

VALLEY CLEAN ENERGY ALLIANCE**Staff Report – Item 10**

TO: Board of Directors

FROM: Mitch Sears, Chief Executive Officer
Rebecca Kuczynski, Chief Customer Officer

SUBJECT: Amendment for PG&E/VCE Agreement for Agricultural Flexible Irrigation Technology (AgFIT) Pilot Program

DATE: June 12, 2025

RECOMMENDATION

Approve resolution to extend the existing agreement with Pacific Gas & Electric for the Agricultural Flexible Irrigation Technology (AgFIT) Pilot Program.

BACKGROUND AND ANALYSIS

In December 2024, the VCE Board of Directors approved a budget amendment for the final costs associated with the implementation and close-out of the Agricultural Flexible Irrigation Technology (AgFIT) Pilots. Because of data access delays impacting the close of the pilot, staff is still finalizing invoices to be paid by PG&E. In order to continue to recoup expenses from PG&E, VCE must sign an amendment to its agreement with PG&E. As shown in the redline Attachment 1 (page 7, Section 4.1 Term), the recommended amendment is limited to an extension of the time to complete the agreement – all other major provisions remain unchanged.

FISCAL IMPACT

The amendment to the PG&E/VCE agreement is anticipated to have a net-neutral effect on VCE's budget, as the contract amendment does not have a dollar amount change.

Attachments

1. Amended agreement (Redline on page 7, Section 4.1 Term)
2. Resolution 2025-XXX

AGREEMENT FOR THE DYNAMIC RATE PILOT FOR AGRICULTURAL PUMPING

This Agreement for the Dynamic Rate Pilot for Agricultural Pumping (“**Agreement**”) is dated as of April __, 2022 (the “**Effective Date**”) and is made by and among Valley Clean Energy Alliance, a California joint powers authority (“**VCE**”) and Pacific Gas and Electric Company, a California corporation (“**PG&E**”) (each of VCE and PG&E are individually referred to herein as a “**Party**” and collectively as the “**Parties**”). This Agreement governs the rights and responsibilities of the Parties with respect to the Dynamic Rate Pilot for Agricultural Pumping approved by the California Public Utilities Commission (“**CPUC**”) in Decision 21-12-015 (as may be amended or modified by CPUC from time to time, the “**Pilot Decision**”) (the “**Pilot**”).

WHEREAS:

- A. In August 2020, California experienced a series of rolling blackouts caused by inadequate energy supply, an extreme heat wave, and market factors. The CPUC, the California Independent System Operator (“**CAISO**”) and the California Energy Commission (“**CEC**”) issued a Root Cause Analysis of the reasons for the outages, and concluded that additional supply and demand measures were required to avoid a repeat of the 2020 experience. The power outages triggered CPUC initiation of R.20-10-011 “Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Reliable Electric Service in California in the Event of an Extreme Weather Event in 2021” (the “**Reliability OIR Rulemaking**”).
- B. In the Reliability OIR Rulemaking, VCE proposed to test the use of dynamic rates to provide incentives for agricultural customers to pump water when it is least costly to do so. VCE’s proposal for a dynamic pilot rate for agricultural pumping loads in VCE’s service territory was approved by the Pilot Decision and will be administered by VCE. The Pilot Decision approved a budget of \$2.5 million for certain activities in the Pilot from which \$2.275 million shall be disbursed by PG&E to VCE pursuant to the terms of this Agreement and \$225,000 shall be disbursed for PG&E’s contract with TeMix (as defined below).
- C. On January 31, 2022, VCE, Polaris Energy Services (“**Polaris**”) and TeMix Inc. (“**TeMix**”) submitted a petition for modification (“**VCE PFM**”) to the Pilot Decision requesting an additional \$690,000 to cover VCE’s administrative costs and, if the CPUC determines that VCE is required to prepare semiannual Demand Response Emerging Technology Program reports, an additional \$200,000 to cover VCE’s costs to prepare such reports.
- D. On March 4, 2022, PG&E submitted a response to VCE petition for modification and as of the Effective Date the issues pertaining to increases to the Pilot budget approved in the Pilot Decision that were raised by the VCE PFM and PG&E’s response thereto remain pending before the CPUC.
- E. Substantially concurrently with the execution and delivery of this Agreement, including Exhibit A incorporated herein, (i) TeMix and PG&E will enter into a contract (the “**PG&E-TeMix Contract**”) pursuant to which TeMix has agreed to assist PG&E in establishing the delivery component of the Pilot rate and to provide shadow bill calculations for the distribution services provided by PG&E to PG&E for PG&E’s review

and (ii) TeMix and VCE will enter into a contract (the “**VCE-TeMix Contract**”) pursuant to which TeMix has agreed to provide shadow bill calculations for the electricity and other services provided by VCE which comprise the remainder of the Pilot rate, among other services pursuant to the Pilot Decision.

NOW THEREFORE, in consideration of the foregoing, the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. PILOT ROLES AND RESPONSIBILITIES

1.1 VCE’s Role and Responsibility in the Pilot.

Except for the matters specifically identified in Section 1.2 of this Agreement or as set forth in the Pilot Decision or any CPUC resolutions related thereto as PG&E’s responsibilities, the Parties hereby seek to clarify that, pursuant to the Pilot Decision, VCE shall have primary responsibility for administering the Pilot, including pursuant to Ordering Paragraphs 51-53 and 56-57 of the Pilot Decision. VCE hereby acknowledges and agrees that it is responsible for carrying out the Pilot in compliance with this Agreement, applicable law, the Pilot Decision, any CPUC orders or resolutions related thereto and any other rules or regulations of any governmental authority having jurisdiction over VCE. Without limiting the generality of the foregoing:

- (a) VCE assumes responsibility for contracting with any contractors or subcontractors to the extent necessary for the implementation of VCE’s responsibilities under the Pilot Decision and shall have sole oversight responsibility over any contractor or subcontractor hired in relation to the Pilot by VCE (or its contractors or subcontractors), including without limitation Polaris and Temix for its responsibility on the generation component of the dynamic rate.
- (b) VCE assumes responsibility for calculation, preparation and provision of the generation shadow bill in accordance with the Pilot Decision.
- (c) VCE will be responsible for submitting invoices documenting VCE’s expenses incurred in administering the Pilot to the Energy Division of the CPUC (the “**Energy Division**”) for approval in accordance with Section 2. VCE will submit a copy to PG&E via PG&E’s account payable system Taulia solely for payment processing purposes after Energy Division approves the invoices in writing by e-mail which is provided to VCE and PG&E.
- (d) VCE assumes responsibility for issuance of the bill savings realized by participating customers with respect to the delivery component of the Pilot rate in the customers’ shadow bills. VCE assumes responsibility for ensuring that correct payment is promptly made to each customer of all amounts to which such customer is entitled under the Pilot.
- (e) To the extent PG&E or TeMix require information, documentation or data from VCE or its customers in order to calculate and verify the delivery portion of the

Pilot rate, VCE shall promptly, and in any event within ten (10) business days following request therefor from PG&E, or TeMix on behalf of PG&E, deliver to PG&E and TeMix such requested information, documentation or data in order to enable PG&E to timely and efficiently comply with its responsibilities under Section 1.2.

- (f) Upon PG&E's selection of the independent evaluator in accordance with Section 1.2(b), VCE shall, and shall cause its contractors (including Polaris and TeMix) to, provide all data which the independent evaluator considers necessary to complete the evaluation criteria as specified in the Pilot Decision. VCE shall (and shall cause Polaris and TeMix to) make its management and employees involved in the Pilot available for interviews at such times and as may be reasonably requested by the independent evaluator.
- (g) VCE assumes responsibility for addressing all customer questions and complaints (whether brought up to the CPUC, PG&E or to VCE directly). If any such customer disputes names or otherwise involves PG&E, VCE shall promptly provide notice of such dispute to PG&E, and shall cause its contractors and subcontractors (including TeMix) to provide to PG&E all information reasonably requested by PG&E that may be necessary for PG&E to evaluate and respond to any billing disputes brought by customers over the delivery portion of the Pilot rate. VCE will provide such support as may be reasonably requested by PG&E in connection with the resolution of any dispute related to the delivery component of the Pilot bill credit.
- (h) Within two (2) Business Days, VCE shall make all necessary records and documents available to PG&E in connection with PG&E's review of VCE's implementation of the customer eligibility requirements as specified in the Pilot Decision for PG&E's compliance purposes.
- (i) VCE acknowledges that PG&E will validate VCE's customer's eligibility prior to making any payments to VCE with respect to such customer and VCE agrees to provide to PG&E information and documentation as reasonably requested by PG&E in order to enable PG&E to do so. If a request from a customer to be enrolled in the Pilot is received within five (5) business days of a billing cycle ("**Upcoming Cycle**"), the Pilot rate change for shadow billing shall not take effect until the billing cycle that follows the Upcoming Cycle. If such request is received more than five (5) business days before the Upcoming Cycle, then it may take effect starting with the first day of the Upcoming Cycle.

1.2 PG&E Role and Responsibility in the Pilot.

Except for the matters set forth in the Pilot Decision or any CPUC resolutions related thereto as PG&E's responsibilities, PG&E shall only be responsible for the following items with respect to the Pilot:

- (a) PG&E will be responsible for providing the delivery component of the Pilot rate and bill calculations for eligible customers in accordance with the Pilot Decision for TeMix to develop the shadow distribution bill, and PG&E may enter into an agreement with TeMix in order to perform these functions.
- (b) PG&E shall contract an independent evaluator and submit a midterm and final evaluation of the Pilot in accordance with the requirements of the Pilot Decision, including by reasonably consulting VCE during the selection of the independent evaluator and the evaluation management process, including, but not limited to consultation on selection criteria. PG&E shall provide written notice to VCE setting forth the name and contact details of the independent evaluator.
- (c) Upon receipt of an invoice from VCE, in accordance with Section 2.2(a)(ii) below, that reflects the delivery shadow bill calculations provided by TeMix PG&E will remit funds to VCE to reimburse VCE for payments or credits to customers of customer savings as between the delivery component of the OAT and the Pilot rate in accordance with Section 2. PG&E shall in no event be responsible for any lost checks/payments to the customer, or any issues where the wrong amount is paid to the customer.
- (d) Upon invoice approval by the Energy Division in writing by e-mail and receipt of invoice from VCE in accordance with Section 2.2(a)(ii) below, PG&E will remit funds to VCE in accordance with Section 2 to reimburse VCE for expenses incurred by VCE in administering the Pilot and authorized by the Pilot Decision or any CPUC resolutions related thereto.
- (e) PG&E will reasonably support VCE with resolution of any customer disputes over the calculation of the delivery component of the Pilot rate or annual payments or bill credits for savings realized by customers after netting monthly calculations of the differences between the customer's OAT and the customer's Pilot rate with respect thereto.

2. PAYMENT AND INVOICING

2.1 Maximum Contract Amount

- (a) The maximum amount of payments that may become due from PG&E to VCE under this Agreement for VCE expenses for integration and automation of pumping loads with the Pilot price signal, and vendor fees, systems & technology and VCE's administrative expenses shall not exceed \$2.275 million (the "**Pilot Budget Maximum Amount**"); provided that (i) upon the CPUC's decision on the VCE PFM, PG&E shall issue a change order to increase the Pilot Budget Maximum Amount increased by the amount of additional administrative costs the CPUC authorizes to be paid to VCE (such amount, the "**Pilot Administration Amount**"), which amount shall not exceed \$890,000, and (ii) the Pilot Budget Maximum Amount may be further modified by a contract change order to this

Agreement which shall be executed by the Parties in accordance with Section 5.6 or Section 5.14.

- (b) The maximum amount under this Agreement that may become due from PG&E to VCE for payments or credits to customers for the difference between the shadow bill for the delivery component of the Pilot rate and the customers' OAT distribution bill is \$1,000,000; provided, that to the extent that either Party forecasts that this amount will be exceeded due to savings realized by customers and payable by PG&E pursuant to the Pilot Decision, the Parties shall agree to an amendment to this Agreement to increase the initial maximum amount to reflect the then mutually agreed estimated amount to be paid by PG&E to VCE.

Table 1: Budget Line Items¹

Deliverable	Amount
Integration and automation of pumping loads with the pilot price signal	\$1,000,000
Vendor fees, Systems & Technology	\$1,275,000
Pilot Administration Amount	<i>[Pending CPUC approval]</i>
Payments based on comparison of shadow billing for delivery component of Pilot rate versus OAT delivery rate bill	Actual amounts to be calculated based on customer usage under the Pilot rate during Pilot, not to exceed \$1,000,000 without Agreement amendment pursuant to Section 2.1(b).

2.2 VCE Invoices

(a) Invoice submission:

- (i) VCE will submit its invoices to the Energy Division (based on frequency agreed between VCE and the Energy Division) for approval by the Energy Division of payment of compensation and expenses earned for Pilot activities authorized by the Pilot Decision. Concurrently with the submission of an invoice to the Energy Division, VCE shall submit a copy of its invoice and supporting documentation to PG&E.
- (ii) Upon receipt of an e-mail approval of VCE's invoice from the Energy Division, VCE shall submit an invoice to Taulia (PG&E's online invoice submission tool), which shall be received directly by PG&E's Accounts Payable Department. PG&E shall make payment to VCE in accordance with Section 2.2(b) below, the Pilot Decision and any CPUC resolutions or orders in relation thereto. If the CPUC does not approve VCE's invoice in full, VCE shall not submit such invoice to PG&E. If the CPUC does not approve VCE's invoice in full, VCE may only submit the approved amount to PG&E's Taulia system.
- (iii) Should PG&E determine that the VCE invoice submittal to Taulia does not meet the invoice submittal requirements of this Agreement, PG&E will

¹ Subject to Sections 2.1(a) and 2.1(b).

notify VCE of the deficiencies or return the invoice to VCE with noted deficiencies. VCE shall resubmit the invoice correcting such deficiencies.

- (b) Payment of Approved Invoices: PG&E shall make payments on invoices after the Energy Division has approved such invoices and provided its approval to PG&E in writing, which may include electronic mail. Payment by PG&E to VCE shall be made on net 10-day terms after receipt of said written approval from Energy Division and receipt of VCE's invoices submitted in accordance with Section 2.2(a) above.
- (c) Final invoice: The final invoice by VCE shall be marked "FINAL" and must be received by PG&E within ninety (90) calendar days after the completion of the Pilot, if Energy Division has approved the invoice. PG&E will not be liable for payment of any late invoices that are received by PG&E beyond the 90 days.

2.3 Billing Customers on OAT

PG&E shall continue to run the billing process for the customer's OAT in accordance with the VCE-CCA Community Choice Aggregator Service Agreement executed on January 24, 2018 (PG&E Electric Form 79-1029) and PG&E Electric Rule 23, which will be unaffected by the Pilot and this Agreement. Participants will continue to pay their current VCE and PG&E bill under the OAT. Nothing in the Pilot or this Agreement, changes, modifies or in any way alters VCE or PG&E's rights to pursue full payment of the OAT bill from the customer. Further, nothing in this Agreement or under the Pilot affects PG&E rights or responsibilities to correct OAT bills for customers participating in the Pilot.

3. INDEMNIFICATION AND LIMITATION OF LIABILITIES

3.1 Indemnification:

- (a) VCE shall indemnify, hold harmless and defend CPUC and PG&E, and each of their affiliates, subsidiaries, parent company, officers, managers, directors, agents, and employees from and against all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise) ("**Liabilities**"), which arise from VCE's, or VCE's contractor's, or subcontractor's, negligence or willful misconduct in connection with (i) the performance of, or failure to perform, this Agreement or (ii) the Pilot. This indemnity shall not apply to the extent caused by or arising out of the negligence or willful misconduct of the CPUC or PG&E, or their officers, managers, agents or employees.
- (b) PG&E shall give VCE written notice with respect to any Liabilities asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. VCE shall, on PG&E's request, defend any action, claim, or suit asserting a claim which might be covered by Section 3.1, using counsel acceptable to PG&E. VCE shall pay all costs and expenses incurred by PG&E in enforcing this Section 3.1, including reasonable attorney's fees. To the extent necessary, each Party was represented by counsel in the negotiation and execution of this Agreement.

3.2 Limitation on Liability.

- (a) PG&E's total liability to VCE under or in connection with this Agreement, whether in contract or in tort (including breach of warranty, negligence and strict liability in tort), shall in no event exceed the sum of all amounts payable by PG&E to VCE under Section 2 hereof.
- (b) In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages of any kind whatsoever, whether in contract, tort or strict liability.
- (c) The limitations of liability set forth in clauses (a) and (b) of this Section 3.2 shall not apply with respect to any of the following: (i) damages or losses attributable to the intentional torts or gross negligence of such Party; or (ii) third party claims that are the subject of indemnification obligations pursuant to Section 3.1 or by the indemnification provisions in any nondisclosure agreement relating to the disclosure of confidential information between the Parties or as set forth on Exhibit A hereto.

4. TERM AND TERMINATION

4.1 Term: The term of this Agreement shall commence as of the date written above and will continue through May-December 31, 2025 (or such other date as may be authorized by the CPUC) unless otherwise terminated pursuant to Section 4.2.

4.2 Termination: A Party shall have the right to terminate this Agreement at any time if:

- (a) The other Party becomes insolvent, generally does not pay its un-disputed debts as they become due, makes a general assignment for the benefit of creditors, or commences any action seeking reorganization or receivership under any bankruptcy, insolvency, reorganization or similar law for the relief of creditors or affecting the rights or remedies of creditors generally;
- (b) The other Party breaches this Agreement and such breach is not remedied within thirty (30) calendar days of written notice thereof; or
- (c) A Party becomes aware of an imminent threat to public safety that is likely to be caused by its continued performance under this Agreement where such public safety threat arises from or is related to the other Party's performance or actions under this Agreement or with respect to the Pilot.

5. MISCELLANEOUS

5.1 PG&E Standard Terms and Conditions: PG&E's standard terms and conditions set forth on Exhibit A shall apply to this Agreement and are hereby incorporated into this Agreement by this reference.

- 5.2 Governing Law And Jurisdiction:** This Agreement and performance under it will be governed by and construed in accordance with the substantive Laws of the State of California and the United States of America without regard to Choice of Law principles. The Parties consent to the exclusive jurisdiction of, and venue in, the Superior Court of the State of California, San Francisco County for all litigation which may be brought with respect to the terms of, and the transactions and relationships contemplated by this Agreement.
- 5.3 Independent Status:** In assuming and performing the obligations of this Agreement, nothing contained herein shall be construed as constituting any relationship between the Parties, other than the Parties' duties to perform their respective obligations set forth in this Agreement. Nothing in this Agreement is intended to establish a partnership, joint venture, employment or agency relationship between the Parties and neither VCE nor PG&E's employees, agents, representatives, contractors or subcontractors (collectively, "**Representatives**") are authorized to bind the other Party or make any representations on its behalf. Neither Party shall be eligible for any benefits which the other Party may provide its employees, contractors or consultants. All persons and entities, if any, hired by a Party shall be employees or contractors of such Party and shall not be construed as employees or agents of the other Party in any respect.
- 5.4 Other Contracts:** Nothing in this Agreement shall create any contractual relations between one Party's contractors and the other Party.
- 5.5 Assignment:** Neither Party may assign any of its rights, voluntarily or involuntarily, whether by operation of law or any other manner, or delegate any performance under this Agreement, without the prior written consent of the other Party and/or by CPUC decision, ruling or resolution. Any purported assignment or delegation of performance in violation of this provision is void. Subject to the foregoing, this Agreement is binding upon and shall inure to the benefit of the successors and permitted assigns of the Parties.
- 5.6 CPUC Authority To Modify/Regulatory Review:** This Agreement shall at all times be subject to changes or modifications required by the CPUC or requested by either Party to the extent necessary in order to comply with any changes that the CPUC makes to the Pilot during the term of this Agreement. Either Party may provide written notice to the other Party requesting such changes and the Parties shall enter into good faith negotiations to make the minimum changes to this Agreement necessary to comply with such CPUC requirement or Pilot modification. To the extent the Parties are unable to mutually agree to such changes within sixty (60) days after receipt of such notice, then either Party may terminate this agreement upon written notice to the other Party.
- 5.7 Representations and Warranties:**
- (a) VCE and its authorized agents represent and warrant that (a) VCE has full power, right and authority to execute this Agreement and to perform all of its obligations hereunder, and the execution of this Agreement has been duly and validly approved through all requisite actions on its part; and (b) VCE will implement this Agreement consistent with and in compliance with the Pilot Decision, all

applicable federal, state, CPUC and local status, regulations, laws, administrative decisions, rulings and guidelines.

- (b) PG&E and its authorized agents represent and warrant that (a) PG&E has full power, right and authority to execute this Agreement and to perform all of its obligations hereunder, and the execution of this Agreement has been duly and validly approved through all requisite actions on its part; and (b) PG&E will implement this Agreement consistent with and in compliance with the Pilot Decision, all applicable federal, state, CPUC and local status, regulations, laws, administrative decisions, rulings and guidelines.

5.8 Attorneys' Fees: Each Party shall be responsible for paying its own attorneys' fees and other costs associated with the negotiation, execution and delivery of this Agreement and performance of its obligations under this Agreement.

5.9 No Third-Party Beneficiary: The provisions of this Agreement are for the benefit of the Parties and not for any other person or third party beneficiary. The provisions of this Agreement shall not impart rights enforceable by any person, firm or organization other than a Party or a successor or permitted assignee of a Party to this Agreement.

5.10 Notices:

- (a) All formal notices, requests, demands, approvals and communications under this Agreement (other than routine operational communications) (collectively, "**Notices**") will be in writing and may be served either (i) in person, (ii) via e-mail, or (iii) by registered or certified mail or air freight services that provide proof of delivery, with postage or shipping fees prepaid, and addressed to the Party to be served as follows:

In the case of PG&E:

Pacific Gas and Electric Company
300 Lakeside Drive
Oakland, CA, 94612
Attn: Andrew Au
Email: A1az@pge.com

with a copy to:

Pacific Gas and Electric Company
300 Lakeside Drive
Oakland, CA, 94612
Attn: Albert Chiu
Email: AKC6@pge.com

In the case of VCE:

Valley Clean Energy Alliance
604 2nd St,
Davis, CA 95616
Attn: Rebecca Boyles
Email: rebecca.boyles@valleycleanenergy.org

with copies to:

Mitch Sears
Interim General Manager
Valley Clean Energy Alliance
604 2nd St,
Davis, CA 95616
Email: mitch.sears@valleycleanenergy.org

Sheridan Pauker
Partner
Keyes & Fox LLP
580 California Street, 12th Floor
San Francisco, CA 94104
Email: spauker@keyesfox.com

- (b) A Notice given as described above (i) by e-mail will be recognized and shall be deemed received on the business day on which such Notice was transmitted if received before 5 p.m. Pacific prevailing time (and if received after 5 p.m., on the next business day) and (ii) by overnight mail or courier shall be deemed to have been received two (2) Business Days after it was sent or such earlier time as is confirmed by the receiving Party.
- (c) A Party may from time to time change its address or designee for notification purposes by giving the other Party prior written notice of the new address or designee in the manner provided above and the date on which it will become effective.

5.11 No Provision Interpreted Against Drafter: Ambiguities are to not to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement.

5.12 Severability: If any provision of this Agreement is held invalid by a court with jurisdiction over the parties to this Agreement, such provision will be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, and the remainder of this Agreement will remain in full force and effect.

5.13 Survival: Any provision of this Agreement that contemplates or governs performance or observance subsequent to termination or expiration of this Agreement will survive the expiration or termination of this Agreement for any reason. Without limiting the foregoing, the following provisions shall survive the termination of this Agreement:

Sections 2, 3, 5.2 through 5.5, 5.8 through 5.15 and Sections 2, 3, 5 and 6 of the attached Exhibit A PG&E Standard Terms and Conditions.

5.14 Entire Agreement; Amendments: This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and merges, integrates and supersedes all prior and contemporaneous agreements and understandings between the Parties, whether written or oral, concerning its subject matter. No modification or amendment to this Agreement will be effective unless it is expressly set forth in writing and duly executed by the Parties.

5.15 Counterparts: This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which will together constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by e-mail (including pdf or any electronic signature complying with the federal ESIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civ. Code Section 1633.1, et seq.) or other applicable law) will be deemed as effective as delivery of an originally executed counterpart. Any Party delivering an executed counterpart of this Agreement by e-mail will also deliver an originally executed counterpart, but the failure of any Party to deliver an originally executed counterpart of this Agreement will not affect the validity or effectiveness of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, each Party has caused this Agreement to be duly executed by its authorized representative as of the date first written above.

Valley Clean Energy Alliance

By: _____

Name: Mitch Sears

Title: Executive Officer

Pacific Gas and Electric Company

By: _____

Name:

Title:

EXHIBIT A
PG&E'S STANDARD TERMS AND CONDITIONS

1. PG&E and Critical Facility Access.

- (a) Physical Access. It is not contemplated that VCE will require access to PG&E facilities to perform any obligations under this Agreement, in the event such access is necessary, VCE will be provided and must comply with PG&E's Drug and Alcohol Policy and any other safety procedures as may be requested by PG&E.
- (b) NERC/CIP Critical Facilities. It is not contemplated that VCE will require access to any PG&E's Critical Facilities as defined by NERC/CIP. If such access becomes necessary, additional security related requirements will apply.

2. Intellectual Property and Use Rights.

- (a) OWNERSHIP OF DELIVERABLES. Each Party shall own all data, reports, information, manuals, computer programs or other written, recorded, photographic or visual materials, or other deliverables created, developed or produced by such Party including without limitation produced by such Party in the performance of the Agreement, including without limitation the data provided by PG&E with respect to the distribution component of the Pilot rate and the data provided by VCE with respect to the remaining components of the Pilot rate, energy usage data and customer specific information ("**Deliverables**"). Neither Party shall retain title to or an ownership interest in the other Party's Deliverables.
- (b) USE RIGHTS. With respect to Deliverables of a Party, such Party grants to the other Party, subject to the terms of this Agreement, a non-exclusive and royalty free right and license to use such Deliverables and the preexisting rights owned by the granting Party in such Deliverables solely to the extent required to perform such other Party's obligations under this Agreement and the Pilot Decision. For the avoidance of doubt, to the extent the foregoing license granted by VCE to PG&E applies to any intellectual property of TeMix, such license of such TeMix intellectual property shall be non-sublicensable and non-transferable.
- (c) NO PUBLICITY. Except to the extent consistent with description of the Parties' roles and responsibilities set forth in the Pilot Decision, any Energy Division dispositions pursuant thereto or as otherwise already included in the public domain, neither Party shall include the name, any reference to this Agreement, or any reference to the other Party's purchase or use of any products or services provided by the Party, in such Party's publicity or advertisement, including internet, without the prior written consent of an officer of the other Party.

3. Confidentiality and Data Security.

- (a) In performing its obligations under this Agreement each Party (the "**Receiving Party**") may have access to, or be provided with, Personal Information or Confidential Information by the other Party (the "**Disclosing Party**"). Except with

respect to third parties providing services to the Receiving Party under this Agreement or the Pilot, the Receiving Party agrees not to disclose or otherwise make available any Confidential Information to any person or entity without the Disclosing Party's written consent and shall use such Confidential Information only for the purpose of performing its obligations under the Pilot Decision and this Agreement. The Receiving Party also agrees it shall not collect, use, retain or disclose personal information, as defined in California Civil Code Section 1798.140(o)(1), it obtains from the Disclosing Party pursuant to this Agreement ("**Personal Information**") for any purpose other than for the specific purpose of performing its obligations under the Pilot Decision or this Agreement. Personal Information shall not be sold ("sale" meaning of CA Civil Code 1798.140(t)(1)) under any circumstances. "**Confidential Information**" shall mean:

- (i) a Customer's personal identifiable information, energy use data, billing data, account information, including demand response program information, and information relating to their facilities, equipment, processes, products, specifications, designs, records, data, software programs, finances, technologies, trade secrets, marketing plans or manufacturing processes or products; and
- (ii) information about the Disclosing Party's employees and business operations, informational or technological practices, ratemaking, legislative matters, reports, strategies, analysis, specifications, designs, records, data, software programs, technology platforms, finances, computer models, trade secrets, vendor pricing and other related documentation or information related to the Disclosing Party, its parent company, subsidiaries, affiliates, third parties, suppliers, contractors and subcontractors; and
- (iii) any confidential information of any third party disclosing such confidential information to the Disclosing Party in the course of such third party's engagement, business, or other relationship with the Disclosing Party or its parent, subsidiary, or affiliated companies; and
- (iv) Personal Information; and
- (v) any other data or information that the Disclosing Party has specifically identified as Confidential Information.

"**Confidential Information**" does not include information that (a) was properly in the possession of the Receiving Party or its Representatives at the time of disclosure; (b) is or becomes publicly known through no fault of the Receiving Party or its Representatives; (c) was independently developed by the Receiving Party or its Representatives without access to any Confidential Information or (d) that the Disclosing Party agrees in writing is not Confidential Information.

- (b) Upon request by the Disclosing Party, the Receiving Party will delete or destroy any Confidential Information obtained from the Disclosing Party or in performing

its obligations under this Agreement, unless the Receiving Party documents that it is lawfully prohibited from deleting or destroying such Confidential Information.

- (c) If the Receiving Party is in doubt about whether certain information is Confidential Information, the Receiving Party agrees to treat such information as Confidential Information.
- (d) The Receiving Party agrees to use the Confidential Information strictly for the purpose of carrying out its obligations under this Agreement and will restrict access to the Confidential Information to those Representatives with a need to know basis, upon which Representatives must agree in writing to safeguard, handle, use, and store, if required, the Confidential Information with no less restrictive obligations as the requirements under this Agreement.
- (e) The Receiving Party agrees to implement and maintain, and to cause its Representatives to implement and maintain, reasonable security procedures and practices to protect the unauthorized disclosure, destruction, and/or use of the Confidential Information.
- (f) If the Receiving Party is required by law, court order, or governmental authority to produce any Confidential Information, the Receiving Party must, to the extent legally permitted, provide the Disclosing Party prompt written notification of the request and shall cooperate with the Disclosing Party's efforts in regard thereto, including electing to seek a protective order or other appropriate relief. Provided such written notification is provided, the Receiving Party's legal requirement to produce any Confidential Information, shall not result in liability under this Agreement or any attachments hereto.
- (g) Nothing in this Section 3 of Exhibit A shall (i) be deemed to require that the Disclosing Party make any Confidential Information available to the Receiving Party or its Representatives or (ii) limit the Receiving Party's or its Representatives obligations to handle such Confidential Information in accordance with all applicable laws, CPUC orders or resolutions and any other rules or regulations of any governmental authority having jurisdiction over the Receiving Party.
- (h) The Parties acknowledge and agree that PG&E will not be required to provide Personal Information or other PG&E Confidential Information to VCE or its Representatives under this Agreement. In connection with the Pilot, Personal Information accessible by VCE will be covered pursuant to applicable CPUC regulations, approved tariffs, and applicable procedures and that any Confidential Information or Personal Information that PG&E provides to TeMix will be provided subject to the applicable provisions of the PG&E-TeMix Contract.

4. Insurance Requirements.

VCE shall procure, and cause its contractors and subcontractors performing work in connection with the Pilot, to procure insurance that satisfies the following requirements:

- (a) Commercial General Liability. Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage occurrence form, with no coverage deletions. The limit shall not be less than \$1,000,000 -per occurrence for bodily injury, property damage and personal injury. If coverage is subject to a general aggregate limit, this aggregate limit shall be twice the occurrence limit. Within thirty (30) days after the Effective Date, coverage shall be amended (i) by "Additional Insured" endorsement to add as insureds PG&E, its directors, officers, agents and employees with respect to liability arising out of work performed by or for the SP (utilize ISO Form CG2010 11/85 or equivalent); and (ii) be endorsed to specify that such insurance is primary and that any insurance or self-insurance maintained by PG&E is in no way available for contribution.
- (b) Business/Personal Auto. Coverage shall be as broad as the Insurance Services Office (ISO) Business Auto Coverage covering Automobile Liability code 1 "any auto." The limit for Business Auto shall not be less than \$1,000,000 each accident for bodily injury and property damage. The limit for Personal Auto shall not be less than the minimum limits set forth by the Department of Motor Vehicles, but no less than \$300,000 each accident.
- (c) Professional Liability Insurance. Errors and Omissions Liability insurance if appropriate for VCE's or such contractor's or subcontractor's profession. Coverage shall be for a professional error, act or omission arising out of the scope of services shown in the Agreement. The limit shall not be less than \$1,000,000 each claim/\$2,000,000 aggregate. The Parties acknowledge and agree that (i) as of the Effective Date, professional liability insurance is not appropriate for one of VCE's contractors, Polaris Energy Services, Inc., given the nature of such contractor's business and (ii) the compliance by TeMix of its obligations to procure such insurance in accordance with the terms of the PG&E-TeMix Contract shall satisfy VCE's obligations with respect to TeMix under this clause (c).
- (d) Cyber Security and Privacy Liability Insurance. The Parties acknowledge and agree that (i) as of the Effective Date VCE is not required to procure, or cause its contractors (other than TeMix) or subcontractors to procure, cyber security and privacy liability insurance, (ii) TeMix is obligated to obtain and maintain cyber security and privacy liability insurance under the terms of the PG&E-TeMix Contract and (iii) the compliance by TeMix of its obligations to procure the insurance referred to in clause (ii) of this sentence shall satisfy VCE's obligations with respect to TeMix under this clause (d). If at any time after the date of this Agreement (i) VCE requests that PG&E provide any Confidential Information to VCE, or its contractors or subcontractors, (ii) the CPUC orders PG&E to provide any Confidential Information to VCE, or its contractors or subcontractors, or (iii) the CPUC modifies the Pilot in any way which requires PG&E to provide, or necessitates the provision by PG&E of, any Confidential Information to VCE, or its contractors or subcontractors, then prior to any disclosure of such Confidential Information by PG&E to any such entities, VCE shall, and shall cause the

applicable contractors or subcontractors to, to obtain cyber risks insurance providing coverage for at least the following perils and losses: (A) unauthorized use of or access to a computer system containing or giving access to PG&E Confidential Information; (B) damage to or destruction of electronic data; (C) cyber extortion and the payment of extortion demands; (D) defense of any regulatory action involving a breach of privacy or cybersecurity in connection with PG&E Confidential Information; (E) failure to protect PG&E Confidential Information from disclosure; and (F) costs of notifying affected individuals and providing credit monitoring for up to one year, whether or not required by applicable law. The policy(s) limits of liability shall be as mutually agreed by PG&E and VCE and shall be reasonable in light of the nature and extent of the Confidential Information expected to be disclosed by PG&E, but in any event shall not be less than \$1,000,000 per occurrence and \$1,000,000 in the aggregate. Any self-insured retention is subject to the prior written approval of PG&E. PG&E, its affiliates, subsidiaries, parent company, and PG&E's directors, officers, agents and employees shall be named as additional insureds under this policy. If the policy includes a "blanket endorsement by contract," the following language added to the certificate of insurance will satisfy PG&E's additional insured requirement: "PG&E, its affiliates, subsidiaries, and parent company, and PG&E's directors, officers, agents and employees with respect to liability arising out of the work performed by or for the VCE's are additional insureds under a blanket endorsement.

- (e) Other Insurance Requirements. VCE shall have, and shall ensure that any contractor or subcontractor has, all insurance required by clauses (a), (b) and (c) above in place by the Effective Date, or with respect to TeMix, by the dates required by the terms of the PG&E-Temix Contract. Upon PG&E's request, VCE shall furnish, or cause to be furnished, certificates of insurance, declaration pages and endorsements of all required insurance. Certificates of insurance and endorsements shall be signed and submitted by authorized personnel that issue certificates of insurance and endorsements on the insurer's behalf. The insurer shall deliver notification to PG&E in accordance with the policy provisions if any of the above-described policies are cancelled before the stated expiration date. PG&E may inspect the original policies or require complete certified copies at any time. The minimum liability insurance requirements established in this Agreement are not a representation by PG&E that the insurance limits are sufficient, nor do these requirements in any way limit VCE's liability under this Agreement.

5. Safe Work Practices and Requirements.

Each Party is the applicable "controlling employer" with respect to the covenants it undertakes to perform under this Agreement as defined under Cal OSHA and will remain responsible for all fines and liability arising from such Party's or its agents' or contractors' violations applicable law.

6. Record Retention Requirements.

Each Party shall ensure that documents and records resulting from the performance of its obligations under this Agreement and the Pilot Decision be maintained, preserved and stored to meet legal, regulatory, safety, data security and privacy standards as set forth in this Agreement. Each Party shall, and require its Representatives to keep accurate records, books of accounting, non-financial documentation, collectively referred to as “**Retained Records**” defined below, to substantiate and verify each payment request, performance obligation and right under this Agreement with respect to the Pilot. These Retained Records must be complete, accurate, and available upon the request of the other Party. The requirements for Retained Records are as follows:

- (a) Retained Records shall include, but shall not be limited to, to the extent relevant to a Party’s performance of its obligations under this Agreement and the Pilot Decision, signed customer agreements, equipment lists, installation details, photographs, commissioning testing results, energy/bill savings calculations, customer energy usage analyses, reports, shadow bills, rate and shadow bill calculations, records pertaining to the independent evaluation, including without limitation communications and agreements with the independent evaluator, and customer complaints, and any other documentation to verify such Party’s, or its Representatives records, licenses, and workforce standard certifications, each, as applicable, payment information and records, and any other documentation supporting and validating compliance with any provision under this Agreement.
- (b) Retained Records must be stored, maintained, and have back up system of unsubmitted electronic documentation in the event the originals are lost or destroyed, for them to be available to be produced at all times in accordance with the terms of this Agreement. Unless otherwise expressly required by the CPUC, or any other governmental agency, each Party shall produce the Retained Records electronically, or in an identified format, within five (5) days of the other Party’s reasonable written request therefor.
- (c) All Retained Records must be securely stored, legible, and organized to allow for easy identification to make them available for review, copies, production and prevent them from being lost or destroyed in accordance with the CA Consumer Protection Privacy Act statutory requirements during the term of the Agreement and three (3) years after the Agreement’s expiration or termination.
- (d) All Retained Records must be in an electronic form as follows:
 - PDF, CAD, or TIFF for drawings and diagrams;
 - Native File Format or PDF for all other documents; and
 - Machine readable form.
- (e) Records are to be treated as Confidential Information and such records are subject to the Confidentiality provisions under this Agreement.

7. **Additional Responsibilities.**

- (a) Each Party is solely responsible for the quality, performance, safety and function of its products and the performance obligations it delivers to its customers. The other Party makes no representations or warranties to any person, including Customers, with respect thereto.
- (b) Each Party is solely responsible for managing and successfully performing, completing, and delivering its required tasks under the Pilot and this Agreement. Each Party shall ensure its contractors and agents comply with all requirements under this Agreement applicable to their respective Representatives rendering services. Each Party is liable for any breach or non-compliance with the terms of this Agreement attributable to any of their respective Representatives.
- (c) There is no employment relationship between VCE and PG&E or between a Party's Representatives and the other Party. Each Party is responsible for all wages, salaries, fees, costs, and other amounts due to its internal workforce and contractors and for all applicable tax withholdings, unemployment insurance premiums, pension and social welfare plan contributions, and other employer obligations.
- (d) In performing the services under this Agreement and the Pilot, each Party shall comply with all applicable consumer protection, data privacy, and data protection laws and regulations, including, but not limited to, consumer privacy laws (e.g., CA Civil Code S.1798.82 and S. 1798.81.5).
- (e) PG&E shall be responsible for the accuracy of any PG&E data that it provides to VCE in connection with PG&E's obligations under this Agreement. Except as expressly provided in this clause (e), PGE hereby disclaims any and all express or implied warranties of any kind, including, without limitation, any warranty of merchantability, fitness for a particular purpose, or non-infringement.

VALLEY CLEAN ENERGY ALLIANCE

RESOLUTION NO. 2025-____

RESOLUTION OF THE BOARD OF DIRECTORS OF VALLEY CLEAN ENERGY ALLIANCE AMENDING THE AGREEMENT BETWEEN PACIFIC GAS AND ELECTRIC (PG&E) AND VALLEY CLEAN ENERGY ALLIANCE FOR THE AGRICULTURAL FLEXIBLE IRRIGATION TECHNOLOGY (AGFIT) PILOT

WHEREAS, the Valley Clean Energy Alliance (“VCE”) was formed as a community choice aggregation agency (“CCA”) on November 16, 2016, under the Joint Exercise of Power Act, California Government Code sections 6500 et seq., among the County of Yolo, and the Cities of Davis and Woodland, to reduce greenhouse gas emissions, provide electricity, carry out programs to reduce energy consumption, develop local jobs in renewable energy, and promote energy security and rate stability in all of the member jurisdictions. The City of Winters, located in Yolo County, was added as a member of VCE and a party to the JPA in December of 2019;

WHEREAS, On December 2, 2021, the California Public Utilities Commission issued decision 21-12-015 authorizing VCE’s proposed “Agricultural Flexible Irrigation Technology (AgFIT)” three-year dynamic rate pilot program, to be made available to customers taking electric service on irrigation pumping tariffs, including program funding for a total of \$3,190,000;

WHEREAS, On September 8, 2022, the Board of Directors of the Valley Clean Energy Alliance adopted an Amendment to the 2022 Budget to increase program revenues for AgFIT by \$1,200,000 and program expenditures for AgFIT by \$1,200,000 for the costs associated with implementation of the AgFIT program in 2022.

WHEREAS, the Board of Directors of Valley Clean Energy Alliance adopted 2023 and 2024 AgFIT program revenues and program expenditures as part of the annual budget adoption process.

WHEREAS, delays in access to data have slowed down the process of the final accounting close-out, and VCE is still in the process of submitting invoices to PG&E;

NOW, THEREFORE, the Board of Directors of the Valley Clean Energy Alliance hereby adopts and authorizes the CEO or his designee to take all actions necessary to execute an Amendment to the 2022 VCE/PG&E AgFIT Agreement to close out the final costs associated with implementation of the AgFIT program.

PASSED, APPROVED AND ADOPTED, at a regular meeting of the Valley Clean Energy Alliance, held on the _____ day of _____ 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Bapu Vaitla, VCE Chair

Alisa M. Lembke, VCE Board Secretary