



## NOTICE AND CALL OF SPECIAL MEETING

Notice is hereby given that I the President of the Board of Directors of the Santa Clarita Valley Water Agency, have called a SPECIAL MEETING of the Agency's Board of Directors.

Said SPECIAL MEETING of the Board to be held on:

**WEDNESDAY, MARCH 27, 2019 AT 6:00 PM**

At

Santa Clarita Valley Water Agency  
27234 Bouquet Canyon Road  
Santa Clarita, California 91350  
Rio Vista Water Treatment Plant Board and Training Room

Enclosed with and as part of this Notice and Call is an Agenda for the meeting.

Signed: *William Cooper*  
President *cmg*

Date: *March 26, 2019*

Posted on March 26, 2019.

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**SANTA CLARITA VALLEY WATER AGENCY  
SPECIAL BOARD MEETING  
AGENDA  
27234 BOUQUET CANYON ROAD  
SANTA CLARITA, CA 91350  
RIO VISTA WATER TREATMENT PLANT BOARDROOM  
WEDNESDAY, MARCH 27, 2019 AT 6:00 PM**

**OPEN SESSION BEGINS AT 6:00 PM**

**1. CALL TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. PUBLIC COMMENTS** – Members of the public may comment as to items not on the Agenda at this time. Members of the public wishing to comment on items covered in this Agenda may do so now or prior to each item as they arise. Please complete and return a comment request form to the Agency Board Secretary. (Comments may, at the discretion of the Board’s presiding officer, be limited to three minutes for each speaker.) Members of the public wishing to comment on items covered in Closed Session before they are considered by the Board must request to make comment at the commencement of the meeting at 6:00 PM.

**4. APPROVAL OF THE AGENDA**

**5. ACTION ITEM FOR APPROVAL**

**PAGE**

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| 5.1. * | Authorize the General Manager to Execute a Notice of Change of Ownership, Waiver and Acknowledgement, and Amendment to Power Purchase Agreements with SunPower Regarding the Agency’s Solar Project | 5 |
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**6. ADJOURNMENT**

**Note: The Board reserves the right to discuss or take action or both on all of the above agenda items.**

**NOTICES**

Any person may make a request for a disability-related modification or accommodation needed for that person to be able to participate in the public meeting by telephoning (661) 297-1600, or writing to Santa Clarita Valley Water Agency at 27234 Bouquet Canyon Road, Santa Clarita, CA 91350. Requests must specify the nature of the disability and the type of accommodation requested. A telephone number or other contact information should be included so that Agency staff may discuss appropriate arrangements. Persons requesting a disability-related accommodation should make the request with adequate time before the meeting for the Agency to provide the requested accommodation.

Pursuant to Government Code Section 54957.5, non-exempt public records that relate to open session agenda items and are distributed to a majority of the Board less than seventy-two (72) hours prior to the meeting will be available for public inspection at the Santa Clarita Valley Water Agency, located at 27234 Bouquet Canyon Road, Santa Clarita, California 91350, during regular business hours. When practical, these public records will also be made available on the Agency's Internet Website, accessible at <http://www.yourscvwater.com>.

Posted on March 26, 2019.

MGS



## BOARD MEMORANDUM

**DATE:** March 26, 2019

**TO:** Board of Directors

**FROM:** Matthew Stone  
General Manager *M6S*

**SUBJECT:** Authorize the General Manager to Execute a Notice of Change of Ownership, Waiver and Acknowledgement, and Amendment to Power Purchase Agreements with SunPower Regarding the Agency's Solar Project

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### SUMMARY/DISCUSSION

SCV Water purchases power from two solar photovoltaic systems which are each operated by a separate subsidiary of SunPower, pursuant to the terms of Power Purchase Agreements (PPAs) entered into with SunPower in 2011 and 2013. The current owner of the systems is PNC Energy Capital, a tax equity investor that purchased the systems from SunPower in a sale-leaseback transaction. SunPower is in the process of selling its ownership interest in the operating subsidiaries to an affiliate of Goldman Sachs Renewable Power.

As part of the sale transaction, Goldman Sachs has asked that SunPower obtain two things from SCV Water: (a) acknowledgement of the transaction and that the PPAs are in full force and effect (no consent of SCV Water is required); and (b) clarification of certain contractual terms in the PPAs with SCV Water. Of particular importance to Goldman is a right of first refusal that was given to SCV Water if at any time the owner of the system desires to sell it to a third party. The right of first refusal has a short exercise period of 30 days, with another 30 days to close. Goldman has asked that SCV Water grant a waiver of this right with respect to any purchase by the operating subsidiaries.

SCV Water has a purchase option for the larger of the two systems that can be exercised in 2020 and SCV Water staff is currently evaluating whether such a purchase would result in a financial benefit to SCV Water. SCV Water does not have an option to purchase the smaller of the two systems and it is likely that SCV Water would prefer to purchase both systems if it exercises its option. In consideration for giving the waiver of the right of first refusal, SunPower and Goldman have agreed to grant a purchase option for the smaller system that can be exercised at the same time as the large system. This will provide SCV Water with greater flexibility as it looks at its energy options over the coming year. There is no additional obligation on SCV Water as a result of the proposed acknowledgement and amendment agreement with SunPower.

### FINANCIAL CONSIDERATIONS

No financial impact.

### RECOMMENDATION

That the Board of Directors authorize the General Manager to execute the Notice of Change of Ownership, Acknowledgement and Amendment Agreement to the Power Purchase Agreements with SunPower.

Attachments

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**NOTICE OF CHANGE OF OWNERSHIP AND  
WAIVER AND ACKNOWLEDGEMENT AND AMENDMENT AGREEMENT  
(CASTAIC LAKE PHASE I)**

This Notice of Change of Ownership and Waiver and Acknowledgement and Amendment Agreement (this “Agreement”) is made as of [DATE], 2019 by and between SOLAR STAR CALIFORNIA XXIV, LLC, a Delaware limited liability company (together with its successors and permitted assigns, the “Seller”) and SANTA CLARITA VALLEY WATER AGENCY, a Special Act District formed under the laws of the State of California (“Customer”). Capitalized terms used and not otherwise defined in this Agreement have the meanings assigned to them in the PPA referred to below.

**RECITALS**

A. Reference is made to the Power Purchase Agreement, dated as of March 25, 2011 (as amended to date, the “PPA”), between Seller and Castaic Lake Water Agency (“CLWA”). Customer is the successor in interest to CLWA pursuant to California Senate Bill 634 which became effective on January 1, 2018.

B. SunPower Corporation, Systems, a Delaware corporation (together with its successors and permitted assigns, “SunPower Corporation”), owns 100% of the limited liability company interests in Seller.

C. SunPower Corporation wishes to sell and assign to Goldman Sachs Renewable Power, LLC, or an affiliate thereof or a fund managed by it (“GSRP”), all of SunPower Corporation’s limited liability company interest in Seller. Such sale and assignment, which may be implemented by means of a direct transfer of such limited liability company interests by SunPower Corporation to GSRP or by an initial intercompany transfer of such limited liability company interests by SunPower Corporation to another subsidiary of SunPower Corporation and a subsequent transfer thereof by such other subsidiary to GSRP, is referred to herein as the “Sale Transaction”.

D. While the Sale Transaction does not constitute an assignment pursuant to the terms of the PPA nor is it otherwise restricted under the terms of the PPA, for purposes of fulfilling the notice requirements of Section 16.18 of the PPA and for additional clarity, Seller hereby seeks Customer’s waiver of any Event of Default under the PPA that may result from the Sale Transaction and acknowledgement of the Owner of the System for purposes of Section 10.4.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Notice. Pursuant to Section 16.18 of the PPA, Seller hereby notifies Customer that it intends to enter into the Sale Transaction, which Seller intends to complete on or about [DATE], 2019.

2. Waiver of Event of Default. Effective upon the satisfaction of the condition set forth in Section 3(a), Customer hereby waives, for all purposes of the PPA, any Event of Default that may result from the occurrence of the Sale Transaction (including, without limitation, the agreement to enter into the Sale Transaction or the consummation thereof).

3. Acknowledgement of Owner. Customer hereby acknowledges and agrees that, for purposes of Section 10.4 of the PPA, PNC Energy Capital, LLC (“PNC”) is the current Owner of the System under the Master Purchase and Sale Agreement, dated as of December 21, 2011, between Seller and PNC, as described in the Host Acknowledgement and Consent, dated as of December 21, 2011, by and between Customer and Seller. Further, Customer agrees and acknowledges hereby that, notwithstanding anything to the contrary provided herein or in the PPA, after the closing of the Sale Transaction, any exercise by Seller of its option to buy out PNC or its successors and assigns as the Owner of the System shall not be subject to Customer’s rights or remedies under Section 10.4 of the PPA, and the exercise and consummation of such option by Seller shall not constitute an Event of Default under the PPA.

4. Customer Purchase Option. In consideration of the obligations of Customer in this Agreement, Seller and Customer hereby agree to amend the PPA to grant to Customer the option to purchase the System on the same terms as are set forth in Section 10.5 of that certain Power Purchase Agreement by and between Seller and CLWA, dated as of March 7, 2013 (“Phase 2 PPA”), provided, however, that the Termination Value for the System will be the applicable Termination Value set forth in the PPA for the actual year in which the purchase option is exercised (for example, if exercised in year 2020, then the applicable Termination Value would be the Termination Value for year 9 on Schedule D to the PPA). Customer will have the right to exercise the option granted herein concurrent with the exercise of the options granted in Section 10.5 of the Phase 2 PPA. It is acknowledged and agreed that this purchase option must be exercised by Customer together with the purchase option set forth in the Phase 2 PPA and may not be exercised independently.

5. Conditions Precedent.

(a) The waiver set forth in Section 2 of this Agreement shall become effective upon the execution and delivery of this Agreement by the Seller and Customer.

6. Representations. Customer represents and warrants for the benefit of GSRP as of the date hereof as follows:

(a) it is a Special District duly organized, validly existing and is in good standing under the law of the state of its formation and has all requisite statutory power to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby;

(b) The execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary Board action;

(c) this Agreement is a legal, valid and binding obligation of Customer, enforceable against Customer in accordance with its terms, subject to the qualification, however, that



the enforcement of the rights and remedies herein is subject to (i) bankruptcy and other similar laws of general application affecting rights and remedies of creditors and (ii) the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law; and

(d) the PPA is in full force and effect and has not been amended except as expressly provided herein, and, to Customer's knowledge, as of the date hereof, there are no uncured breaches or defaults by the Seller thereunder.

7. Miscellaneous.

(a) The foregoing notice, waiver and acknowledgement shall be limited in effect and, except as specifically set forth in this Agreement, shall apply only as expressly set forth herein. The PPA is modified only by the express provisions of this Agreement, and shall as so modified remain in full force and effect and is hereby ratified and confirmed by the parties hereto in all respects.

(b) The headings and subsections of this Agreement are for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

(c) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. GSRP is an express third party beneficiary of Section 4.

(d) This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. The parties hereto agree that delivery of a copy of this Agreement bearing an original signature by facsimile transmission, by electronic mail in "portable document format" (".pdf") form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by a combination of such means, shall have the same effect as physical delivery of the paper document bearing the original signature. "Originally signed" or "original signature" means or refers to a signature that has not been mechanically or electronically reproduced.

(e) Sections 15 (*Arbitration*) and 16.10 (*Governing Law; Jurisdiction; Forum*) of the PPA are hereby incorporated by reference as if fully set forth herein *mutatis mutandis*.

*[Remainder of Page Intentionally Left Blank. Signature Page Follows]*

IN WITNESS WHEREOF, each of the undersigned has duly executed this Agreement as of the date first written above.

**SOLAR STAR CALIFORNIA XXIV, LLC**

By: SunPower Corporation, Systems, its sole member

By: \_\_\_\_\_

Name:

Title:

**SANTA CLARITA VALLEY WATER  
AGENCY**

By: \_\_\_\_\_  
Name:  
Title:

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**NOTICE OF CHANGE OF OWNERSHIP AND  
WAIVER, ACKNOWLEDGEMENT AND AMENDMENT AGREEMENT**

(CASTAIC LAKE PHASE II)

This Notice of Change in Ownership and Waiver, Acknowledgement and Amendment Agreement (this “Agreement”) is made as of [DATE], 2019 by and between SOLAR STAR CALIFORNIA XXVIII, LLC, a Delaware limited liability company (together with its successors and permitted assigns, the “Seller”) and SANTA CLARITA VALLEY WATER AGENCY, a Special Act District formed under the laws of the State of California (“Customer”). Capitalized terms used and not otherwise defined in this Agreement have the meanings assigned to them in the PPA referred to below.

RECITALS

A. March 7, 2013, as amended by the letter agreement re: Additional Agreements Relating to the Power Purchase Agreement, dated as of April 10, 2013, as further amended by the First Amendment to Power Purchase Agreement, dated as of March 14, 2014 (as amended to date, the “PPA”), between Seller and Castaic Lake Water Agency (“CLWA”). Customer is the successor in interest to CLWA pursuant to California Senate Bill 634 which became effective on January 1, 2018.

B. SunPower Corporation, Systems, a Delaware corporation (together with its successors and permitted assigns, “SunPower Corporation”), owns 100% of the limited liability company interests in Seller.

C. SunPower Corporation wishes to sell and assign to Goldman Sachs Renewable Power, LLC, or an affiliate thereof or a fund managed by it (“GSRP”), all of SunPower Corporation’s limited liability company interest in Seller. Such sale and assignment, which may be implemented by means of a direct transfer of such limited liability company interests by SunPower Corporation to GSRP or by an initial intercompany transfer of such limited liability company interests by SunPower Corporation to another subsidiary of SunPower Corporation and a subsequent transfer thereof by such other subsidiary to GSRP, is referred to herein as the “Sale Transaction”.

D. While the Sale Transaction does not constitute an assignment pursuant to the terms of the PPA nor is it otherwise restricted under the terms of the PPA, for purposes of fulfilling the notice requirements of Section 16.19 of the PPA and for additional clarity, Seller hereby seeks Customer’s waiver of any Event of Default under the PPA that may result from the Sale Transaction, acknowledgement of the Owner of the System for purposes of Section 10.4, and agreement to amend the PPA.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Notice. Pursuant to Section 16.19 of the PPA, Seller hereby notifies Customer that it intends to enter into the Sale Transaction, which Seller intends to complete on or about [DATE], 2019.

2. Waiver of Event of Default. Effective upon the satisfaction of the condition set forth in Section 3(a), Customer hereby waives, for all purposes of the PPA, any Event of Default that may result from the occurrence of the Sale Transaction (including, without limitation, the agreement to enter into the Sale Transaction or the consummation thereof).

3. Acknowledgement of Owner. Customer hereby acknowledges and agrees that, for purposes of Section 10.4 of the PPA, PNC Energy Capital, LLC (“PNC”) is the current Owner of the System under the Master Purchase and Sale Agreement, dated as of December 26, 2014, between Seller and PNC, as further described in the Host Acknowledgement and Consent, dated as of December 26, 2014, by and between Customer and Seller. Further, Customer agrees and acknowledges hereby that, notwithstanding anything to the contrary provided herein or in the PPA, following the Sale and Transfer Consummation Date (as defined below), any exercise by Seller of an option to buy out PNC or its successors and assigns as the Owner of the System shall not be subject to Customer’s rights or remedies under Section 10.4 of the PPA and the exercise and consummation of such option by Seller shall not constitute an Event of Default under the PPA.

4. Acknowledgement of Seller. As a condition to the obligations of Customer under this Agreement and a separate Notice of Change in Ownership and Waiver, Acknowledgement and Amendment Agreement between Seller and Customer with respect to that certain Power Purchase Agreement by and between Seller and Customer, dated as of March 25, 2011 (“Phase 1 PPA”), Seller has granted to Customer an option to purchase the solar system which is subject to the Phase 1 PPA concurrent with the Customer’s exercise of the option to purchase the System as set forth in Section 10.5 of the PPA. Seller and Customer acknowledge that the COD for the purposes of the PPA is December 24, 2014.

5. Conditions Precedent.

(a) The waiver set forth in Section 2 of this Agreement shall become effective upon the execution and delivery of this Agreement by the Seller and Customer.

(b) The amendment set forth in Section 4 of this Agreement shall become effective upon the satisfaction of all of the conditions precedent set forth below (the date of such satisfaction, the “Sale and Transfer Consummation Date”):

(i) The execution and delivery of this Agreement by the Seller and Customer;  
and

(ii) The consummation of the Sale Transaction and the delivery to Customer of notice confirming such consummation (and specifying the Sale and Transfer Consummation Date).

6. Representations. Customer represents and warrants for the benefit of GSRP as of the date hereof as follows:

(a) it is a Special District duly organized, validly existing and is in good standing under the law of the state of its formation and has all requisite statutory power to enter into this Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby;

(b) The execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary Board action;

(c) this Agreement is a legal, valid and binding obligation of Customer, enforceable against Customer in accordance with its terms, subject to the qualification, however, that the enforcement of the rights and remedies herein is subject to (i) bankruptcy and other similar laws of general application affecting rights and remedies of creditors and (ii) the application of general principles of equity (regardless of whether considered in a proceeding in equity or at law; and

(d) the PPA is in full force and effect and has not been amended except as expressly provided herein, and, to Customer's knowledge, as of the date hereof, there are no uncured breaches or defaults by the Seller thereunder.

7. Miscellaneous.

(a) The foregoing notice, waiver, acknowledgement and amendments shall be limited in effect and, except as specifically set forth in this Agreement, shall apply only as expressly set forth herein. The PPA is modified only by the express provisions of this Agreement, and shall as so modified remain in full force and effect and is hereby ratified and confirmed by the parties hereto in all respects.

(b) The headings and subsections of this Agreement are for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

(c) This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. GSRP is an express third party beneficiary of Section 4.

(d) This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument. The parties hereto agree that delivery of a copy of this Agreement bearing an original signature by facsimile transmission, by electronic mail in "portable document format" (".pdf") form or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, or by a combination of such means, shall have the same effect as physical delivery of the paper document bearing the original signature. "Originally signed" or "original signature" means or refers to a signature that has not been mechanically or electronically reproduced.

(e) Sections 15 (*Arbitration*) and 16.10 (*Governing Law; Jurisdiction; Forum*) of the PPA are hereby incorporated by reference as if fully set forth herein *mutatis mutandis*.

*[Remainder of Page Intentionally Left Blank. Signature Page Follows]*

IN WITNESS WHEREOF, each of the undersigned has duly executed this Agreement as of the date first written above.

**SOLAR STAR CALIFORNIA XL, LLC**

By: SunPower Corporation, Systems, its sole member

By: \_\_\_\_\_

Name:

Title:



**SANTA CLARITA VALLEY WATER  
AGENCY**

By: \_\_\_\_\_  
Name:  
Title:

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