SAN FRANCISCO, CALIFORNIA, FOR ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY TRANSACTION, AND EXPRESSLY WAIVES ANY OBJECTION IT MAY HAVE TO SUCH JURISDICTION OR THE CONVENIENCE OF SUCH FORUM." (m) The phrase "arbitration or" is hereby deleted from the first line of Section 34.4. (n) The following shall be inserted as a new Section 34.5: "34.5 LIMITATION OF DAMAGES. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, FOR BREACH OF ANY PROVISION OF THIS AGREEMENT FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, THE EXPRESS REMEDY OR MEASURE OF DAMAGES PROVIDED IS THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT, LIABILITY FOR THE BREACH IS LIMITED AS SET FORTH IN THE PROVISION AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, IF NO EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED IN THIS AGREEMENT FOR A PARTICULAR BREACH, LIABILITY FOR THE BREACH IS LIMITED TO DIRECT DAMAGES ONLY, THE DIRECT DAMAGES ARE THE SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT FOR THE BREACH, AND ALL OTHER REMEDIES FOR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS OTHERWISE SPECIFIED IN ANY CONFIRMATION, NEITHER PARTY IS LIABLE FOR ANY OTHER TYPE OF DAMAGE, INCLUDING INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE (INCLUDING DAMAGES ASSOCIATED WITH LOST PROFITS, BUSINESS INTERRUPTION AND LOSS OF GOODWILL) ARISING AT ANY TIME, WHETHER IN TORT (INCLUDING THE SOLE OR CONTRIBUTORY NEGLIGENCE

	OF EITHER PARTY OR ANY RELATED PERSON), WARRANTY, STRICT LIABILITY, CONTRACT OR STATUTE, UNDER ANY INDEMNITY PROVISION, OR OTHERWISE." (o) Section 37 is amended by inserting the following in the beginning of the section: "On the date of entering into this Confirmation,". (p) Section 41 "Witness" shall become Section 42 and the following "FERC Standard of Review; Mobile-Sierra Waiver" Section shall be substituted in its place: "(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 solely be the "public interest" application of the "just and reasonable" 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 Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008), and NRG Power Marketing LLC v. Maine Public Utility Commission, 558 U.S. 527 (2010). (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)."
Notices:	All notices provided in connection with this Confirmation shall be in accordance with Exhibit B.

Counterparts:	This Confirmation may be signed in any number of counterparts with the same effect as if the signatures to the counterparts were upon a single instrument. The Parties may rely on electronic or scanned signatures as originals under this Confirmation. Delivery of an executed signature page of this Confirmation by electronic mail transmission (including PDF) shall be the same as delivery of a manually executed signature page.
Entire Agreement; No Oral Agreements Or Modifications:	This Confirmation sets forth the terms of the Transaction into which the Parties have entered and shall constitute the entire Agreement between the Parties relating to the contemplated purchase and sale of the Product. Notwithstanding any other provision of the Agreement, this Confirmation may be entered into only by a Documentary Writing executed by both Parties, and no amendment or modification to this Confirmation shall be enforceable except through a Documentary Writing executed by both Parties.
Definitions/Interpretations:	For purposes of the Confirmation, the following definitions and rules of interpretations shall apply: "Accepted" means Purchaser's receipt of Delivery of the REC from Seller in accordance with the terms of the "Transfer of RECs" section of this Confirmation. "Applicable Law" means any statute, law, treaty, rule, tariff, regulation, ordinance, code, permit, enactment, injunction, order, writ, decision, authorization, judgment, decree or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, or any binding interpretation of the foregoing, as any of them is amended or supplemented from time to time, that apply to either or both of the Parties, the Generating Facilities, or the terms of the Agreement. "Buyer" as used herein shall have the same meaning as "Purchaser" under the WSPP Agreement. "CAISO" means the California Independent System Operator Corporation or any successor entity performing similar functions. "CAISO Tariff" means the California Independent System Operator Corporation Agreement and Tariff, Business Practice Manuals (BPMs), and Operating Procedures, including the rules, protocols, procedures and standards attached thereto, as the same may be amended or modified from time-to-time and approved by FERC. "CEC" means the California Energy Commission or any successor entity performing similar functions. "Change in Law" has the meaning set forth in this Confirmation. "Contract Price" has the meaning set forth on page 1 of this Confirmation. "Contract Quantity" has the meaning set forth on page 1 of this Confirmation.

	"CPUC" means the California Public Utilities Commission or any successor entity performing similar functions. "Delivered" has the meaning set forth in Section R-3.2.1 in WSPP Service Schedule R. "Delivered Energy" means, in any Settlement Period, the Energy generated by the Generating Facility, delivered to the Delivery Point as measured in MWh at a CAISO approved meter, net of all electrical losses and station use. "Delivery Point" has the meaning set forth on page 1 of this Confirmation. "Delivery Term" has the meaning set forth on page 1 of this Confirmation. "Energy" means electrical energy, measured in MWh. "Green Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Project, and its avoided emission of pollutants. Green Attributes include but are not limited to Renewable Energy Credits, as well as: (1) any avoided emission of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; (3) the reporting rights to these avoided emissions, such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on a MWh basis and one Green Tag represents the Green Attributes associated with one (1) MWh of Energy. Green Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Project, (ii) production tax credits associated with the construction or operation of the Project and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits

	encumbered or used by the Project for compliance with local, state, or federal operating and/or air quality permits. "Project" as used herein has the same meaning as "Generating Facility." "REC Vintage" means the date of Energy generation found on a WREGIS Certificate. "Renewable Energy Facility" as used in Schedule R shall be the Generating Facilities, as defined in this Confirmation. "Reporting Year" means the period beginning January 1 and continuing until December 31 of the subject year (e.g., Reporting Year 20XX means January 1, 20XX through December 31, 20XX). "WECC" means the Western Electricity Coordinating Council or its successor organizations. "WREGIS" mean the Western Renewable Energy Generation Information System, or any successor renewable energy tracking program. "WREGIS Certificate" means a "Certificate" as defined by WREGIS in the WREGIS Operating Rules. "WREGIS Operating Rules" means the operating rules and requirement adopted by WREGIS, as amended from time to time.

This Confirmation is subject to the Exhibits identified below and attached hereto:
Exhibit A – Generating Facilities **Exhibit B – Notices**

IN WITNESS WHEREOF, the Parties have signed this Confirmation effective as of the Effective Date.

[Seller]	**[Purchaser]**
Sign:_____	Sign:_____
Print:_____	Print:_____
Title:_____	Title:_____
Date:_____	Date:_____

EXHIBIT A

GENERATING FACILITIES

Facility Name	Resource ID	WREGIS ID	CEC Certification No.

EXHIBIT B

NOTICES

Purchaser	Seller
All Notices: Address: Attn: Email:	**All Notices:** Address: Attn: Email:
Invoices: Attn: Email:	**Invoices:** Attn: Email:
Scheduling: Attn: Phone: Email:	**Scheduling:** Attn: Phone: Email:
Confirmations: Attn: Phone: Email:	**Confirmations:** Attn: Phone: Email:
Wire Transfer: BNK: ABA: ACCT:	**Wire Transfer:** BNK: ABA: ACCT:
Credit and Collections: Attn: Email:	**Credit and Collections:** Attn: Email:
Defaults: Attn: Phone: Email: With a copy to: Attn: Phone: Email:	**Defaults:** Attn: Phone: Email: With a copy to: Attn: Phone: Email: