

To: Honorable Mayor and Members of the City Council

From: Lonnie Eldridge, Special Counsel, Alameda City Attorney's Office

Date: September 12, 2025

Supplemental Memo regarding Agenda Item 5-D (2025-5305) Approve the Purchase of Up to 10 Megawatts of Battery Energy Storage Products (Environmental Review)

Staff submits the following information to further explain the City's finding that the proposed project is exempt under the California Environmental Quality Act ("CEQA").

The City of Alameda/Alameda Municipal Power (the "City")'s action involves the purchase of battery energy storage through a third-phase agreement with NCPA to participate in the Trolley Pass BESS. The Third-Phase Agreement includes the express condition in Section 2.7 which provides that "The Parties agree that Buyer has no obligation to accept or pay for any Product under this Agreement until the date on which all of the following have occurred (such date, the 'CEQA Completion Date'): (a) any applicable review under CEQA has been completed by the Lead Agency and all necessary CEQA approval(s) for the Facility have been issued by the Lead Agency (the 'CEQA Approval(s)'); and (b) (i) the applicable period for any judicial challenges to the CEQA Approval(s) relating to the Facility has expired without any such challenge having been filed in court, or (ii) in the event of any such challenge, the challenge has been dismissed. The Delivery Term shall not occur without the occurrence of the CEQA Completion Date."

The City finds that its actions do not constitute approval under CEQA and are not a project as defined by CEQA Guidelines Section 15378, which excludes "continuing administrative...activities, such as purchases" and "organization or administrative activities of governments..." (See *Neighbors to Preserve the Waterfront v. Pacific Waterfront Partners LLC et al.* (1st App. Dist, August 26, 2013 Case No. A134220.)¹ Other public agencies have reached the same conclusion including (1) the City of Redding entered into a nearly identical agreement for the Trolley Battery Energy Storage facility on July 9, 2025,² and (2) Northern California Power Agency (NCPA) on June 26, 2025.³

The City further finds that it can be seen with certainty that there is no possibility that the activity will result in a direct or reasonably foreseeable indirect change in the environment. The City further finds that its actions are exempt from CEQA under applicable law, including but not

¹ <https://www.courts.ca.gov/opinions/nonpub/A134220.PDF>

² <https://reddingcityca.iqm2.com/Citizens/FileOpen.aspx?Type=1&ID=4027&Inline=True>

³ http://ncpasharepointservice20161117100057.azurewebsites.net/api/document?uri=https://ncpapwr.sharepoint.com/sites/publicdocs/CommissionMeetings/Commission_Meeting_Packet_062625.pdf [Staff Report]

http://ncpasharepointservice20161117100057.azurewebsites.net/api/document?uri=https://ncpapwr.sharepoint.com/sites/publicdocs/CommissionMeetings/06262025_Commission_Minutes.pdf [Minutes]

limited to CEQA Guidelines Section 15061(b)(3). More specifically, the City finds its action is subject to the commonsense exemption under Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Any such development would also be required to comply with existing regulations, including but not limited to (1) City of Rancho Cucamonga's (Lead Agency) Battery Storage requirements codified in Municipal Code Section 17.109.010 et seq,⁴ which include Development Standards, Energy Operations plans, and Decommissioning Plans, (2) California Fire Code Chapter 12 which outlines specific, applicable requirements for battery energy storage systems including permit requirements, hazard mitigation analysis and fire safety systems, and (3) The California Hazardous Materials Release Response Plans and Inventory Law of 1985 (Business Plan Act) requires preparation of Hazardous Materials Business Plans (HMBPs) and disclosure of hazardous materials inventories, an emergency response plan, and provisions for employee training in safety and emergency response procedures (Health & Saf. Code, §§ 25500-25519; Cal. Code Regs., tit. 19, § 2658).

Respectfully submitted,
Lonnie Eldridge, Special Counsel, Alameda City Attorney's Office

⁴ <https://ecode360.com/45989304>