

## SURETY BOND

Bond No: [\_\_\_\_]

VEA Contract No.: [\_\_\_\_]

Project Name: [\_\_\_\_]

This Surety Bond (“Bond”), dated and effective as of *[date of execution]* (“Effective Date”), is issued by *[Surety’s legal name]*, a *[form of business entity and state of registration]* and an admitted surety insurer authorized to transact the business of surety in the State of Nevada (“Surety”), on behalf of *[IC’s legal name]*, a *[form of business entity and state of registration]* (“Principal”), in favor of Valley Electric Association, Inc., a Nevada non-profit corporation (“Obligee”).

- A. Principal intends to own, lease and/or control and operate an electric energy generating facility, and to interconnect such generating facility to Obligee’s electric system.
- B. As part of the interconnection process and in accordance with Appendix Y of the Generator Interconnection Procedures of the California Independent System Operator Corporation (the “GIP”), Principal is required to post financial security (as defined Appendix Y) (“Interconnection Financial Security”).
- C. Principal has elected to satisfy its obligation to post Interconnection Financial Security by having Surety issue this Bond to Obligee, and Obligee has agreed to accept this Bond as Interconnection Financial Security.

The Principal and Surety, each intending to be legally bound, agree as follows:

1. Payment upon Demand.

- (a) Surety irrevocably and unconditionally agrees to pay to Obligee amounts not to exceed (\$*[dollar amount]*) in the aggregate (“Maximum Bond Amount”), in accordance with the terms of this Bond.
- (b) No later than five (5) Business Days after Surety receives from Obligee a demand notice substantially in the form attached hereto as Attachment A (“Demand Notice”), Surety shall pay to Obligee, by wire transfer of immediately available funds, the amount specified by Obligee in such Demand Notice.
- (c) For purposes of this Bond, “Business Day” means any day other than a Saturday, Sunday, or a Federal Reserve Bank holiday.

2. Multiple Draws Permitted. Obligee may demand multiple payments from Surety under this Bond by providing Demand Notices to Surety from time to time in accordance herewith.

3. Principal Pays Bond Costs. Principal shall pay all commissions, charges, fees, and other costs associated with this Bond. Principal’s failure to pay any such commissions, charges, fees, or costs is not grounds for termination of this Bond.

4. Term. The term of this Bond (“Original Term”) commences on the Effective Date and ends at 5:00 p.m., Nevada time, on *[insert date that Bond’s Original Term ends]* or, if such date is not a Business Day, at 5:00 p.m., Nevada time, on the next Business Day; *provided, however*, that this Bond shall,

subject to Section 6 hereof, be automatically renewed for a term of 365 days upon the expiration of the Original Term and any renewed 365-day term ("Renewed Term").

5. Reinstatement of Bond. Notwithstanding anything to the contrary set forth herein, including but not limited to Section 6 hereof, this Bond and the obligations of Surety hereunder shall be reinstated if, at any time following (a) the termination of this Bond by its terms, or (b) the payment by Surety of the Maximum Bond Amount, any payment made by Surety to Obligor pursuant to a Demand Notice under this Bond is rescinded or must otherwise be returned by the Obligor or other person as a preference, fraudulent transfer, or otherwise, or as a result of the insolvency, bankruptcy, reorganization, dissolution or liquidation of Principal, Surety, or otherwise, and such reinstatement shall return the parties hereto to be bound by their obligations hereunder, all as though such rescinded or returned payment had not been made. In the event of any reinstatement of this Bond and the obligations of Surety hereunder, the then-effective term of this Bond shall end on the later of (x) the term that would have otherwise been effective hereunder, and (y) sixty (60) Business Days after the date that this Bond is reinstated.
6. Termination.
  - (a) Surety may terminate this Bond by providing Notice (as defined in Section 7 hereof) to each of Obligor and Principal at least sixty (60) days before the expiration of the Original Term or the Renewed Term, as applicable, of Surety's intention to terminate this Bond, in which case this Bond shall terminate as of the end of the Original Term or the Renewed Term, as applicable; *provided, however*, that (i) Surety's liability under this Bond shall survive such termination and remain in full force and effect as to obligations incurred by Principal during the Original Term and each Renewed Term, or respective portion thereof, and (ii) if Principal does not provide Interconnection Financial Security acceptable to Obligor at least thirty (30) days before the expiration of the Original Term or the Renewed Term, as applicable, Surety shall, no later than five (5) Business Days after Surety receives from Obligor a Demand Notice, pay to Obligor, by wire transfer of immediately available funds, the amount specified by Obligor in such Demand Notice, which amount, when aggregated with all prior payments made by Surety hereunder and not previously rescinded or returned as described in Section 6 hereof, shall not exceed the Maximum Bond Amount.
  - (b) Subject to Section 5 hereof, the obligation of the Surety to make payments pursuant to this Bond shall terminate automatically and without further notice or action upon the delivery of any payment to the Obligor pursuant to a Demand Notice which, when aggregated with all prior payments to the Obligor pursuant to a Demand Notice, equals or exceeds the Maximum Bond Amount and, if applicable, any additional amounts due to Obligor in accordance with Section 9 hereof.
7. Notice. All notices (including, without limitation, Cure Notices (as defined in Section 11(b) hereof) and Demand Notices), requests, or other communications ("Notices") under or relating to this Bond shall be in writing and shall be delivered by facsimile or other means of electronic transmission, hand delivery, or overnight courier service, and shall be deemed delivered as follows: (a) Notice by facsimile or other means of electronic transmission or by hand delivery shall be deemed delivered on the date and at the time actually received, if received during business hours on a Business Day, and otherwise shall be deemed delivered at 8:00 a.m. on the next Business Day; and (b) Notice by overnight courier service shall be deemed delivered on the next Business Day after such Notice is sent. A party may change its designated representatives, addresses and other contact information by providing Notice of such change(s) in accordance with this Section 7. The Notice information is as follows:

If to Principal: *[IC's legal name]*  
*[IC's address]*  
Attention: *[Title or person's name]*  
Tel No.: *[Phone number]*  
Fax No.: *[Fax number]*  
Email Address: *[Email address]*

If to Obligee: Valley Electric Association, Inc.  
Attention: E. Vice President of Finance and Administration  
800 E. Highway 372; PO Box 237  
Pahrump, NV 89048  
Tel No.: (775) 727-5312  
Fax No.: (775) 727-6320

If to Surety: *[Surety's name]*  
*[Surety's address]*  
Attention: *[Title or person's name]*  
Tel No.: *[Phone number]*  
Fax No.: *[Fax number]*  
Email Address: *[Email address]*

8. Obligations Unconditional; Waiver of Defenses.

- (a) Surety's obligations under this Bond (i) are unconditional, irrevocable, and independent of Principal, and (ii) shall not be affected by any circumstance that constitutes a legal or equitable discharge of a surety or guarantor.
- (b) Surety irrevocably and unconditionally waives any defense whatsoever to payment of amounts owing by Principal to Obligee, including, without limitation, any defense relating to the following: (i) the existence of an indebtedness of Principal to Obligee in excess of the Bond Amount; (ii) release of Principal by agreement or by operation of law; (iii) Obligee's taking, amendment to, or release of any additional security, guaranty or surety for Principal's obligations under the GIP; (iv) Obligee's waiver or election of, or failure to pursue any right or remedy available to it, including, without limitation, Obligee's waiver or election of, or failure to pursue any right or remedy available to it under the GIP; (v) any right of Surety or Principal to require Obligee to first proceed against Principal, any other guarantor or surety, or any other collateral Obligee may hold; (vi) the validity or enforceability of Principal's obligations to Obligee; (vii) any amendments or other modification made from time to time to the GIP; (ix) any defenses, setoffs, or counterclaims that Principal may allege or assert with respect to the Maximum Bond Amount (or any portion thereof); (ix) the benefit of any applicable statute or statute of limitations affecting Surety's liability under this Bond or the enforcement of this Bond; and (x) any other act or omission, or delay to do any other act that might to any extent vary the risk of Surety as an obligor under this Bond, including, without limitation, Principal's failure to provide a copy of a Cure Notice to Surety pursuant to Section 11(b) hereof.
- (c) Surety shall pay all amounts demanded by Obligee in accordance with this Bond without setoff, abatement, reduction or counterclaim of any kind whatsoever.

9. Disputes; Enforcement Action. If Surety and/or Principal in any way dispute the terms of this Bond or the payment of any or all of the Maximum Bond Amount, then, notwithstanding such dispute, Surety shall pay the Maximum Bond Amount without setoff, abatement, reduction or counterclaim of any kind whatsoever, other than a reduction for any amounts already validly paid by Surety to Obligor pursuant to Demand Notices previously honored by Surety. Surety shall pay all reasonable costs, damages, and expenses incurred by Obligor arising out of or otherwise associated with the enforcement of this Bond, including, without limitation, reasonable attorney fees and expenses. Surety's obligation to pay such costs, damages, fees, and expenses shall be in addition to its obligation to pay the Maximum Bond Amount, and shall in no way be interpreted or deemed to be limited by the Maximum Bond Amount.

10. Representations, Warranties and Covenants.

- (a) On the Effective Date, Principal and Surety each represents and warrants that (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, (ii) the execution and delivery of, and performance under this Bond are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party, or any law, rule, regulation, order or the like applicable to it, (iii) this Bond constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, and (iv) there is not pending, or to its knowledge, threatened against it any legal proceeding that could materially adversely affect its ability to perform under this Bond.
- (b) Surety represents and warrants that, on the Effective Date, (i) it is listed on the United States Department of Treasury's most recent and effective listing of approved sureties (Circular 570 or its successor), (ii) it is an admitted surety insurer authorized to transact the business of surety in the State of Nevada, (iii) it has an A.M. Best's Insurance Rating of not less than A:VII, and (iv) either (x) the Maximum Bond Amount is not greater than its underwriting limitation, as set forth in Circular 570 or its successor, or (y) to the extent that any portion of the Maximum Bond Amount is in excess of such underwriting limitation, such excess amount is protected with reinsurance as specified in 31 CFR 223.10-11 or its successor.
- (c) Surety covenants that during the Original Term and each Renewed Term, (i) it shall be listed on the United States Department of Treasury's most recent and effective listing of approved sureties (Circular 570 or its successor), (ii) it shall be an admitted surety insurer authorized to transact the business of surety in the State of Nevada, (iii) it shall have an A.M. Best's Insurance Rating of not less than A:VII, and (iv) either (x) the Maximum Bond Amount shall not be greater than its underwriting limitation, as set forth in the most recent Circular 570 or its successor, or (y) to the extent that any portion of the Maximum Bond Amount is in excess of such underwriting limitation, such excess amount is protected with reinsurance as specified in 31 CFR 223.10-11 or its successor.

11. Miscellaneous.

- (a) Subject to Sections 5 and 9 hereof, the total amount of Surety's obligations under this Bond for payment to the Obligee shall not exceed the Maximum Bond Amount.
- (b) If the Obligee issues a notice to Principal requesting the cure of a default under the GIP (the "Cure Notice") at any time during the Original Term or any Renewed Term, Principal shall ensure that a copy of such Cure Notice is delivered to Surety pursuant to the procedure set forth in Section 7 hereof.
- (c) This Bond shall be governed by the laws of the State of Nevada without regard to conflict of laws principles. Surety and Principal irrevocably submit to the jurisdiction of any Nevada court or any United States court sitting in Nevada over any action or proceeding arising out of or relating to this Bond and irrevocably agree that all claims in such action or proceeding may be heard and determined by such court. Surety and Principal agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Surety and Principal waive any objection to venue on the basis of forum non conveniens. Surety and Principal irrevocably consent to the service of process in any action or proceeding by the mailing of copies of such process to Surety and Principal, as applicable at their respective addresses set forth in, and otherwise in accordance with Section 7 hereof. Nothing in this Bond shall affect the right of Obligee to bring any action or proceeding against Surety and/or Principal or their respective property in the courts of any other jurisdictions.
- (d) This Bond may be waived, altered, amended or supplemented only by a writing signed by Surety and Obligee.
- (e) Neither this Bond nor any right or interest under this Bond may be assigned by Principal or Surety without the prior written consent of Obligee, which consent shall not be unreasonably withheld. Any direct or indirect change of control of Principal or Surety (whether voluntary or by operation of law) shall be deemed an assignment in violation of this Bond, and will require the prior written consent of Obligee.
- (f) If any provision of this Bond is determined to be prohibited or unenforceable by reason of any applicable law of a jurisdiction, then such provision shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions thereof, and any such prohibition or unenforceability in such jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.
- (g) The parties to this Bond are represented by legal counsel. The terms of this Bond and the language used herein shall be deemed to be the terms and language chosen by the parties hereto to express their mutual intent. This Bond shall be construed without regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted, or in favor of the party receiving a particular benefit under this Bond. No rule of strict construction will be applied against any party.
- (h) This Bond may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS THEREOF, each of Surety and Principal has caused this Bond to be executed on its behalf by its duly authorized officer as of the Effective Date.

*[IC'S LEGAL NAME]*

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

Name: *[Authorized representative's name]*

Title: *[Authorized Representative's title]*

*[SURETY'S LEGAL NAME]*

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

Name: *[Authorized representative's name]*

Title: *[Authorized Representative's title]<sup>1</sup>*

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<sup>1</sup> *[If Surety's agent is signing on behalf of Surety, obtain Power of Attorney form from agent.]*

**ATTACHMENT A TO SURETY BOND NO. [ ]**  
**FORM OF DEMAND NOTICE**

Valley Electric Association, Inc.  
800 E. Highway 372; PO Box 237  
Pahrump, NV 89048

*[Date]*

*[Surety's name  
Surety's address]*

Re: Demand Notice under Surety Bond, No. [ ], dated and effective as of *[Effective Date of Bond]* ("Bond"), entered into by *[Surety's legal name]* ("Surety") and *[IC's full legal name]* ("Principal") and issued by Surety on behalf of Principal in favor of Valley Electric Association, Inc. ("Obligee")

Ladies and Gentlemen:

This letter constitutes Obligee's Demand Notice to Surety in accordance with the Bond. All capitalized terms used and not otherwise defined in this Demand Notice have the meanings assigned to them in the Bond.

*[Insert one or both of the following two paragraphs, as applicable:*

*The undersigned hereby certifies to Surety that (\$[dollar amount]) is due and owing from Principal to Obligee under the terms of the [agreement/tariff short name]. Obligee hereby demands payment from Surety in the amount of \$[dollar amount].*

**- or -**

*The undersigned hereby certifies to Surety that, as of the close of business on [date less than thirty (30) days before the expiration of the Bond], Principal has failed to replace the Bond in satisfaction of the credit requirements established by the [agreement/tariff short name]. Obligee hereby demands payment from Surety in the amount of \$[dollar amount].]*

Please pay this amount in accordance with the following payment instructions no later than five (5) Business Days after your receipt of this Demand Notice, with such receipt determined in accordance with Section 7 (Notice) of the Bond: *[VEA's wire transfer instructions]*

Sincerely,

Valley Electric Association, Inc.

By: \_\_\_\_\_  
Name: *[Authorized representative's name]*  
Title: *[Authorized representative's title]*