

REPORT TO CITY COUNCIL

DATE: SEPTEMBER 25, 2024

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

**BY: JOHN TREICHLER, ADMINISTRATIVE ANALYST
LOUIS CELAYA, DEPUTY CITY MANAGER**

SUBJECT: REQUEST TO APPROVE THE SOLAR AND STORAGE SITE LEASE AGREEMENT WITH COAST ENERGY DEVCO, LLC

The City of Agoura Hills has been a member of the Clean Power Alliance (CPA) since 2019 in order to bring clean power, local control, and local benefits to the City. As a member agency, the City has representation on CPA's board which in response to the increasing risk of weather and disaster related electricity outages, including Public Safety Power Shutoff (PSPS) and grid emergency events, authorized CPA staff in January 2020 to conduct a Request for Information (RFI) to member agencies. The purpose of the RFI was to gauge interest in a program that would provide a solar-paired battery energy storage system or a stand-alone energy storage system.

The program that was introduced to the City by CPA is called the "Power Ready Program" and is designed to address the needs for resiliency outlined by CPA's member agencies. It is offered as a community benefit to the City at no cost. CPA is further making participation easy for the City by contracting with a developer/financier to build, own, and operate the system for 20 years. Once the pooling of member agency sites was determined, CPA solicited bids through the Request for Offer (RFO) process allowing CPA to get more cost-effective bids from a developer than if agencies were to undertake this individually.

At the August 10, 2022, City Council meeting, the City Council approved entering into a Memorandum of Understanding (MOU) with Clean Power Alliance (CPA), authorizing the City Manager to execute the document on behalf of the City. CPA completed the RFO request and Coast Energy DevCo, LLC was selected as the Developer and assigned to the project. The next step in the process is executing the Site Lease Agreement with Coast Energy DevCo, LLC.

Both Coast Energy DevCo, LLC and the City of Agoura Hills legal staff collaborated together to create the Site Lease Agreement that is being presented for consideration.

Some highlighted points within the agreement are as follows:

1. City will receive Ten dollars (\$10.00) per month, or one hundred twenty dollars (\$120.00) annually.
2. Lease Agreement Term is for twenty (20) years.
3. The City is able to purchase the equipment per the "Buyout Option" upon completion of the initial terms. Price will be determined by "Fair Market Value" at that time.
4. Coast Energy DevCo, LLC will be responsible for the maintenance of the Solar and Storage System for the entire twenty (20) year period.

In addition, to the Site Lease Agreement the developer, on behalf of the City, will be required to apply for the Self Generation Incentive Program (SGIP) administered by California Public Utilities Commission (CPUC). Currently, there are no available estimates or guarantees that the City will be awarded SGIP funds. SGIP funds work on a tiered rate structure, which means the SGIP incentive amount decreases as more batteries are installed in the state. The incentive is also dependent on the size of the system. Larger systems will qualify for a larger incentive amount compared to a small battery installed in a home. If the City is awarded any SGIP funds, the agreement requires the City to transfer awarded funds to the developer to support financing of the battery energy storage, which helps reimburse for the overall cost of operation.

Once the Site Lease Agreement is executed, it replaces the MOU, and Coast Energy DevCo, LLC can break ground on the project. It is estimated that the project will begin in Summer 2025, due to the supply and demand of certain components within the equipment.

FISCAL IMPACT

There is no direct fiscal impact to the City Council approved Fiscal Year 2024-25 budget. The SGIP fund and the Power Purchase Agreement between the CPA and the developer are the financing mechanism for this project. These financing mechanisms allow this project to be a no cost power resilience to the City. No further appropriations for this project will be requested by staff as the project is self-sufficient.

RECOMMENDATION

Staff respectfully recommends the City Council approve the following:

1. Solar and Storage Site Lease Agreement; and
2. Authorize the City Manager to execute the document on behalf of the City.

Attachment: Solar and Storage Site Lease Agreement

Attachment 1

Solar and Lease Agreement

SOLAR AND STORAGE SITE LEASE AGREEMENT

This solar and storage site lease agreement (“**Lease**”) is made and entered into as of _____, the last date signed below (the “**Effective Date**”), by and between the City of Agoura Hills, a California municipal corporation (“**City**” or “**Lessor**”) and Coast Energy DevCo, LLC, a Delaware limited liability company (“**Lessee**”). City and Lessee may be referred to individually as a “**Party**” or collectively as the “**Parties**”.

RECITALS

WHEREAS,

A. City is the owner of certain real property, consisting of land and certain improvements, buildings, and other structures located thereon, as more particularly described on Exhibit A (the “**Property**”).

B. The Property is identified as a site for energy resilience as part of the Power Ready Program (“**Program**”). Clean Power Alliance of Southern California (“**CPA**”) administers the Program to support community energy reliability efforts in its service territory by providing public agencies with an on-site energy resiliency project that also provides significant community benefit and demand response capabilities to CPA.

C. After issuing and administering a competitive Request for Offers, CPA selected Lessee as the third-party developer to develop behind-the-meter battery energy storage and solar photovoltaic generation energy systems at developer’s sole cost and expense at the sites selected for the Program, including a portion of the Property, subject to developer entering a Solar and Storage Site Lease Agreement with the site owners.

D. Lessee and CPA have entered into a Renewable Power Purchase Agreement dated February 9, 2024 (“**PPA**”), wherein Lessee has agreed to build, finance, own and operate a solar photovoltaic energy generation system and associated battery energy storage system, (together, the “**Facility**”), as more particularly described in Exhibit B on a portion of the Property and CPA has agreed to purchase from Lessee the electrical energy produced by the Facility.

E. In order to build and operate the Facility, Lessee requires access to and use of the Premises, as further described below.

F. City agrees to lease the Premises to Lessee on the terms and conditions set forth in this Lease.

G. The Parties intend that Lessee will replace or repair the roof of the building on which the Facility (or any portion thereof) will be installed prior to such installation, as set forth in Exhibit J.

NOW, THEREFORE, in consideration of these Recitals and the following covenants, terms, and conditions, Lessee and City mutually agree as follows:

LEASE PROVISIONS

ARTICLE 1 INTERPRETATION; EXHIBITS.

1.1 **Interpretation.**

- (a) The captions of the various sections, paragraphs and subparagraphs of this Lease are for convenience only and shall not be considered or referred to in resolving questions of interpretation.
- (b) In construing or interpreting this Lease, the word “or” shall not be construed as exclusive and the word “including” shall not be limiting.

1.2 **Recitals.** The Recitals set forth above are true and correct and are hereby incorporated into this Lease as if fully set forth herein.

1.3 **Exhibits.** The following Exhibits are attached to and made part of this Lease as if fully set forth herein.

- EXHIBIT A DESCRIPTION OF PROPERTY
- EXHIBIT B DESCRIPTION OF FACILITY
- EXHIBIT C DEFINITIONS
- EXHIBIT D DESCRIPTION OF PREMISES
- EXHIBIT E SECURITY MEASURES
- EXHIBIT F WORK SCHEDULE
- EXHIBIT G INSURANCE REQUIREMENTS
- EXHIBIT H FORM OF LENDER CONSENT AND AGREEMENT
- EXHIBIT I MEMORANDUM OF LEASE
- EXHIBIT J ROOF REPLACEMENT OR REPAIR
- EXHIBIT K TERMINATION PAYMENT

ARTICLE 2 DEFINITIONS.

Capitalized terms used in the Lease and not otherwise defined herein have the meanings set forth in Exhibit C (Definitions).

**ARTICLE 3
LEASE.**

City hereby leases to Lessee, in accordance with the terms and conditions set forth in this Lease, land, floor space, rooftop space, and additional cabling space for associated utility lines, cables, conduits, wires, and equipment (all of which are described specifically in Exhibit D (Description of Premises)) (the “**Premises**”) necessary to allow for the Permitted Uses. Unless specifically provided in this Lease, Lessee accepts the Property, including the Premises, “as-is” on the Effective Date of this Lease.

**ARTICLE 4
RENT.**

In consideration for the lease of the Premises, Lessee shall pay City monthly rent of ten dollars (\$10.00), or one hundred twenty dollars (\$120.00) annually, which shall be paid annually on July 1, without notice or demand of any kind by City. All payments shall be submitted to: City of Agoura Hills 30001 Ladyface Court, Agoura Hills, CA 91301. The first year’s rent may be prorated, and is due within ten (10) Business Days of the Effective Date.

**ARTICLE 5
TERM, TERMINATION.**

5.1 **Term.**

- (a) **Definition.** This Lease shall commence on the Effective Date and shall remain in effect until:
 - (i) Twenty (20) years after the Commercial Operation Date plus the ninety (90) day removal period provided under section 5.4 (the “**Term**”) except where a Buyout Option is exercised with respect to the Facility; or
 - (ii) The Lease has been terminated by either the City or Lessee in accordance with the terms of this Lease.
- (b) Within five (5) Business Days of execution, Lessee shall provide City with a copy of the Commercial Operation Date Certificate submitted to CPA under the PPA.

5.2 **Termination.** The City, in its sole discretion, shall have the right to terminate this Lease as follows:

- (a) **Public Purpose.** If the City determines that it requires the Premises or portions thereof at any time or multiple times during the Term for any public purpose as determined by City in its sole discretion, upon sixty (60) days prior written notice to Lessee, the City may in its sole discretion either (i) find an alternative City-owned replacement site that has substantially similar insolation and reasonably acceptable access to the utility grid (with appropriate upgrades or otherwise), that Lessee may use for the System; provided, however, that the City shall pay for the reasonable costs of removal, lost revenue from production and costs of reinstallation of the System (including interconnection and utility related fees from the existing Premises to the new site and City agrees to execute a Lease for the new

site, which will be referred to as the “Premises,” with all other terms remaining the same; provided further that Lessee shall use commercially reasonable efforts to remove and reinstall the System without delay and endeavor to minimize lost production time, or (ii) terminate the Lease and pay to Lessee the applicable Termination Payment.

- (b) Event of Default. City may terminate this Lease following a Lessee Event of Default in accordance with section 23.5 of this Lease.

5.3 **Buyout Option for the Facility.** At the expiration of the Term, the City has the option, in its discretion, to purchase the Facility at a price determined to be the fair market value, determined in accordance with section 5.3(A)(ii) below, or at a price mutually agreed to by the Parties. The City may exercise its Buyout Option, however, it is not obligated to complete the purchase should the Fair Market Value not be acceptable to the City, or for any other reason.

- (a) Exercise of Buyout Option: Notice; Fair Market Value.

- (i) If the City desires to exercise its Buyout Option, City will, no later than six (6) months prior to expiration of the Term, notify Lessee of City's election to exercise its Buyout Option.
- (ii) “Fair Market Value”. The “fair market value” of the Facility shall be determined by an independent, third-party appraiser mutually agreed upon by Lessor and Lessee having substantial experience in the valuation of solar facilities similar to the Facilities. If Lessor and Lessee are unable to agree, then each of Lessor and Lessee shall designate an appraiser who shall designate a third appraiser having substantial experience in the valuation of solar facilities similar to facility, to perform the fair market value appraisal. The reasonable costs of the fair market value appraisal shall be borne by Lessee, provided however, if the City decides not complete the purchase for any reason, the City shall reimburse Lessor for the reasonable cost of the appraisal.

5.4 **Removal of Facility.**

(a) Except where a Buyout Option is exercised with respect to the Facility, Lessee shall at its sole expense, remove the Facility and all its associated equipment and materials and any other equipment or materials brought or caused to be brought to the Premises by Lessee completely, vacate the Premises and Property, and restore the Premises and any portion of the Property affected by Lessee, to its original conditions, taking into account any repair and replacement of the roof pursuant to this Lease, and not including restoration of normal wear and tear, within ninety (90) days of:

- (i) Expiration of the Term; or
- (ii) Upon termination.

(b) Lessee shall restore the Premises, and any portion of the Property affected by Lessee, to its original condition (excluding reasonable aging, wear and tear) to the reasonable

satisfaction of City, including any damage to the Premises or the Property caused by Lessee, the Facility or its removal.

- (c) Before departure, Lessee shall return any of City's keys, including any copies of such keys, or personal property to City in good, clean and sanitary condition, reasonable wear and tear excepted.
- (d) Lessee shall allow City to inspect the Premises to verify the condition of the Premises and its contents. At City's reasonable request, Lessee agrees to participate in a walk-through inspection of the Premises to verify the condition of the Premises.
- (e) City shall provide Lessee with reasonable access to perform the necessary removal activities.
- (f) Upon City's reasonable request, the usual and customary lighting, plumbing, utility, and heating fixtures shall remain upon the Premises upon termination or expiration of this Lease.

ARTICLE 6 USE OF PREMISES.

6.1 **Permitted Uses.** Lessee shall use the Premises exclusively for the purpose of development, engineering, design, construction, installation, operation, maintenance, monitoring, cleaning, repair, replacement, decommissioning and removal of the Facility described in Exhibit B of this Lease, in its entirety or any component thereof ("**Permitted Uses**").

- (a) No City monies shall be required to fund the development, construction, financing, maintenance, and/or operation of the Facility.

6.2 **Prohibited Uses.** Lessee shall not use the Premises for any purpose not expressly permitted hereunder.

- (a) Lessee shall not create, cause, maintain or permit any nuisance or waste in, on, or about the Premises, or permit or allow the Premises to be used for any unlawful or immoral purpose. Lessee shall not do or permit to be done anything in any manner which unreasonably disturbs the users of the Property or the occupants of neighboring properties. Specifically, and without limiting the above, Lessee agrees not to cause any unreasonable odor, noise, vibration, power emission, or other item to emanate from the Premises or Access Property, as defined below.
- (b) No materials or articles other than the Facility of any nature shall be stored outside upon any portion of the Premises or Property, except those used for construction, in an area to be designated by City. Lessee will not use Premises or Property in a manner that unreasonably increases the risk of fire or cost of fire insurance.
- (c) No unreasonable sign or placard shall be painted, inscribed or placed in or on the Premises; and no tree or shrub thereon shall be destroyed or removed or other waste committed of said Property, except that Lessee may request to remove trees or shrubs necessary to ensure the Facility is not shaded and receives adequate sunlight,

which approval thereof by City shall not be unreasonably withheld, but may be reasonably conditioned.

- (d) Except as set forth in section 7.1(C), no bicycles, motorcycles, automobiles or other mechanical means of transportation shall be placed or stored anywhere on the Premises except for designated parking or storage spaces. No repair, overhaul, or modification of any motor vehicle shall take place on the Property or the streets adjacent to said Property.
- (e) Lessee, at its own expense, shall keep the Premises in as good condition as it was at the beginning of the Term hereof, except ordinary wear and tear, and except damage to City facilities and Property, which is not the fault of Lessee or any entity or person under Lessee's control. Lessee shall document, through the use of photographs, the condition of the Premises at the beginning of the Term of the Lease and prior to the commencement of any work.

6.3 **Condition and Use of Premises.** City represents that, as of the Effective Date, (a) to City's actual knowledge, there are no Hazardous Materials at, on or under the Premises, and (b) the City is aware of no conditions at the Premises that would be reasonably likely to result in an adverse effect on the Facility or Lessee's ability to produce and deliver electricity therefrom. Except as expressly set forth in this Section 6.3, City makes no warranty or representation of any kind concerning the condition of the Premises, or the fitness of the Premises for the use intended by Lessee, and hereby disclaims any personal knowledge with respect thereto, it being expressly understood by the Parties that Lessee has personally inspected the Premises, knows its condition and accessibility, finds it fit for Lessee's intended use, accepts it as is, and has ascertained that it can be used for the Permitted Uses.

6.4 **Rooftop Replacement.** Lessee shall replace or repair the roof of the Building in accordance with the terms set forth in Exhibit J.

ARTICLE 7 ACCESS.

7.1 **For Lessee.**

- (a) **Ingress & Egress.** City hereby grants to Lessee, for the Term, a non-exclusive right-of-way for vehicular and pedestrian ingress and egress to the Premises to the extent required by Lessee for the Permitted Uses and as mutually agreed upon by the Parties (the "**Access Property**").
- (b) **Access to Sunlight.** The City shall not cause or permit any interference with the Facility's access to sunlight as such access exists as of the Effective Date, which interference is under the control of the City. The City shall from time to time trim any vegetation on the Property as necessary to maintain such access to sunlight. Lessee understands that City does not control and is not obligated to prevent interference that is not caused by the City or City's facilities.
- (c) **Additional Space.** City hereby grants to Lessee the temporary use of additional space on the Property, in such areas mutually agreed to in advance by the Parties, during the installation, maintenance, repair, replacement, improvement, or removal

of the Facilities on or from the Premises. Upon completion of its installation, maintenance, repair, replacement, improvement, or removal activity, Lessee will remove all materials from the additional space and will restore the area to substantially the same condition in which it existed immediately prior to Lessee's use.

- (d) Exclusive Access. Subject to the rights of Lessor to access the Premises as set forth in this Agreement, Lessee is granted exclusive access to the Premises.

7.2 **For City.**

- (a) Lessee acknowledges and agrees that the Premises retains primary use as public property operated by the City or its assignee at City's sole discretion and with associated operator access.
- (b) Access for Inspection. City and City's agents shall have the right to open or enter the Premises at reasonable times, upon not less than twenty-four (24) hours prior notice to Lessee (except in the event of an emergency in which case notice shall be given not less than twenty-four (24) hours after entry), for the purpose of inspecting same, showing same to prospective lenders or lessees, and making such alterations, repairs, improvements, or additions to the Premises as City may deem necessary.

7.3 **Security Measures.**

- (a) Lessee shall comply with the security measures set forth in Exhibit E.
- (b) Lessee shall provide City with keys to any locks Lessee installs and codes to any security system it installs to allow City access to the Premises, subject to the notice requirements set forth in the Lease.

ARTICLE 8 HAZARDOUS MATERIALS.

- 8.1 **Use of Hazardous Materials Prohibited.** Lessee shall not cause or permit any Hazardous Materials to be brought upon, kept or used in or about the Premises or Property by Lessee, its agents, employees, contractors or invitees. Notwithstanding the above, Lessee may install, operate, and maintain the Facility, provided Lessee does so in compliance with all applicable laws, regulations, Prudent Industry Practices, and instructions by the equipment manufacturers.
- 8.2 **City's Right to Perform Tests.** At any time during the Term, City shall have the right, but not the obligation, to enter upon the Premises in order to conduct tests of water, soil and other relevant media or substances to assess the environmental condition of the Premises, provided that such tests do not unreasonably interfere with the operation of the Facility.

**ARTICLE 9
UTILITIES AND OPERATING EXPENSES.**

- 9.1 Reserved.
- 9.2 City shall have no obligation to provide any other utilities to Lessee.

**ARTICLE 10
TAXES; SGIP INCENTIVE.**

- 10.1 **Revenue and Taxation Code.** Lessee specifically acknowledges it is familiar with section 107.6 of the California Revenue and Taxation Code. Lessee realizes that a possessory interest subject to property taxes may be created, agrees to pay any such tax, and hereby waives any rights Lessee may have under said California Revenue and Taxation Code section 107.6.
- 10.2 **Personal Property Taxes.** Lessee shall pay before delinquent, or if requested by City, reimburse City for, any and all taxes, fees, and assessments associated with the Premises, the personal property contained on the Premises and other taxes, fees, and assessments regarding any of Lessee's activities which take place at the Premises or affect the Property. Lessee recognizes and understands in accepting this Lease that its interest therein may be subject to a possible possessory interest tax that City or County may impose on such interest and that such tax payment shall be the liability of and be paid by Lessee.
- 10.3 **Self-Generation Incentive Program.**
 - (a) City shall use commercially reasonable efforts to apply for and cause Lessee to receive SGIP (as defined in Section 10.3(d) below) incentive funds, including by providing information necessary for Lessee to complete SGIP application paperwork, assisting Lessee to respond to SGIP-related questions from program administrators, etc.
 - (b) Lessee shall pay any required estimated rebate deposits and similar costs to the program administrator on behalf of City. City shall promptly provide notice to Lessee of any communications from any Governmental Authorities or SGIP administrators (including copies of all written communications) with respect thereto.
 - (c) City shall designate Lessee as the recipient of any and all SGIP incentive funds. If City receives any payment, distribution, refund or reimbursement of any deposits made by Lessee or SGIP incentive funds, City shall promptly forward such money to Lessee.
 - (d) "SGIP" means the California Public Utility Commission's Self-Generation Incentive Program created pursuant to R.12-11-005 and all related CPUC decisions and rulings.

ARTICLE 11
CONTRACTORS, CONSULTANTS; WORK HOURS.

11.1 Contractors, Consultants.

- (a) Any contractor or consultant engaged by Lessee to install, construct, operate or maintain the Facility must be properly licensed throughout the duration of their engagement, and comply with all applicable federal, state and local laws, as well as the terms of this Lease.
- (b) Lessee agrees to advise the City of any contractors or consultants involved in the installation or construction of the Facility in advance of the commencement of the Construction Period, as defined in Exhibit F of this Lease.
- (c) Lessee is responsible for the conduct of its contractors and consultants, and any subcontractors thereto, and City shall have no contractual relationship with any such contractors or consultants.
- (d) All Lessee's contractors and consultants must carry public liability and property damage insurance, standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, during the period of construction consistent with requirements set forth in section 26 (Insurance). Such insurance shall contain waiver of subrogation clauses in favor of City and Lessee in accordance with the Provisions of Exhibit G (Insurance Requirements)

11.2 Work Hours.

- (a) Lessee shall cause all installation, construction, maintenance, or operations work to be performed as authorized by any Lessee permit for such work and in accordance with the City's applicable codes. All such work shall be in a manner that does not unreasonably interfere with City and City's employees, visitors, tenants, licensees and their customers to the extent commercially practicable. Except for emergency situations or unplanned outages, Lessee shall notify the Lease Administrator at least seventy-two (72) hours in advance of such work and schedule the activities in coordination with the City to reasonably minimize interference with use of the Property.

ARTICLE 12
OWNERSHIP OF FACILITY.

- 12.1 Title to the Facility placed on the Premises by Lessee shall be held by Lessee during the Term. Notwithstanding anything to the contrary in this Lease, City and Lessee acknowledge and agree that the Facility is not a fixture to a City building and/or the Property, and City agrees that it will not claim or assert assist any other entity in claiming or asserting that the Facility is a fixture to a City building and/or the Property.
- 12.2 In the event City exercises its Buyout Option, Lessee shall take whatever actions are reasonably necessary to transfer fee title ownership of the Facility to City, free and clear from any lien, or monetary or other encumbrances.

- 12.3 Should this Lease be terminated for any reason prior to the expiration of the Term, except in the event City exercises its Buyout Option, all of the Facility placed by Lessee on the Premises shall remain under the ownership of Lessee and shall be removed by Lessee in accordance with section 5.4 of this Lease.
- 12.4 City acknowledges and agrees that:
- (a) The City has no ownership interest in the Facility (except in the event City exercises its Buyout Option), and Lessee is, and will remain throughout the Term, the exclusive legal, beneficial and tax owner and operator of the Facility;
 - (b) The City and its authorized representatives and invitees shall not, without Lessee's prior written approval, modify, alter, service, repair or shut down any part of the Facility, or impair or interrupt the generation, storage or discharge of energy by the Facility or transmission of energy from the Facility to the Delivery Point (as defined in the PPA) and shall not permit any other person to do so; *provided*, if the City reasonably determines that Lessee has failed to take prompt and/or reasonable action to prevent any imminent risk of damage or injury to any Person or any Person's property, the City shall have the right to take such action as it reasonably deems necessary to prevent such damage or injury, and shall give Lessee Notice of such actions. Such action may include disconnecting and removing all or a portion of the Facility, or suspending the supply of energy from the Facility to the Delivery Point. In the event the City takes any such actions, directly or through a third party, Lessee shall reimburse the City for all such reasonable costs incurred by the City in taking such actions.
 - (c) Notwithstanding the Facility's presence on the Premises, as between the City and Lessee, Lessee is the exclusive owner of the energy generated by the Facility and owner of any environmental attributes and environmental incentives of the Facility;
 - (d) The Facility may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered (collectively, a "**Transfer**") with the fee interest or leasehold rights to the Property by City; and
 - (e) Nothing shall prevent or limit City's right to Transfer the Property or the Premises; provided, however that:
 - (i) City agrees to give Lessee at least fifteen (15) days written notice prior to any Transfer of all or a portion of the Property identifying the transferee, the portion of the Property to be transferred and the proposed date of transfer; and
 - (ii) City agrees that this Lease and any right-of-way granted hereunder shall run with the Property and the Premises and survive any Transfer of the Property or the Premises.

ARTICLE 13
INSTALLATION AND CONSTRUCTION OF FACILITY BY LESSEE.

13.1 Installation of Facility.

- (a) City Consent. City hereby consents to the installation on the Premises of the Facility by Lessee, as shown in Exhibit B (Description of Facility), subject to the conditions and obligations in this Lease.
- (b) Installation and Work. Lessee shall be responsible for the installation of the Facility, including all costs associated with the installation of the Facility.
 - (i) Lessee shall obtain, at no cost and expense to City, all Permits, and execute all agreements, necessary for the installation and operation of the Facility from City. Lessee is responsible for and City agrees to cooperate in Lessee's seeking any and all Permits Lessee finds necessary or desirable for the installation of the Facility. Lessee will carry out its activities in accordance with all applicable laws, rules, codes, ordinances, and emergency orders.
 - (ii) Lessee shall carry out or cause to be carried out all construction, installation, maintenance, and repair work in a good, efficient and workmanlike manner.
 - (iii) All installation and construction performed by or on behalf of Lessee shall materially and substantially conform to the plans, specifications, construction, and architectural standards contained in Exhibit B (Description of Facility), the siting and construction plan approved by the City, and approved building permit(s) for the Facility.
 - (iv) All work shall be performed in a manner that complies with all applicable governmental permits, laws, ordinances, regulations, and emergency orders, and shall meet all other requirements contained in this Lease.
 - (v) All work shall be conducted in a manner as will not unreasonably interfere with City's operation or maintenance of the Property and the improvements thereon.
 - (vi) Lessee shall, and shall cause its contractors to, keep the Premises and Access Property reasonably clear of debris, waste, material and rubbish and to comply with reasonable safety procedures established by City for the conduct of business on the Premises or Property.
 - (vii) Lessee shall keep the Premises and Property free and clear of all claims and liens resulting from construction done by or for Lessee.
- (c) As Built Plans. Lessee shall provide the Lease Administrator with a complete set of reproducible "as-built plans" reflecting actual construction within or upon the Premises upon completion of any: (i) new construction; (ii) structural alterations; or (iii) non-structural alterations costing more than twenty-five thousand dollars (\$25,000).

ARTICLE 14
MAINTENANCE AND OPERATION OF FACILITY BY LESSEE.

14.1 **Maintenance.**

(a) **City Responsibilities.**

(i) **Premises.** City shall be responsible for the maintenance and repair of the overall Premises, other than the Facility, including main support systems not exclusively serving the Lessee's Facility, such as electrical system repair, painting, structural repairs, and all maintenance of landscaped areas.

(A) **Relocation:**

(1) City may request to move the Facility on a temporary basis to another location on the Property or to another site owned by City as necessary to perform City's maintenance responsibilities.

(2) For any such relocation that is required due to repair or maintenance work or another purpose unrelated to the Facility, and not caused by Lessee or those in Lessee's control, the City is responsible for all associated reasonable costs of removal and reinstallation and must proceed diligently; *provided*, the City shall not be required to reimburse Lessee for any lost revenue under the PPA during the first forty-five (45) days of such relocation, but shall reimburse Lessee for any lost revenues under the PPA in the event the Facility is uninstalled in excess of forty-five (45) days (except to the extent such additional delays are caused by Lessee).

(ii) **Access Property.** City shall maintain or cause to be maintained, including repair and replacement as necessary, the Access Property serving the Premises.

(b) **Lessee Responsibilities.**

(i) Lessee shall be solely responsible for the maintenance of the Facility. Lessee shall maintain, at Lessee's expense, the Facility, including all related equipment, furnishings, and trade fixtures upon the Premises in a safe, clean, wholesome, and sanitary condition required for the maintenance and operation of a first-class business of the type to be conducted pursuant to this Lease. Lessee agrees to promptly (and in no case later than within forty-five (45) days written notice from City) restore the physical appearance and operational functionality of the Facility to such a condition, including paint, clean, and abate graffiti, to the reasonable satisfaction of City, and in compliance with all applicable laws, throughout the term of this Lease.

14.2 **Facility Operation.**

- (a) Lessee shall be solely responsible for the operation of the Facility. Lessee's obligation shall include, without limitation, the obligation to promptly make or pay (as determined by City) for any repairs to the Property or to the Premises to the extent the damage was caused by Lessee, its employees, agents, contractors or subcontractors.
- (b) Lessee shall bear all risk of loss with respect to the Facility, except:
 - (i) As set forth elsewhere in this Lease; or
 - (ii) For negligence or misconduct by the City or its agents and employees.
- (c) Lessee shall operate the Facility so as to keep the Facility in good operating condition and repair, in compliance with all applicable laws, and in accordance with generally accepted practices of the electric industry, in general, and the solar generation industry in particular.
- (d) Lessee shall operate the Facility in compliance with Prudent Industry Practices.

**ARTICLE 15
RECORDS.**

Lessee shall provide City with statistical data on any applicable Project Labor Agreement compliance and Lessee's compliance with all prevailing wage requirements within sixty (60) days of a written request by City.

**ARTICLE 16
SIGNS.**

Lessee shall not place, construct, maintain, or allow any signs upon the Property without prior written consent of City, which consent shall be at the City's sole discretion.

**ARTICLE 17
ALTERATIONS BY LESSEE.**

Lessee shall not make any alterations or modifications to the Premises without obtaining the prior written consent of the Lease Administrator, which consent shall be at the City's sole discretion. Lessee may, at any time and at its sole expense, install and place business fixtures and equipment within the Premises provided such fixtures and installation have been reviewed and approved by the Lease Administrator, which consent shall be at the City's sole discretion.

**ARTICLE 18
PREVAILING WAGE.**

- 18.1 Prevailing wage requirement. Lessee shall comply, and shall cause all of its contractors, subcontractors or other consultants to comply with all applicable prevailing wage requirements Lessee's prevailing wage obligations may be satisfied upon the execution of a project labor agreement related to construction of the Facility.

18.2 Reserved.

**ARTICLE 19
REPRESENTATIONS AND WARRANTIES.**

- 19.1 City represents and warrants that it has full right and authority to enter into this Lease and to perform all of City's obligations hereunder and that all persons signing this Lease on its behalf are authorized to do so. Lessee represents and warrants that Lessee has full right and authority to enter into this Lease, and to perform all of Lessee's obligations hereunder, and that all persons signing this Lease on its behalf are authorized to do so.
- 19.2 City represents and warrants that, on the Effective Date, (i) it owns fee title to the Property and is the sole owner of the Property (including the Premises), and (ii) City's ownership of the Property (including the Premises) is subject to no Liens or exceptions to title other than Liens, if any, expressly disclosed in writing by City to Lessee prior to the Effective Date.

**ARTICLE 20
HOLD HARMLESS; INDEMNIFICATION.**

- 20.1 **General Indemnification.** Lessee agrees to protect, defend (with counsel acceptable to City), hold harmless and indemnify City, its City Council, commissions, officers, agents, volunteers, and employees ("City Indemnitees") from and against any claim, injury, liability, loss, cost, penalties, forfeiture, and/or expense and/or damage, however same may be caused, including all costs and reasonable attorney's fees in providing a defense to any claim arising therefrom for which City Indemnitees shall become legally liable, arising from Lessee's or its contractors, consultants, agents, or assigns negligent, reckless, or wrongful acts, errors, or omissions with respect to or in any way connected with this Lease together with reasonable attorneys' fees and all costs and expenses reasonably incurred by City Indemnitees in negotiating, settling, defending or otherwise protecting against such claims. This indemnity shall be in addition to the Hazardous Materials Indemnity and Indemnity for Claims Arising Out of Construction contained in this Lease and shall survive the expiration of or early termination of the Lease Term.
- 20.2 **Indemnity for Claims Arising Out of Construction.** Lessee agrees to protect, defend (with counsel acceptable to City), hold harmless and indemnify City Indemnitees from and against any claim, injury, liability, loss, cost, penalties, forfeiture, and/or expense or damage arising out of work performed on the Property or in furtherance of this Lease or construction of the Facility, whether on or off the Property, by Lessee or its employees, customers, sublessees, contractors, subcontractors, consultants, agents or assigns ("Lessee Parties"), together with reasonable attorneys' fees and all costs and expenses reasonably incurred by City Indemnitees in negotiating, settling, defending or otherwise protecting against such claims.
- 20.3 **Hazardous Materials Indemnity.**
- Lessee shall protect, defend (with counsel acceptable to City), hold harmless, and indemnify the City Indemnitees from and against any and all claims, injuries, liabilities, costs, penalties, forfeitures, losses, and/or expenses or damages, including without limitation, diminution in value of the Property or Premises, damages for the loss or

restriction on use of the rentable or usable space or of any amenity of the Property or Premises, damages arising from any adverse impact or marketing of the Property or Premises and sums paid in settlement of claims, response costs, cleanup costs, site assessment costs, attorneys' fees, consultant and expert fees, judgments, administrative rulings or orders, fines, costs of death of or injury to any person, or damage to any property whatsoever (including, without limitation, groundwater, sewer systems, and atmosphere), arising from, caused, or resulting, either prior to, during or after the Term, in whole or in part, directly or indirectly, by the presence or discharge in, on, under, or about the Property by Lessee Parties or at Lessee Parties' direction, of Hazardous Material, or by Lessee Parties' failure to comply with any law applicable to the use, storage or disposal of Hazardous Materials, whether knowingly or by strict liability. For purposes of the indemnity provided herein, any acts or omissions of Lessee Parties (whether or not they are negligent, intentional, willful or unlawful) shall be strictly attributable to Lessee. Lessee's indemnification obligations shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary Hazardous Materials management plan, investigation, repairs, cleanup or detoxification or decontamination of the Property or adjacent properties, and the presence and implementation of any closure, remedial action or other required plans, and shall survive the expiration of or early termination of the Lease.

- 20.4 **Waiver of Claims.** Lessee waives any claims against City for injury to Lessee's business or any loss of income therefrom, for damage to Lessee's property, or for injury or death of any person in or about the Property, from any cause whatsoever, except to the extent caused by City's active negligence or willful misconduct.
- 20.5 **Notice.** Each Party shall give the other Party prompt written notice of any claim or liability indemnified against under this Lease.

ARTICLE 21 CASUALTY DAMAGE; FORCE MAJEURE.

- 21.1 Subject to section 21.2 below, if the Premises, or any building or structure within or upon which the Facility is installed ("**Building**"), is damaged by fire, flood, earthquake, tornado, or other casualty (collectively "**Casualty**"), to such extent that material restoration can, in City's estimation, be reasonably completed within six (6) months of the date of the Casualty, this Lease shall not terminate. Provided that insurance proceeds are received by City to fully repair the damage (if City is insured) or if City allocates adequate funding to fully repair the damage, City shall proceed to rebuild and repair the Premises and Building diligently and in the manner determined by City (provided City shall make available to Lessee not less than the same area and access to sunlight as existed prior to the Casualty), except that City shall not be required to rebuild, repair or replace any part of the Facility. If City chooses not to rebuild, repair or replace any part of the Facility, the Lease shall terminate, and City shall pay Lessee the applicable Termination Payment.
- 21.2 If all or a substantial part of the Premises or the Building is damaged by any Casualty so as to render the use of the Premises unsuitable for the Permitted Use as determined by a qualified engineering consultant retained by Lessee and reasonably acceptable to the City, or if, in the City's estimation, material restoration cannot be completed within six (6) months of the date of the casualty, then either Party may elect to terminate this Lease on

not less than thirty (30) days' prior notice to the other Party. If neither Party elects to terminate this Lease pursuant to the previous sentence, provided that insurance proceeds are received by City to fully repair the damage (if City is insured) or if City allocates adequate funding to fully repair the damage, City shall proceed to rebuild and repair the Premises and Building diligently and in the manner determined by City (provided City shall make available to Lessee not less than the same area and access to sunlight as existed prior to the Casualty), except that City shall not be required to rebuild, repair or replace any part of the Facility. If City chooses not to rebuild, repair or replace any part of the Facility, the Lease shall terminate, and City shall pay Lessee the applicable Termination Payment.

- 21.3 Notwithstanding anything herein to the contrary, if the Premises or Building are damaged or destroyed and are not fully covered by the insurance proceeds received by City or if the holder of any indebtedness secured by a mortgage or deed of trust covering the Premises requires that the insurance proceeds be applied to such indebtedness or if the City does not allocate adequate funding to fully repair the damage, then in such cases, City shall have the right to terminate this Lease by delivering written notice of termination to Lessee within thirty (30) days after the date of notice to Lessor that said damage or destruction is not fully covered by insurance or such requirement is made by any such holder or adequate funding is not allocated, as the case may be, whereupon this Lease shall terminate. Upon termination pursuant to this section, City shall pay Lessee the applicable Termination Payment.
- 21.4 **Waiver.** This section 21.4 shall be Lessee's sole and exclusive remedy in the event of damage or destruction to the Premises or the Building. As a material inducement to City entering into this Lease, Lessee hereby waives any rights it may have under sections 1932, 1933(4), 1941, or 1942 of the California Civil Code with respect to any destruction of the premises, City's obligation for tenantability of the Premises and Lessee's right to make repairs and deduct the expenses of such repairs, under any similar law, statute or ordinance now or hereafter in effect.
- 21.5 **Force Majeure.** Force Majeure shall excuse the performance by either Party for a period equal to the prevention, delay, or stoppage.

ARTICLE 22 ASSIGNMENT AND SUBLETTING.

22.1 **City's Consent Required.**

- (a) No Assignment Without Consent.
- (i) Except as provided below in this Article 22, Lessee shall neither assign this Lease, nor any interest therein, and shall neither sublet nor encumber the Premises or any part thereof, nor any right or privilege appurtenant thereto, nor allow or permit any other person(s) to occupy or use the Premises, or any portion thereof, without the prior written consent of City, which consent shall not be unreasonably withheld, conditioned or delayed; *provided*, Lessee may assign its rights and obligations hereunder without City's prior consent to (i) any Affiliate of Lessee; (ii) any Person that results from a

merger of, reorganization of, or consolidation with Lessee or Lessee's Affiliate; (iii) any Person that acquires all or substantially all of the stock or assets of Lessee or Lessee's Affiliate, provided that such person's creditworthiness is equal to or greater than that of Lessee, as reasonably determined by the City; or (iv) as collateral to Lessee's financing parties as set forth in Section 22.1(b)(ii), so long as Lessee provides written notice of such assignment to City within thirty (30) days of such assignment.

- (ii) Any assignment, subletting, encumbrances, occupation, or use contrary to the provisions of this Lease shall be void and shall constitute breach of this Lease. City may assign any of its rights hereunder without notice to Lessee.
- (iii) At City's request, Lessee shall promptly deliver financial statements, information and other evidence satisfactory to City regarding any proposed assignment or change of control under this Article 22.

(b) Consent.

- (i) Any direct or indirect change of control of Lessee (whether voluntary or by operation of law) shall be deemed an assignment and shall be subject to the same consent conditions set forth in Section 22.1(a)(i).
- (ii) Subject to the provisions of this Section 22.1(b)(ii), Lessee shall be permitted to assign this Lease as collateral for any financing or refinancing of the Facility without the prior consent of the City. In connection with any financing or refinancing of the Facility by Lessee, City shall in good faith work with Lessee and Lessee's financing party to execute a consent to collateral assignment of the Lease in a form substantially similar to the form of "Lender Consent and Agreement" attached hereto as Exhibit H.

(c) Reserved.

(d) Assignment.

- (i) Written notification of any assignment or transfer of this Lease shall be given to the City or Lessee (as applicable).
- (ii) This Lease shall be binding upon any permitted assignee or successor of Lessee.
- (iii) Consent by City to one assignment, subletting, occupation or use by another person shall not be deemed to be consent to any subsequent assignment, subletting, occupation or use by another person.

22.2 **Hazardous Materials.** Without limiting City's authority to withhold its consent in other circumstances, it shall not be unreasonable for City to withhold its consent to an assignment or sublet to a proposed assignee or sublessee if:

- (a) Any anticipated use of the Property by any proposed assignee or sublessee involves the generation or storage, use, treatment, disposal, or release of Hazardous Material in any manner or for any purpose, except, however, that the proposed assignee may install, operate, and maintain the Facility in accordance with the terms of this Lease;
- (b) The proposed assignee or sublessee has been required by any prior landlord, lender, or governmental authority to take remedial action in connection with Hazardous Material contamination at a property, if the contamination resulted from such assignee or sublessee's action, omission or other use of the property in question; or,
- (c) The proposed assignee or sublessee is subject to an enforcement order issued by any governmental authority in connection with the release, use, disposal or storage of a Hazardous Material.

22.3 **No Release of Lessee.** No subletting or assignment as approved by City shall release Lessee of Lessee's obligation or alter the primary liability of Lessee to perform all obligations by Lessee hereunder. The acceptance of consideration by City from any other person shall not be deemed to be a waiver by City of any provision hereof. In the event of default by any assignee of Lessee or any successor of Lessee in the performance of any of the terms hereof, City may proceed directly against Lessee without the necessity of exhausting remedies against said assignee.

ARTICLE 23 EVENT OF DEFAULT; REMEDIES.

23.1 **Event of Default.** The occurrence of any one or more of the following events shall constitute a material default, or breach of this Lease by Lessee ("**Lessee Event of Default**"):

- (a) Failure to Make Payments. Failure by Lessee to make any payment required to be made by Lessee hereunder, where such failure continues for a period of ten (10) business days after City provides Lessee with written notice thereof.
- (b) Failure to Satisfy Lease Obligations. Failure by Lessee to observe or perform any of the Representations and Warranties set forth in section 19 of this Lease or any of the material covenants, conditions or provisions of this Lease in any material respect where such failure shall continue for a period of thirty (30) days after City provides Lessee with written notice thereof; provided, however, that if the nature of Lessee's failure is such that more than thirty (30) days are reasonably required for its cure, then a Lessee Event of Default shall not have occurred if Lessee demonstrates to City's reasonable satisfaction that it has commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- (c) Assignment to Creditors: Debtor Status; Bankruptcy and Seizure.
 - (i) Making, by Lessee, of any general arrangement or assignment for the benefit of creditors;

- (ii) Becoming a “Debtor” as defined in 11 U.S.C. §101, as the same may be amended from time to time, (unless, in the case of a petition filed against Lessee, the same is dismissed within sixty (60) days); or
- (iii) The appointment of a bankruptcy trustee or receiver to take possession of all or substantially all of Lessee’s assets located at or on the Premises or of Lessee’s interest in this Lease where possession is not restored to Lessee within thirty (30) days; or the attachment, execution or other judicial seizure of all or substantially all of Lessee’s assets located at or on the Premises, including the Facility, or of Lessee’s interest in this Lease, where such seizure is not discharged within thirty (30) days.

- (d) Reserved.
- (e) Reserved.
- (f) Reserved.

23.2 **Lessor Event of Default.** The occurrence of any one or more of the following events shall constitute a material default, or breach of this Lease by City (“**Lessor Event of Default**”):

- (a) Failure to Make Payments. Failure by City to make any payment required to be made by City hereunder, where such failure continues for a period of ten (10) business days after Lessee provides City with written notice thereof.
- (b) Failure to Satisfy Lease Obligations. Failure by Lessor to observe or perform any of the Representations and Warranties set forth in section 19 of this Lease or any of the material covenants, conditions or provisions of this Lease in any material respect where such failure shall continue for a period of thirty (30) days after Lessee provides Lessor with written notice thereof; provided, however, that if the nature of Lessor’s failure is such that more than thirty (30) days are reasonably required for its cure, then a Lessor Event of Default shall not have occurred if Lessor demonstrates to Lessee’s reasonable satisfaction that it has commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- (c) Assignment to Creditors: Debtor Status; Bankruptcy and Seizure.
 - (i) Making, by Lessor, of any general arrangement or assignment for the benefit of creditors;
 - (ii) Becoming a “Debtor” as defined in 11 U.S.C. §101, as the same may be amended from time to time, (unless, in the case of a petition filed against Lessor, the same is dismissed within sixty (60) days); or
 - (iii) The appointment of a bankruptcy trustee or receiver to take possession of all or substantially all of Lessor’s assets located at or on the Premises or of Lessor’s interest in this Lease where possession is not restored to Lessor within thirty (30) days; or the attachment, execution or other judicial seizure of all or substantially all of Lessor’s assets located at or on the Property or

of Lessor's interest in this Lease, where such seizure is not discharged within thirty (30) days.

- 23.3 **Lessee Remedies.** In the event of any Lessor Event of Default under this Lease, Lessee shall have the right to terminate this Lease upon written notice to Lessor. In the event of an early termination pursuant to this Section 23.3, Lessor shall pay to Lessee, within thirty (30) days of such termination, the applicable Termination Payment.
- 23.4 **Termination of PPA.** Any termination of the PPA shall cause this Lease to automatically terminate upon such termination of the PPA, in which case neither Party shall have any liability to the other except for any such liabilities that may have accrued prior to such termination, including indemnity and removal of Facility liabilities.
- 23.5 **Remedies of City.** In the event of any Lessee Event of Default, City may at any time thereafter, following any notice required by statute, and without limiting City in the exercise of any right or remedy which City may have by reason of such Event of Default or breach:
- (a) Termination. Terminate Lessee's right to possession of the Property by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession of the Premises, but not the Facility, to City. City shall not be required to pay any Termination Payment to Lessee. In such event, City shall be entitled to recover from Lessee all damages incurred by City by reason of the Event of Default or breach, including but not limited to:
 - (i) The cost of recovering possession of the Premises;
 - (ii) Expenses for disposing of the Facility;
 - (iii) Expenses of reletting, including necessary renovation and alteration of the Property and the Facility; and
 - (iv) Reasonable attorneys' fees.
 - (b) Continue Lease. Maintain Lessee's right to possession, in which case this Lease shall continue in effect whether or not Lessee shall have abandoned the Premises. In such event, City shall be entitled to enforce all of City's rights and remedies under this Lease, including the right to recover fees and payments as they become due hereunder.
 - (c) Other Remedies. Pursue any other remedy now or hereafter available to City under the laws or judicial decisions of the State of California. City shall have all remedies provided by law and equity.
- 23.6 **No Relief from Forfeiture After Event of Default.** Lessee waives all rights of redemption or relief from forfeiture under California Code of Civil Procedure sections 1174 and 1179, and any other present or future law, in the event Lessee is evicted or City otherwise lawfully takes possession of the Property by reason of any Event of Default or breach of this Lease by Lessee.

- 23.7 **Disposition of Abandoned Personal Property.** If the Lessee fails to remove any personal property belonging to Lessee from the Property within ninety (90) days after of the expiration or termination of this Lease, such personal property shall at the option of City be deemed to have been transferred to City. City shall have the right to remove and to dispose of such personal property without liability to Lessee or to any person claiming under Lessee, and the City shall have no need to account for such personal property.

**ARTICLE 24
INTEREST ON PAST-DUE OBLIGATIONS.**

Except as expressly provided herein, any amount not paid when due shall bear interest at the lesser of ten percent (10%) per year or the maximum rate then allowable by law from the date due.

**ARTICLE 25
HOLDING OVER.**

If Lessee remains in possession of the Premises or any part thereof after the expiration of the Term, such occupancy shall be a tenancy from month-to-month with all the obligations of this Lease applicable to Lessee. Nothing contained in this Lease shall give to Lessee the right to occupy the Premises after the expiration of the term, or upon an earlier termination for breach.

**ARTICLE 26
INSURANCE.**

- 26.1 Lessee's responsibility for the Premises pursuant to this Lease begins immediately upon the Effective Date. Lessee, at its sole cost and expense, and at no cost to City, shall purchase and maintain in full force and effect during the entire term of this Lease insurance coverage in amounts and in a form as set forth in Exhibit G (Insurance Requirements) attached hereto and incorporated herein by reference. Said policies shall be maintained with respect to Lessee's employees, if any, and all vehicles operated on the Property. The policies shall include the required endorsements, certificates of insurance and coverage verifications as described in Exhibit G (Insurance Requirements).
- 26.2 Lessee shall deposit with the Lease Administrator, on or before the Effective Date of this Lease, certificates of insurance necessary to satisfy City that the insurance provisions of this Lease have been complied with, and to keep such insurance in effect and the certificates therefore on deposit with City during the entire term of this Lease. Should Lessee not provide evidence of such required coverage at least three (3) days prior to the expiration of any existing insurance coverage, City may purchase such insurance, on behalf of and at the expense of Lessee to provide six months of coverage.
- 26.3 The Lease Administrator shall notify Lessee in writing of changes in the insurance requirements. If Lessee does not deposit copies of acceptable insurance policies with City incorporating such changes within sixty (60) days of receipt of such notice, or in the event Lessee fails to maintain in effect any required insurance coverage, Lessee shall be in default under this lease without further notice to Lessee. Such failure shall constitute a material breach and shall be grounds for immediate termination of this Lease at the option of City.
- 26.4 The procuring of such required policy or policies of insurance shall not be construed to limit Lessee's liability hereunder nor to fulfill the indemnification provision and

requirements of this Lease. Notwithstanding the policy or policies of insurance, Lessee shall be obligated for the full and total amount of any damage, injury, or loss caused by or connected with this Lease or with use or occupancy of the Premises.

- 26.5 **City Insurance.** Upon Lessee's request, City shall deliver to Lessee certificates of insurance evidencing the City's insurance coverage for the Premises, which may be through self-insurance or risk pool. All such insurance maintained by City shall be for the exclusive benefit of City and Lessee shall have no right or interest therein.

ARTICLE 27 EMINENT DOMAIN.

- 27.1 If all of the Premises is condemned by a public entity in the lawful exercise of its power of eminent domain, this Lease shall cease. The date of such termination shall be the effective date of possession of the Premises by the condemning public entity.
- 27.2 If only a part of the Premises is condemned and the condemnation of that part does not substantially impair the capacity of the remainder to be used for the Permitted Uses, Lessee shall continue to be bound by the terms, covenants, and conditions of this Lease. If the condemnation of a part of the Premises substantially impairs the capacity of the remainder to be used for the Permitted Uses, Lessee may:
- (a) Terminate this Lease and thereby be absolved of obligations under this Lease which have not accrued as of the date of possession by the condemning public entity; or
 - (b) Continue to occupy the remaining Premises and thereby continue to be bound by the terms, covenants and conditions of this Lease.
 - (c) Lessee shall provide City with written notice advising City of Lessee's choice within thirty (30) days of possession of the part condemned by the condemning public entity.
- 27.3 City shall be entitled to and shall receive all compensation related to the condemnation, except that Lessee shall be entitled to:
- (a) That portion of the compensation which represents the value for the remainder of the Lease term of any Lessee-constructed improvements taken by the condemning public entity, which amount shall not exceed the actual cost of such improvements reduced in proportion to the relationship of the remaining Lease term to the original Lease term, using a straight line approach; and
 - (b) Any amount specifically designated as a moving allowance or as compensation for Lessee's personal property.
 - (c) Any applicable Termination Payment.
- 27.4 In the event of condemnation, Lessee shall have no claim under the Lease against the City for the value of any unexpired term of this Lease except as set forth in section 27.3.

**ARTICLE 28
DISPUTE RESOLUTION.**

- 28.1 Unless otherwise mutually agreed to, any controversies between Lessee and City regarding the construction or application of this Lease, and claims arising out of this Lease 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.
- 28.2 The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Los Angeles County to 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 Lease.
- 28.3 The costs of mediation shall be borne by the Parties equally.
- 28.4 Mediation under this section is a condition precedent to filing an action in any court. In the event of litigation arising out of any dispute related to this Lease, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit, regardless of the outcome of the litigation.

**ARTICLE 29
NON-LIABILITY OF OFFICIALS AND EMPLOYEES OF THE CITY.**

No official or employee of City shall be personally liable for any default or liability under this agreement.

**ARTICLE 30
NON-DISCRIMINATION.**

Lessee covenants by and for itself, its successors, executors, administrators and assigns, and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin, actual or perceived gender identity, ancestry or disability in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Premises.

**ARTICLE 31
CONFLICT OF INTEREST.**

- 31.1 Lessee shall at all times avoid conflict of interest or appearance of conflict of interest in performance under this Lease. Lessee warrants and covenants that no official or employee of City nor any business entity in which any official or employee of City is interested:
- (a) Has been employed or retained to solicit or aid in the procuring of this Lease; or
 - (b) Will be employed in the performance of this Lease without the divulgence of such fact to City.
- 31.2 In the event that City determines that the employment of any such official, employee or business entity is not compatible with such official's or employee's duties as an official or

employee of City, Lessee upon request of City shall immediately terminate such employment.

- 31.3 Violation of this provision constitutes a serious breach of this Lease and City may terminate this Lease as a result of such violation.

**ARTICLE 32
MEMORANDUM OF LEASE.**

Following execution of this Lease, either Party, at its sole expense, shall be entitled to record the Memorandum of Lease in the form attached hereto as Exhibit I (Memorandum of Lease) in the official records of Los Angeles County, which Memorandum shall be executed contemporaneously with this Lease. Upon termination or expiration of this Lease, Lessee shall execute and record a quitclaim deed as to its leasehold interest.

**ARTICLE 33
ESTOPPEL CERTIFICATE; FINANCING.**

- 33.1 Each Party shall, from time to time, upon at least thirty (30) days prior written notice from the other Party, execute, acknowledge and deliver to the requesting Party a written instrument, in form and substance reasonably acceptable to such requesting Party, certifying to such requesting Party, or any other Person specified by such requesting Party (including any financing party of Lessee), with any applicable exceptions thereto: (i) that this Lease is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification, and the date to which charges under the Lease, if any, have been paid; (ii) whether or not to the knowledge of such Party there are then existing any offsets or defenses in favor of such Party against enforcement of any of the terms, covenants and conditions of this Lease and, if so, specifying the same and also whether or not to the knowledge of such Party the requesting Party has observed and performed all of the terms, covenants and conditions on its part to be observed and performed, and if not, specifying the same; and (iii) such other information as may be reasonably requested by the requesting Party.
- 33.2 Lessor agrees and acknowledges that Lessee may elect to finance all or any portion of the Facility, including by utilizing tax equity or cash equity investment and/or through a portfolio financing, which may include cross-collateralization or similar arrangements. In connection with any financing or refinancing of the Facility, Lessor shall execute and deliver such further consents, approvals and acknowledgments as may be reasonable and necessary to facilitate such transactions; provided, Lessor shall not be required to agree to any terms or conditions which are reasonably expected to have a material adverse effect on Lessor and all reasonable attorney's fees or other documented third-party costs incurred by Lessor in connection therewith shall be borne by Lessee.

**ARTICLE 34
LIENS.**

- 34.1 Lessee agrees at its sole cost and expense to keep the Premises and Facility free and clear of any and all claims, levies, liens, encumbrances, or attachments arising out of or related to charges by contractors, subcontractors and suppliers supplying goods or services to

Lessee for work or services performed, materials or supplies furnished or obligations incurred by or on behalf of Lessee. Notwithstanding the Facility's presence on the Premises, Lessee shall not directly or indirectly cause, create, incur, assume or suffer to exist any mortgage, pledge, lien (including mechanics', labor or materialman's lien), charge, security interest, encumbrance or claim (collectively, "**Liens**") on or with respect to the Premises or any interest therein. Lessee also shall pay promptly before a fine or penalty may attach to the Premises any taxes, charges or fees of whatever type of any payments for which Lessee is responsible. Provided that Lessee complies with the preceding provisions of this Section 34.1, Lessee may grant or incur Liens on the Facility in connection with a financing permitted under Section 33.2.

- 34.2 If Lessee shall not, within ten (10) days following the imposition of any such Lien, cause the same to be released of record by payment or posting of a proper bond, City shall have, in addition to all other remedies provided herein and by law, the right, but not the obligation, to cause the same to be released by such means as City shall deem proper, including payment of the claim giving rise to such Lien. All sums paid by City on behalf of Lessee and all expenses incurred by City in connection therefore shall be payable to City by Lessee on demand with interest at the applicable interest rate.
- 34.3 The City shall not directly or indirectly cause, create, incur, assume or allow to exist any Lien on, affecting or with respect to the Facility (including any constituent element or component thereof) or any interest therein. The City shall immediately notify Lessee of the existence of any such Lien and shall promptly cause the same to be discharged and released of record without cost to Lessee. The City covenants and agrees to use commercially reasonable efforts to obtain a subordination, nondisturbance and attornment agreement, in form and substance reasonably satisfactory to Lessee, from each holder of any indebtedness secured by a mortgage or deed of trust covering the Premises during the Term.

ARTICLE 35 NOTICES.

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

- (a) To City:
City of Agoura Hills
Attn: Nathan Hamburger
30001 Ladyface Court
Agoura Hills, CA 91301
- P: 818-597-7308**
Email: nhamburger@agourahillscity.org

To Lessee:

Coast Energy
840 Apollo Street, Suite 351
El Segundo, CA 90245
With a copy to: operations@coastenergy.com ; notices@coastenergy.com

35.2 Any notice required or permitted to be given under this Lease must be in writing and may be given by personal delivery, certified mail, or overnight express delivery service. Notices shall be deemed communicated immediately if personally delivered. Notices shall be deemed communicated within forty-eight (48) hours after the time of mailing if mailed by certified mail, and within twenty-four (24) hours if mailed by express delivery service, excluding Saturdays, Sundays, and holidays. Any such notice shall be deemed sufficiently given if addressed to City or Lessee at the address specified above. Either Party may specify a different address for notice purposes or specify that a copy of any notice given to such Party be concurrently given to another person, by giving appropriate notice to the other Party.

ARTICLE 36 MISCELLANEOUS.

- 36.1 **Time.** Time shall be of the essence in this Lease.
- 36.2 **Amendments.** No alteration or variation of the terms of this Lease shall be valid unless made in writing and signed by the Parties to this Lease.
- 36.3 **Surrender of Lease Not Merger.** The voluntary or other surrender of this Lease by Lessee, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of City, terminate all or any existing subleases or subtenancies, or may, at the option of City, operate as an assignment of any and all such subleases or subtenancies.
- 36.4 **Integrated Document.** This Lease, including any Exhibits attached hereto, embodies the entire agreement between City and Lessee. No other understanding, agreements, conversations or otherwise, with any officer, agent or employee of City prior to execution of this Lease shall affect or modify any of the terms or obligations contained in any documents comprising this Lease. Any such verbal agreement shall be considered as unofficial information and in no way binding upon City. All agreements with City are subject to approval of the City Council before City shall be bound thereby.
- 36.5 **Waiver.** Waiver by City of one or more conditions of performance, of an Event of Default, or of any breach of a condition under this Lease shall not be construed as a waiver of any other condition of performance or subsequent Events of Default or breaches. The subsequent acceptance by a Party of the performance of any obligation or duty by another Party shall not be deemed to be a waiver of any term or condition of this Lease. The exercise of any remedy, right, option or privilege hereunder by City shall not preclude City from exercising the same or any and all other remedies, rights, options and privileges hereunder and City's failure to exercise any remedy, right, option or privilege at law or equity, or otherwise which City may have, shall not be construed as a waiver.
- 36.6 **Severability.** If any provision of this Lease is held to be illegal, invalid or unenforceable in full or in part, for any reason, then such provision shall be modified to the minimum extent necessary to make the provision legal, valid and enforceable, and the other provisions of this Lease shall not be affected thereby.

- 36.7 **No Construction Against Drafting Party.** The Parties agree that this Lease shall be fairly interpreted in accordance with its terms without any strict construction in favor of or against any other Party.
- 36.8 **Governing Law.** This Lease shall be governed and construed in accordance with the statutes and laws of the State of California.
- 36.9 **Venue.** In the event that suit shall be brought by any Party to this Lease, the Parties agree that venue shall be exclusively vested in the state courts of the County of Los Angeles.
- 36.10 **Compliance with Laws.** The Parties hereto shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments in the performance of their rights, duties and obligations under this Lease.
- 36.11 **Counterparts.** Any number of counterparts of this Lease may be executed and each shall have the same force and effect as the original.
- 36.12 **No Third-Party Beneficiaries.** Nothing in this Lease shall provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind, it being the intent of the Parties that this Lease shall not be construed as a third-party beneficiary contract.
- 36.13 **Survival.** Any provision of this Lease that expressly or by implication comes into or remains in full force following the termination or expiration of this Lease, including, without limitation section 20 (Hold Harmless/Indemnification) shall survive termination or expiration of this lease.
- 36.14 **Waiver of Claims.** As to any waiver provided for herein, Lessee expressly waives the provisions of California Civil Code section 1542, which provides: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."
- 36.15 **CASp Disclosure.** For purposes of Section 1938(a) of the California Civil Code, City hereby discloses to Lessee, and Lessee hereby acknowledges, that the Premises has not undergone inspection by a Certified Access Specialist (CASp). In addition, the following notice is hereby provided pursuant to Section 1938(e) of the California Civil Code:

"A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

In furtherance of and in connection with such notice, Lessee may obtain such a CASp inspection at any time during the Term, at Lessee's sole cost and expense. If such CASp inspection identifies any violations of construction-related accessibility standards, Lessee shall be responsible for making any repairs necessary to correct the same, at Lessee's sole cost and expense.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed this Lease as of the Effective Date.

CITY:

LESSEE:

By: _____
City Manager, Nathan Hamburger

By: _____

ATTEST:

By: _____
City Clerk, Kimberly Rodrigues

APPROVED AS TO FORM:

By: _____
City Attorney, Candice Lee

EXHIBIT A
DESCRIPTION OF THE PROPERTY

Agoura Hills Recreation and Event Center

Parcel 1:

Lot 3 of Tract No. 40477, in the City of Agoura Hills, County of Los Angeles, State of California as per Map recorded in Book 1062, Page 91 through 95, inclusive of Maps, in the office of the County Recorder of said County.

EXCEPT all oil, oil rights, minerals, mineral rights, natural gas rights and other hydrocarbon substances by whatsoever name known, geothermal steam and all products derived from any of the foregoing, that may be within or under the parcel of land herein above described, together with the perpetual right of drilling, mining, exploring and operating therefore and storing in and removing the same from said land of any other operating therefore and storing in and removing the same from said land or any other land, including the right to whipstock or directionally drill and mine from lands other than those herein above described, oil or gas wells, tunnel and shafts into, through or across the subsurface of the land herein above described, and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines without, however, the right to drill, mine, store, explore and operate through the surface of the upper 500 feet of the subsurface of the land herein above described, together with the right to grant and transfer all or a portion of same, as provided in deed record June 12, 1979, as Document No. 79-629585 of Official Records.

Together with that portion of Ladyface Circle adjoining said land, as vacated by Resolution No. 98-1076 of the City Council of the City of Agoura Hills, a certified copy of which recorded October 23, 1998, as Document No. 98-1950127 of Official Records, which would pass by operation of law.

Parcel 2:

A non-exclusive easement over portions of Lots 1 and 4 of Tract No. 40477, in the City of Agoura Hills, County of Los Angeles, State of California, as per Map recorded in Book 1062, Page 91 through 95 inclusive of Maps, in the office of the County Recorder of said County, for the purpose stated in that certain Easement Agreement, recorded October 28, 1998, as Document No. 98-1968699 of Official Records, and subject also to all the terms, conditions and provisions contained therein.

APN: 2061-005-031

**EXHIBIT B
DESCRIPTION OF THE FACILITY**

The facility will be made up of: Hanwha Q Cells PV Panels, Sinexcel PCS/Inverters, and Ampace LFP Battery.

Storage Facility Operating Characteristics:

Total Unit Dispatchable Range Information		
Interconnect Voltage (kV)	120/208V	
Maximum Storage Level (kWh):	468	
Minimum Storage Level (kWh):	280	
Storage Capacity Reserved for Demand Response (kW and kWh):	[17 kW and 68kWh	
Charge and Discharge Rates		
Mode	Maximum (kW)	Ramp Rate (kW/s) Description
Energy (Charge)	117	[Charging mode]
Energy (Discharge)	117	[Discharging mode]
Operating Ranges		
Maximum Ambient Air Temperature:	45°C	
Minimum Ambient Air Temperature:	-20°C	

Total Facility Capacity: 267.8 kW

Storage Capacity: 117 kW at four (4) hours of continuous discharge

Demand Response Capacity: 17 kW at four (4) hours of continuous discharge

PV Capacity: 150.8 kW

EXHIBIT C
DEFINITIONS

1. “**Access Property**” means a non-exclusive right-of-way for vehicular and pedestrian ingress and egress to the Premises to the extent required by Lessee to install, maintain, operate, and remove the Facility, as mutually agreed upon by the Parties.
2. “**Affiliate**” of a specified Person means any Person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, such specified Person. As used in this definition of Affiliate, the term “**control**” of a specified Person including, with correlative meanings, the terms, “**controlled by**” and “**under common control with**,” means (a) the ownership, directly or indirectly, of more than 50% of the equity interest in a Person or (b) the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise.
3. “**Business Day**” means any day other than Saturday, Sunday, or dates the City is closed for a federal, California, or City holiday.
4. “**Commercial Operation**” means the Facility is fully operational, reliable and interconnected, fully integrated and synchronized with the Transmission System.
5. “**Commercial Operation Date**” means the date on which Commercial Operation of the Facility begins as certified by Lessee in compliance with the PPA.
6. “**Force Majeure**” means (a) natural phenomena, such as storms, hurricanes, floods, lightening and earthquakes; (b) explosions or fires arising from lightening or other causes unrelated to the acts or omissions of the Lessee; (c) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; and (d) acts of God. Force Majeure shall not include equipment failures or acts or omissions of Lessee’s agents, suppliers or subcontractors, except to the extent such acts or omissions arise from Force Majeure. Changes in prices for electricity or solar or storage equipment shall not constitute Force Majeure. In the event any work performed by Lessee or Lessee’s contractors results in a strike, lockout, and/or labor dispute, such strike, lockout, and/or labor dispute shall not be considered Force Majeure.
7. “**Facility**” means the integrated system for the generation and storage of electricity from solar energy to be installed, maintained, and operated by Lessee at the Premises in accordance with the specifications set forth in Exhibit B (Description of Facility), consisting of, without limitation, photovoltaic panels, battery energy storage systems, and associated equipment including, without limitation, controls, meters, switches, connections, conduit, wires and connections, mounting substrates or supports, power inverters, metering and service equipment, and utility interconnections.
8. “**Hazardous Materials**” means any toxic or hazardous substance, material or waste or any pollutant or contaminant, or infectious or radioactive material, including but not limited to, those substances, materials, or wastes regulated now or in the future under any of the following statutes or regulations and any and all of those substances included within the definitions of "hazardous substances", "hazardous waste", "hazardous chemical substance

or mixture", "imminently hazardous chemical substance or mixture," "toxic substances," "hazardous air pollutant", "toxic pollutant" or "solid waste" in the: CERCLA or Superfund as amended by SARA, 42 U.S.C. Sec. 9601 et seq., RCRA, 42 U.S.C. Sec. 6901 et seq., CWA., 33 U.S.C. Sec. 1251 et seq., CAA, 42 U.S.C. 78401 et seq., TSCA, 15 U.S.C. Sec. 2601 et seq., the Refuse Act of 1899, 33 U.S.C. Sec. 407, OSHA, 29 U.S.C. 651 et seq.; hazardous Materials Transportation Act, 49 U.S.C. Sec. 1801 et seq., USDOT Table (40 CFR Part 302 and amendments) or the EPA Table (40 CFR Part 302 and amendments), California Superfund, Cal. Health & Safety Code Sec. 25300 et seq., Cal. Hazardous Waste Control Act, Cal. Health & Safety Code section 25100 et seq., Porter-Cologne Act, Cal. Water Code Sec. 13000 et seq., Hazardous Waste Disposal Land Use Law, Cal. Health & Safety Code Sec. 25220 et seq., Proposition 65, Cal. Health and Safety Code Sec. 25249.5 et seq., Hazardous Substances Underground Storage Tank Law, Cal. Health & Safety Code Sec. 25280 et seq., California Hazardous Substance Act, Cal. Health & Safety Code Sec. 28740 et seq., Air Resources Law, Cal. Health & Safety Code Sec. 39000 et seq., Hazardous Materials Release Response Plans and Inventory, Cal. Health & Safety Code Secs. 25500-25541, TCPA, Cal. Health and Safety Code Secs. 25208 et seq., and regulations promulgated pursuant to said laws or any replacement thereof, or as similar terms are defined in the federal, state and local laws, statutes, regulations, orders or rules; and any and all other substances, materials, and wastes which are, or in the future become, regulated under applicable local, state or federal law for the protection of health or the environment, or which are classified as hazardous or toxic substances, materials or wastes, pollutants or contaminants, as defined, listed or regulated by any federal, state or local law, regulation or order or by common law decision, including without limitation: Trichloroethylene, tetrachloroethylene, perchloroethylene and other chlorinated solvents; any petroleum products or fractions thereof; Asbestos, Polychlorinated biphenyls; flammable explosives; urea formaldehyde; and radioactive materials and waste

9. **“Lease Administrator”** means, for City the City Manager or his/her designee and, for Lessee the Project Manager.
10. **“Permits”** means all federal, state, and City permits, licenses, certificates, approvals, variances and other entitlements necessary for the installation and operation of the Facility.
11. **“Person”** means any natural person, sole proprietorship, corporation, partnership, limited partnership, joint venture, limited liability partnership, limited liability company, unlimited liability company, trust, unincorporated association, institution, governmental authority or any other entity.
12. **“Prudent Industry Practices”** means practices applied by a person seeking in good faith to perform its contractual obligations and in doing so and in the general conduct of its undertaking, exercising that degree of skill, diligence and prudence which would reasonably and ordinarily be expected from a skilled and experienced owner, developer or operator engaged in the same type of undertaking under the same or similar circumstances.
13. **“Real Property Taxes”** means:
 - A All taxes, assessments, levies and other charges, general and special, foreseen and unforeseen, now or hereafter imposed by any governmental or quasi-governmental

authority or special district having the direct or indirect power to tax or levy assessments, which are levied or assessed against or with respect to:

1. Value, occupancy, use or possession of the Premises and/or the Facility;
2. Any improvements, fixtures, equipment and other real or personal property of Lessee that are an integral part of the Premises; or,
3. Use of the Premises, Facility, public utilities, or energy within the Premises.

B **“Real Property Taxes”** shall also mean all charges, levies or fees imposed by reason of environmental regulation or other governmental control of the premises and/or the improvements, new or altered excise, transaction, sales, privilege, assessment, or other taxes or charges now or hereafter imposed upon City as a result of this Lease, and all costs and fees (including attorneys’ fees) incurred by City in contesting any real property taxes and in negotiating with public authorities as to any real property taxes affecting the Premises. If any real property taxes are based upon property or rents unrelated to the Premises and/or the Facility, then only that part of such tax that is fairly allocable to the Premises and/or the Facility, as determined by City, on the basis of the assessor's worksheets or other available information, shall be included within the meaning of the term “real property taxes.”

14. **“Termination Payment”** means an amount payable by Lessor to Lessee as of the applicable year of termination as set forth in the table in Exhibit K.

EXHIBIT D
DESCRIPTION OF PREMISES

The rooftop at 29900 Ladyface Court, Agoura Hills, California, bounded approximately in red on the diagram below, along with any locations reasonably required to install the Facility battery, auxiliary equipment pads, conduit, balance of system components or infrastructure to connect the Facility to the electric distribution system. Final description of Premises to be updated and provided by Lessee to Lessor prior to start of construction.



EXHIBIT E
SECURITY MEASURES

1. Lessor, at Lessor's sole cost and expense, shall install and maintain security devices and establish security protocols to safeguard the Property from unauthorized access, damage, vandalism, theft or accident and Lessor shall be responsible for any damage, vandalism, theft or accident resulting from its failure to secure the Property. Lessee acknowledges that certain of the building tenants below the roofline have rights to access the roof of the building in order to install, replace, maintain and/or repair rooftop HVAC units, satellite dishes and/or antennas that service their leased premises. Lessor agrees to make reasonable efforts to work with such building tenants to establish protocols that include providing Lessee with advanced notice and establishing designated paths of travel on the roof during access by such building tenants to install, replace, maintain and/or repair rooftop HVAC units, satellite dishes and/or antennas that service the building.

**EXHIBIT F
WORK SCHEDULE**

WORK SCHEDULE FOR FACILITY

Within ten (10) days of the issuance of a building permit to Lessee, Lessee shall provide City with an updated version of the Work Schedule for the Facility to be signed by both City and Lessee. The updated Work Schedule shall be substantially in the form of this Exhibit F, mutually agreeable to City and Lessee, shall identify with specificity the start and end dates of the Scheduled Construction Period and areas of the Property and/or Premises to which the City will lose or have limited access over the course of the Scheduled Construction Period. Such updated Work Schedule shall supersede this Work Schedule for Facilities.

Scheduled Construction Period: 30 weeks.

Scheduled Construction Start Date: _____
[to be provided within 10 days of issuance of Building Permit]

Scheduled Construction End Date: _____
[to be provided within 10 days of issuance of Building Permit]

Description of Property Areas
with Lost or Limited Access: _____
[to be provided within 10 days of issuance of Building Permit]

**EXHIBIT G
INSURANCE REQUIREMENTS**

STANDARD INSURANCE REQUIREMENTS

Insurance Requirements for Lessee:

Lessee shall purchase and maintain the insurance policies set forth below on all of its operations under this Lease at its sole cost and expense. Insurance shall be in full force and effect commencing on the first day of the term of this Lease and such policies shall be maintained for the full term of this Lease. For purposes of the insurance policies required under this Lease, the term “City” shall include the duly elected or appointed council members, commissioners, officers, agents, employees and volunteers of the City of Agoura Hills, California, individually or collectively.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers’ Compensation insurance as required by the State of California and Employer’s Liability Insurance.
4. Property insurance against all risks of loss to any tenant improvements or betterments, including the Facility.

The policy or policies of insurance maintained by Lessee shall provide the following limits and coverages:

POLICY	MINIMUM LIMITS OF LIABILITY
1. Commercial General Liability	\$2,000,000 per each occurrence for bodily injury, personal injury and property damage
2. Automobile Liability (including Owned, Hired, and Non-Owned Automobiles)	\$2,000,000 Combined Single Limit
3. Workers’ Compensation Employee Liability	Statutory \$1,000,000 per accident for bodily injury or disease
4. Lessee’s Property Insurance	(see below)

Lessee shall procure and maintain property insurance coverage for:

1. the Facility, all trade fixtures and other items of Lessee's property in, on, at, or about the Premises and the Building, installed by, for, or at the expense of Lessee;
2. all other improvements, betterments, alterations, and additions to the Premises made by, for, or at the expense of Lessee.

Lessee's property insurance must fulfill the following requirements:

1. it must be written on the broadest available "all risk" policy form or an equivalent form acceptable to City.
2. for no less than ninety percent (90%) of the full replacement cost (new without deduction for depreciation) of the covered items and property;
3. the amounts of coverage must meet any coinsurance requirements of the policy or policies; and
4. it must name the City as a loss payee.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Lessee shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Notice

Each certificate of insurance must state that the coverage afforded by the policy or policies will not be reduced, cancelled or allowed to expire without at least thirty (30) days prior written notice to City unless due to nonpayment of premiums, in which case ten (10) day's prior written notice must be given to City.

Waiver of Subrogation

Each required policy must include an endorsement providing that the carrier will waive any right of subrogation it may have against City.

Required Endorsements

The CGL policy and automobile liability policy must include the following specific endorsements:

1. The City, including its Council, officials, officers, employees, agents, volunteers and consultants (collectively, "**Additional Insured**") must be

named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and the policy must protect the Additional Insured against any and all liability for personal injury, death or property damage or destruction arising directly or indirectly out of activities performed by or on behalf of Lessee; products and completed operations of the Lessee; premises owned, occupied or used by the Lessee; or automobiles owned, leased, hired or borrowed by the Lessee. The additional insured endorsement must be provided using ISO form CG 20 10 11 85 or an equivalent form approved by the City.

2. The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.
3. The insurance provided is primary and no insurance held or owned by City may be called upon to contribute to a loss.

Acceptability of Insurers

All insurance policies shall be issued by California-admitted carriers having current A.M. Best's ratings of no lower than A-:VII.

Increased City Insurance

Lessee agrees to promptly pay to City, upon demand, the amount of any increase in the rate of insurance on the Premises or on any other part of the Property that results by reason of Lessee's act(s) or Lessee's permitting certain activities to take place.

EXHIBIT H
FORM OF LENDER CONSENT AND AGREEMENT

This CONSENT AND AGREEMENT (this "Consent"), dated as of _____, 2024 is entered into by and among the CITY OF _____, a California chartered municipal corporation (the "City"), and _____ a _____ corporation (the "Lender)," by its agent, _____ (the "Administrative Agent"), and _____, a _____ corporation (the "Borrower") (collectively, the "Parties"). Unless otherwise defined, all capitalized terms have the meaning given in the Contract (as hereinafter defined).

RECITALS

- A Borrower intends to develop, construct, install, test, own, operate, and use an electric generating and storage facility located in the City of _____ in the State of California, known as the _____ Project (the "Project").
- B In order to partially finance the development, construction, installation, testing, operation and use of the Project, Borrower has entered into that certain financing agreement dated as of _____ (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Financing Agreement"), among Borrower, the financial institutions from time to time parties thereto (collectively, the "Lenders") , and Administrative Agent for the Lenders, pursuant to which, among other things, Lenders have extended commitments to make loans and other financial accommodations to, and for the benefit of, Borrower.
- C The City and Borrower have entered into that certain Lease Agreement, dated as of _____ (attached hereto and incorporated herein by reference, as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the "Lease").
- D Pursuant to a security agreement executed by Borrower and Administrative Agent for the Lenders (as amended, amended and restated, supplemented or otherwise modified from time to time, the "Security Agreement"), Borrower has agreed, among other things, to assign, as collateral security for its obligations under the Financing Agreement and related documents (collectively, the "Financing Documents"), all of its right, title and interest in, to and under the Lease to Administrative Agent for the benefit of itself, the Lenders and each other entity or person providing collateral security under the Financing Documents.
- E It is a requirement under the Financing Agreement that the Parties hereto execute this Consent.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties agree, as follows:

- 1 CONSENT TO ASSIGNMENT. The City acknowledges the assignment referred to in Recital E above, consents to an assignment of the Lease pursuant thereto, and agrees with Administrative Agent, as follows:
 - a. Administrative Agent shall be entitled (but not obligated) to exercise all rights and to cure any defaults of Borrower under the Lease, as the case may be, subject to applicable notice and cure periods provided in the Lease. Upon receipt of notice from Administrative Agent, the City agrees to accept such exercise and cure by Administrative Agent if timely made by Administrative Agent under the Lease, as the case may be, and this Consent. Upon receipt of Administrative Agent's written instructions and to the extent allowed by law, the City agrees to make directly to such account as Administrative Agent may direct the City, in writing, from time to time, any and all payments to be made by the City to Borrower under the Lease, as the case may be, from and after the City's receipt of such instructions, and Borrower consents to any such action. The City shall not incur any liability to Borrower under the Lease or this Consent for directing such payments to Administrative Agent in accordance with this subsection (a).
 - b. The City will not, without the prior written consent of Administrative Agent (such consent not to be unreasonably withheld), (i) cancel or terminate the Lease, or consent to or accept any cancellation, termination or suspension thereof by Borrower, except as provided in the Lease and in accordance with subparagraph l(c) hereof, (ii) sell, assign or otherwise dispose (by operation of law or otherwise) of any part of its interest in the Lease, except as provided in the Lease, or (iii) amend or modify the Lease in any manner materially adverse to the interest of the Lenders in the Lease as collateral security under the Security Agreement.
 - c. The City agrees to deliver duplicates or copies of all notices of default delivered by the City under or pursuant to the Lease to Administrative Agent in accordance with the notice provisions of this Consent. The City shall deliver any such notices concurrently with delivery of the notice to Borrower under the Lease. To the extent that a cure period is provided under the Lease, Administrative Agent shall have the same period of time to cure the breach or default that Borrower is entitled to under the Lease, except that if the City does not deliver the default notice to Administrative Agent concurrently with delivery of the notice to Borrower under the Lease, then as to Administrative Agent, the applicable cure period under the Lease shall begin on the date on which the notice is given to Administrative Agent. If possession of the Project is necessary to cure

such breach or default, and Administrative Agent or its designee(s) or assignee(s) declare Borrower in default and commence foreclosure proceedings, Administrative Agent or its designee(s) or assignee(s) will be allowed a reasonable period to complete such proceedings so long as Administrative Agent or its designee(s) continue to perform any monetary obligations under the Lease, as the case may be. The City consents to the transfer of Borrower's interest under the Lease to the Lenders or Administrative Agent or their designee(s) or assignee(s) or any of them or a purchaser or grantee at a foreclosure sale by judicial or nonjudicial foreclosure and sale or by a conveyance by Borrower in lieu of foreclosure and agrees that upon such foreclosure, sale or conveyance, the City shall recognize the Lenders or Administrative Agent or their designee(s) or assignee(s) or any of them or other purchaser or grantee as the applicable party under the Lease (provided that such Lenders or Administrative Agent or their designee(s) or assignee(s) or purchaser or grantee assume the obligations of Borrower under the Lease, including, without limitation, satisfaction and compliance with all credit provisions of the Lease, if any, and provided further that such Lenders or Administrative Agent or their designee(s) or assignee(s) or purchaser or grantee has a creditworthiness equal to or better than Borrower, as reasonably determined by City).

- d. In the event that the Lease is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding, and if, within forty-five (45) days after such rejection, Administrative Agent shall so request, the City will execute and deliver to Administrative Agent a new lease, which lease shall be on the same terms and conditions as the original Lease for the remaining term of the original Lease before giving effect to such rejection, and which shall require Administrative Agent to cure any defaults then existing under the original Lease. Notwithstanding the foregoing, any new lease will be subject to all regulatory approvals required by law. The City will use good faith efforts to promptly obtain any necessary regulatory approvals.
- e. In the event Administrative Agent, the Lenders or their designee(s) or assignee(s) elect to perform Borrower's obligations under the Lease, succeed to Borrower's interest under the Lease, or enter into a new lease as provided in subparagraph l(d) above, the recourse of the City against Administrative Agent, Lenders or their designee(s) and assignee(s) shall be limited to such Parties' interests in the Project, and the credit support required under the lease, if any.
- f. In the event Administrative Agent, the Lenders or their designee(s) or assignee(s) succeed to Borrower's interest under the Lease, Administrative Agent, the Lenders or their designee(s) or assignee(s) shall cure any then-existing payment and performance defaults under the Lease, except any performance defaults of Borrower itself, which by their nature are not susceptible of being cured. Administrative Agent, the Lenders and their designee(s) or assignee(s) shall have the right to assign all or a pro rata interest in the Lease to a person or entity to whom Borrower's interest in

the Project is transferred, provided such transferee assumes the obligations of Borrower under the Lease and has a creditworthiness equal to or better than Borrower, as reasonably determined by the City. Upon such assignment, Administrative Agent and the Lenders and their designee(s) or assignee(s) (including their agents and employees) shall be released from any further liability thereunder accruing from and after the date of such assignment, to the extent of the interest assigned.

- 2 REPRESENTATIONS AND WARRANTIES. The City hereby represents and warrants that as of the date of this Consent:
- a. It (i) is duly formed and validly existing under the laws of the State of California, and (ii) has all requisite power and authority to enter into and to perform its obligations hereunder and under the Lease, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby;
 - b. the execution, delivery and performance of this Consent and the Lease have been duly authorized by all necessary action on its part and do not require any approvals, material filings with, or consents of any entity or person which have not previously been obtained or made;
 - c. each of this Consent and the Lease is in full force and effect;
 - d. each of this Consent and the Lease has been duly executed and delivered on its behalf and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and (ii) general equitable principles (whether considered in a proceeding in equity or at law);
 - e. there is no litigation, arbitration, investigation or other proceeding pending for which the City has received service of process or, to the City's actual knowledge, threatened against the City relating solely to this Consent, the Lease and the transactions contemplated hereby and thereby;
 - f. the execution, delivery and performance by it of this Consent and the Lease, and the consummation of the transactions contemplated hereby, will not result in any violation of, breach of or default under any term of any material contract or material agreement to which it is a party or by which it or its property is bound, or of any material requirements of law presently in effect having applicability to it, the violation, breach or default of which could have a material adverse effect on its ability to perform its obligations under this Consent;
 - g. neither the City nor, to the City's actual knowledge, any other party to the Lease, is in default of any of its obligations thereunder; and

- h. to the City's actual knowledge, (i) no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either the City or Borrower to terminate or suspend its obligations under the Lease.

Each of the representations and warranties set forth herein shall survive the execution and delivery of this Consent and the consummation of the transactions contemplated hereby.

- 3 NOTICES. All notices required or permitted hereunder shall be given, in writing, and shall be effective (a) upon receipt if hand delivered, (b) upon telephonic verification of receipt if sent by facsimile and (c) if otherwise delivered, upon the earlier of receipt or three (3) Business Days after being sent registered or certified mail, return receipt requested, with proper postage affixed thereto, or by private courier or delivery service with charges prepaid, and addressed as specified below:

If to the City:

Name:

Address:

City, State, Zip Code

Telephone No.:

Fax No.:

Attention:

If to Administrative Agent:

Name:

Address:

City, State, Zip Code

Telephone No.:

Fax No.:

Attention:

If to Borrower:

Name:

Address:

City, State, Zip Code

Telephone No.:

Fax No.:

Attention:

Any party shall have the right to change its address for notice hereunder to any other location within the United States by giving thirty (30) days written notice to the other parties in the manner set forth above.

- 4 ASSIGNMENT, TERMINATION, AMENDMENT. This Consent shall be binding upon and benefit the successors and assigns of the Parties hereto and their respective successors, transferees and assigns (including without limitation, any entity that refinances all or any portion of the obligations under the Financing Agreement). The City agrees (a) to confirm such continuing obligation, in writing, upon the reasonable request of (and at the expense of) Borrower, Administrative Agent, the Lenders or any of their respective successors, transferees or assigns, and (b) to cause any successor-in-interest to the City with respect to its interest in the Lease to assume, in writing and in form and substance reasonably satisfactory to Administrative Agent, the obligations of City hereunder. Any purported assignment or transfer of the Lease not in conjunction with the written instrument of assumption contemplated by the foregoing clause (b) shall be null and void. No termination, amendment, or variation of any provisions of this Consent shall be effective unless in writing and signed by the parties hereto. No waiver of any provisions of this Consent shall be effective unless in writing and signed by the party waiving any of its rights hereunder.
- 5 GOVERNING LAW. This Consent shall be governed by the laws of the State of California applicable to contracts made and to be performed in California. The federal courts or the state courts located in California shall have exclusive jurisdiction to resolve any disputes with respect to this Consent with the City, Assignor, and the Lender or Lenders irrevocably consenting to the jurisdiction thereof for any actions, suits, or proceedings arising out of or relating to this Consent.
- 6 COUNTERPARTS. This Consent may be executed in one or more duplicate counterparts, and when executed and delivered by all the parties listed below, shall constitute a single binding agreement.
- 7 SEVERABILITY. In case any provision of this Consent, or the obligations of any of the Parties hereto, shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions, or the obligations of the other Parties hereto, shall not in any way be affected or impaired thereby.
- 8 ACKNOWLEDGMENTS BY BORROWER. Borrower, by its execution hereof, acknowledges and agrees that neither the execution of this Consent, the performance by the City of any of the obligations of the City hereunder, the exercise of any of the rights of the City hereunder, or the acceptance by the City of performance of the Lease by any party other than Borrower shall (1) release Borrower from any obligation of Borrower under the Lease, (2) constitute a consent by the City to, or impute knowledge to the City of, any specific terms or conditions of the Financing Agreement, the Security Agreement or any of the other Financing Documents, or (3) except as expressly set forth in this Consent, constitute a waiver by the City of any of its rights under the Lease. Borrower and

Administrative Agent acknowledge hereby for the benefit of City that none of the Financing Agreement, the Security Agreement, the Financing Documents or any other documents executed in connection therewith alter, amend, modify, or impair (or purport to alter, amend, modify, or impair) any provisions of the Lease.

CITY OF _____

ADMINISTRATIVE AGENT

APPROVED AS TO FORM

City Attorney

BORROWER

APPROVED

City Manager

**EXHIBIT I
MEMORANDUM OF LEASE**

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

[Agency and address]

MEMORANDUM OF LEASE

This memorandum of Lease (Memorandum") is entered into as of this _____ day of _____, 20___, by and between _____, a _____ ("Lessor") and _____, a Delaware limited liability company ("Lessee"), with respect to that certain Lease Agreement dated _____, 20___ ("Lease), between Lessor and Lessee.

Pursuant to the Lease, Lessor leases to Lessee and Lessee leases from Lessor a portion of each of the property known as _____ located in the City of _____, County of _____, California, for the purpose of installing constructing, operating and maintaining a solar powered electric generating and storage facility (the "Facility") to be owned, maintained and operated by Lessee, all subject to the terms and conditions more fully set forth in the Lease.

The Lease shall commence on _____ and shall end on the date that is twenty (20) years after the commencement of the commercial operation date of the Facility plus a ninety (90) day removal period. Pursuant to section XX of the Lease, Lessor has the right to purchase the Facility at the expiration of the Lease term.

This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the Lease, of which this is a memorandum.

Lessor and Lessee desire to have this Memorandum recorded in the Official Records of _____ County, California, in order to put interested parties on notice of the Lease.

In Witness Whereof, the parties hereto have executed this Memorandum on the day and year first written above.

LESSOR:

{INSERT NAME OF LESSOR},
a

By: _____

Its: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

LESSEE:

{INSERT NAME OF LESSEE}
a

By: _____

Its: _____

STATE OF CALIFORNIA

COUNTY OF _____)

On _____, before me, _____, a notary public in and for said County, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

EXHIBIT J

ROOF REPAIR/REPLACEMENT

1. Engineering Review; Approvals. Lessor shall, at no cost to Lessor, reasonably cooperate with Lessee's effort to (a) obtain a structural analysis, at Lessee's sole cost and expense from a structural engineer and selected by Lessee and properly licensed in the State of California (the "**Engineering Review**"), confirming whether the building on which the Facility will be installed (the "**Building**") will support the Permitted Use, and identifying any necessary or recommended repairs to any portion of the Premises or the Building necessary or appropriate in connection with installation, siting and operation of the Facility at the Premises, and (b) obtain and maintain any permitting authority's required permits or approvals in connection therewith ("**Approvals**"). A copy of the Engineering Review shall be delivered to Lessor promptly following Lessee's receipt thereof. Except as may be required by applicable Law, Lessor shall make commercially reasonable efforts not to materially interfere with the Permitted Use or Lessee's ability to obtain the Engineering Review or to obtain and maintain the Approvals.
2. Roof Repairs/Replacement. Lessee shall determine, based on the Engineering Review, the scope of repairs and/or replacements to the Building necessary to permit installation, siting and operation of the Facility in accordance with Lessee's standards (the "Roof Work"). Lessee shall contract for and cause performance of the Roof Work at Lessee's sole cost and expense, subject to Lessor's prior approval of the plans and specifications for such Roof Work, which approval shall not be unreasonably delayed, withheld or conditioned. Any Roof Work shall utilize the materials described in Exhibit J-1 hereto. Lessor shall enter into a contract for the Roof Work with a roof contractor that is properly licensed in the State of California, insured in accordance with the requirements of this Lease. Upon completion of the Roof Work, the same shall become a part of the Premises and shall be the real property of Lessor, subject to the terms and conditions of this Lease.
3. Lessor Reimbursement for Roof Work. In the event of an early termination of the Lease (except due to a Lessee Event of Default), Lessor shall reimburse Lessee for an amount equal to the product of (a) Lessee's cost with respect to the Roof Work, multiplied by (b) a fraction, the numerator of which equals the difference of twenty (20) minus the number of years since the Facility achieved Commercial Operation (as defined in the PPA) as of the early termination date of this Lease, and the denominator of which is twenty (20).
4. Lessee's Maintenance Obligations. Lessee shall obtain a warranty that meets or exceeds the requirements set forth in Exhibit J-2 attached hereto covering the Roof Work (the "**Roof Warranty**") naming Lessor as beneficiary thereof. Lessee shall provide a copy of the Roof Warranty to Lessor promptly following completion of the Roof Work. Lessor and Lessee shall comply with the Roof Warranty and perform all work in and on the Premises in accordance with the Roof Warranty, and shall not take or omit to take any action that would affect or invalidate the Roof Warranty. During the Term, Lessee will maintain the Facility in good operating condition and repair, including the area of the roof beneath the Facility (except as set forth in Section 5 of this Exhibit J). If there is any water damage, including mildew or mold related to said water damage, to the Building during the Term that is caused by Lessee's cleaning, repair, replacement, removal, improvement, enhancement, relocation, installation, or alteration of the Facility, then Lessee shall, at its sole cost, repair the roof and such water damage, mildew or mold as necessary (x) to return the roof membrane to a watertight condition; and (ii) to return any damaged element of the Building or contents therein to the condition it was in prior to the water damage.

5. Lessor's Maintenance Obligations.

1. During the Term, except for those items that are the express obligation of Lessee set forth in Section 4 of this Exhibit J, Lessor shall maintain in good operating condition and repair, the Building and the Premises, including structural elements of the Building (including the roof) and the Premises. Lessor shall use commercially reasonable efforts to make repairs to the Building during the period from October through April in order to eliminate any material interference with the Permitted Use. Lessor shall maintain the roof membrane, gutters, scuppers, and downspouts in accordance with the Roof Warranty so that the Roof Warranty will not be voided by any such repairs or maintenance.
2. During the Term, Lessor shall not allow trees or other plants on Lessor's property to overgrow if such overgrowth would cause two percent (2%) or greater shading of the Solar Facility's solar modules, as measured by industry standard shade analysis tools and practices.

EXHIBIT J-1

ROOF REPLACEMENT MATERIAL REQUIREMENTS

An approximately 35,000 square foot roof repair using material compliant with the existing roofing system.

EXHIBIT J-2

ROOF WARRANTY REQUIREMENTS

Roof repair shall be performed in a manner consistent with the existing roofing manufacturer's published guidelines for warranty continuation.

EXHIBIT K

TERMINATION PAYMENT

The Termination Payment with respect to the Facility under the Lease shall be calculated in accordance with the following:

Early Termination Occurs in Year:	Termination Payment if PPA Storage Rate is \$40.00 per kW-mo.	Termination Payment if PPA Storage Rate is \$39.50 per kW-mo.	Termination Payment if PPA Storage Rate is \$38.50 per kW-mo.	Termination Payment if PPA Storage Rate is \$38.00 per kW-mo.
1*	\$2,297,985	\$2,596,510	\$2,297,985	\$2,596,510
2	\$2,197,096	\$2,470,762	\$2,199,076	\$2,473,723
3	\$1,969,364	\$2,199,938	\$1,973,630	\$2,206,319
4	\$1,737,897	\$1,924,215	\$1,744,591	\$1,934,228
5	\$1,502,452	\$1,669,158	\$1,511,724	\$1,657,148
6	\$1,367,066	\$1,652,470	\$1,343,543	\$1,617,286
7	\$1,353,221	\$1,633,527	\$1,330,012	\$1,598,813
8	\$1,337,618	\$1,612,474	\$1,314,743	\$1,578,260
9	\$1,319,537	\$1,588,452	\$1,297,029	\$1,554,784
10	\$1,299,052	\$1,561,548	\$1,276,938	\$1,528,471
11	\$1,275,954	\$1,531,519	\$1,254,267	\$1,499,081
12	\$1,249,759	\$1,497,890	\$1,228,528	\$1,466,134
13	\$1,234,029	\$1,474,079	\$1,213,295	\$1,443,067
14	\$1,202,181	\$1,433,504	\$1,181,984	\$1,403,295
15	\$1,166,746	\$1,388,644	\$1,147,130	\$1,359,303
16	\$1,127,661	\$1,339,424	\$1,108,667	\$1,311,013
17	\$1,084,144	\$1,284,916	\$1,065,825	\$1,257,517
18	\$1,036,062	\$1,224,966	\$1,018,474	\$1,198,659
19	\$983,037	\$1,159,121	\$966,238	\$1,133,994
20	\$924,852	\$1,087,126	\$908,901	\$1,063,268

*Includes early termination prior to the Commercial Operation Date.