



COUNCIL AGENDA: 2/12/19
FILE: 18-1888
ITEM: 2.10

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Lori Mitchell

SUBJECT: SEE BELOW

DATE: February 1, 2019

Approved

Date

2-1-19

**SUBJECT: AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF
COMMUNITY ENERGY TO EXECUTE AGREEMENTS WITH THE
CALIFORNIA INDEPENDENT SYSTEM OPERATOR**

RECOMMENDATION

Adopt a resolution authorizing the Director of Community Energy or her designee to execute the Scheduling Coordinator Agreement and the Meter Service Agreement with the California Independent System Operator allowing San Jose Clean Energy to operate as a Scheduling Coordinator and to execute any other necessary agreements with the California Independent System Operator to perform its obligations as a Scheduling Coordinator.

OUTCOME

Authorizing the Director of Community Energy to execute agreements with the California Independent System Operator ("CAISO") allowing San Jose Clean Energy ("SJCE") to operate as a Scheduling Coordinator will enable SJCE to comply with its existing agreement with the Northern California Power Authority and reduce the collateral and associated costs that SJCE must post in order to serve customers. The SC Agreement allows SJCE to comply with the CAISO Tariff, including paying the CAISO for imbalance energy and other CAISO services, and the Meter Service Agreement allows SJCE to submit settlement quality meter data for its customers to the CAISO to support accurate billing for CAISO services. Together these agreements allow SJCE to comply with the CAISO's SC requirements. SJCE estimates that its annual CAISO costs pursuant to these agreements will be between \$6 and \$8 million a year for 2019, 2020 and 2021. Currently, SJCE incurs these costs and pays them through its agreement with the Northern California Power Authority ("NCPA") and incurs additional collateral costs related to NCPA performing these services.

BACKGROUND

At the August 29, 2017 City Council meeting, the City Council approved the SJCE Implementation Plan discussing the funding strategy to obtain power supply contracts, established the SJCE Operating Fund, and approved the establishment of various revenue estimates and expenditure appropriations for City departments, including the Community Energy Department, to facilitate the initial operations of SJCE. On January 30, 2018, the City Council approved revisions to the launch schedules, reducing the number of launches from three to two. Phase I launch (city accounts) began September 1, 2018 and Phase II (residential and commercial accounts) begins on February 1, 2019.

On March 27, 2018, the City Council approved the Scheduling Coordinator, Portfolio Management, and Optimization Service Agreement with NCPA. SJCE entered into this agreement with NCPA on May 9, 2018 (the "NCPA Agreement"). On May 1, 2018, the City Council approved the Risk Management Policy for the supply contracts entered into by the City.

On June 12, 2018 the City Council adopted a resolution authorizing the Director of Community Energy to negotiate and execute energy supply contracts for Phase I. On November 6, 2018, the City Council adopted a resolution authorizing the Director of Community Energy to negotiate and execute energy supply contracts for Phase II and to transact for balancing energy and other necessary services from the California Independent System Operator ("CAISO") through NCPA in an amount not to exceed \$226,000,000 in aggregate through Calendar Year 2019, and approved adjusting the Phase II launch from March 2019 to February 2019.

ANALYSIS

Staff recommends executing the Scheduling Coordinator Agreement and the Meter Service Agreement for Scheduling Coordinators with the California Independent System Operator included in Attachment 1. ***The Director is also requesting authority to modify the attached agreements in consultation with the City Attorney as necessary to incorporate standard City contracting provisions if the parties deem it necessary, appropriate, and beneficial for the City.***

As the grid operator in California, the CAISO must ensure that flow of electricity across high-voltage, long-distance power lines is balanced. SJCE is required to either be, or contract with, a scheduling coordinator that submits daily schedules with anticipated loads and generation resources to the CAISO, and pays the CAISO for balancing energy and other necessary services on a weekly basis. Currently, pursuant to the NCPA Agreement, NCPA is the scheduling coordinator for SJCE. NCPA schedules SJCE's loads and generation resources with the CAISO, and pays the CAISO for SJCE balancing energy and other necessary CAISO services. NCPA requires SJCE to post in advance of the services sufficient collateral with NCPA to cover the projected CAISO expenses. NCPA bills SJCE on a monthly basis.

The NCPA Agreement requires SJCE to become its own scheduling coordinator by March 31, 2019. When SJCE becomes its own scheduling coordinator, SJCE will be responsible for paying the CAISO directly for balancing energy and other necessary services on a weekly basis. This arrangement will require SJCE to post collateral with the CAISO in an amount that is commensurate with its weekly obligations, but will eliminate the requirement that SJCE continue to post a higher level of collateral with NCPA. NCPA will continue to schedule SJCE's anticipated loads and generation resources, and will continue to validate CAISO bills acting as SJCE's scheduling agent. The total amounts incurred by SJCE for CAISO balancing energy and other necessary services would not increase as a result of SJCE becoming its own scheduling coordinator.

EVALUATION AND FOLLOW-UP

The Community Energy Department submits quarterly reports to the City Council summarizing the number of Short-Term Transactions. These will include direct payments to the CAISO during the quarter.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the February 12, 2019 City Council meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

There is no commission recommendation or input associated with this action.

FISCAL/POLICY ALIGNMENT

The recommended actions support the City's Climate Smart plan, and the Envision San Jose 2040 General Plan (Goal MS-2 and Appendix 8: GHG Reduction Strategy).

COST SUMMARY/IMPLICATIONS

Authorizing the Director of Community Energy to execute agreements with the California Independent System Operator allows SJCE to operate as a Scheduling Coordinator. This will reduce the collateral amount and associated costs that SJCE must post for these services and will permit SJCE to comply with their current NCPA Agreement. SJCE estimates that in 2019, its CAISO invoices pursuant to these agreements will be ~\$30.6 Million. This includes \$24 Million for imbalance energy and approximately \$6.5 Million for CAISO charges. The CAISO bills weekly and will calculate SJCE's collateral based on SJCE's average weekly CAISO invoices, for a total amount initially estimated to be \$1 Million and likely to increase to \$2 Million over the course of 2019. In contrast, if SJCE does not enter into these agreements, the NCPA Agreement allows NCPA to require collateral equal to "the highest three months of estimated CAISO invoices." This is estimated to be \$11.6 Million. Staff estimates that by entering into these agreements, SJCE will reduce the amount of collateral it will need to be post by \$9.6 Million, and the associated costs.

CEQA

Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

/s/

LORI MITCHELL

Director, Community Energy Department

For questions, please contact Lori Mitchell, Director of Community Energy Department, at (408) 535-4880.

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Appendix B.7 Meter Service Agreement for SCs (MSA SC)

THIS AGREEMENT is dated this ____ day of _____, ____ and is entered into, by and between:

(1) **[Full legal name]** having its registered and principal place of business located at **[Address]** (the "SC");

and

(2) **California Independent System Operator Corporation ("CAISO")**, a California non-profit public benefit corporation having a principal executive office located at such place in the State of California as the CAISO Governing Board may from time to time designate.

The Scheduling Coordinator and the CAISO are hereinafter referred to as the "Parties".

Whereas:

- A. Section 10 of the CAISO Tariff requires the CAISO to enter into a meter service agreement with each Scheduling Coordinator responsible for providing Settlement Quality Meter Data for Scheduling Coordinator Metered Entities that it represents.
- B. Section 10 of the CAISO Tariff requires Scheduling Coordinators to ensure that the Scheduling Coordinator Metered Entities that they represent adhere to the requirements and standards for Metering Facilities set forth in Section 10.3.
- C. The Parties are entering into this Agreement in order to establish the terms and conditions upon which the CAISO and the Scheduling Coordinator shall discharge their respective duties and responsibilities pursuant to this Agreement and the CAISO Tariff.
- D. All obligations and responsibilities included in this Agreement may be set forth in further detail in the CAISO Tariff.

NOW THEREFORE, in consideration of the mutual covenants set forth herein, **THE PARTIES AGREE** as follows:

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ARTICLE I

DEFINITIONS AND INTERPRETATION

- 1.1 Master Definitions Supplement.** All terms and expressions used in this Agreement shall have the same meaning as those contained in the Master Definitions Supplement to the CAISO Tariff.
- 1.2 Rules of Interpretation.** The following rules of interpretation and conventions shall apply to this Agreement:
- (a) if there is any inconsistency between this Agreement and the CAISO Tariff, the CAISO Tariff will prevail to the extent of the inconsistency;
 - (b) the singular shall include the plural and vice versa;
 - (c) the masculine shall include the feminine and neutral and vice versa;
 - (d) "includes" or "including" shall mean "including without limitation";
 - (e) references to a section, article or schedule shall mean a section, article or a schedule of this Agreement, as the case may be, unless the context otherwise requires;
 - (f) a reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented or restated through the date as of which such reference is made;
 - (g) unless the context otherwise requires, references to any law shall be deemed references to such law as it may be amended, replaced or restated from time to time;
 - (h) unless the context otherwise requires, any reference to a "person" includes any individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having separate legal personality;
 - (i) unless the context otherwise requires, any reference to a Party includes a reference to its permitted successors and assigns;
 - (j) any reference to a day, week, month or year is to a calendar day, week, month or year;
 - (k) the captions and headings in this Agreement are inserted solely to facilitate reference and shall have no bearing upon the interpretation of any of the terms and conditions of this Agreement; and
 - (l) references to the CAISO Tariff and other CAISO Documents shall be interpreted in accordance with any exceptions or exemptions to such as may have been granted by the CAISO.

ARTICLE II

TERM AND TERMINATION

- 2.1 Effective Date.** This Agreement shall be effective as of the later of the date of execution of this Agreement, or the date it is accepted and made effective by FERC, if such FERC filing is required, and shall remain in full force and effect until terminated by operation of law or pursuant to Section 2.2 of this Agreement.

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2.2 Termination

2.2.1 Termination by CAISO. Subject to Section 4.2 the CAISO may terminate this Agreement by giving written notice of termination in the event that the Scheduling Coordinator commits any default under this Agreement and/or the CAISO Tariff which, if capable of being remedied, is not remedied within thirty (30) days after the CAISO has given it written notice of the default, unless excused by reason of Uncontrollable Force in accordance with Section 14.1 of the CAISO Tariff. With respect to any notice of termination given pursuant to this Section, the CAISO must file a timely notice of termination with FERC, if this Agreement was filed with FERC, or must otherwise comply with the requirements of FERC Order No. 2001 and related FERC orders. The filing of the notice of termination by the CAISO with FERC will be considered timely if: (1) the filing of the notice of termination is made after the preconditions for termination have been met, and the CAISO files the notice of termination within sixty (60) days after issuance of the notice of default; or (2) the CAISO files the notice of termination in accordance with the requirements of FERC Order No. 2001. This Agreement shall terminate upon acceptance by FERC of such notice of termination, if filed with FERC, or thirty (30) days after the date of the CAISO's notice of default, if terminated in accordance with the requirements of FERC Order No. 2001 and related FERC orders.

2.2.2 Termination by SC. In the event that the Scheduling Coordinator wishes to terminate this Agreement, the Scheduling Coordinator shall give the CAISO not less than ninety (90) days written notice. With respect to any notice of termination given pursuant to this Section, the CAISO must file a timely notice of termination with FERC, if this Agreement has been filed with FERC, or must otherwise comply with the requirements of FERC Order No. 2001 and related FERC orders. The filing of the notice of termination by the CAISO with FERC will be considered timely if: (1) the request to file a notice of termination is made after the preconditions for termination have been met, and the CAISO files the notice of termination within thirty (30) days of receipt of such request; or (2) the CAISO files the notice of termination in accordance with the requirements of FERC Order No. 2001. This Agreement shall terminate upon acceptance by FERC of such a notice of termination, if such notice is required to be filed with FERC, or upon ninety (90) days after the CAISO's receipt of the Scheduling Coordinator's notice of termination, if terminated in accordance with the requirements of FERC Order No. 2001 and related FERC orders.

ARTICLE III

GENERAL TERMS AND CONDITIONS

3.1 Agreement Subject to CAISO Tariff. This Agreement shall be subject to the provisions of the CAISO Tariff which shall be deemed to be incorporated herein, as the same may be changed or superseded from time to time. The Parties agree that they will comply with the provisions of Section 10 and all other applicable provisions of the CAISO Tariff.

3.2 Requirements and Standards for Metering Facilities. The Scheduling Coordinator shall ensure that the Scheduling Coordinator Metered Entities it represents shall adhere to the requirements and standards for Metering Facilities of its Local Regulatory Authority. If that Scheduling Coordinator Metered Entity's Local Regulatory Authority has not set any requirements or standards in relation to any of its Metering Facilities, the Scheduling Coordinator representing that Scheduling Coordinator Metered Entity must comply with the requirements and standards for those Metering Facilities as set forth in this Agreement and the CAISO Tariff.

3.3 Obligations and Rights of the Scheduling Coordinator.

3.3.1 Meter Information. If the CAISO so requests, the Scheduling Coordinator shall provide in the format prescribed by Schedule 1 to this Agreement the required information with respect to the meters for all Scheduling Coordinator Metered Entities it represents including the reference to

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specific distribution loss factors or methodology it proposes to use as determined by the relevant UDC and approved by the relevant Local Regulatory Authority. The Scheduling Coordinator must immediately notify the CAISO of any changes to the information provided to the CAISO in accordance with this Section 3.3.1 and provide the CAISO with any information in relation to such change as reasonably requested by the CAISO. Any amendments or additions to Schedule 1 shall not constitute an amendment to this Agreement.

- 3.3.2 Assistance and Cooperation of Scheduling Coordinator.** The Scheduling Coordinator shall ensure that the CAISO shall, upon reasonable notice, have access to the entire Metering Facilities of the Scheduling Coordinator Metered Entities that it represents from the meter data server to the Metering Facilities in order to inspect, test or otherwise audit those Metering Facilities.
- 3.3.3 Profiled and Cumulative Meter Data.** The Scheduling Coordinator shall provide the CAISO with any applicable Approved Load Profile for each Scheduling Coordinator Metered Entity that it represents that is load profiled in accordance with the CAISO Tariff. The Scheduling Coordinator shall provide a copy of the Approved Load Profile applicable to each Scheduling Coordinator Metered Entity (if any) that it represents, which shall be set forth in Schedule 2 to this Agreement. The Scheduling Coordinator must immediately notify the CAISO of any changes to the Approved Load Profiles referred to in Schedule 2 to this Agreement and provide the CAISO with a copy of the new or amended Approved Load Profile. Such change to Schedule 2 shall not constitute an amendment to this Agreement.
- 3.3.4 Security and Validation Procedures.** The Scheduling Coordinator shall apply to the Meter Data of the Scheduling Coordinator Metered Entities that it represents the security and validation procedures prescribed by the relevant Local Regulatory Authority. If the relevant Local Regulatory Authority has not prescribed any such procedures, the Scheduling Coordinator shall apply the procedures set forth in the CAISO Tariff. Meter Data submitted by a Scheduling Coordinator for Scheduling Coordinator Metered Entities shall conform to these standards unless the CAISO has, at its discretion, exempted the Scheduling Coordinator from these standards.
- 3.4 Obligations and Rights of the CAISO.**
- 3.4.1 Exemptions Granted by CAISO.** Any exemptions provided for under the CAISO Tariff that are granted by the CAISO shall be set forth in Schedule 3 to this Agreement. Any amendment or addition to Schedule 3 shall not constitute an amendment to this Agreement.
- 3.4.2 CAISO as Third-Party Beneficiary.** The CAISO shall be a third-party beneficiary to the agreements between the Scheduling Coordinator and Scheduling Coordinator Metered Entities that the Scheduling Coordinator represents. Such agreements shall grant the CAISO access to any relevant information, records and facilities of the Scheduling Coordinator Metered Entity as needed for the CAISO to fulfill its obligations under this Agreement and the CAISO Tariff.

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ARTICLE IV

PENALTIES & SANCTIONS

- 4.1 Penalties.** If the Scheduling Coordinator provides inaccurate or incorrect Settlement Quality Meter Data or fraudulent Meter Data to the CAISO, the CAISO shall be entitled to impose penalties and sanctions, including but not limited to suspension of trading rights following 14 days written notice to the Scheduling Coordinator. Fraudulent Meter Data means any data provided to the CAISO by the Scheduling Coordinator that the Scheduling Coordinator knows to be false, incorrect or incomplete at the time it provided it to the CAISO. All penalties and sanctions shall be set forth in Schedule 4 Part A or in the CAISO Tariff. No penalties or sanctions, including the suspension of trading rights, may be imposed under this Agreement unless a Schedule or CAISO Tariff provision providing for such penalties or sanctions has first been filed with and made effective by FERC. Nothing in the Agreement, with the exception of the provisions relating to the CAISO ADR Procedures, shall be construed as waiving the rights of the Scheduling Coordinator to oppose or protest any penalty proposed by the CAISO to the FERC or the specific imposition by the CAISO of any FERC-approved penalty on the Scheduling Coordinator. The CAISO will provide notice to all Scheduling Coordinators of any filing of proposed penalties or sanctions with the FERC. The CAISO shall notify the Scheduling Coordinator of those approved penalties within 14 days of their approval by the FERC.
- 4.2 Corrective Measures.** If the Scheduling Coordinator or any Scheduling Coordinator Metered Entity that it represents fails to meet or maintain the standards for Metering Facilities or comply with the audit or test procedures as set forth in the CAISO Tariff, the CAISO shall be permitted to take corrective measures. Details of the corrective measures and rights the CAISO may exercise upon any failure by any entity to meet those standards for Metering Facilities or to comply with the audit or test procedures shall be set forth in Schedule 4 Part B or in the CAISO Tariff.

ARTICLE V

ACCESS TO METER DATA

- 5.1 Third Parties.** Third parties that are authorized by the Scheduling Coordinator to access the Meter Data of a Scheduling Coordinator Metered Entity held by the CAISO and that are entitled to such Meter Data shall be identified in Schedule 5 to this Agreement. The Scheduling Coordinator shall not provide a third party access to Meter Data of a Scheduling Coordinator Metered Entity unless the Scheduling Coordinator has permission from that Scheduling Coordinator Metered Entity to provide that access. The relevant UDCs and TOs shall be included in Schedule 5 provided that the Scheduling Coordinator Metered Entity has granted those UDCs and TOs access to its Meter Data. Any amendment or addition to Schedule 5 shall not constitute an amendment to this Agreement. The Scheduling Coordinator shall, on request by the Scheduling Coordinator Metered Entity, access the Meter Data held by the CAISO relating to that Scheduling Coordinator Metered Entity and provide that Meter Data to the Scheduling Coordinator Metered Entity in a timely manner.

ARTICLE VI

COSTS

- 6.1 Certification, Inspection and Auditing of Meters.** The Scheduling Coordinator shall be responsible for all reasonable costs incurred by the CAISO or a CAISO Authorized Inspector in connection with them carrying out the certification, inspection, testing or auditing of the meters identified in Schedule 1 from which the Scheduling Coordinator provides Meter Data to the CAISO. The CAISO or CAISO Authorized Inspector will furnish the Scheduling Coordinator, upon request, an itemized bill for such costs.

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ARTICLE VII

DISPUTE RESOLUTION

- 7.1 **Dispute Resolution.** The Parties shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. In the event any dispute is not settled, the Parties shall adhere to the CAISO ADR Procedures set forth in Section 13 of the CAISO Tariff, which is incorporated by reference, except that all reference in Section 13 of the CAISO Tariff to Market Participants shall be read as a reference to the Scheduling Coordinator Metered Entity and references to the CAISO Tariff shall be read as references to this Agreement.

ARTICLE VIII

REPRESENTATIONS AND WARRANTIES

- 8.1 **Representations and Warranties.** Each Party represents and warrants that the execution, delivery and performance of this Agreement by it has been duly authorized by all necessary corporate and/or governmental actions, to the extent authorized by law.
- 8.2 **Necessary Authority.** The Scheduling Coordinator represents and warrants that all of the entities which it identifies on Schedule 1 as Scheduling Coordinator Metered Entities that it represents have granted it all necessary authority to enable it to carry out its obligations under this Agreement and the CAISO Tariff, and, subject to the execution and delivery by the CAISO, this Agreement will be enforceable against the Scheduling Coordinator in accordance with its terms.
- 8.3 **Meter Data Access.** The Scheduling Coordinator represents and warrants that all third parties referred to in Schedule 5 to this Agreement have been authorized by the relevant Scheduling Coordinator Metered Entity as having access to its Settlement Quality Meter Data.

ARTICLE IX

LIABILITY AND INDEMNIFICATION

- 9.1 **Liability and Indemnification.** The provisions of Section 14 of the CAISO Tariff will apply to liability arising under this Agreement except that all references in Section 14 of the CAISO Tariff to Market Participants shall be read as references to the Scheduling Coordinator and references in the CAISO Tariff shall be read as references to this Agreement.

ARTICLE X

UNCONTROLLABLE FORCES

- 10.1 **Uncontrollable Forces.** Section 14.1 of the CAISO Tariff shall be incorporated by reference into this Agreement except that all references in Section 14.1 of the CAISO Tariff to Market Participants shall be read as references to the Scheduling Coordinator and all references to the CAISO Tariff shall be read as references to this Agreement.

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ARTICLE XI

MISCELLANEOUS

- 11.1 Assignments.** Either Party may assign or transfer any or all of its rights and/or obligations under this Agreement with the other Party's prior written consent in accordance with Section 22.2 of the CAISO Tariff. Such consent shall not be unreasonably withheld. Any such transfer or assignment shall be conditioned upon the successor in interest accepting the rights and/or obligations under this Agreement as if said successor in interest was an original Party to this Agreement.
- 11.2 Notices.** Any notice, demand or request which may be given to or made upon either Party regarding this Agreement shall be made in accordance with the Scheduling Coordinator's Scheduling Coordinator Agreement and in accordance with Section 22.4 of the CAISO Tariff, provided that all references in Section 22.4 of the CAISO Tariff to Market Participants shall be read as a reference to the Scheduling Coordinator and references to the CAISO Tariff shall be read as references to this Agreement, and unless otherwise stated or agreed shall be made to the representative of the other Party indicated in Schedule 6. A Party must update the information in Schedule 6 as information changes. Such changes shall not constitute an amendment to this Agreement.
- 11.3 Waivers.** Any waiver at any time by either Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay short of the statutory period of limitations in asserting or enforcing any right under this Agreement shall not constitute or be deemed a waiver of such right.
- 11.4 Governing Law and Forum.** This Agreement shall be deemed to be a contract made under and for all purposes shall be governed by and construed in accordance with the laws of the State of California, except its conflict of law provisions. The Scheduling Coordinator irrevocably consents that any legal action or proceeding arising under or relating to this Agreement to which the CAISO ADR Procedures do not apply shall be brought in any of the following forums, as appropriate: any court of the State of California, any federal court of the United States of America located in the State of California or, where subject to its jurisdiction, before the Federal Energy Regulatory Commission.
- 11.5 Consistency with Federal Laws and Regulations.** This Agreement shall incorporate by reference Section 22.9 of the CAISO Tariff as if the references to the CAISO Tariff were referring to this Agreement.
- 11.6 Merger.** This Agreement constitutes the complete and final agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter.
- 11.7 Severability.** If any term, covenant, or condition of this Agreement or the application or effect of any such term, covenant, or condition is held invalid as to any person, entity, or circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or otherwise not in the public interest by any court or government agency of competent jurisdiction, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect and the Parties shall be relieved of their obligations only to the extent necessary to eliminate such regulatory or other determination unless a court or governmental agency of competent jurisdiction holds that such provisions are not separable from all other provisions of this Agreement.

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- 11.8 Amendments.** This Agreement and the Schedules attached hereto may be amended from time to time by the mutual agreement of the Parties in writing. Amendments that are subject to FERC approval shall not take effect until FERC has accepted such amendments for filing and has made them effective. Nothing contained herein shall be construed as affecting in any way the right of the CAISO to unilaterally make application to FERC for a change in the rates, terms and conditions of this Agreement under Section 205 of the FPA and pursuant to FERC's rules and regulations promulgated thereunder, and the Scheduling Coordinator shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 206 or any other applicable provision of the FPA and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under Sections 205 or 206 of the FPA and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.
- 11.9 Counterparts.** This Agreement may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed on behalf of each by and through their authorized representatives as of the date hereinabove written.

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California Independent System Operator Corporation

By: _____

Name: _____

Title: _____

Date: _____

Full legal name of SC

By: _____

Name: _____

Title: _____

Date: _____

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SCHEDULE 1

METER INFORMATION

[Section 3.3.1]

Meter Number

Name of the Facility

Contact details for Scheduling Coordinator Metered Entity Representative

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SCHEDULE 2

APPROVED LOAD PROFILE

[Section 3.3.3]

Attach details of each Approved Load Profile used by the Scheduling Coordinator Metered Entities represented by the Scheduling Coordinator, the names of the Scheduling Coordinator Metered Entities that use each of those Approved Load Profiles and the name of the Local Regulatory Authority that approved each of those Approved Load Profiles.

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SCHEDULE 3

EXEMPTIONS FROM METERING STANDARDS AND OTHER REQUIREMENTS

[Section 3.4.1]

Exemption

Attach variation with an explanation.

Name of the relevant Local Regulatory Authority which sets security and validation standards for the Scheduling Coordinator Metered Entity.

Other Exemptions

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SCHEDULE 4

PART A

CAISO IMPOSED PENALTIES AND SANCTIONS

[Section 4.1]

TO BE INSERTED UPON FERC APPROVAL

PART B

CORRECTIVE MEASURES

[Section 4.2]

TO BE DEVELOPED

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SCHEDULE 5

ACCESS TO METER DATA

[Section 5.1]

List the third parties authorized by each Scheduling Coordinator Metered Entity represented by the Scheduling Coordinator to access that Scheduling Coordinator Metered Entity's Settlement Quality Meter Data.

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SCHEDULE 6

NOTICE

[Section 11.2] Name of Primary

Representative: _____

Title: _____

Company: _____

Address: _____

City/State/Zip Code: _____

Email Address: _____

Phone: _____

Fax No: _____

Name of Alternative

Representative: _____

Title: _____

Company: _____

Address: _____

City/State/Zip Code: _____

Email Address: _____

Phone: _____

Fax No: _____

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CAISO

Name of Primary

Representative: _____

Title: _____

Company: _____

Address: _____

City/State/Zip Code: _____

Email Address: _____

Phone: _____

Fax No: _____

Name of Alternative

Representative: _____

Title: _____

Company: _____

Address: _____

City/State/Zip Code: _____

Email Address: _____

Phone: _____

Fax No: _____

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Appendix B.1 Scheduling Coordinator Agreement

THIS AGREEMENT is made this ____ day of _____, _____ and is entered into, by and between:

- (1) **[Full legal name]** having a registered or principal executive office at **[address]** (the "Scheduling Coordinator")

and

- (2) **CALIFORNIA INDEPENDENT SYSTEM OPERATOR CORPORATION**, a California nonprofit public benefit corporation having a principal executive office located at such place in the State of California as the CAISO Governing Board may from time to time designate (the "CAISO").

The Scheduling Coordinator and the CAISO are hereinafter referred to as the "Parties".

Whereas:

- A. The Scheduling Coordinator has applied for certification by the CAISO under the certification procedure referred to in Section 4.5.1 of the CAISO Tariff.
- B. The Scheduling Coordinator wishes to submit Bids for Energy and Ancillary Services on the CAISO Controlled Grid under the terms and conditions set forth in the CAISO Tariff.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretation.

1.1 Master Definitions Supplement. Terms and expressions used in this Agreement shall have the same meanings as those contained in the Master Definitions Supplement to the CAISO Tariff.

1.2 Rules of Interpretation. The following rules of interpretation and conventions shall apply to this Agreement:

- (a) if there is any inconsistency between this Agreement and the CAISO Tariff, the CAISO Tariff will prevail to the extent of the inconsistency;
- (b) the singular shall include the plural and vice versa;
- (c) the masculine shall include the feminine and neutral and vice versa;
- (d) "includes" or "including" shall mean "including without limitation";
- (e) references to a Section, Article or Schedule shall mean a Section, Article or a Schedule of this Agreement, as the case may be, unless the context otherwise requires;
- (f) a reference to a given agreement or instrument shall be a reference to that agreement or instrument as modified, amended, supplemented or restated through the date as of which such reference is made;
- (g) unless the context otherwise requires, references to any law shall be deemed references to such law as it may be amended, replaced or restated from time to time;
- (h) unless the context otherwise requires, any reference to a "person" includes any

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individual, partnership, firm, company, corporation, joint venture, trust, association, organization or other entity, in each case whether or not having separate legal personality;

- (i) unless the context otherwise requires, any reference to a Party includes a reference to its permitted successors and assigns;
- (j) any reference to a day, week, month or year is to a calendar day, week, month or year; and
- (k) the captions and headings in this Agreement are inserted solely to facilitate reference and shall have no bearing upon the interpretation of any of the terms and conditions of this Agreement.

2. Covenant of the Scheduling Coordinator.

2.1 The Scheduling Coordinator agrees that:

- 2.1.1** The CAISO Tariff governs all aspects of bidding and scheduling of Energy and Ancillary Services on the CAISO Controlled Grid, including (without limitation), the financial and technical criteria for Scheduling Coordinators, bidding, Settlement, information reporting requirements and confidentiality restrictions;
- 2.1.2** It will abide by, and will perform all of the obligations under the CAISO Tariff placed on Scheduling Coordinators in respect of all matters set forth therein including, without limitation, all matters relating to the bidding and scheduling of Energy and Ancillary Services on the CAISO Controlled Grid, obligations regarding Resource Adequacy Plans and other requirements of Section 40 of the CAISO Tariff applicable to Scheduling Coordinators for affected Load Serving Entities, ongoing obligations in respect of scheduling, Settlement, system security policy and procedures to be developed by the CAISO from time to time, billing and payments, confidentiality and dispute resolution;
- 2.1.3** It shall ensure that each UDC, over whose Distribution System Energy or Ancillary Services are to be transmitted in accordance with Bids submitted to the CAISO by the Scheduling Coordinator, enters into a UDC Operating Agreement in accordance with Section 4.4 of the CAISO Tariff;
- 2.1.4** It shall ensure that each Generator for which it submits Bids enters into a Participating Generator Agreement in accordance with Section 4.6 of the CAISO Tariff;
- 2.1.5** It shall have the primary responsibility to the CAISO, as principal, for all Scheduling Coordinator payment obligations under the CAISO Tariff;
- 2.1.6** Its status as a Scheduling Coordinator is at all times subject to the CAISO Tariff.

3. Term and Termination.

- 3.1** This Agreement shall commence on the later of (a) _____ or (b) the date the Scheduling Coordinator is certified by the CAISO as a Scheduling Coordinator.
- 3.2** This Agreement may be terminated in accordance with the provisions of Section 4.5.4.4 and 4.5.4.5 of the CAISO Tariff; provided, however, that any outstanding financial right or obligation or any other right or obligation under the CAISO Tariff of the Scheduling Coordinator that may have arisen under this Agreement, and any provision of this Agreement necessary to give effect to such right or obligation, shall survive such termination until satisfied. The CAISO shall timely file any notice of termination with FERC, if this Agreement has been filed with FERC, or must

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otherwise comply with the requirements of FERC rules regarding termination.

4. Settlement Account.

- 4.1 The Scheduling Coordinator shall maintain at all times an account with a bank capable of Fedwire transfer and, at its option, may also maintain an account capable of ACH transfers, to which credits or debits shall be made in accordance with the billing and Settlement provisions of Section 11 of the CAISO Tariff. Such account shall be the account as notified by the Scheduling Coordinator to the CAISO from time to time by giving at least 20 days written notice before the new account becomes operational, together with all information necessary for the CAISO's processing of a change in that account.

5. Agreement to be bound by CAISO Tariff.

- 5.1 The CAISO Tariff is incorporated herein and made a part hereof. In the event of a conflict between the terms and conditions of this Agreement and any other terms and conditions set forth in the CAISO Tariff, the terms and conditions of the CAISO Tariff shall prevail.

6. Electronic Contracting.

- 6.1 All submitted applications, schedules, Bids, confirmations, changes to information on file with the CAISO and other communications conducted via electronic transfer (e.g. direct computer link, FTP file transfer, bulletin board, e-mail, facsimile or any other means established by the CAISO) shall have the same legal rights, responsibilities, obligations and other implications as set forth in the terms and conditions of the CAISO Tariff as if executed in written format.

7. Penalties and Sanctions.

- 7.1 The Scheduling Coordinator shall be subject to all penalties made applicable to Scheduling Coordinators set forth in the CAISO Tariff.

8. Costs.

- 8.1 The Scheduling Coordinator shall be responsible for all its costs incurred for the purpose of meeting its obligations under this Agreement.

9. Dispute Resolution.

- 9.1 The Parties shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. In the event any dispute is not settled, the Parties shall adhere to the CAISO ADR Procedures set forth in Section 13 of the CAISO Tariff, which is incorporated by reference, except that any reference in Section 13 of the CAISO Tariff to Market Participants shall be read as a reference to the Scheduling Coordinator and references to the CAISO Tariff shall be read as references to this Agreement.

10. Representation and Warranties.

- 10.1 Each Party represents and warrants that the execution, delivery and performance of this Agreement by it has been duly authorized by all necessary corporate and/or governmental actions, to the extent authorized by law.

11. Liability.

- 11.1 The provisions of Section 14 of the CAISO Tariff will apply to liability arising under this Agreement, except that all references in Section 14 of the CAISO Tariff to Market Participants shall be read as references to the Scheduling Coordinator and references to the CAISO Tariff

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shall be read as references to this Agreement.

12. Uncontrollable Forces.

- 12.1** Section 14.1 of the CAISO Tariff shall be incorporated by reference into this Agreement except that all references in Section 14.1 of the CAISO Tariff to Market Participants shall be read as a reference to the Scheduling Coordinator and references to the CAISO Tariff shall be read as references to this Agreement.

13. Miscellaneous.

- 13.1 Assignments.** Either Party may assign or transfer any or all of its rights and/or obligations under this Agreement with the other Party's prior written consent in accordance with Section 22.2 of the CAISO Tariff. Such consent shall not be unreasonably withheld. Any such transfer or assignment shall be conditioned upon the successor in interest accepting the rights and/or obligations under this Agreement as if said successor in interest was an original Party to this Agreement.

- 13.2 Notices.** Any notice, demand or request which may be given to or made upon either Party regarding this Agreement shall be made in accordance with Section 22.4 of the CAISO Tariff, provided that all references in Section 22.4 of the CAISO Tariff to Market Participants shall be read as a reference to the Scheduling Coordinator and references to the CAISO Tariff shall be read as references to this Agreement, and unless otherwise stated or agreed shall be made to the representative of the other Party indicated in Schedule 1. A Party must update the information in Schedule 1 of this Agreement as information changes. Such changes shall not constitute an amendment to this Agreement.

- 13.3 Waivers.** Any waiver at any time by either Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or other matter arising in connection with this Agreement. Any delay, short of the statutory period of limitations, in asserting or enforcing any right under this Agreement shall not constitute or be deemed a waiver of such right.

- 13.4 Governing Law and Forum.** This Agreement shall be deemed to be a contract made under, and for all purposes shall be governed by and construed in accordance with, the laws of the State of California, except its conflict of law provisions. The Parties irrevocably consent that any legal action or proceeding arising under or relating to this Agreement to which the CAISO ADR Procedures do not apply, shall be brought in any of the following forums, as appropriate: any court of the State of California, any federal court of the United States of America located in the State of California, or, where subject to its jurisdiction, before the Federal Energy Regulatory Commission.

- 13.5 Consistency with Federal Laws and Regulations.** This Agreement shall incorporate by reference Section 22.9 of the CAISO Tariff as if the references to the CAISO Tariff were referring to this Agreement.

- 13.6 Merger.** This Agreement constitutes the complete and final agreement of the Parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter.

- 13.7 Severability.** If any term, covenant, or condition of this Agreement or the application or effect of any such term, covenant, or condition is held invalid as to any person, entity, or circumstance, or is determined to be unjust, unreasonable, unlawful, imprudent, or otherwise not in the public interest by any court or government agency of competent jurisdiction, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other

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terms, covenants, and conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect and the Parties shall be relieved of their obligations only to the extent necessary to eliminate such regulatory or other determination unless a court or governmental agency of competent jurisdiction holds that such provisions are not separable from all other provisions of this Agreement.

- 13.8 Amendments.** This Agreement and the Schedules attached hereto may be amended from time to time by the mutual agreement of the Parties in writing. Amendments that require FERC approval shall not take effect until FERC has accepted such amendments for filing and made them effective. Nothing contained herein shall be construed as affecting in any way the right of the CAISO to unilaterally make application to FERC for a change in the rates, terms and conditions of this Agreement under Section 205 of the FPA and pursuant to FERC's rules and regulations promulgated thereunder, and the Scheduling Coordinator shall have the right to make a unilateral filing with FERC to modify this Agreement pursuant to Section 206 or any other applicable provision of the FPA and FERC's rules and regulations thereunder; provided that each Party shall have the right to protest any such filing by the other Party and to participate fully in any proceeding before FERC in which such modifications may be considered. Nothing in this Agreement shall limit the rights of the Parties or of FERC under Sections 205 or 206 of the FPA and FERC's rules and regulations thereunder, except to the extent that the Parties otherwise mutually agree as provided herein.
- 13.9 Counterparts.** This Agreement may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective authorized officials.

California Independent System Operator Corporation

By: _____

Name: _____

Title: _____

Date: _____

[Name of Scheduling Coordinator]

By: _____

Name: _____

Title: _____

Date: _____

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SCHEDULE 1

NOTICES

[Section 7.1]

Scheduling Coordinator

Name of Primary

Representative: _____

Title: _____

Company: _____

Address: _____

City/State/Zip Code: _____

Email Address: _____

Phone: _____

Fax No: _____

Name of Alternative

Representative: _____

Title: _____

Company: _____

Address: _____

City/State/Zip Code: _____

Email Address: _____

Phone: _____

Fax No: _____

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CAISO

Name of Primary

Representative: _____

Title: _____

Company: _____

Address: _____

City/State/Zip Code: _____

Email Address: _____

Phone: _____

Fax No: _____

Name of Alternative

Representative: _____

Title: _____

Company: _____

Address: _____

City/State/Zip Code: _____

Email Address: _____

Phone: _____

Fax No: _____