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Enactment Date	



**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Memo

To Facilities Committee

From Denise Gail Saddler, Ed.D., Interim Superintendent
Preston Thomas, Chief Systems and Services Officer
Pranita Ranbhise, Executive Director, Facilities Planning & Management

Board Meeting Date April 22, 2026

Subject Resolution No. 2526-0104 Declaring the Futility of Public Bidding for Electricity Service and Approving a Contract for that Purchase – Electricity Service Agreement – Ava Community Energy (Ava) – Division of Facilities Planning and Management

Acton Requested Approval by the Facilities Committee of **Resolution No. 2526-0104** of the Board of Education of the Oakland Unified School District Declaring the Futility of Public Bidding for Electricity Service and Approving a Contract for Purchase, the Electricity Service Agreement by and between the **District** and **Ava Community Energy (Ava)**, Oakland, California, for the latter to provide favorable, fixed electricity rates discounted from Ava’s standard electricity rates for the District’s direct access-eligible electric energy services agreements as consideration for the District’s long-term commitment as an electricity customer of Ava’s with a new term beginning **May 1, 2026** and ending on **April 30, 2028**, for a two (2) year total amount not to exceed **\$3,000,000** for the term.

Discussion Ava Community Energy is authorized to offer nonstandard energy service rates to certain large customers currently on, or granted an allocation for, direct retail access energy service pursuant to the California Direct Access Program.

LBP (Local Business Participation Percentage) 100.00%

Recommendation Approval by the Facilities Committee of Resolution No. 2526-0104 of the Board of Education of the Oakland Unified School District Declaring the Futility of Public Bidding for Electricity Service and Approving a Contract for Purchase, the Electricity Service Agreement by and between the District and Ava Community Energy (Ava), Oakland, California, for the latter to provide favorable, fixed electricity rates discounted from Ava’s standard electricity rates for the District’s direct access-eligible electric energy services agreements as consideration for the District’s long-term commitment as an electricity customer of Ava’s with a new term beginning May 1, 2026 and ending on April 30, 2028, for a two (2) year total amount not to exceed \$3,000,000 for the term.

Fiscal Impact General Fund 1

Attachments

- Resolution No. 2526-0104
- Agreement

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**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

BOARD OF EDUCATION 2026

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To: Facilities Committee

From: Denise Gail Saddler, Ed.D., Interim Superintendent
Preston Thomas, Chief Systems & Services Officer
Pranita Ranbhise, Executive Director, Facilities Planning & Management

Meeting Date: April 16, 2026

Subject: Declaring the Futility of Public Bidding for Electricity Service and Approving a Contract for Purchase

ASK OF THE BOARD:

Recommendation to the Board of Education on **Resolution No. 2526-0104**: Declaring that competitive public bidding for electricity service is incongruous, futile, and unavailing, and approving a contract for electricity service with Ava Community Energy ("Ava") without advertising for bids.

BACKGROUND:

The Oakland Unified School District ("District") currently receives electricity service through Ava, a Community Choice Aggregator that provides electricity to customers across Alameda County.

As outlined in the attached resolution, Ava offers the District access to electricity service that:

- Covers the District's full service area
- Provides a higher proportion of renewable energy sources
- Includes a direct access allocation with a fixed preferred rate for a defined term

The District has received a cost proposal from Ava for electricity service for a two-year period, with a total cost not to exceed \$3 million.

Under California Public Contract Code Section 20111, competitive bidding is generally required for purchases exceeding statutory thresholds. However, California law also recognizes exceptions where competitive bidding would not produce an advantage to the public entity.

DISCUSSION:

Staff recommends declaring the futility of public bidding for electricity service based on the following findings outlined in the resolution:

- Limited Market Availability: Ava is the only Community Choice Aggregator capable of providing electricity service

across the District's entire service territory.

- Continuity and Reliability: Ava is already familiar with the District's infrastructure, service accounts, and operational needs, ensuring continuity in service delivery.
- Cost Competitiveness: The proposed rate structure is considered reasonable by staff, and soliciting bids is unlikely to result in lower costs.
- Avoidance of Delay: Conducting a competitive bidding process would result in delays in securing service, potentially increasing costs and disrupting continuity.
- No Advantage to Bidding: Based on legal precedent, competitive bidding is not required where it would not affect the outcome or provide a benefit to the District.

Additionally, bidding could introduce:

- Redundant procurement processes
- Increased administrative burden
- Risk of service disruption or less favorable terms

For these reasons, staff finds that pursuing competitive bidding would not serve the District's best interests and recommends proceeding with Ava as the service provider.

FISCAL IMPACT:

The cost of electricity service under the proposed contract is \$3,000,000 over a two-year period, as provided by Ava. Funding for electricity service will be supported through the District's operating budget for utilities. The guaranteed fixed price ensures that any volatility the district experiences in electricity prices will be directly attributable to electricity usage.

ATTACHMENT: Resolution No. 2526-0104 – Declaring the Futility of Public Bidding for Electricity Service and Approving a Contract for Purchase.

**BOARD OF EDUCATION OF
THE
OAKLAND UNIFIED SCHOOL DISTRICT
Resolution No. 2526-0104**

Declaring the Futility of Public Bidding for Electricity Service and Approving an Electricity Service Agreement by and between Ava Community Energy and Oakland Unified School District

WHEREAS, Oakland Unified School District (“District”) is a current customer of Ava Community Energy (“Ava”), a Community Choice Aggregator, whereby Ava provides the District with electricity service; and

WHEREAS, the District and Ava previously entered into an electricity service agreement, dated May 1, 2022, as subsequently amended, pursuant to which Ava provided electricity service to the District; and

WHEREAS, the District and Ava now desire to enter into an agreement to establish a new contractual arrangement for such services; and

WHEREAS, based on the District having been an existing customer of Ava that has been offered a direct access allocation, Ava has offered the District a preferred rate for enrolling in its Bright Choice, or equivalent, service (“Service”), whereby the District would receive a greater amount of its electricity derived from renewable sources at a fixed preferred rate in exchange for entering into an agreement with Ava for a fixed term (the “Contract”); and

WHEREAS, Ava is the only Community Choice Aggregator that offers an electricity service available that would cover the District’s entire service area; and

WHEREAS, Ava has provided a quote for the total cost range of the Service for two years not to exceed Three Million and NO/100 Dollars (\$3,000,000.00); and

WHEREAS, adoption of a Board-approved Facilities Master Plan is required under Proposition 2 to maintain eligibility for State funding through the School Facility Program (SFP), which requires districts to maintain a current inventory of facilities, condition assessments, enrollment projections, and a capital planning framework; and

WHEREAS, District staff believe that Ava’s quoted cost range to provide the Service is reasonable; and

WHEREAS, going out to bid for the Service would result in substantial delay to the District in obtaining the Service, potentially resulting in significantly increased costs for the District; and

WHEREAS, hiring a provider other than Ava to provide the Service would result in waste and delay, which would be at the expense of the District, because Ava is already familiar with the District’s needs, is acquainted with the District’s accounts and access points, is the sole Community Choice Aggregator capable of serving the District’s entire service area, and has specialized knowledge in negotiating the rates available for the Service to meet the District’s needs; and

WHEREAS, bringing in new service providers to provide a similar service would not ensure the same quality of electricity service or quantity of like-kind electricity at the preferred rate, which would be at the District’s expense; and

WHEREAS, if the District were to bid the Service, the prices of those bids would likely be higher than the price of Ava’s quote for the Service, because Ava is already uniquely and intimately familiar with the District’s electricity usage, and is uniquely positioned to provide the Service to the District; and

WHEREAS, Public Contract Code section 20111 generally requires bidding for purchases of equipment, materials, supplies or services in excess of \$119,100 for 2026; and

WHEREAS, California law provides that, “Where competitive proposals work an incongruity and are unavailing as affecting the final result or where they do not produce any advantage . . . the statute requiring competitive bidding does not apply” (*Hiller v. City of Los Angeles* (1961) 197 Cal.App.2d 685, 694), and that public entities need not comply with competitive bidding processes where to do so would be impractical or futile and would not serve the purposes of competitive bidding. (*Los Angeles Dredging Company v. City of Long Beach* (1930) 2 Cal. 348; *Graydon v. Pasadena Redevelopment Agency* (1980) 104 Cal.App.3d 631.); and

WHEREAS, bidding for the Service will not affect the final result to the District except to potentially increase the cost of the Service; and

WHEREAS, bidding for the Service will not produce an advantage to the District.

NOW, THEREFORE, BE IT RESOLVED that the Board of Education adopts the Declaring the Futility of Public Bidding for Electricity Service and Approving an Electricity Service Agreement by and between Ava Community Energy and Oakland Unified School District; and

BE IT FURTHER RESOLVED that a competitive public bidding process for the Service would be unavailing, would not produce an advantage to the public or the District, and the goals of the competitive bid process would not be served, in that it would not obtain the best economic result for the public, on each of the following sufficient and independent grounds:

1. The District finds that Ava’s quoted cost range for the Service is reasonable and that a new contract with another provider would likely increase District costs.
2. The District finds that in order to keep continuity of the quality and necessary quantity of electricity service, it is necessary to use one provider, Ava, for the Service
3. The District finds that going out to bid for the Service would cause substantial delay to the District’s procurement of the Service.
4. The District finds that hiring a different provider to provide the Service is impossible and will cause coordination and interference problems with the District’s electricity service, which may further increase District costs; and

BE IT FURTHER RESOLVED that based on the foregoing, it would be incongruous, futile, and unavailing to publicly bid the Service; and

BE IT FURTHER RESOLVED that the Board hereby awards a contract with Ava to provide the Service, which new contract is attached hereto as Exhibit “A,” without advertising for or inviting bids.

Passed by the following vote:

PREFERENTIAL AYE:

PREFERENTIAL NOE:

PREFERENTIAL ABSTENTION:

PREFERENTIAL RECUSE:

AYES:

NOES:

ABSTAINED:

RECUSE:

ABSENT:

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on _____ 2026.

Legislative File	
File ID Number:	26-0793
Introduction Date:	04-16-2026
Enactment Number:	
Enactment Date:	
By:	

OAKLAND UNIFIED SCHOOL DISTRICT

—
Jennifer Brouhard
President, Board of Education

—
Denise Gail Saddler, Ed.D. Interim Superintendent and
Interim Secretary, Board of Education

**ELECTRICITY SERVICE AGREEMENT
BY AND BETWEEN
AVA COMMUNITY ENERGY AND
OAKLAND UNIFIED SCHOOL DISTRICT**

PREAMBLE

This Electricity Service Agreement (“Agreement”) is by and between Oakland Unified School District, a public school district, with its principal office located at 1011 Union Street Oakland, California 94607 (“Customer”), and Ava Community Energy, a California joint powers authority, with its primary business address at 1999 Harrison Street, Suite 2300, Oakland, California 94612 (“Ava”). Ava and Customer may be referred to individually as a “Party” or collectively as the “Parties.”

RECITALS

- A. Ava is authorized to offer nonstandard energy service rates to certain large customers currently on, or granted an allocation for, direct retail access energy service pursuant to the California Direct Access Program;
- B. Customer and Ava previously entered into an electricity service agreement, dated May 1, 2022, as subsequently amended (the “Prior Agreement”), pursuant to which Ava provided electricity service to Customer on terms similar to those set forth herein;
- C. Parties now desire to enter into this Agreement to establish a new contractual arrangement for such services, which supersedes and replaces the Prior Agreement in its entirety.
- D. Customer has certain energy service agreements (“SA IDs”) with Ava on one or more standard business rates;
- E. Customer has been granted a direct access allocation for all active SA IDs with Ava, with certain of these designated “Special SA IDs”, which will be mutually agreed upon by the Parties. Due to the direct access allocation granted by PG&E, the Customer is therefore eligible for and wishes to receive a favorable fixed rate discounted from Ava’s standard electricity rates as consideration for Customer’s long-term commitment;
- F. Ava desires to retain a stable, predictable customer base and help keep electricity rates low for all customers by entering into long-term contracts with its largest customers;
- G. Ava is willing to provide favorable, fixed electricity rates for Customer’s direct access-eligible electric SA IDs in order to retain Customer as an electric customer of Ava;
- H. Ava has asserted that certain terms contained in this Agreement should be treated as confidential and prohibited from public disclosure due to such terms being exempted from disclosure under the California Public Records Act; and
- I. Customer has agreed to permit Ava to redact, to the extent allowed by law, such terms that Ava has requested Customer to treat as confidential, for the purposes of making a copy of

this Agreement public, but does not warrant or represent that such terms are lawfully exempt from disclosure under the California Public Records Act or any other applicable law, regulation, or rule.

AGREEMENT

1. INCORPORATION OF PREAMBLE, RECITALS AND EXHIBITS

The Parties to this Agreement agree and attest to the truth and accuracy of the provisions contained in the Preamble and Recitals set forth above. The provisions of the Preamble and Recitals are hereby incorporated and made a part of this Agreement by this reference. The Parties agree that this Agreement has been entered into, at least in part, in consideration of the provisions contained in the Preamble and Recitals, as well as the provisions contained in the balance of this Agreement. Unless the context otherwise expressly requires, all references in this Agreement to Exhibits are to the Exhibits of this Agreement, which are attached hereto and incorporated herein by this reference.

2. DEFINITIONS

Definitions of the terms used in this Agreement and not otherwise defined in the body hereof are set forth in Exhibit A.

3. TERM OF AGREEMENT

The Term of this Agreement is set forth in Exhibit B and includes any Subsequent Term provided for in and entered into pursuant to Exhibit B. After Customer's meters are read at the first regular meter reading following the Effective Date of this Agreement, on a going-forward basis all terms and provisions of this Agreement shall govern and supersede any and all electricity rates, terms, provisions or contracts, if any, previously governing electric service of Customer.

4. SCOPE OF AGREEMENT

This Agreement governs the deviations, at one or more Delivery Points, all as set forth in Exhibit B, to the electricity rate otherwise applicable to all Accounts. Except as otherwise expressly provided in this Agreement and its Exhibits and Appendices, Ava shall continue to provide electricity service to all Accounts in accordance with Ava's Standard Ava Rate Schedule incorporated by this reference herein as though set forth in full, and the Parties agree that in no event shall any SA ID that is not a Special SA ID fall under the scope of this Agreement and any such SA ID shall be governed under the terms and conditions set forth under any separate agreement executed between Customer and Ava.

5. ELECTRIC SUPPLY

Upon the start of the Term, Ava shall sell and deliver and Customer shall purchase and receive one hundred percent (100%) of Customer's electricity serving Customer's Special SA IDs from Ava; provided, if any Special SA ID or Account hereunder enrolls in Ava's Net Energy Metering Program or Solar Billing Plan, or otherwise installs solar generation

facilities on the premises for purposes of reducing Customer's electricity usage at any time during the Term ("Self-Generation Facilities"), such Account shall no longer be entitled to the favorable rate set forth under Exhibit B and shall be automatically enrolled in Ava's Bright Choice plan or equivalent (such as an Account, an "Ineligible Account"). In the event that Customer elects to consider locating Self-Generation Facilities or storage projects on its premises, Customer shall collaborate with Ava in good faith and use commercially reasonable efforts to identify partnering opportunities for such projects; provided, however, the Parties acknowledge and agree that such requirement of identifying partnering opportunities does not constitute a binding agreement between the Parties unless and until such partnership opportunities are reduced to a definitive agreement; provided, further, that such requirement of identifying partnering opportunities does not grant Ava any exclusivity to negotiate any deal with Customer, and Customer shall be free to solicit bids from any other party.

Customer shall timely provide Ava with all information (including account information) and documentation required to appoint Ava as Customer's electricity service provider and to perform its obligations hereunder.

6. SPECIAL RATE STRUCTURE

The special rate is the price for the Initial Term set forth in Exhibit B.

7. NO BYPASS OR SUBSTITUTION

Customer shall, with respect to all Accounts, take all electricity service from Ava. Except during emergency or outage situations, for reasonable and necessary periodic testing of emergency generating equipment, or during the time period that Ava is in Default under this Agreement, Customer agrees not to purchase or have any portion of its electricity for its Accounts procured by any person, firm or entity other than Ava during the Term of this Agreement.

Customer shall not re-sell the electricity sold to it by Ava to any other entity, except that Customer may provide electricity to a licensee, sublessee, assignee, or occupant on its premises so long as (i) Customer sells such electricity at cost and does not mark up the price so as to earn a profit on such sale, and (ii) so long as such provision is in compliance with all applicable laws.

For the avoidance of doubt, in no event shall any Account covered by this Agreement be eligible to receive any customer revenue sharing credits that Ava issues to its other customers.

8. INCREASE, REDUCTION OR CESSATION OF OPERATIONS

In the event that Customer, during the Term of this Agreement, causes any Account hereunder to become an Ineligible Account in accordance with Section 5, Customer understands and agrees that Ava will suffer damages resulting from reducing or terminating long-term commitments that Ava made on behalf of Customer prior to such reduction or termination. Customer agrees that the damages to be faced by Ava in the event of any

Account to become an Ineligible Account shall be difficult or inconvenient to determine, and that the difference between the payment of the amount remaining under this Agreement (or such equitable percentage of the amount remaining under this Agreement as the Parties hereunder so agree) for such Account and the payment of the amount that Customer would have to pay under Standard Ava Rate Schedule for the usage under this Agreement for the remainder of this Agreement (or such equitable percentage of the amount remaining under this Agreement as the Parties hereunder so agree) for such Account becoming an Ineligible Account is a fair and reasonable approximation of such damages and is in the nature of liquidated damages and not in the nature of a penalty. Notwithstanding anything to the contrary, Customer's payments on the rate of any Ineligible Account(s) under this Agreement shall be sufficient to satisfy and remedy any damage, including but not limited to any liquidated damages, Customer may cause to Ava in connection of any Account becoming an Ineligible Account, and Customer shall not be obligated to pay any other payment in addition to the payments on the rate of any Accounts and/or Ineligible Accounts.

The Parties further acknowledge and agree that the billing rate for each Account shall follow the CCA Billing Rate Code and 4013 Rate Code set forth in Exhibit C.

9. RIGHT TO RECEIVE REQUEST FOR PROPOSAL

For the Term of this Agreement, Customer shall send to Ava and allow Ava to participate in any request for proposal, request for offer, or similar solicitation ("RFP") issued by Customer's facilities within Alameda County relating to the purchase of electricity or electricity services that Ava is not already providing to Customer. Customer shall, to the extent allowed by law, provide Ava an equal amount of time to respond to any such RFP issued by Customer, as any other entity responding to the RFP.

10. LOAD SHAPE DEVIATIONS

The favorable pricing offered in this Agreement is based upon Customer's 24-hour load shape generally conforming (within a tolerance band set forth below) to Customer's Minimum Electricity Volume Threshold. Each year during the Term, Ava shall determine and provide sixty (60) business days' prior written notice to Customer of deviations in the Minimum Electricity Volume Threshold as determined during the applicable calendar year no later than December 1. In the event that Customer's 24-hour load shape, as specific to the Accounts, deviates by fifty percent (50%) or more from Customer's Minimum Electricity Volume Threshold during the applicable calendar year, Customer agrees (i) that Ava may proportionally and equitably adjust the pricing terms set forth under Exhibit B as applicable to the following calendar year of Customer's Term and (ii) to execute with Ava a new addendum, substantially in the form of Exhibit B, reflecting such adjusted price. Customer hereby reserves the right to request and access relevant documentation supporting Ava's calculation of deviations in the Minimum Electricity Volume Threshold, and Customer further hereby reserves the right to provide such documentation to and have such documentation reviewed by SPURR, a joint powers authority focused on utility services, of which Customer is a member, subject to the provisions set forth in Section 26 below.

11. RIGHT OF ACCESS

In addition to and consistent with the rights of access allowed to or limited to Ava pursuant to any applicable laws, regulations, or rules and subject to Ava adhering to any such requisite limitations on Ava's rights of access, and signing a reasonable non-disclosure agreement, Customer hereby grants to Ava, and its employees, agents and authorized representatives, reasonable accompanied access to the premises of each Account, upon at least two (2) business days prior written notice (except that in the event of an emergency no such notice shall be required provided that Ava shall provide prompt written notice to Customer providing details of such emergency entry), for the purposes of performing Ava's obligations under this Agreement. Prior to Ava's entry to Customer's premises, Ava shall provide the commercial general liability insurance written on an "occurrence" policy form, covering bodily injury, property damage, and personal and advertising injury arising out of or relating (directly or indirectly) to Ava's entry to Customer's premises. Customer must be named by endorsement as additional named insured under Ava's commercial general liability coverage. Except to the extent caused by the gross negligence or willful misconduct of Customer or any person or entity under its explicit direction or control, Ava shall reimburse, indemnify, defend, and hold Customer, its officers, agents, employees, Board of Education and members thereof, and the premises of Customer, free and harmless from any and all liability, claims, loss, damages, or expenses (including attorneys' fees and fees of any required experts or consultants) resulting from Ava's access to the premises, specifically including, without limitation, any liability, claim, loss, damage, or expense arising by reason of the death, illness, or injury of any person or property from any cause whatsoever as a direct or indirect result of Ava's access of the premises, and Ava's failure to perform any provision of this Agreement or to comply with any requirement of applicable law or any requirement imposed on Ava.

12. CREDIT

Upon any request from time to time by Ava, Customer shall promptly provide to Ava such financial statements and other information as Ava may reasonably require to assess adequately Customer's creditworthiness. If Ava has reasonable grounds for insecurity regarding the performance, whether or not then due, of any obligation of Customer under this Agreement (including, without limitation, on account of the occurrence of a material change in Customer's creditworthiness or any Default), Ava may demand adequate assurances in an amount determined by Ava in a commercially reasonable manner, which adequate assurances shall be provided by Customer within two (2) business days of such demand. In the event that adequate assurances are provided in the form of cash collateral, Customer shall be deemed to have granted Ava a continuing first priority security interest in, lien on, and right of set-off against such collateral.

13. UNCONTROLLABLE FORCE

Neither Party shall be considered to be in Default in performance of any of its obligations under this Agreement when a failure of performance is due to an Uncontrollable Force. Uncontrollable Force may include, to the extent consistent with the foregoing, Act of God, flood, drought, earthquake, storm, tornado, fire, explosion, lightning, epidemic, public

emergency, war, riot, civil disobedience, labor strike, labor dispute, labor or materials shortage (however labor or materials shortage does not include the mere inability to obtain that labor or material at a particular price), sabotage, restraint by court order, restraint by public authority, or action or non-action by governmental authority or accident. No Party shall, however, be relieved of liability for failure of performance if such failure is due to causes arising out of its own negligence or due to removable or remediable causes which it fails to take reasonable efforts to remove or remedy within a reasonable time, or due to mere fluctuations in market prices. Uncontrollable Force shall not relieve Customer from any payment obligations associated with the Minimum Electricity Volume Threshold provided in Exhibit B, or from Ava's remedies in connection therewith, except to the extent expressly provided in Exhibit B. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it may be involved. Either Party rendered unable to fulfill any of its obligations under this Agreement by reason of an Uncontrollable Force shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

14. LIMITATION OF LIABILITY

FOR BREACH OR DEFAULT ARISING FROM ANY PROVISION FOR WHICH AN EXPRESS REMEDY IS PROVIDED HEREIN, SUCH REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE IS EXPRESSLY PROVIDED HEREIN, LIABILITY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, SUCH DIRECT, ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. EXCEPT AS MAY BE INCLUDED IN AN EXPRESS REMEDY PROVIDED FOR HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING LOST PROFITS OR BUSINESS INTERRUPTION DAMAGES, WHETHER BASED ON STATUTE, CONTRACT, TORT, UNDER ANY INDEMNITY OR OTHERWISE, WITHOUT REGARD TO CAUSE OR THE NEGLIGENCE OF ANY PARTY, WHETHER SOLE, JOINT, ACTIVE OR PASSIVE, AND EACH PARTY HEREBY RELEASES THE OTHER PARTY FROM ANY SUCH LIABILITY, EVEN IF DURING THE TERM HEREOF IT ADVISES THE OTHER OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

15. REPRESENTATIONS AND WARRANTIES

Each Party represents and warrants to the other Party as follows:

(a) Such Party is duly organized, validly existing, and in good standing under the laws of the state of its formation and is qualified to conduct business in California and in each other jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of such Party.

(b) Such Party has the power and authority to enter into and perform this Agreement and is not prohibited from entering into this Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement, except where such failure does not have a material adverse effect on such Party's performance under this Agreement. The execution, delivery, and performance of this Agreement by such Party has been duly authorized by all necessary corporate action on the part of such Party and does not and will not require the consent of any trustee or holder of any indebtedness or other obligation of such Party or any other Party to any other agreement with such Party.

(c) The execution and delivery of this Agreement, consummation of the transactions contemplated herein, and fulfillment of and compliance by such Party with the provisions of this Agreement will not conflict with or constitute a breach of or a default under any law presently in effect having applicability to such Party, the documents of formation of such Party or any outstanding trust indenture, deed of trust, mortgage, loan agreement or other evidence of indebtedness or any other agreement or instrument to which such Party is a party or by which any of its property is bound.

(d) NEITHER PARTY GIVES NOR RECEIVES ANY WARRANTY REGARDING THE SALE, PURCHASE OR DELIVERY OF ELECTRICITY, WHETHER EXPRESS, IMPLIED OR STATUTORY, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT. Ava DISCLAIMS ANY AND ALL IMPLIED WARRANTIES AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS OF ELECTRICITY FOR A PARTICULAR PURPOSE OR USE. THE OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT ARE OBLIGATIONS OF THE PARTIES ONLY, AND NO RECOURSE SHALL BE AVAILABLE AGAINST ANY EMPLOYEE, OFFICER, DIRECTOR, SHAREHOLDER, MEMBER, PARTNER OR AFFILIATE OF A PARTY UNLESS SPECIFICALLY PROVIDED FOR IN A SEPARATE AGREEMENT.

16. THIS AGREEMENT HAS BEEN DULY EXECUTED AND DELIVERED BY SUCH PARTY. THIS AGREEMENT IS A LEGAL, VALID, AND BINDING OBLIGATION OF SUCH PARTY ENFORCEABLE IN ACCORDANCE WITH ITS TERMS, EXCEPT AS LIMITED BYLAWS OF GENERAL APPLICABILITY LIMITING THE ENFORCEMENT OF CREDITORS' RIGHTS OR BY THE EXERCISE OF JUDICIAL DISCRETION IN ACCORDANCE WITH GENERAL PRINCIPLES OF EQUITY, ASSIGNMENTS, AND SUCCESSORS IN INTEREST.

Ava and Customer bind themselves, their partners, successors, assigns, executors, and administrators to all covenants and conditions of this Agreement. Except as otherwise set forth in this Agreement, no interest in this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of the other

Party, except that Customer may assign this Agreement to an Affiliate (as defined in Exhibit A) to take over one or more Accounts with the prior written consent of Ava; provided, however, said Affiliate will be bound by all obligations hereunder and Customer shall notify Ava of the assignment (and of any change required with regard to the Notice provisions of this Agreement set forth in Section 20) prior to the end of the first Billing Cycle after the Affiliate has received the assignment.

17. AMENDMENTS

It is mutually understood and agreed that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties hereto and incorporated into this Agreement.

18. INTEGRATED DOCUMENT/TOTALITY OF AGREEMENT

This Agreement and its Exhibits embody the entire agreement between Ava and Customer and its terms and conditions. No other understanding, agreements, conversations, or otherwise, with any officer, agent or employee of Ava prior to the execution of this Agreement shall affect or modify any of the terms or obligations contained in any document comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding.

19. NO THIRD-PARTY BENEFICIARY

This Agreement shall not be construed or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any claim or right of action hereunder for any cause whatsoever.

20. NOTICES

All notices to the Parties hereto shall, unless otherwise requested in writing, be sent to Ava addressed as follows:

Ava Community Energy
Attn: Legal
1999 Harrison St, Suite 2300
Oakland, CA 94612

And to Customer addressed as follows:

Oakland Unified School District
Attn:
955 High Street
Oakland, CA 94601

21. CAPTIONS

The captions of the various sections, paragraphs, and subparagraphs are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

22. STATUTES AND LAW GOVERNING AGREEMENT; VENUE

This Agreement shall be governed and construed in accordance with the statutes and laws of the state of California without regard to principles of conflicts of law. Any judicial proceedings arising under or in relation to this Agreement shall be brought in the Superior Court for the County of Alameda. Each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. This Section 22 shall survive the expiration or termination of this Agreement for any reason.

23. NON-WAIVER

No waiver by a Party of all or any of its rights with respect to a condition, Default or other matter arising in connection with this Agreement shall constitute or be deemed a waiver by such Party as to any subsequent condition, Default or other matter.

24. RIGHTS AND REMEDIES

Duties and obligations imposed by the Agreement and rights and remedies available thereunder shall be in addition to and not in limitation of duties, obligations, rights and remedies imposed by or available at law.

25. ALTERNATIVE DISPUTE RESOLUTION

In the event of any dispute arising under this Agreement, within ten (10) days following the receipt of a written notice from either Party identifying such dispute, the Parties shall meet, negotiate and attempt, in good faith, to resolve the dispute quickly, informally, and inexpensively. If the Parties are unable to resolve a dispute arising hereunder within the earlier of either thirty (30) days of initiating such discussions, or within forty (40) days after notice of the dispute, either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement. However, prior to commencing any litigation against the other Party, Customer and Ava shall engage in Alternative Dispute Resolution as follows:

- A. Any controversies between Customer and Ava regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.
- B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request that the Superior Court of Alameda County appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.
- C. The costs of mediation shall be borne by the Parties equally.

- D. Mediation under this section is a condition precedent to filing an action in any court. In the event of litigation, which arises out of any dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit, regardless of the outcome of the litigation.

26. CONFIDENTIALITY

- A. The Parties to this Agreement agree to maintain as confidential, to the extent permitted by law, Confidential Information.
- B. Customer acknowledges that Ava is a joint powers authority subject to the requirements of the California Public Records Act, Cal. Gov. Code section 7920.000 et seq. Ava acknowledges that Customer is a public school district subject to the requirements of the California Public Records Act, Cal. Gov. Code section 6250 et seq.

Ava acknowledges that Customer may submit information to Ava that Customer considers Confidential Information, proprietary or trade secret information pursuant to the Uniform Trade Secrets Act (Cal. Civil Code section 3426 et seq.), or otherwise not subject to disclosure pursuant to an exemption to the California Public Records Act. Customer acknowledges that Ava may submit to Customer information that Ava considers Confidential Information or proprietary or not subject to disclosure pursuant to an exemption to the California Public Records Act.

- i. Customer acknowledges that Ava may submit information to Customer that Ava considers Confidential Information, including but not limited to market sensitive information as defined by Public Utilities Code Section 454.5 and California Public Utilities Commission Decision 06-06-066, proprietary or trade secret information pursuant to the Uniform Trade Secrets Act (Cal. Civil Code section 3426 et seq.), or otherwise not subject to disclosure pursuant to an exemption to the California Public Records Act. Ava acknowledges that Customer may submit to Ava information that Customer considers Confidential Information or proprietary or not subject to disclosure pursuant to an exemption to the California Public Records Act.
- ii. Each Party shall clearly identify any information believed to be Confidential Information as confidential in its transmittals to the other Party. Identification of Confidential Information may be achieved by clearly marking a transmittal as "Confidential" or by redacting Confidential Information in a transmittal.
- iii. Upon request or demand of any third person or entity not a Party to this Agreement ("Requestor") to a Party for production, inspection and/or copying of Confidential Information, the Receiving Party to the extent permissible and as soon as practical shall notify the Disclosing Party that such request has been made. The Receiving and Disclosing Party

shall cooperate to identify any applicable redactions or exemptions from the California Public Records Act. If the Parties cannot agree on appropriate redactions, the Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be “Confidential Information” and to prevent release of information to the Requestor by the Receiving Party; provided, however, that Disclosing Party shall defend (with such counsel chosen by Receiving Party), indemnify, and hold Receiving Party, its officers, agents, employees, Board of Education and members thereof, harmless for any and all liability, claims, loss, damages, or expenses resulting from challenges to the assertion that such information should be held as confidential or exempt from disclosure under the California Public Records Act, or any other law, regulation or rule. Without limiting the Receiving Party’s right to disclose Confidential Information as may be required by law, if the Disclosing Party takes no such action, within 10 days of receiving the foregoing notice from the Receiving Party, the Receiving Party shall be permitted to comply with the Requestor’s demand and is not required to defend against it.

- C. The Receiving Party may disclose the Disclosing Party’s Confidential Information to an Affiliate with the prior written consent of the Disclosing Party. The Disclosing Party may make its prior written consent contingent on obtaining a nondisclosure agreement with such Affiliate at the option of the Disclosing Party.
- D. Notwithstanding the foregoing, either Party may, without the consent of the other Party, disclose Confidential Information to such Party’s lenders, potential lenders, rating agencies, accountants, employees, consultants and attorneys, and Ava may, without the consent of Customer, disclose Confidential Information to Ava’s electricity suppliers or potential electricity suppliers; provided that in each case such entity has agreed to treat the Confidential Information as confidential under terms no less strict than as those set forth in this Agreement. For customer energy usage data only, Ava may disclose such data to a third party, without the consent of Customer, for a “primary purpose,” as that term is defined in California Public Utilities Commission Decision 18-06-027, consistent with the requirements of that Decision.
- E. Notwithstanding anything to the contrary, the Parties acknowledge that Customer, as a public school district, has an obligation to disclose the terms of this Agreement to the Oakland Unified School District Board of Education (“Board”) for review and that such disclosure, and the public posting of the Agreement as part of the Board’s agenda shall not be deemed violations of this Section 26; provided, however, that prior to disclosure, Ava shall have the right to redact the terms of this Agreement as reasonably necessary to remove confidential, proprietary or commercially sensitive information.

27. OTHER AGREEMENTS

This Agreement shall not prevent either Party from entering into agreements with others that do not conflict with the terms hereof.

28. CONSTRUCTION OF THIS AGREEMENT

This Agreement, and each of its provisions, terms and conditions, has been reached as a result of negotiations between the Parties. Each Party has been represented by counsel. Accordingly, each of the Parties expressly acknowledges and agrees that this Agreement shall not be deemed to have been authored by, prepared by, or drafted by, any particular Party, and that the rule of construction to the effect ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or in the resolution of disputes. This Agreement is to be construed to effectuate the normal and reasonable expectations of a sophisticated buyer of electricity services and a sophisticated provider of such services and shall not be construed either for or against either Party.

29. NO PARTNERSHIP

Neither Ava nor Customer is a partner or joint venturer with the other and nothing in this Agreement may be construed to make them partners or joint venturers or impose any liability as such on either of them.

30. ENFORCEABILITY

If any provision of this Agreement is determined to be illegal or unenforceable, such determination will not affect any other provisions of this Agreement and all other provisions will remain in full force and effect.

31. BANKRUPTCY CODE ACKNOWLEDGEMENTS

The Parties acknowledge and agree that all transactions contemplated under the terms of this Agreement constitute “forward contracts” within the meaning of the United States Bankruptcy Code. Each Party further agrees that, for purposes of this Agreement, the other Party is not a “utility” as such term is used in Section 366 of the U.S. Bankruptcy Code, and each Party waives and agrees not to assert the applicability of the provisions of such Section 366 in any bankruptcy proceeding wherein such Party is a debtor. The Parties further agree that all electricity delivered hereunder constitutes a “good” under Section 503(b)(9) of the U.S. Bankruptcy Code.

32. MOBILE SIERRA.

Notwithstanding any provision of this Agreement, neither Party shall seek, nor shall they support any third party seeking, to prospectively or retroactively revise the rates, terms or conditions of service of this Agreement through application or complaint to the FERC pursuant to the provisions of the Federal Power Act, absent prior written agreement of the Parties. Further, absent the prior written agreement in writing by both Parties, the standard of review for changes to the rates, terms or conditions of service of this Agreement proposed by a Party, a non-Party, or the FERC acting sua sponte shall be the “public interest” standard of review set forth in *United States Gas Pipe Line Co. v. Mobile Gas*

Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) , and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008).

33. TERMINATION.

- A. Either Party may terminate this Agreement at any time if the other Party fails to cure any Default under this Agreement beyond applicable notice and cure period following written notice thereof. Such termination shall be effective immediately and automatically upon the expiration of the applicable notice and cure period, without further notice or action by either Party. Termination shall be in addition to any other remedies that may be available to the non-defaulting Party, including but not limited to Section 8 hereto.
- B. If this Agreement is terminated in accordance with Section 33(A), Customer shall remain responsible for the payment of the electricity provided by Ava up to the date of the termination, and Ava shall use commercially reasonable efforts to cooperate with Customer's efforts of transferring the electricity service to another service provider. This Section 33(B) shall survive the termination of this Agreement.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument; and, the Parties agree that signatures on this Agreement, including electronic signatures, shall be sufficient to bind the Parties.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

[Signature pages to follow]

**AVA COMMUNITY ENERGY
AUTHORITY (“AVA”)**

Name: _____
Title: _____

Date

Approved as to form:

Name: _____
Title: _____

Date

OAKLAND UNIFIED SCHOOL DISTRICT (“CUSTOMER”)

Jennifer Brouhard
President, Board of Education

Date

Denise Gail Saddler, Ed.D.
Interim Superintendent
Secretary, Board of Education

Date

Approved as to form:

James Traber, OUSD Facilities Counsel

Date

**ELECTRIC SERVICE AGREEMENT
BY AND BETWEEN
AVA COMMUNITY ENERGY AND
OAKLAND UNIFIED SCHOOL DISTRICT**

EXHIBIT A

DEFINITIONS

Accounts means all currently existing Special SA IDs that shall be mutually agreed upon by the Parties, which, for the avoidance of doubt, shall require that any subsequently established Special SA ID only be included to the extent that such subsequently established SA ID replaces an existing Special SA ID provided under the terms of this Agreement. Accounts that are terminated by Customer for non-use with the prior written consent of Ava are excluded from this definition.

Agreement shall have the meaning set forth in the Preamble.

Affiliate means any public agency, joint powers authority or similar entity.

Alternative Dispute Resolution shall mean the dispute resolution procedures set forth in Section 25.

Ava shall have the meaning set forth in the Preamble.

Billing Cycle means one of twelve (12) monthly scheduled intervals per calendar year, in which electric meters for all Accounts are read, and for which electricity bills are subsequently rendered to Customer.

Confidential Information means any information so identified and marked as confidential in Exhibit B hereto, as well as any information which is of a non-public, proprietary or confidential nature belonging to the Disclosing Party, including without limitation, all reports and analyses, meter data, technical and economic data, studies, forecasts, trade secrets, research or business strategies, financial or contractual information, gas reserve information, customer identity, customer credit history, customer energy usage data, customer contacts, address or telephone numbers, negotiated electricity rates, loads, energy requirements, certain sales market information or other written or oral information. Confidential Information may be in any form whatsoever, including without limitation writings, computer programs, logic diagrams, component specifications, drawings or other media.

Only that information disclosed by a Party and clearly designated in writing as “confidential” shall be deemed to be Confidential Information, provided that the following are considered Confidential Information independent of whether they have been designated in writing as such: meter data, consumption patterns, load forecasts, or any item developed based upon Customer’s meter data, Customer bills and billing information. However, aggregate energy statistics that are developed based upon Customer’s meter data as well as other Ava customer’s meter data are not Confidential Information. Examples of such aggregate energy statistics are summaries of overall sales, energy program results, or overall energy load forecasts that do not identify an individual Customer. Verbal information and other information in an intangible form that is intended to be treated as

Confidential Information shall be described in writing and identified as “Confidential Information.”

Notwithstanding the foregoing, the term “Confidential Information” shall not include (and neither Party shall be under any obligation to maintain in confidence or not use) any information (or any portion thereof) disclosed to it by the other Party to the extent that such information:

- A. is in the public domain at the time of disclosure; or
- B. at the time of or following disclosure, becomes generally known or available through no act or omission on the part of the Receiving Party; or
- C. is known, or becomes known, to the Receiving Party from a source other than the Disclosing Party or its authorized representatives, provided that disclosure by such source is not in breach of a confidentiality agreement with the Disclosing Party; or
- D. is independently developed by the Receiving Party without violating any of its obligations under this Agreement; or
- E. is legally required to be disclosed by judicial or other governmental action; provided, however, that prompt notice of such judicial or other governmental action shall have been given to the Disclosing Party and that the Disclosing Party shall be afforded the opportunity (consistent with the terms of this Agreement) to exhaust all reasonable legal remedies to maintain the Confidential Information in confidence, in accordance with this Agreement.

Customer shall have the meaning set forth in the Preamble.

Damages Payment shall have the meaning set forth in Exhibit 8.

Default means, with respect to the defaulting Party the occurrence of any of the following: (i) the failure to make, when due, any payment required pursuant to this Agreement or otherwise, if such failure is not remedied within five (5) business days after receipt of written notice; (ii) any representation or warranty is false or misleading when made or repeated; (iii) the failure to perform any material covenant or obligation set forth in this Agreement if such failure is not remedied within thirty (30) days after written notice (provided, however, if the nature of such default could not be reasonably cured within such thirty (30) days and the defaulting Party commences such cure within the thirty (30) day period and continues such cure diligently to completion, then such thirty (30) day period shall be extended to sixty (60) days; (iv) the failure by Customer to provide adequate assurances in accordance with Section 12; (v) such Party (or such Party’s credit support provider) files a petition or otherwise commences, authorizes or acquiesces to the commencement of a proceeding or cause of action with respect to it under any bankruptcy proceeding or similar laws for the protection of creditors; (vi) notwithstanding the provisions of Section 15 hereof, such Party makes an assignment or any general arrangement for the benefit of creditors; (vii) such Party otherwise becomes bankrupt or insolvent (however evidenced); (viii) such Party becomes unable to pay its debts as they fall due; or (ix) termination of any of the terms set forth in Exhibit B unless as otherwise expressly set forth in this Agreement.

Delivery Points means the respective meters associated with the respective SA IDs that shall be mutually agreed upon by the Parties.

Disclosing Party means the Party to whom Confidential Information originally belongs and who (after appropriate notice) shall bear the burden of pursuing legal remedies to retain confidentiality as set forth in the Agreement.

Effective Date means the date that the final signatory executes the Agreement.

Enrollment of Accounts means the date on which Customer's meters are read, to occur concurrent with the first date of the Initial Term set forth in Exhibit B.

Franchise Fee is the surcharge that is levied by the California Public Utilities Commission for which PG&E acts as a collection agent on behalf of the cities and counties in PG&E's service territory for all customers.

Ineligible Account shall have the meaning set forth in Section 5.

Initial Term shall have the meaning set forth in Exhibit B.

Minimum Electricity Volume Threshold means the average monthly electricity acquired from Ava during the six (6) months immediately preceding the Effective Date.

Net Energy Metering Program shall mean the "program set forth in the "Ava Community Energy Net Energy Metering Policy 6.5," as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

Party or Parties shall have the meaning set forth in the Preamble.

Power Charge Indifference Adjustment or PCIA is a fee that PG&E charges to each prior electricity customer to recover its above-market costs for generation resources acquired prior to such customer's switch to a third-party electric provider.

Price shall have the meaning set forth in Exhibit B.

Prior Agreement shall have the meaning set forth in the Recitals.

Receiving Party means the Party to this Agreement who receives information designated as "Confidential Information" by the Disclosing Party.

Requestor shall have the meaning set forth in Section 26(B)(iii).

RFP shall have the meaning set forth in Section 9.

SA IDs shall have the meaning set forth in the Recitals.

Self-Generation Facilities shall have the meaning set forth in Section 5.

Self-Generation Payment shall have the meaning set forth in Section 8.

Solar Billing Plan shall mean the program set forth in Ava's "Solar Billing Plan Tariff Policy," as subsequently amended, supplemented or replaced (in whole or in part) from time to time.

Special SA ID shall have the meaning set forth in the Recitals.

Standard Ava Rate Schedule is the set of rates for electricity service adopted by Ava.

Subsequent Term means any term subsequent to the Initial Term, which extends the Term for the duration proposed by Ava in its sole discretion during the Term Extension Option Strike Window and agreed to by the Parties.

Term means the Initial Term and, as applicable, Subsequent Term(s).

Term Extension Option Strike Window means the period over which Customer may request a Subsequent Term and during which Ava may determine the duration of such Subsequent Term, which shall last for three (3) months as set forth in Exhibit B.

Uncontrollable Force means any cause beyond the reasonable control of the Party affected, and which by exercise of due diligence such Party could not reasonably have been expected to avoid and which by exercise of due diligence it has been unable to overcome or obtain or cause to be obtained a commercially reasonable substitute therefor.

ELECTRIC SERVICE AGREEMENT
BY AND BETWEEN
AVA COMMUNITY ENERGY AND
OAKLAND UNIFIED SCHOOL DISTRICT

EXHIBIT B

ADDENDUM -TERM OF CONTRACT AND RATES CHARGED

CONFIDENTIAL – DO NOT DUPLICATE OR DISCLOSE

This Addendum (“Addendum”) supplements the Electricity Service Agreement referred to above (the “Agreement”). Capitalized terms not otherwise defined in this Addendum shall have their meanings set forth elsewhere in the Agreement, including its Appendices.

The terms of this Addendum may be amended upon execution of a new addendum, substantially in the form of this Exhibit B reflecting such adjusted terms

Term:	<ul style="list-style-type: none">• Initial Term: May 1, 2026 through April 30, 2028• Variable Term Period: Not less than two (2) year or more than three (3) years (and subject to renewal).
Term Extension Option Strike Window:	December 1, 2027 to March 1, 2028
Product:	Special Customer rate distinct from that set forth on the Standard Ava Rate Schedule (or its equivalent or a subsequent replacing tariff)
Price (excluding Franchise Fees and PCIA):	Initial Term: \$0.1032 per kilowatt-hour, fixed. Subsequent Term(s): Price to be determined upon reasonable agreement between the Parties.
Applicable Accounts, Locations, and Delivery Points:	As set forth in <u>Exhibit C</u> or as otherwise mutually agreed upon by the Parties.

Initial Term Total Amount Not to Exceed:	For the Initial Term, two (2) year total amount not to exceed \$3,000,000. The Parties acknowledge that this range is a non-binding estimate based on Customer's historic electricity usage trends and that if Customer's electricity usage increases significantly during the Initial Term, the range would similarly increase.
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[Signature pages to follow]

**AVA COMMUNITY ENERGY
("AVA")**

Name: _____
Title: _____

Date

Approved as to form:

Name: _____
Title: _____

Date

OAKLAND UNIFIED SCHOOL DISTRICT (“CUSTOMER”)

Jennifer Brouhard
President, Board of Education

Date

Denise Gail Saddler, Ed.D.
Interim Superintendent
Secretary, Board of Education

Date

Approved as to form:

James Traber, OUSD Facilities Counsel

Date

**ELECTRIC SERVICE AGREEMENT
BY AND BETWEEN
AVA COMMUNITY ENERGY AND
OAKLAND UNIFIED SCHOOL DISTRICT**

EXHIBIT C

