Agenda Item B.2
PUBLIC HEARING
Meeting Date: October 19, 2021

TO: Mayor and Councilmembers

FROM: Peter Imhof, Planning and Environmental Review Director

CONTACT: Cindy Moore, Sustainability Manager

SUBJECT: City Hall Solar Photovoltaic Project

RECOMMENDATION:

A. Adopt Resolution 21-__, entitled, "A Resolution of the City Council of the City of Goleta, California, Making a Determination for a Categorical Exemption under the California Environmental Quality Act and Findings on Energy Savings Under California Government Code Sections 4217.10 et seq."; and

B. Approve and authorize the City Manager to execute an Energy Services Agreement, related project loan documents with Symbiont Energy, LLC for a 20-year power purchase agreement including final design, construction and startup of a microgrid-ready, solar photovoltaic system that integrates conduit for electric vehicle charging at City Hall in substantial conformance with Attachments 2 and 3, and all other related necessary documents as approved by the City Attorney.

C. Approve a budget appropriation of $309,770 as a loan to the project from the General Fund Unassigned Fund Balance ($44,877) and the Sustainability Reserve Account ($264,893) to the Sustainability Program (account 101-40-4500-51200) and set aside $94,500 as system removal funds.

BACKGROUND:

Encouraging renewable energy generation and use through installation of solar panels, battery energy storage, electric vehicle (EV) charging stations and similar measures at City-owned facilities is identified in the City's budget, Strategic Plan, and Resolution 17-52, which identifies Council's adopted 100% Renewable Energy Goal for the City by 2030. This resolution also includes an interim goal for at least 50% of electricity use by municipal facilities to come from renewable sources by 2025. The acquisition of the City Hall building allows the City to implement a high-visibility clean energy project that will help achieve the City's goal.

In 2020, a number of steps were taken to analyze and review the various options for installation of renewable energy generation and battery energy storage at City Hall. These

actions included completion of solar photovoltaic (PV) and battery energy storage and microgrid feasibility assessments prepared by Optony, as well as review and discussion of the topic by two different City Council Standing Committees at multiple meetings, a request for proposal process, and Council action to select a vendor and technical configuration.

At the December 15, 2020 public hearing, the City Council directed staff to pursue acquisition of a microgrid-ready, solar PV-only system for City Hall that integrates EV charging with shade structure installation financed via a power purchase agreement (PPA) and return with a contract for City Council approval. Council also authorized the City Manager to issue a letter of intent to the preferred vendor, Sandbar Solar & Electric and Symbiont Energy, LLC, the solar engineering, procurement and construction (EPC) contractor and financial services provider, respectively, which allowed the vendor to take the necessary steps to capture the Federal Investment Tax Credit before the end of the year.

The public hearing was continued to March 2, then April 20, and subsequently to June 1, 2021, when the item was taken off calendar to allow additional time for finalizing the contract. The purpose of this item is to consider and approve the final Energy Services Agreement (ESA) including the PPA that establishes the rate by which the City would pay for the energy, site license agreement that grants a right to install and maintain the solar facility and other associated exhibits, as well as new documents related to a loan to the project.

DISCUSSION:

Generally, under a PPA, the site host enters into a contract with a third party to purchase at a fixed rate all energy produced by a solar PV system installed on the property in question. The third party owns the solar PV system and is fully responsible for all ownership costs, including financing, operations and maintenance (O&M), insurance, and system output. The PPA requires no upfront financial investment; rather, the third-party manages the procurement of materials and installation, and then recoups those costs over time through energy payments from the site host.

In this case, the City is the site host, the property in question is City Hall, Symbiont Energy, LLC is the third-party financial services provider that would be the long-term owner of the solar PV system under the PPA, and Sandbar Solar & Electric is the engineering, procurement and construction ("EPC") contractor tasked with designing and building the system on behalf of Symbiont Energy, LLC, and by extension, the City.

During contract negotiations, it became evident that the Internal Revenue Code governing the California Infrastructure and Economic Development Bank's (IBank's) tax-exempt financing of the City Hall purchase, as well as IBank's own requirements, added layers of complexity to the project that required an adjustment to the PPA approach as discussed below.

IBank Provisions

Private Activity Use

IBank provides advantageous rates to finance public projects by allowing access to the tax-exempt bond market without requiring public agencies to issue bonds. The City's acquisition of City Hall involved a loan from IBank that was funded with tax-exempt bonds and the City was required to warranty that it would not take any action that would impact the tax-exempt status of the bonds funding the loan. Therefore, the City is bound by the tax limitations on tax-exempt debt. Tax implications could arise for a transaction involving a loan funded with tax-exempt bonds if a private activity use benefits from such tax-exempt financing.

It was determined that the PPA constitutes private activity because there would be private use by the PV system owner of space on the City Hall property. However, this determination - while it does limit the system size - does not prevent the use of a PPA for City Hall due to the following factors. First, the Internal Revenue Code includes a 5% safe harbor provision, meaning that 5% of the City Hall can be used for private activity. Additionally, the City used a portion of its own funds for the purchase. The result is that approximately 17% of the square footage of the City Hall property can be used for private activity, in this case the PPA for solar panels. Any PPA will have to comply with these square footage limitations. Use of a portion of the square footage limitation for this project will limit the City's ability to later lease out City Hall space for other private activity.

The total allowable coverage is 17.39% or approximately 6,752 square feet of office space and the solar will take up the whole current allowable area that could be eligible for private use. The available area will continue to increase over time as the City pays off its financing, and if the City wants to pursue a new or different use of space that exceeds the allowable use, other approaches could be pursued, such as repaying the loan or replacing City Hall as a loan security with an alternate City property as raised by IBank.

Optony prepared an analysis of the approximate maximum solar photovoltaic (PV) coverage in the parking lot that would meet the square footage requirement listed above. Sandbar's maximum proposed system size of 210 kW meets this requirement.

Site Control - System Removal

The City's financing agreement with IBank requires IBank approval of any use contracts before the City enters into them. This is to ensure that a use does not create any potential future obligation of IBank or otherwise encumber IBank's interests in the real property. As such, IBank is requiring that, in the unlikely event IBank ever gained possession of the City Hall building due to default on the loan (e.g., City not making repayment and/or becoming insolvent), the PV equipment would be removed within 90 days. Such a removal requirement necessitates provision of a removal fund in the form of funds or other security instrument sufficient to accomplish the task.

The refusal by IBank, in event of default, to assume obligations owed under the PPA and need to provide for removal of the system in that eventuality proved problematic for Symbiont to access debt capital markets or financing. Coupled with a requirement from day one to have in place a removal fund in the unlikely event of City default, these factors made the project economically infeasible as previously proposed. To prevent further upward price adjustments related to the provision of a removal fund, the City proposed assumption of the removal obligation in a City default scenario. This is discussed in further detail under the Fiscal Impacts section below. To address Symbiont's inability to receive non-recourse debt under these circumstances, a modification to the third-party PPA approach is now proposed as described below.

Hybrid PPA Model

A hybrid PPA model is a financing option by which a public entity issues a government bond or makes a loan at a low interest rate and transfers that low-cost capital to a developer in exchange for a lower PPA price. As proposed, Symbiont would fund the full cost of installation during construction. Upon project completion, the City would lend the project $309,770 at a 2.2% interest rate over the 20-year term, essentially covering the amount that would have been borrowed from the capital markets. Interest on the loan accruing to the City would be approximately $84,000 over the term.

The loan would be guaranteed by the project company so any defaults would allow the City to foreclose on the project and become the new owner with no additional payments. To effectuate the loan, a Promissory Note, Pledge Agreement and Guaranty would be required and are included in Attachment 3. The Promissory Note is a promise to pay by the project company that is backstopped by a Guaranty from the project company and a pledge of project company membership interests and underlying assets including equipment contracts.

Energy Services Agreement Terms

The Energy Services Agreement (ESA) includes seven exhibits as follows: (1) Basic Terms and Conditions; (2) System Description with Layout; (3) the Power Purchase Agreement and General Terms and Conditions; (4) Form of Site License Agreement; (5) Expected Contract Quantity (kWh) by Contract Year; (6) Early Termination Fee by Contract Year; and (7) System Technical Specifications. The basic terms of the agreement are summarized below:

- **Term** – The term is 20 years. The ESA includes an option for one additional term of five years, and a purchase option at the end of contract years 6, 10, 15 as well as the end of the term and any additional term at fair market appraisal, should the City wish to own the system at a later date and maximize savings during the remainder of the system life. Buyout price at year 20 is estimated at $46,535.

- **Contract Price** – The City will pay $0.1475/kWh in year one of the term, subject to a 3% escalator annually, for all electric energy generated by the system up to

110% of the expected contract quantity. The City maintains discretion whether to purchase any amount produced over that amount, should the system overperform.

- **Performance Guarantee** – The PPA includes a provision that ties City energy payments directly to the actual production from the installed system. The PPA ensures that at least 85% of the expected contract quantity of electrical energy is delivered over each rolling two-year contract period, with compensation to the City for any kWh shortfall. If the system is damaged or otherwise not producing energy, City Hall would receive energy from the utility, just as it currently does. This arrangement aligns interests between the City and the developer, so that the developer is motivated to keep the system operating at optimal levels.
- **System Design & Installation** – The ESA requires that the developer design, construct and install the system, including obtaining any necessary permits to construct the project, and all coordination with SCE for interconnection. The 210 kW design maximizes energy production based on the IBank limitations identified in the PV coverage calculations Optony prepared and energy needs of the facility.

- **Operations & Maintenance** - The developer/system owner is solely responsible for the O&M of the system in accordance with the system technical specifications included in the ESA.

- **Site License** – The ESA includes a separate site license agreement to allow access by the developer to perform its obligations under the agreement related to construction, installation, operation, maintenance and/or repair of the system.

- **IBank** – As discussed previously, the PPA includes specific language to retain the rights of California Infrastructure and Economic Development Bank (IBank) with respect to the site and financing leases it holds with the City for the acquisition of the City Hall property. Specifically, IBank shall have no liability or obligation under the agreement and shall have no obligation to take any action with respect to the solar equipment in the unlikely event IBank obtains possession of the property or facility. The City, through its system removal fund, is responsible for removal of any solar equipment and the return of the property to its original condition within 90 days of the date IBank obtains such possession.

- **Warranty** – The PPA identifies a ten-year system workmanship warranty in addition to the various system component warranties provided. Any faulty components (e.g., solar panels, inverters, etc.) must be replaced by the system owner at no cost to the City.

- **Environmental Attributes** – All environmental attributes created by the renewable energy generation accrue to the City. The environmental attributes include the emissions benefits associated with the use of renewable energy and the source of renewable energy. A renewable energy certificate or “REC” is a marketable unit representing the rights to the environmental attributes of the renewable power generation. For every megawatt-hour (MWh) of renewable electricity generated and sold to the wholesale market, an associated REC is

created. The value attributed to the RECs in $/kWh has been included in the energy savings financial analysis (Attachment 1, Exhibit 1). It is estimated that the RECs will be worth approximately $3,000 per year over the 20-year term.

- **Electric Vehicle Charging Infrastructure** – Conduit sufficient for three, dual-port, Level 2 electric vehicle chargers will be installed underground. The City is pursuing current opportunities through SCE and other state programs for funding of the charging station equipment. The City maintains control of any Low Carbon Fuel Standard (LCFS) credit sales generated by future use of the EV charging stations. Such sales were not factored into the energy savings financial analysis at this time due to lack of clarity about charging demand.

PPA Savings

An energy savings financial analysis comparing a cash purchase with the PPA taking into account the loan is included in Attachment 1, Exhibit 1. As expected, the direct purchase provides better savings over the 25-year project life but requires a larger City investment. The direct purchase option requires a City investment of $698,200. After a cash purchase, no ongoing energy payments would be made to the solar developer; meaning net energy savings would accrue more rapidly than under a PPA. However, in addition to the upfront payment for the equipment and installation, City ownership would require the City to assume Operations & Maintenance (O&M) responsibilities for the equipment, including servicing, which could be performed either through in-house personnel or through an outside contractor, either the installer or a third party. In the case of system damage or inoperability, the City would bear the risk of reduced electricity bill savings while coordinating outside contractor troubleshooting and repairs.

The proposed hybrid PPA model requires an upfront financial investment of $309,770 in the form of a loan with a 2.2% rate of return. The solar developer would still manage the procurement of materials and installation, and then recoup those costs over time through energy payments from the City. The solar developer is also eligible to take advantage of federal tax benefits, including tax credits and accelerated depreciation for which the City is not eligible, and which help to reduce financing costs. Under the proposed PPA, the solar developer is still responsible for the O&M burden, and City energy payments are tied directly to the actual production from the installed system. If the system is damaged or otherwise not producing energy, the City has no obligation to pay, and City Hall would receive energy from the utility, just as it currently does. This arrangement aligns interests between the City and the developer, so that the developer is motivated to keep the system operating at optimal levels. Under the PPA, the vendor provides a system performance guarantee (also often available under a purchase option with a separate O&M contract at additional cost) and the City has a predictable electricity rate. Additionally, the PPA includes a buyout option, should the City wish to own the system at a later date and maximize savings during the remainder of the system life.

Over the expected 25-year life of the solar PV system, the direct cash purchase is expected to provide greater returns of approximately $586,975, compared to net PPA savings modeled at roughly $270,325. Because the purchase requires a more significant

upfront investment, financial benefits are backloaded toward the later years of the system's life. For this reason, the Net Present Value (NPV) of the direct purchase savings, at a 3% discount rate, is approximately $194,474, compared to an NPV of $50,236 for the PPA. For a breakdown of these values, see the table below.

	Hybrid PPA	Direct Purchase
Solar-Only	210 kW	210 kW
City Capital Expenditure	$309,770 @ 2.2%	$698,200
25-Year Savings	$270,325	$586,975
Net Present Value of 25-Year Savings (@ 3%)	$50,236	$194,474
Operational Responsibility	Solar Developer	City
Performance Risk	Solar Developer	City
Component Replacement	Solar Developer	City
End-of-Term Removal	Solar Developer	City

Due to the relatively small difference between the NPV savings of the two options over 25 years, along with staff's constrained bandwidth to manage or oversee O&M services or contracts, and considering the City's perceived preference to avoid additional major capital allocations when other options are available, staff continues to recommend proceeding with PPA procurement, with possible consideration of revisiting the possibility of a future (Year 6-10) buyout of the system, after private tax benefits have been exhausted.

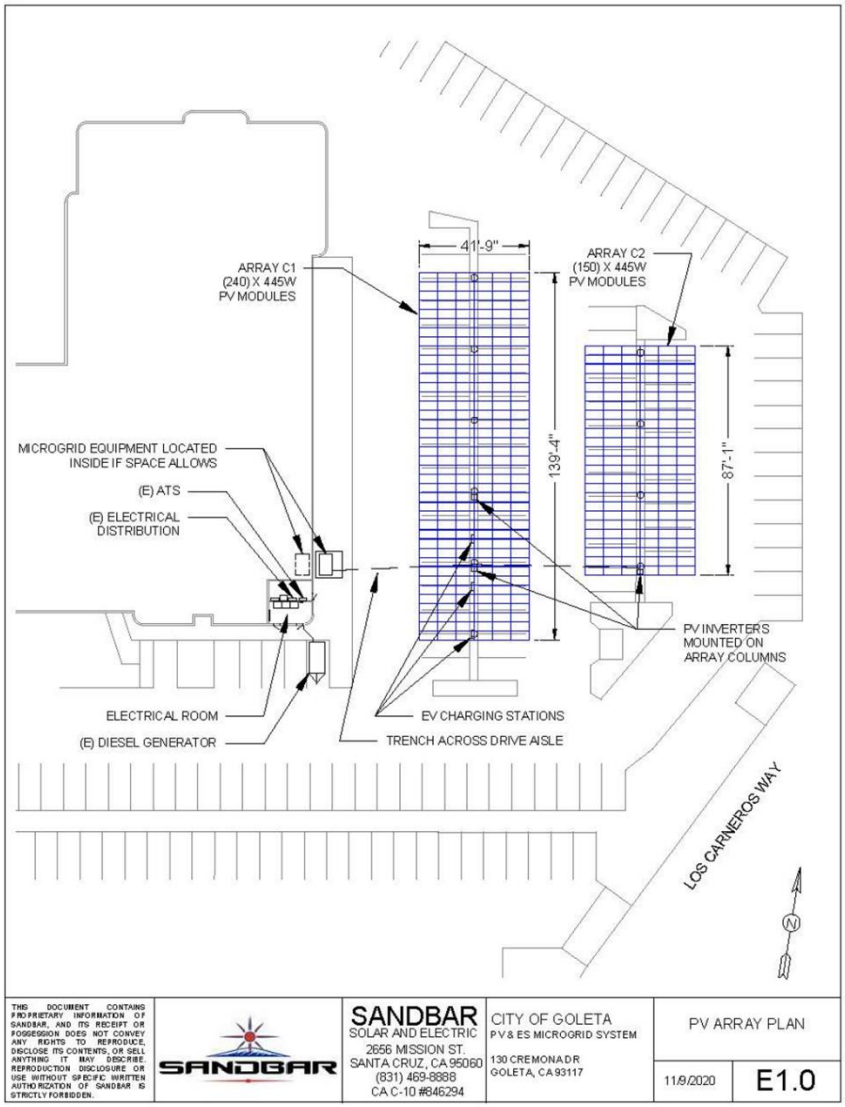
Based on the hybrid PPA model, Optony has updated the financial analysis as listed above. The analysis assumes conservatively that utility rates will increase at 3% over the life of the project and the amount of the gross utility savings is expected to be just over $41,000 in Year 1, increasing annually over the 25-year period. Under a conservative PPA pricing scenario, energy costs would be expected to increase by an average of $3,600 annually during the 20-year PPA term. However, after the 20-year period of the PPA agreement, the solar PV system is expected to have at least 5 more years of operational life under warranty in which the City can capture the full value of utility savings from the solar system at approximately $70,000 annually. The resulting total savings over the 25-year system life will be approximately $270,325.

If approved by all parties, it is anticipated the project would be commissioned prior to the end of December 2022, if not earlier, with a detailed construction schedule provided following contract execution and the outcome of geotechnical due diligence.

California Government Code Section 4217.12 provides the authority for public entities to enter into an energy services agreement on terms that are determined to be in the best interest of the public agency. This includes using a selection process defined by the individual public entity, if certain findings related to the anticipated cost for the energy will be less than the anticipated marginal cost to the public agency of the energy that would have been consumed in absence of such an agreement. A more detailed analysis of the savings is included in Attachment 1, Exhibit 1 and supports these findings.

System Layout

The ESA covers an all-shade structure solar PV solution rather than a rooftop array, and the proposed location of the PV array is shown in the diagram below and included in Attachment 2 (Exhibit 2, Attachment A).



Staff notes that the proposed shade structure system of approximately 210 kW-DC importantly fits within the allowable square footage under the "private benefit" limitations of the City's finance arrangement for the purchase of City Hall with IBank. This would produce an estimated 316,000 kWh and cover approximately 99% of City Hall historic usage, not including the unoccupied prior tenant space. Should the City desire to expand the solar PV system in the future, Sandbar estimates an additional 30 kW could be installed on the roof, producing an additional 45,000 kWh, which would cover approximately 90% of the historic usage *including* estimated usage for the prior tenant space. Any addition of solar panels on the roof under a PPA would need to be confirmed to remain in compliance with the private benefit limitations previously discussed.

Finally, in relation to the City's goal of a microgrid-ready PV system, it is noted that Sandbar has been pre-selected as 3CE's provider for participatory projects in their Uninterrupted Power Supply (UPS) Fund Program. This program can provide access to very low rate financing for public agencies to adopt resiliency projects. The solar PV-only system will be designed to be "microgrid-ready" to ensure that system hardware and contracting arrangements will enable a battery storage system and microgrid controls to be added in the future. With Goleta enrolling with 3CE service in October 2021, it is likely that there would be an opportunity to leverage the UPS Fund for a microgrid option in the future.

City Council Finance and Audit Standing Committee

On September 14, 2021, the City Council's Finance and Audit Standing Committee received an update on the project. Staff requested input on the procurement decision of a solar PV-only system using the hybrid PPA model. Both Committee members supported the recommendation as described herein.

Environmental Review

Staff has assessed the environmental impact of the renewable energy project in accordance with the State Guidelines for the Implementation of the California Environmental Quality Act (CEQA), and determined that the project is statutorily exempt from the provisions of CEQA pursuant to California Public Resources Code Section 21080.35 (installing solar systems on existing roofs and existing parking lots), and that it is further categorically exempt from the provisions of CEQA per CEQA Guidelines sections 15301 (minor alterations to existing facilities) and 15303 (limited construction of small facilities) , which, pursuant to §15374, requires only the filing of a Notice of Exemption (NOE). The NOE is provided as Exhibit 1 to Attachment 2.

GOLETA STRATEGIC PLAN:

The recommended items in this report relate to the following 2021-2023 Strategic Plan strategies, goals, and objectives:

City-Wide Strategy: Support Environmental Vitality

Strategic Goal: Promote renewable energy, energy conservation and local energy resiliency

Objectives:

- Encourage renewable energy generation and use through installation of solar panels, battery energy storage, electric vehicle charging stations and similar measures, including at City-owned facilities and complete installation of solar panels and electric vehicle charging stations at City Hall.

- Implement the Strategic Energy Plan in furtherance of the City's adopted 100% renewable energy goals.

- Promote increased electric grid resiliency by encouraging backup inverters, microgrids, battery storage and other strategies, as appropriate, to enable Goleta to withstand blackouts and other energy challenges.

FISCAL IMPACTS:

As proposed, the ESA for a solar PV-only system would require an upfront loan to the project of $309,770 with interest accruing to the City at a rate of 2.2% over a 20-year term. The net savings of the project over 25 years is estimated to be approximately $270,325.

Should Council elect to pursue this hybrid PPA option and desire to make an upfront loan, the $309,770 could be covered by a “one-time” appropriation from the General Fund Unassigned Fund Balance ($44,877) and the Sustainability Reserve account ($264,893) to the Professional Services account (101-40-4500-51200) in the Sustainability Program. The table below summarizes this appropriation.

City Hall Solar PV Project, FY 21/22					
Fund	**GL Account**	**FY 21/22 Budget**	**FY 21/22 YTD Actuals + Enc.**	**Appropriation**	**Total Available Budget**
General Fund	101-40-4500-51200	$29,000	$29,000	$309,770	$309,770

There is approximately $11.7 million available in unassigned fund balance and $264,893 in the Sustainability Reserve account.

With regard to any anticipated equipment replacement, the solar modules are guaranteed by the manufacturer for 25 years, although the likely useful life is closer to 35 years. However, approximately $30,000 in funds for inverter replacement at year 15 (normal equipment life) has been incorporated into the financial analysis for the cash purchase scenario. As noted, equipment replacements under the PPA are at the sole cost of the solar developer.

As required by the IBank provision in the ESA, the budget amount determined necessary as a set aside for covering the future removal costs is $94,500, as supported by a vendor quote. Depending on the form of the security, such as if the City were to utilize other options such as a letter of credit, bond or deposit control agreement there could be an ongoing annual fee of 0.75% to 1.5% on the amount for the City to maintain such a fund as shown in the table below.

System Removal Fund Fees (Estimate)		
	$94,500	
One-time Fee	$750	
Annual Fee	0.75%	1.5%
	$708.75	$1,417.50

At this time, staff recommends setting aside the $94,500 as restricted fund balance from the unassigned fund balance subject to the terms of the ESA and IBank. Should the $94,500 be needed in the future, the City could then utilize the other security instruments to cover future removal costs and release the $94,500 back into the unassigned fund balance, and subject to annual fees related to the type of the security instrument.

Finally, the Santa Barbara County Assessor requires the City to annually report on possessory interests. The Assessor then determines whether a particular use constitutes a taxable possessory interest, which may exist when a private entity uses non-taxable real property owned by a government agency. Pursuant to the ESA, the City would assume the responsibility of paying any possessory interest taxes. If Symbiont assumed this responsibility, the City would have to pay a higher energy rate.

Based on Assessor determinations of similar types of PPA projects within the County, it is anticipated that the City could owe possessory interest tax of approximately 1.1% of the assessed possessory interest value. While the Assessor cannot provide figures at this time, the process involves determining market ground rent for the square footage of the panels and capitalization of that market rent over the length of the term to determine a present value of the possessory interest.

While the County Assessor/Appraiser cannot make the final determination with regard to methodology and effective capitalization rate, the City's Finance Director prepared the scenario below to provide an estimate for ongoing costs. The scenario uses 20 years, land lease amounts ranging from $0.15 to $0.45 (from Santa Barbara Airport land lease data) and an 8% capitalization rate, which was used for another County example.

	$0.15 PSF/Month	$0.30 PSF/Month	$0.45 PSF/Month
Est. Annual Rental Income (11,471 sf)	$ 20,648	$ 41,296	$ 61,943
PV Factor (PV$1PP) annual/20years/8%	9.82	9.82	9.82
Estimated PI Assessed Value	$ 202,723	$ 405,446	$ 608,169
Est. PI Tax	$ 2,230	$ 4,460	$ 6,690

The possessory interest tax could then increase up to a maximum of 2% per year. if the City purchases the system at some point, the possessory interest would cease to exist.

Once the amount of possessory interest is determined, staff will include the appropriation in a future quarterly financial review report. Additionally, the annual future budgets will be programmed accordingly.

ALTERNATIVES:

At the December 15, 2020 meeting, the City Council authorized the City Manager to issue a letter of intent to Sandbar Solar & Electric, which identified various parameters of the project and allowed the vendor to take the necessary steps to capture the Federal Investment Tax Credit before the end of the year. The City Council may elect not to proceed with the recommended actions as presented and provide staff alternate direction. The City Council may also elect not to proceed with authorizing installation of a renewable energy system. Under that course of action, the City would proceed with the business-as-usual scenario with no infrastructure investment.

Reviewed By:	**Legal Review By:**	**Approved By:**
Kristine Schmidt	Megan Garibaldi	Michelle Greene
Assistant City Manager	City Attorney	City Manager

ATTACHMENTS:

1. Resolution No. 21-__, entitled, “A Resolution of the City Council of the City of Goleta, California Making a Determination for a Categorical Exemption Under the California Environmental Quality Act and Findings on Energy Savings Under California Government Code Section 4217.10 et seq.”
2. Energy Services Agreement
3. Loan Documents
4. Staff Presentation

ATTACHMENT 1

Resolution No. 21-__

"A Resolution of the City Council of the City of Goleta, California, Making a Determination for a Categorical Exemption Under the California Environmental Quality Act and Findings on Energy Savings Under California Government Code Section 4217.10 et seq."

RESOLUTION NO. 21-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA, CALIFORNIA MAKING A DETERMINATION FOR A CATEGORICAL EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND FINDINGS ON ENERGY SAVINGS UNDER CALIFORNIA GOVERNMENT CODE SECTION 4217.10 ET SEQ.

WHEREAS it is the policy of the State of California and the intent of the State Legislature to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources; and

WHEREAS the City of Goleta ("City") desires to reduce the steadily rising costs of meeting the energy needs at its facilities; and

WHEREAS California Government Code Section 4217.10 *et seq.* authorizes a public agency to utilize an alternative procurement process to contract for energy services if its governing body determines, at a regularly scheduled public hearing, public notice of which is given at least two weeks in advance, that the anticipated cost to the agency for the alternative energy project will be less than the anticipated marginal cost to the agency of electrical energy that would have been consumed by the agency in the absence of the energy services contract; and

WHEREAS the City proposes to enter into an Energy Services Contract and related contract documents with Symbiont Energy, LLC for Goleta City Hall pursuant to which Sandbar Solar & Electric will design, construct, and install solar photovoltaic facilities ("Solar Facilities") and arrange with the local utility for interconnection of the facilities, which will generate energy for City Hall; and

WHEREAS Symbiont Energy, LLC is the financial services provider and owner of the Solar Facilities under the Energy Services Contract and Sandbar Solar & Electric is the engineering, procurement and construction ("EPC") contractor tasked with designing and building the Solar Facilities on behalf of Symbiont Energy, LLC; and

WHEREAS the City entered into a consultant contract with Optony, Inc. ("Optony") to perform energy consulting and related services; and

WHEREAS Optony analyzed the energy needs of City Hall and provided the City with a solar photovoltaic microgrid analysis and has concluded that the installation and construction of the Solar Facilities proposed by Sandbar Solar & Electric and Symbiont Energy, LLC will result in an anticipated cost savings that the City could realize with the installation of the Solar Facilities ("Optony Analysis"); and

WHEREAS Sandbar Solar & Electric and Symbiont Energy, LLC have developed and proposed a solar photovoltaic project for the City that includes the installation and operation of Solar Facilities on shade structures at City Hall; and

WHEREAS Sandbar Solar & Electric and Symbiont Energy, LLC have represented to the City that they can design, construct, and install the Solar Facilities; and

WHEREAS based upon the Optony Analysis attached as Exhibit 1, which includes data showing that the anticipated cost to the City for the electrical energy provided by the Solar Facilities will be less than the anticipated marginal cost to the City of electrical energy that would have been consumed by the City in the absence of those purchases; and

WHEREAS in accordance with Government Code section 4217.10 *et seq*., not less than fourteen (14) days before the meeting where this Resolution will be considered, the City posted notice of a public hearing at which the City Council would consider this Resolution; and

WHEREAS on December 15, 2020, pursuant to Government Code section 4217.10 *et seq*., the City held a public hearing with respect to the Solar Facilities and the public hearing was continued to March 2, April 20, and subsequently to June 1, 2021, when the item was taken off calendar to allow additional time for finalizing the Energy Services Contract; and

WHEREAS on October 19, 2021, pursuant to Government Code section 4217.10 *et seq*., the City held a public hearing with respect to the Solar Facilities for consideration of the Energy Services Contract; and

WHEREAS the City has reviewed the Energy Services Contract and has determined that the solar photovoltaic project is statutorily exempt from the provisions of CEQA pursuant to California Public Resources Code Section 21080.35 and pursuant to the State CEQA Guidelines.

WHEREAS the City Council considered the Energy Services Contract with Symbiont Energy, LLC, which is incorporated herein by this reference ("Energy Services Contract") on October 19, 2021, at which time all interested persons were given an opportunity to be heard; and

WHEREAS the City Council considered the entire administrative record, including the staff report, the staff presentation, the Notice of Exemption, the contents of the Energy Services Contract and oral and written testimony from interested persons;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLETA, AS FOLLOWS:

SECTION 1 Recitals

The City Council hereby finds and determines that the foregoing recitals, which are incorporated herein by reference, are true and correct.

SECTION 2 Government Code 4217.12 Findings

The City Council finds that pursuant to Government Code section 4217.12(a)(1), the anticipated cost to the City for the electrical energy provided by the Solar Facilities under the contract will be less than the anticipated marginal cost to the City of electrical energy that would have been consumed by the City in the absence of those purchases. This is based upon the analysis attached as Exhibit 1, which includes data showing that with an annual increase in utility rates of 3%, the amount of the gross utility savings is expected to be just over $41,000 in Year 1, increasing annually over the 25-year period, with the resulting total savings over the 25-year system life totaling approximately $270,325. Further, the parking area has nominal fair rental value. The finding in Government Code section 4217.12(a)(2) is not applicable because the City does not need to lease real property from another entity in order to enter into the energy services contract.

SECTION 3 CEQA

The City Council finds that the Notice of Exemption for the solar photovoltaic Energy Services Contract at Goleta City Hall, provided as Exhibit 2, was prepared in full compliance with CEQA. The City Council finds, in light of the whole record, that the Project is statutorily exempt from environmental review pursuant to California Public Resources Code Section 21080.35 (installing solar systems on existing roofs and existing parking lots), and that it is further categorically exempt from the provisions of CEQA per Sections 15301 (minor alterations to existing facilities) and 15303 (limited construction of small facilities of Title 14 of the California Code of Regulations.

SECTION 4 Reliance on the Record

Each and every one of the recommendations in this Resolution is based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the City Hall solar photovoltaic project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 5 Summaries of Information

All summaries of information in the findings, which precede this section, are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 6 Effectiveness

This Resolution will remain effective until superseded by a subsequent resolution.

SECTION 7 Certification

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this __ day of _____ 2021.

_____
PAULA PEROTTE, MAYOR

ATTEST:

_____
DEBORAH S. LOPEZ
CITY CLERK

APPROVED AS TO FORM:

_____
MEGAN GARIBALDI
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO HEREBY CERTIFY that the foregoing Resolution No. 21-__ was duly adopted by the City Council of the City of Goleta at a regular meeting held on the ___ day of _____, 2021 by the following vote of the Council:

AYES:

NOES:

ABSENT:

(SEAL)

_____
DEBORAH S. LOPEZ
CITY CLERK

Exhibit 1

Energy Savings Financial Analysis

Assumptions:		Estimated Utility Value:	$0.131	Annual Utility Escalation:	3.0%	REC Value:	$0.010	Annual REC Escalation:	0.0%	Annual PIT Increase:	2.0%	NPV Discount Rate:	3.0%	
Year	PPA Rate ($/kWh)	Avoided Cost ($/kWh)	PV Production (kWh)	LCFS Value ($/kWh)	REC Value ($/kWh)	Utility + REC Savings	PV System Buy-Out ($)	Buy-Out ($/Wp)	Loan Cashflow ($)	Interest Portion of Loan Payments ($)	Possessory Interest Tax ($)	Combined Cashflow	NPV Cashflow	Non-Principal Cashflow
0									$(309,770)	2.200%		$(309,770)		
1	$0.1475	$0.131	313,721	-00	$3,137	-$2,039	$969,955	$4.619	$15,008	$6,815	$2,450	$10,519	$10,519	$2,326
2	$0.1519	$0.135	312,137	-00	$3,121	-$2,183	$947,299	$4.511	$15,428	$6,635	$2,499	$10,745	$10,432	$1,952
3	$0.1565	$0.139	310,552	-00	$3,106	-$2,331	$922,489	$4.393	$15,858	$6,441	$2,549	$10,978	$10,348	$1,562
4	$0.1612	$0.143	308,968	-00	$3,090	-$2,481	$895,419	$4.264	$16,298	$6,234	$2,600	$11,217	$10,265	$1,153
5	$0.1660	$0.147	307,383	-00	$3,074	-$2,635	$865,980	$4.124	$16,749	$6,013	$2,652	$11,462	$10,184	$726
6	$0.1710	$0.152	305,799	-00	$3,058	-$2,791	$834,061	$3.972	$17,211	$5,776	$2,705	$11,714	$10,105	$280
7	$0.1761	$0.156	304,214	-00	$3,042	-$2,951	$799,543	$3.807	$17,683	$5,525	$2,759	$11,973	$10,027	($186)
8	$0.1814	$0.161	302,630	-00	$3,026	-$3,115	$762,304	$3.630	$18,167	$5,257	$2,814	$12,238	$9,951	($672)
9	$0.1868	$0.166	301,046	-00	$3,010	-$3,282	$722,218	$3.439	$18,663	$4,973	$2,871	$12,510	$9,876	($1,179)
10	$0.1925	$0.171	299,461	-00	$2,995	-$3,452	$679,152	$3.234	$19,170	$4,672	$2,928	$12,789	$9,802	($1,708)
11	$0.1982	$0.176	297,877	-00	$2,979	-$3,627	$632,970	$3.014	$19,689	$4,353	$2,987	$13,076	$9,730	($2,260)
12	$0.2042	$0.181	296,292	-00	$2,963	-$3,804	$583,530	$2.779	$20,221	$4,016	$3,046	$13,370	$9,659	($2,835)
13	$0.2103	$0.187	294,708	-00	$2,947	-$3,986	$530,684	$2.527	$20,765	$3,659	$3,107	$13,671	$9,589	($3,434)
14	$0.2166	$0.192	293,123	-00	$2,931	-$4,171	$474,278	$2.258	$21,321	$3,283	$3,169	$13,981	$9,520	($4,058)
15	$0.2231	$0.198	291,539	-00	$2,915	-$4,361	$414,153	$1.972	$21,891	$2,886	$3,233	$14,298	$9,453	($4,707)
16	$0.2298	$0.204	289,954	-00	$2,900	-$4,554	$349,171	$1.663	$22,745	$2,468	$3,297	$14,894	$9,560	($5,383)
17	$0.2367	$0.210	288,370	-00	$2,884	-$4,752	$280,101	$1.334	$23,342	$2,022	$3,363	$15,227	$9,489	($6,093)
18	$0.2438	$0.217	286,785	-00	$2,868	-$4,953	$206,764	$0.985	$23,953	$1,553	$3,431	$15,569	$9,420	($6,831)
19	$0.2511	$0.223	285,201	-00	$2,852	-$5,159	$128,973	$0.614	$24,578	$1,060	$3,499	$15,920	$9,351	($7,598)
20	$0.2586	$0.230	283,617	-00	$2,836	-$5,370	$46,535	$0.222	$25,218	$543	$3,569	($30,256)	($17,255)	($54,931)
21	$-00.0000	$0.237	282,041	-00	$2,820	$69,551			$0			$69,551	$38,509	$69,551
22	$-00.0000	$0.244	280,474	-00	$2,805	$71,156			$0			$71,156	$38,250	$71,156
23	$-00.0000	$0.251	278,916	-00	$2,789	$72,800			$0			$72,800	$37,994	$72,800
24	$-00.0000	$0.259	277,366	-00	$2,774	$74,484			$0			$74,484	$37,740	$74,484
25	$-00.0000	$0.266	275,825	-00	$2,758	$76,209			$0			$76,209	$37,490	$76,209
26	$-00.0000	$0.274	274,293	-00	$2,743	$77,977			$0			$77,977	$37,242	$77,977
27	$-00.0000	$0.283	272,769	-00	$2,728	$79,789			$0			$79,789	$36,998	$79,789
28	$-00.0000	$0.291	271,254	-00	$2,713	$81,644			$0			$81,644	$36,755	$81,644
29	$-00.0000	$0.300	269,747	-00	$2,697	$83,546			$0			$83,546	$36,516	$83,546
30	$-00.0000	$0.309	268,248	-00	$2,682	$85,493			$0			$85,493	$36,279	$85,493
31	$-00.0000	$0.318	266,758	-00	$2,668	$87,489			$0			$87,489	$36,044	$87,489
32	$-00.0000	$0.328	265,276	-00	$2,653	$89,533			$0			$89,533	$35,812	$89,533
33	$-00.0000	$0.337	263,802	-00	$2,638	$91,628			$0			$91,628	$35,583	$91,628
34	$-00.0000	$0.347	262,337	-00	$2,623	$93,774			$0			$93,774	$35,355	$93,774
35	$-00.0000	$0.358	260,879	-00	$2,609	$95,972			$0			$95,972	$35,130	$95,972

City Investment	$(309,770)		
25-Yr Benefit	$580,095	NPV	$360,006
Net Savings	$270,325	NPV Savings	$50,236

* Year 20 assumes Buy-Out

Assumptions:		Estimated Utility Value:	$0.131	Annual Utility Escalation:	3.0%	REC Value:	$0.010	Annual REC Escalation:	0.0%	Annual O&M Increase:	3.0%	NPV Discount Rate:	3.0%	
Year	PPA Rate ($/kWh)	Avoided Cost ($/kWh)	PV Production (kWh)	LCFS Value ($/kWh)	REC Value ($/kWh)	Utility + REC Savings	PV System Buy-Out ($)	Buy-Out ($/Wp)	Purchase Payment ($)	Interest Portion of Loan Payments ($)	Annual O&M ($)	Combined Cashflow	NPV Cashflow	Non-Principal Cashflow
0									$698,200	2.200%		$(698,200)		
1	$-00.0000	$0.131	313,721	-00	$3,137	$44,235	$-00	$-00.0	$0	$0	$4,200	$40,035	$40,035	$40,035
2	$-00.0000	$0.135	312,137	-00	$3,121	$45,238	$-00	$-00.0	$0	$0	$4,326	$40,912	$39,720	$40,912
3	$-00.0000	$0.139	310,552	-00	$3,106	$46,265	$-00	$-00.0	$0	$0	$4,456	$41,810	$39,410	$41,810
4	$-00.0000	$0.143	308,968	-00	$3,090	$47,318	$-00	$-00.0	$0	$0	$4,589	$42,728	$39,102	$42,728
5	$-00.0000	$0.147	307,383	-00	$3,074	$48,395	$-00	$-00.0	$0	$0	$4,727	$43,668	$38,798	$43,668
6	$-00.0000	$0.152	305,799	-00	$3,058	$49,498	$-00	$-00.0	$0	$0	$4,869	$44,629	$38,497	$44,629
7	$-00.0000	$0.156	304,214	-00	$3,042	$50,628	$-00	$-00.0	$0	$0	$5,015	$45,613	$38,200	$45,613
8	$-00.0000	$0.161	302,630	-00	$3,026	$51,784	$-00	$-00.0	$0	$0	$5,165	$46,619	$37,905	$46,619
9	$-00.0000	$0.166	301,046	-00	$3,010	$52,968	$-00	$-00.0	$0	$0	$5,320	$47,648	$37,613	$47,648
10	$-00.0000	$0.171	299,461	-00	$2,995	$54,180	$-00	$-00.0	$0	$0	$5,480	$48,700	$37,325	$48,700
11	$-00.0000	$0.176	297,877	-00	$2,979	$55,421	$-00	$-00.0	$0	$0	$5,644	$49,776	$37,038	$49,776
12	$-00.0000	$0.181	296,292	-00	$2,963	$56,691	$-00	$-00.0	$0	$0	$5,814	$50,877	$36,755	$50,877
13	$-00.0000	$0.187	294,708	-00	$2,947	$57,991	$-00	$-00.0	$0	$0	$5,988	$52,003	$36,474	$52,003
14	$-00.0000	$0.192	293,123	-00	$2,931	$59,322	$-00	$-00.0	$0	$0	$6,168	$53,154	$36,195	$53,154
15	$-00.0000	$0.198	291,539	-00	$2,915	$60,684	$-00	$-00.0	$0	$0	$6,353	$22,831	$15,094	$22,831
16	$-00.0000	$0.204	289,954	-00	$2,900	$62,077	$-00	$-00.0	$0	$0	$6,543	$55,534	$35,645	$55,534
17	$-00.0000	$0.210	288,370	-00	$2,884	$63,504	$-00	$-00.0	$0	$0	$6,740	$56,764	$35,373	$56,764
18	$-00.0000	$0.217	286,785	-00	$2,868	$64,964	$-00	$-00.0	$0	$0	$6,942	$58,022	$35,104	$58,022
19	$-00.0000	$0.223	285,201	-00	$2,852	$66,457	$-00	$-00.0	$0	$0	$7,150	$59,307	$34,837	$59,307
20	$-00.0000	$0.230	283,617	-00	$2,836	$67,986	$-00	$-00.0	$0	$0	$7,365	$60,621	$34,571	$60,621
21	$-00.0000	$0.237	282,041	-00	$2,820	$69,551			$0		$7,586	$61,966	$34,309	$61,966
22	$-00.0000	$0.244	280,474	-00	$2,805	$71,156			$0		$7,813	$63,343	$34,050	$63,343
23	$-00.0000	$0.251	278,916	-00	$2,789	$72,800			$0		$8,048	$64,752	$33,794	$64,752
24	$-00.0000	$0.259	277,366	-00	$2,774	$74,484			$0		$8,289	$66,195	$33,540	$66,195
25	$-00.0000	$0.266	275,825	-00	$2,758	$76,209			$0		$8,538	$67,672	$33,290	$67,672
26	$-00.0000	$0.274	274,293	-00	$2,743	$77,977			$0		$8,794	$69,183	$33,042	$69,183
27	$-00.0000	$0.283	272,769	-00	$2,728	$79,789			$0		$9,058	$70,731	$32,798	$70,731
28	$-00.0000	$0.291	271,254	-00	$2,713	$81,644			$0		$9,329	$72,315	$32,555	$72,315
29	$-00.0000	$0.300	269,747	-00	$2,697	$83,546			$0		$9,609	$73,936	$32,316	$73,936
30	$-00.0000	$0.309	268,248	-00	$2,682	$85,493			$0		$9,898	$75,596	$32,079	$75,596
31	$-00.0000	$0.318	266,758	-00	$2,668	$87,489			$0		$10,195	$77,294	$31,844	$77,294
32	$-00.0000	$0.328	265,276	-00	$2,653	$89,533			$0		$10,500	$79,033	$31,612	$79,033
33	$-00.0000	$0.337	263,802	-00	$2,638	$91,628			$0		$10,815	$80,813	$31,383	$80,813
34	$-00.0000	$0.347	262,337	-00	$2,623	$93,774			$0		$11,140	$82,634	$31,155	$82,634
35	$-00.0000	$0.358	260,879	-00	$2,609	$95,972			$0		$11,474	$84,498	$30,930	$84,498

City Investment	$(698,200)		
25-Yr Benefit	$1,285,175	NPV	$892,674
Net Savings	$586,975	NPV Savings	$194,474

* Assumes Year 15 inverter replacement

Exhibit 2

CEQA Notice of Exemption

NOTICE OF EXEMPTION (NOE)

To: ☐ Office of Planning and Research
P.O. Box 3044, 1400 Tenth St. Rm. 212
Sacramento, CA 95812-3044

☐ Clerk of the Board of Supervisors
County of Santa Barbara
105 E. Anapamu Street, Room 407
Santa Barbara, CA 93101

From: City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117

Subject: Filing of Notice of Exemption

Project Title: Renewable Energy System Energy Services Contract at Goleta City Hall

Project Applicant: City of Goleta

Project Location (Address and APN): Goleta City Hall, 130 Cremona Drive, Suite B Goleta, CA 93117

Description of Nature, Purpose and Beneficiaries of Project: On December 5, 2017, the City of Goleta committed to moving the city's municipal facilities and community-wide electricity supply to 100% renewable power by 2030. The City also resolved to have at least 50 percent of electricity use by municipal facilities come from renewable sources by 2025. To meet these goals and to improve the reliability and resiliency of the local energy grid, in 2019 the City of Goleta developed and adopted the Strategic Energy Plan (SEP), a city-specific roadmap to reach 100% renewable energy. The City is taking a step towards implementing the SEP by entering into an Energy Services Contract at Goleta City Hall to install a renewable energy system including shade structures with mounted photovoltaic panels, and to add underground utility connections to the existing building in the parking areas. The Energy Services Contract includes the implementation of energy-related improvements that will reduce the cost of energy through the installation and operation of a solar energy facility at Goleta City Hall.

Name of Public Agency Approving the Project: City of Goleta

Name of Person or Agency Carrying Out the Project: City of Goleta

Exempt Status: *(check one)*

☐ Ministerial (Sec. 15369)
■ Statutory (Sec. 21080.35)
■ Categorical Exemption: (Sec. 15354)
☐ Emergency Project (Sec. 15359)

Cite specific CEQA Guideline Sub-Section(s) 15301 and 15303

Reason(s) why the project is exempt:
The Goleta City Hall shade structures and solar photovoltaic system are minor alterations to the existing facilities. Goleta City Hall is an existing structure with minor exterior alteration to install solar panels on shade structures in the parking lot. The project is statutorily exempt from the provisions of CEQA pursuant to California Public Resources Code Section 21080.35 (installing solar systems on existing roofs and existing parking lots), and that it is further categorically exempt from the provisions of

CEQA per Sections 15301 (minor alterations to existing facilities), and 15303 (limited construction of small facilities) of Title 14 of the California Code of Regulations.

15301 Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The types of " existing facilities" itemized below are not intended to be all-inclusive of the types of projects, which might fall within Class 1:

a) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;
b) Existing facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewage, or other public utility services.

15303 Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel:

c) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.
d) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

City of Goleta Contact Person and Telephone Number:

Peter Imhof Director, Planning & Environmental Review Date

NOTICE OF EXEMPTION (NOE)

If filed by the applicant:

1. Attach certified document of exemption finding
2. Has a Notice of Exemption been filed by the public agency approving the project?
   ☐Yes ☐No

Date received for filing at OPR: _____

Note: Authority cited: Section 21083 and 211110, Public Resources Code
Reference: Sections 21108, 21152.1, Public Resources Code

ATTACHMENT 2

Energy Services Contract

Energy Services Agreement

This Energy Services Agreement (this "**Agreement**") is entered into by the parties listed below (each a "**Party**" and collectively the "**Parties**") as of the date signed by Service Provider below (the "**Effective Date**").

Client:	**City of Goleta**	**Service Provider:**	**Monarch Solar 1, LLC**
Name and Address	Michelle Greene 130 Cremona Drive, Suite B Goleta, CA 93117	**Name and Address**	Symbiont Energy 1345 Encinitas Blvd Unit 133 Encinitas, CA 92024
Phone	805-961-7500	**Phone**	858-255-0470
E-mail	mgreene@cityofgoleta.org; cmoore@cityofgoleta.org	**E-mail**	info@symbiontenergy.com
Premises: Address and Ownership	Client [X] owns [_] leases the Premises.		

This Agreement sets forth the terms and conditions of the purchase and sale of solar generated electric energy from the solar panel system described in **Exhibit 2** (the "**System**") and installed at the Client's facility described in **Exhibit 2** (the "**Facility").**

The exhibits listed below are incorporated by reference and made part of this Agreement.

Exhibit 1	Basic Terms and Conditions
Exhibit 2	System Description
Exhibit 3	General Terms and Conditions
Exhibit 4	Form of Site License Agreement
Exhibit 5	Expected Contract Quantity (kWh) by Contract Year
Exhibit 6	Early Termination Fee by Contract Year
Exhibit 7	System Technical Specifications

Client: City of Goleta

Signature: _____

Printed Name: Michelle Greene, City Manager

Title: City Manager

Date: _____

Service Provider: Monarch Solar 1, LLC

Signature: _____

Printed Name: Peter DeFazio

Title: Authorized Signatory

Date: _____

Exhibit 1
Basic Terms and Conditions

1. **Term:** Twenty (20) years, beginning on the Commercial Operation Date. As used herein, "**Contract Year**" means the twelve-month period beginning at 12:00 AM on the Commercial Operation Date or on any anniversary of the Commercial Operation Date and ending at 11:59 PM on the day immediately preceding the next anniversary of the Commercial Operation Date, provided that the first Contract Year shall begin on the Commercial Operation Date.

2. **Additional Term:** Up to one (1) Additional Term of five (5) years, upon mutual agreement of the Parties.

3. **Environmental Incentives and Environment Attributes:** Accrue to Client.

4. **Contract Price:**

   a. For PV Solar $0.1475/ kWh in year one of the Term, subject to a three percent (3.0%) per annum escalation in each subsequent Contract Year of the Term and the Additional Term, if applicable.

   b. If the United States federal Incentive Tax Credit for which the System is eligible increases to thirty percent (30%) before the Commercial Operation Date, the Parties agree to an adjusted year one Contract Price of $0.145/kWh.

5. **Condition Satisfaction Date:** 180 days after Effective Date (subject to extension for force majeure and similar circumstances beyond Service Provider's control, including failure of applicable governmental entities or utilities to issue any required permits or authorizations timely or failure by Client to perform its obligations hereunder).

6. **Anticipated Commercial Operation Date:** June 30, 2022

7. **System Installation**:

Includes:	[X] Design, engineering, permitting, installation, reinforcement of roof structure if required as well as any repairs to roof necessitated by installation, tree removal and trimming as needed and agreed between the Parties, payment and performance bonds, prevailing wage construction, monitoring, permitting and interconnection application and paperwork processing of the System, and operations and maintenance of the System, all in accordance with System Technical Specifications described in Exhibit 7. [ ] List of Approved Subcontractors [_] Any like substantive equipment, in the sole discretion of the Service Provider. [ ] State or Utility Rebate, if any. Describe:
Excludes:	Unforeseen groundwork (including, but not limited to, excavation/circumvention of underground obstacles), upgrades or repair to the Facility or utility electrical infrastructure.

8. **Take-or-Pay**. This Agreement is being entered into on a take or pay basis. Client shall purchase from Service Provider, and Service Provider shall sell to Client, all of the electric energy generated by the System during the Initial Term and any Additional Term, except that Client, at its sole discretion, may decline to accept and purchase electric energy over 110% of the Expected Contract Quantity for any given Contract Year.

9. **Purchase Option**. At the end of Contract Years six (6), ten (10), fifteen (15), and at the end of the Term and any Additional Term, the Client shall have the option, but not obligation, to purchase the system at Fair Market Value ("FMV"). The FMV shall be determined by a mutually acceptable third-party appraiser.

Exhibit 2
System Description

1. **System Location:** 130 Cremona Drive, Suite B, Goleta, CA 93117

2. **System Size/Output: [210] kW-DC**

   a. **Solar First Year Energy Production (kWh):** [313,721] kWh/ year (estimated)

3. **Expected Structure:** [_] Ground Mount [_] Roof Mount [X] Shade Structure [_] Other

4. **Facility and System Layout:** See **Exhibit 2, Attachment A**

5. **Electric Vehicle Chargers:** Underground and stubbed-up conduit sufficient for (3) dual-port ChargePoint Level 2 chargers, or Client-approved equivalent. See Exhibit 2, Attachment A for locations of parking lot stub-ups; other ends of conduit to be stubbed-up directly outside electrical room.

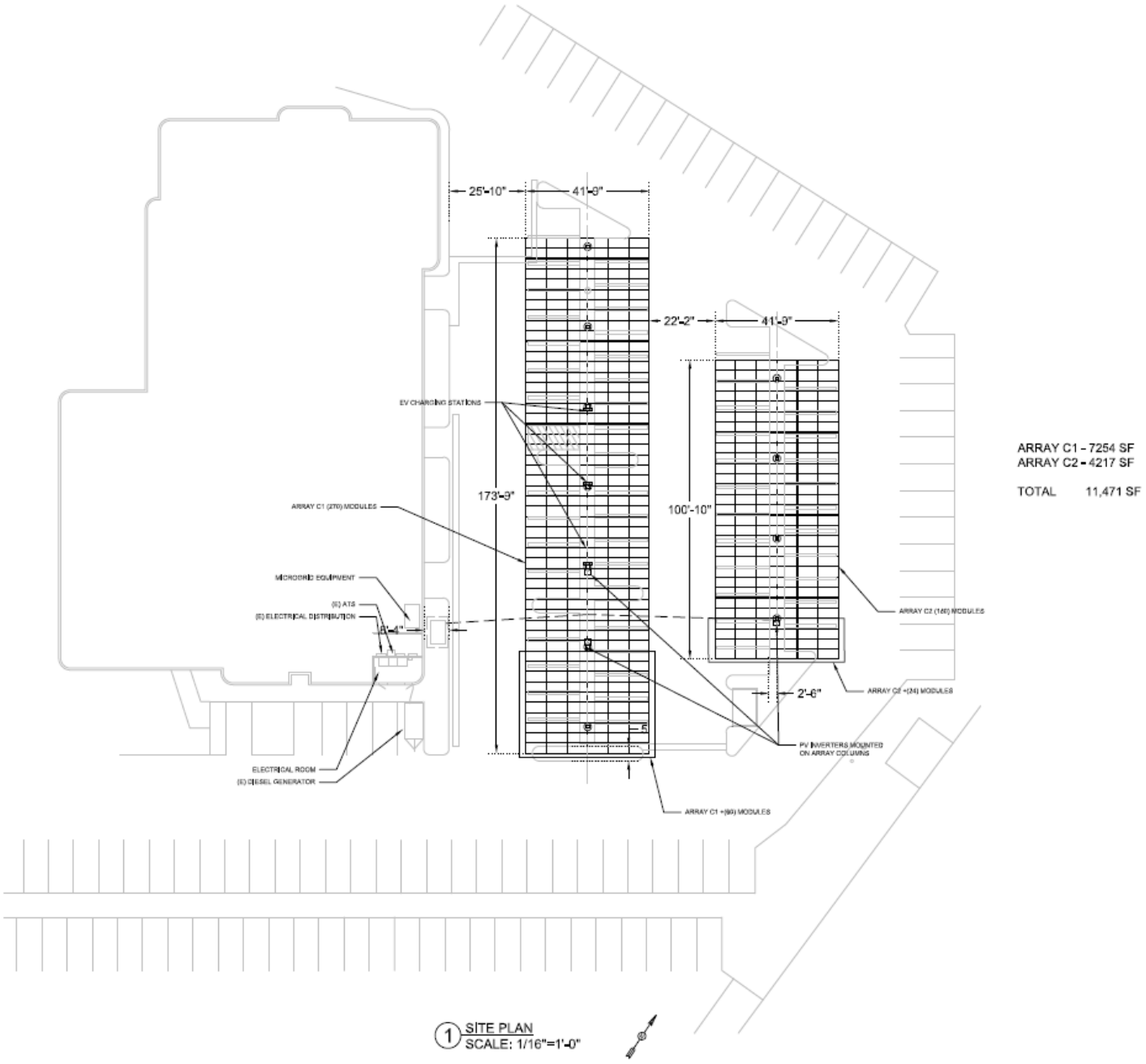
6. **Utility:** Southern California Edison Company

Exhibit 2
Attachment A:
Facility and System Layout

An Aerial-Perspective Sketch of the Facility	See below
Conceptual Drawing of the System	See below
Delivery Point	Indicated on Conceptual Drawing of the System
Access Points	Indicated on Conceptual Drawing of the System

Preliminary Site Plan: Please find the preliminary site plan on the next page. This preliminary site plan will be finalized after the execution of this Agreement; provided that, the shade structure system is subject to obtaining the relevant Building Department and utility permits from appropriate authorities, which may or may not be obtained; provided further that, Service Provider shall work with Client to maximize the size of the System within allowable space restrictions.

[



1 SITE PLAN
SCALE: 1/16"=1'-0"

Exhibit 3
Solar Power Purchase Agreement
General Terms and Conditions

1. **Definitions and Interpretation**: Unless otherwise defined or required by the context in which any term appears: (a) the singular includes the plural and vice versa; (b) the words "herein," "hereof" and "hereunder" refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (c) references to any agreement, document or instrument mean such agreement, document or instrument as amended, modified, supplemented or replaced from time to time; and (d) the words "include," "includes" and "including" mean include, includes and including "without limitation." The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

2. **Purchase and Sale of Electricity.** Client shall purchase from Service Provider, and Service Provider shall sell to Client, all of the electric energy generated by the System during the Initial Term and any Additional Term (as defined in **Exhibit 1**, and collectively the "**Term**"), except electric energy in excess of 110% of the Expected Contract Quantity in any Contract Year, which the Client, at its sole discretion, may decline to accept and purchase. Electric energy generated by the System will be delivered to Client at the delivery point identified on **Exhibit 2, Attachment A** (the "**Delivery Point**") and shall be delivered at Alternating Current ("AC"). Client shall take title to the electric energy generated by the System at the Delivery Point, and risk of loss will pass from Service Provider to Client at the Delivery Point. Client may purchase electric energy for the Facility from other sources if the Client's electric requirements at the Facility exceed the output of the System. Any purchase, sale and/or delivery of electric energy generated by the System prior to the Commercial Operation Date shall be treated as purchase, sale and/or delivery of limited amounts of test energy only and shall not indicate that the System has been put in commercial operation by the purchase, sale and/or delivery of such test energy. For the avoidance of doubt, Client owns full rights to all electrical output of the System, including any and all instantaneous power or ancillary grid services that may be provided by such electrical output. Client also owns full rights to net metering credits and any Utility payments that may be affiliated with such electrical output.

3. **Term and Termination**.

   a. **Initial Term.** The initial term ("**Initial Term**") of this Agreement shall commence on the Commercial Operation Date (as defined below) and continue for the length of time specified in **Exhibit 1,** unless earlier terminated as provided for in this Agreement. The "**Commercial Operation Date**" will be the date specified in a written notice from Service Provider to Client, in which notice Service Provider confirms that the System is mechanically complete and capable of providing electric energy to the Delivery Point, and any approval or authorization (or, if applicable, interconnection agreement) from the entity authorized and required under applicable law to provide electric distribution service to Client at the Facility specified in item 6 in Exhibit 2 (the "**Utility**) has been obtained. Service Provider will give Client copies of certificates of completion or similar documentation from Service Provider's contractor and the approval or authorization (or, if applicable, interconnection agreement) from the Utility. This Agreement is effective as of the Effective Date and Client's failure to enable Service Provider to provide the electric energy by preventing it from installing the System or otherwise not performing shall not excuse Client's obligations to make payments that otherwise would have been due under this Agreement.

   b. **Additional Terms.** Prior to the end of the Initial Term or of any applicable Additional Term, as defined below, Service Provider may give Client written notice of its desire to extend this Agreement on the terms and conditions set forth herein for the number and length of additional periods specified in **Exhibit 1** (each such additional period, an "**Additional Term**"). Such notice shall be given, if at all, not less than sixty (60) days before the last day of the Initial Term. The Additional Term shall begin immediately upon the conclusion of the Initial Term on the same terms and conditions as set forth in this Agreement.

4. **Billing and Payment**.

   a. **Monthly Charges.** Client shall pay Service Provider monthly for the electric energy generated by the PV Solar System and delivered to the Delivery Point at the $/kWh rate shown in **Exhibit 1** (the "**Contract Price**"). The monthly payment for such energy will be equal to the applicable $/kWh rate multiplied by the monthly PV solar energy production of the system.

   b. **Monthly Invoices.** Service Provider shall invoice Client monthly, either manually or through Automatic Clearing House (ACH). For the first month after the Commercial Operation Date, Service Provider shall bill at the end of that

calendar month, irrespective of the number of days after Commercial Operation Date. Such monthly invoices shall state (i) the amount of electric energy produced by the System and delivered to the Delivery Point, and if any of the events contemplated in Sections 8(d), 8(e) or 10(b) occurred, the reasonably estimated amount (on the basis of the methodology described in Section 10(b)) of electric energy that the System was capable of generating and would have provided as contemplated in Section 4(a) above, (ii) the rates applicable to, and charges incurred by, Client under this Agreement and (iii) the total amount due from Client. The Contract Price includes ACH invoicing. If manual invoicing is required, a twenty five dollar ($25) handling charge will be added to each invoice.

c. **Taxes.** Client shall either pay or reimburse Service Provider for any and all taxes assessed on the generation, sale, delivery or consumption of electric energy produced by the System or the interconnection of the System to the Utility's electric distribution system, including property taxes on the System and such taxes are included in the Contract Price; provided, however, Client will not be required to pay or reimburse Service Provider for any taxes during periods when Service Provider fails to deliver electric energy to Client for reasons other than Force Majeure or as a result of Client's acts or omissions. For purposes of this Section 4(c), "**Taxes**" means any federal, state and local ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, and transaction taxes, regulatory fees, surcharges or other similar charges, but shall not include any income taxes or similar taxes imposed on Service Provider's revenues due to the sale of energy under this Agreement, which shall be Service Provider's responsibility.

d. **Payment Terms.** All amounts due under this Agreement shall be due and payable net forty-five (45) days from receipt of invoice. Any undisputed portion of the invoice amount not paid within the forty-five (45) days period shall accrue interest at the annual rate of one percent (1.0%) over the prime rate (but not to exceed the maximum rate permitted by law).

e. **No Set-Offs**. Any and all payments hereunder shall be made without set-off, withholding or deductions of any kind.

5. **Environmental Attributes and Environmental Incentives**.

Unless otherwise specified on **Exhibit 1**, Client is the owner of all Environmental Attributes, as defined below. Service Provider is the owner of all Environmental Incentives and is entitled to the benefit of all Tax Credits, and Client's purchase of electricity under this Agreement does not include Environmental Incentives or the right to Tax Credits or any other attributes of ownership and operation of the System, all of which shall be retained by Service Provider. The Parties shall cooperate with each other in documenting, attesting, obtaining, securing and transferring all Environmental Attributes and Environmental Incentives and the benefit of all Tax Credits, including by using the electric energy generated by the System in a manner necessary to qualify for such available Environmental Attributes, Environmental Incentives and Tax Credits. If Environmental Incentives that are unavailable as of the Effective Date become available during the Term, the Parties shall share the proceeds equitably. Client shall not be obligated to incur any out–of–pocket costs or expenses in connection with such actions unless reimbursed by Service Provider.

"**Environmental Attributes**" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the System, the production of electrical energy from the System and its displacement of conventional energy generation, including (a) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (b) any avoided emissions of carbon dioxide (CO2), methane (CH4), nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (c) the reporting rights related to these avoided emissions, such as Green Tag Reporting Rights and Renewable Energy Credits. Green Tag Reporting Rights are the right of a party to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party, and include Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Environmental Attributes do not include Environmental Incentives, Tax Credits or net metering credits provided by the Utility. Client and Service Provider shall file all tax returns in a manner consistent with this Section 5. Without limiting the generality of the foregoing, Environmental Attributes include carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradable renewable credits and Green-e® products.

"**Environmental Incentives**" means any and all credits, rebates, subsidies, payments or other incentives that relate to self–generation of electricity, the use of technology incorporated into the System, environmental benefits of using the System, or other similar programs available from the Utility, any other regulated entity, the manufacturer of any part of the System or any Governmental Authority.

"**Governmental Authority**" means any national, state or local government (whether domestic or foreign), any political subdivision thereof or any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, bureau or entity (including the Federal Energy Regulatory Commission), or any arbitrator with authority to bind a party at law.

"**Tax Credits**" means any and all (a) investment tax credits, (b) production tax credits and (c) similar tax credits or grants under federal, state or local law relating to the construction, ownership or production of energy from the System.

6. Conditions to Obligations.

a. Conditions to Service Provider's Obligations. Service Provider's obligations under this Agreement are conditioned on the completion of the following conditions to Service Provider's reasonable satisfaction on or before the Condition Satisfaction Date:

i. Completion of a physical inspection of the Facility and the Premises including, if applicable, geotechnical work, and real estate due diligence to confirm the suitability of the Facility and the Premises for the System;

ii. Approval of (A) this Agreement and (B) the Construction Agreement (if any) for the System by Service Provider's Financing Parties. "**Construction Agreement**" as used in this subsection means an agreement between Service Provider and any contractor or subcontractor to install the System. "**Financing Parties**" means person or persons providing construction or permanent financing to Service Provider in connection with construction, ownership, operation and maintenance of the System, or if applicable, means any person to whom Service Provider has transferred the ownership interest in the System, subject to a leaseback of the System from such person;

iii. Confirmation that Service Provider will obtain all applicable Tax Credits;

iv. Receipt of all necessary zoning, land use and building permits;

v. Execution of all necessary agreements with the Utility for interconnection of the System to Facility electrical system and/or the Utility's electric distribution system; and

vi. Prior to Service Provider commencing construction and installation of the System, both Parties shall have received (A) proof of insurance for all insurance required to be maintained under this Agreement, (B) written confirmation from any person holding a mortgage, lien or other encumbrance over the Premises or the Facility, as applicable, that such person will recognize Service Provider's rights under this Agreement for as long Service Provider is not in default hereunder and (C), a signed and notarized original copy of a license agreement from owner of the Premises, substantially in the form attached hereto as **Exhibit 4**.

b. Conditions to Client's Obligations.

i. Client's obligations under Section 4(a) are conditioned on the occurrence of the Commercial Operation Date for the System.

c. Failure of Conditions. If any of the conditions listed in subsections (a) or (b) above are not satisfied by the applicable dates specified in those subsections, the Parties will attempt in good faith to negotiate new dates for the satisfaction of the failed conditions. If the Parties are unable to negotiate new dates then the Party that has not failed to meet an obligation may terminate this Agreement upon ten (10) days written notice to the other Party. If the Party that was unable to meet its conditions is Service Provider, and Service Provider reasonably determines that despite its diligent efforts the satisfaction of such conditions is not likely to occur within an acceptable time frame, Service Provider shall have the right to terminate this Agreement. Any termination of this Agreement contemplated by this Section 6(c) shall be without liability for costs or damages or triggering a default under this Agreement.

7. Service Provider's Rights and Obligations.

a. Permits and Approvals. Service Provider, with Client's reasonable cooperation, shall use commercially reasonable efforts to obtain, at its sole cost and expense:

i. any zoning, land use and building permits required to construct, install and operate the System; and

ii. any agreements and approvals from the Utility necessary in order to interconnect the System to the Facility electrical system and/or the Utility's electric distribution system.

Client shall cooperate with Service Provider's reasonable requests to assist Service Provider in obtaining such agreements, permits and approvals. Service Provider shall use commercially reasonable efforts to obtain all permits and approvals within 180 days after full execution of this Agreement.

Client's cooperation under this section shall be at no out-of-pocket expense to Client and such cooperation shall not materially interfere with Client's exercise of its police powers, performance of its municipal functions, and compliance with applicable laws.

b. **Performance Guarantee.** Service Provider shall ensure that at least eighty-five percent (85%) of the Expected Contract Quantity of electrical energy is delivered to the Delivery Point over each consecutive two (2) Contract Year period (the "**Performance Guarantee**"). For any shortfall below 85% during any two (2) Contract Year period, the Service Provider shall compensate the Client an amount equal to the kilowatt-hour shortfall multiplied by the positive difference between the average utility rate for the Contract Year and the applicable Contract Price, increased by the value of any saleable Environmental Attributes. If this difference, with the increase, is lower than the applicable Contract Price, no payments shall be due to either Party.

c. **Standard System Repair and Maintenance.** Service Provider shall design, construct and install the System at the Facility. During the Term, Service Provider will operate and perform all routine and emergency repairs to, and maintenance of, the System in order to keep the System in good working order and producing electric energy in accordance with manufacturers' specifications at its sole cost and expense, except for any repairs or maintenance resulting from Client's negligence, willful misconduct or breach of this Agreement. Service Provider shall not be responsible for any work done by others on any part of the System unless Service Provider authorizes that work in advance in writing. Service Provider shall not be responsible for any loss, damage, cost or expense arising out of or resulting from improper environmental controls or improper operation or maintenance of the System by anyone other than Service Provider or Service Provider's contractors. If the System requires repairs for which Client is responsible, Client shall pay Service Provider for diagnosing and correcting the problem at Service Provider or Service Provider's contractors' then current standard rates. Service Provider shall provide Client with reasonable notice prior to accessing the Facility to make standard repairs. Energy production losses related to the Client's negligence, willful misconduct or breach of this Agreement shall be excused from Service Provider's Performance Guarantee, as detailed in Section 7(b).

d. **Non-Standard System Repair and Maintenance.** If Service Provider incurs incremental costs to maintain the System due to conditions which are not reasonably visible to Service Provider upon inspection of the Facility prior to entry into this Agreement or due to the inaccuracy of any information provided by Client and relied upon by Service Provider, the pricing, schedule and other terms of this Agreement will be equitably adjusted to compensate for any work in excess of normally expected work required to be performed by Service Provider. In such event, the Parties will negotiate such equitable adjustment in good faith.

e. **No Alteration of System.** Service Provider shall not make any alterations or additions to the System which could affect the Expected Contract Quantity from the System without Client's prior written consent, not to be unreasonably withheld. If Service Provider wishes to make such alterations or additions, Service Provider shall give prior written notice to Client, setting forth the work to be undertaken (except for emergency repairs, for which notice to Client may be given by telephone), and give Client the opportunity to advise Service Provider in making such alterations or additions in a manner that preserves financial benefit to both Parties.

f. **Breakdown Notice.** Service Provider shall notify Client within twenty-four (24) hours following Service Provider's discovery of (i) any material malfunction in the operation of the System or (ii) an interruption in the supply of electrical energy from the System. Client and Service Provider shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Service Provider's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays. Client shall notify Service Provider immediately upon the discovery of an emergency condition affecting the System. For the avoidance of doubt, energy production losses covered under this Section 7(f) are not excused from Service Provider's Performance Guarantee, as detailed in Section 7(b).

g. **Suspension.** Notwithstanding anything to the contrary herein, Service Provider shall be entitled to suspend delivery of electricity from the System to the Delivery Point without penalty for the purpose of maintaining and repairing the

System and such suspension of service shall not constitute a breach of this Agreement; provided, that Service Provider shall use commercially reasonable efforts to minimize any interruption in service to the Client. For the avoidance of doubt, energy production losses covered under this Section 7(g) are excused from Service Provider's Performance Guarantee, as detailed in Section 7(b), but only up to seventy-two (72) daylight hours per calendar year.

h. **Use of Contractors and Subcontractors.** Service Provider shall be permitted to use contractors and subcontractors to perform its obligations under this Agreement, provided however, that such contractors and subcontractors shall be duly licensed and shall provide any work in accordance with applicable industry standards. Notwithstanding the foregoing, Service Provider shall continue to be responsible for the quality of the work performed by its contractors and subcontractors. Service Provider shall ensure that its insurance coverage covers the work and liability of all of its contractors and subcontractors.

i. **Liens and Payment of Contractors and Suppliers.** Service Provider shall pay when due all valid charges from all contractors, subcontractors and suppliers supplying goods or services to Service Provider under this Agreement and shall keep the Facility free and clear of any liens related to such charges, except for those liens which Service Provider is permitted by law to place on the Facility following non-payment by Client of amounts due under this Agreement. Service Provider shall indemnify Client for all claims, losses, damages, liabilities and expenses resulting from any liens filed against the Facility or the Premises in connection with such charges. In the event any lien is filed against the Facility or the Premises in connection with any work performed or materials furnished to Service Provider, within thirty (30) days after the filing of such lien Service Provider shall either discharge and cancel such lien of record or post a bond sufficient under the laws of the State of California to release the same as a lien against the Facility or the Premises. If Service Provider fails to timely satisfy the foregoing obligations, Service Provider shall pay to Client within one (1) business day of written request all amounts so paid by Client, including attorney's fees, together with interest at the rate of 12%.

j. **No Warranty.** NO WARRANTY OR REMEDY, WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE SHALL APPLY. The remedies set forth in this Agreement shall be Client's sole and exclusive remedies for any claim or liability arising out of or in connection with this Agreement, whether arising in contract, tort (including negligence), strict liability or otherwise. This Section 7(j) explicitly does not limit the ten-year system workmanship warranty or various System component warranties provided by Service Provider's contractors with respect to the System.

8. **Client's Rights and Obligations**.

a. **Facility Access Rights.** The parties acknowledge that pursuant to an attached license agreement (the "**Site License Agreement**", Exhibit 4), Client has licensed the parking lot area of the premises described on the signature page of this Agreement (the "**Premises**") and granted or is concurrently granting to Service Provider and to Service Provider's approved agents, employees, contractors and assignees an irrevocable non-exclusive license running with the Premises (the "**License**") for access to, on, over, under and across the Premises for, among others, the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System; (ii) performing all of Service Provider's obligations and enforcing all of Service Provider's rights set forth in this Agreement; and (iii) installing, using and maintaining electric lines and equipment, including inverters and meters necessary to interconnect the System to Client's electric system at the Facility, to the Utility's electric distribution system, if any, or for any other purpose that may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Client hereby confirms the grant of the License. Without limiting or otherwise affecting the terms of the Site License Agreement, Service Provider and Client hereby confirm the following with respect to the License: (a) Service Provider shall notify Client prior to entering the Facility except in situations where there is imminent risk of damage to persons or property in which case, Service Provider shall provide Client with reasonable notification by telephone, email or other electronic means before entering onto the Facility if possible or as soon as possible thereafter if advance notice is not reasonable; (b) the term of the License shall continue until the date that is one hundred and eighty (180) days following the date of expiration or termination of this Agreement (the "**License Term**"); (c) during the License Term, Client shall ensure that Service Provider's rights under the License and Service Provider's access to the Premises and the Facility are preserved and protected, and Client shall not interfere with nor shall permit any third parties to interfere with such rights or access; and (d) without limiting Client's rights under this Agreement in the case of a Default Event by Service Provider, Service Provider shall have quiet and peaceful possession and enjoyment of the licensed portion of the Premises, including access rights, free from any claim, disturbance or interference from or by Client or any person or entity claiming through or under it, except for, in the case of Client Default Event, any other entity or person that has superior rights or title to the Premises, including any mortgagee or encumbrancer of Client's (or its landlords') interests in the Premises. With respect to clause (d) above, the Parties acknowledge that the Client shall maintain unimpeded access to the vehicle parking areas

below the shade structure. The grant of the License shall survive termination of this Agreement by either Party, subject to the below provision. Service Provider may, at its sole cost and expense, record the Site License Agreement or a memorandum thereof, which memorandum Service Provider may prepare consistent with the terms and conditions of the Site License Agreement in the appropriate land registry or recorder's office. In addition, Client and Service Provider shall execute a termination of the Site License Agreement, in recordable form, which shall be duly recorded upon the earlier of (i) the complete removal of the System in accordance with the terms of this Agreement following expiration or termination hereof or (ii) execution of the Purchase Option, pursuant to Exhibit 1, Section 9, or (iii) upon mutual agreement of the Parties. Service Provider shall not unreasonably interfere with the operation of Client's business conducted in the Facility.

b. **OSHA Compliance.** Both parties shall ensure that all Occupational Safety and Health Act (OSHA) requirements and other similar applicable safety laws or codes are adhered to in their performance under this Agreement.

c. **Maintenance of Facility.** Client shall, at its sole cost and expense, maintain the Facility in good condition and repair. Client, to the best of its ability, will ensure that the Facility remains interconnected to the Utility grid at all times and will not permit cessation of electric service to the Facility from the Utility. Client is fully responsible for the maintenance and repair of the Facility's electrical system and of all of Client's equipment that utilizes the System's outputs. Client shall properly maintain in full working order all of Client's electric supply or generation equipment that Client may shut down while utilizing the System. Client shall promptly notify Service Provider of any matters of which it is aware pertaining to any damage to or loss of use of the System or that could reasonably be expected to adversely affect the System.

d. **No Alteration of Facility.** Client shall not make any alterations or repairs to the Facility which could adversely affect the operation and maintenance of the System without Service Provider's prior written consent. If Client wishes to make such alterations or repairs, Client shall give prior written notice to Service Provider, setting forth the work to be undertaken (except for emergency repairs, for which notice may be given by telephone), and give Service Provider the opportunity to advise Client in making such alterations or repairs in a manner that avoids damage to the System, but, notwithstanding any such advice, Client shall be responsible for all damage to the System caused by Client or its contractors. To the extent that temporary disconnection or removal of the System is necessary to perform such alterations or repairs, such work and any replacement of the System after completion of Client's alterations and repairs, shall be done by Service Provider or its contractors at Client's cost. In addition, to the extent such work exceeds the allowable Scheduled Outage described in Section 8(e), Client shall pay Service Provider an amount equal to the sum of payments that Client would have made to Service Provider hereunder for electric energy that would have been produced by the System during such disconnection or removal . All of Client's alterations and repairs will be done in a good and workmanlike manner and in compliance with all applicable laws, codes and permits.

e. **Outages.** Client's Facility shall be permitted to be off line for a total of seventy-two (72) daylight hours (each, a "**Scheduled Outage**") per calendar year during the Term, during which hours Client shall not be obligated to accept or pay for electricity from the System; provided, however, that Client must notify Service Provider in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of a Scheduled Outage. In the event that Scheduled Outages exceed a total of seventy-two (72) daylight hours per calendar year or there are unscheduled outages, in each case for a reason other than a Force Majeure event, Service Provider shall reasonably estimate the amount of electricity that would have been produced by the System during such excess Scheduled Outages or unscheduled outages and shall invoice Client for such amount in accordance with Section 4. For the avoidance of doubt, energy production losses covered under this Section 8(e) shall be excused from Service Provider's Performance Guarantee, as detailed in Section 7(b).

f. **Liens.** Client shall not directly or indirectly cause, create, incur, assume or allow to exist any mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on or with respect to the System or any interest therein beyond that existing as of the Effective Date. Client shall immediately notify Service Provider in writing of the existence of any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim, shall promptly cause the same to be discharged and released of record without cost to Service Provider, and shall indemnify Service Provider against all costs and expenses (including reasonable attorneys' fees) incurred in discharging and releasing any such mortgage, pledge, lien, charge, security interest, encumbrance or other claim. Notwithstanding anything else herein to the contrary, pursuant to Section 19.a), Service Provider may grant a lien on the System and may assign, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party. Notwithstanding the foregoing, Service Provider shall have the right to file a Uniform Commercial Code (UCC)-1 Financing Statement with respect to the System or any part thereof but such lien shall not be filed of record against the fee interest of Client in the Premises.

g. **Security.** Client shall be responsible for using commercially reasonable efforts to maintain the physical security of the Facility and the System against known risks and risks that should have been known by Client. Client will not conduct activities on, in or about the Premises or the Facility that have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System. Such restricted activities shall not include normal use of the System area for vehicle traffic and parking.

h. **Insolation.** Client understands that unobstructed access to sunlight ("**Insolation**") is essential to Service Provider's performance of its obligations and a material term of this Agreement. Client shall use best efforts to not cause and, where possible, shall not permit any interference with the System's Insolation. If Client becomes aware of any activity or condition that could diminish the Insolation of the System, Client shall notify Service Provider immediately and shall cooperate with Service Provider using best efforts to preserve the System's existing Insolation levels. The Parties agree that reducing Insolation would irreparably injure Service Provider, that such injury may not be adequately compensated by an award of money damages, and that Service Provider is entitled to seek specific enforcement of this Section 8(h) against Client.

i. **Data Line.** Service Provider shall install and maintain a cellular modem to enable direct communication between System Data Acquisition System (DAS) equipment and the remote monitoring provider. .

j. **Breakdown Notice.** Client shall notify Service Provider within twenty-four (24) hours following the discovery by it of (i) any material malfunction in the operation of the System; or (ii) any occurrences that could reasonably be expected to adversely affect the System. Client shall notify Service Provider immediately upon (i) an interruption in the supply of electrical energy from the System; or (ii) the discovery of an emergency condition respecting the System. Client and Service Provider shall each designate personnel and establish procedures such that each Party may provide notice of such conditions requiring Service Provider's repair or alteration at all times, twenty-four (24) hours per day, including weekends and holidays.

k. **Early Termination.** Client shall have the right, at its sole discretion, to terminate the Agreement at any point in the Term by providing notice to Service Provider at least ninety (90) days prior to the desired termination date, and by paying the applicable Early Termination Fee for the applicable Contract Year, as defined in the Early Termination Fee schedule in Exhibit 6. At the desired termination date, the Early Termination Fee shall be paid by Client to Service Provider, and Service Provider shall remove the system within the following one hundred eighty (180) days, as described in Section 11.

9. **Change in Law**.

"**Change in Law**" means (i) the enactment, adoption, promulgation, modification or repeal after the Effective Date of any applicable law or regulation; (ii) the imposition of any material conditions on the issuance or renewal of any applicable permit after the Effective Date of this Agreement (notwithstanding the general requirements contained in any applicable Permit at the time of application or issue to comply with future laws, ordinances, codes, rules, regulations or similar legislation), or (iii) a change in any utility rate schedule or tariff approved by any Governmental Authority which in the case of any of (i), (ii) or (iii), establishes requirements affecting owning, supplying, constructing, installing, operating or maintaining the System, or other performance of the Service Provider's obligations hereunder and which has a material adverse effect on the cost to Service Provider of performing such obligations; provided, that a change in federal, state, county or any other tax law after the Effective Date of this Agreement shall not be a Change in Law pursuant to this Agreement.

If any Change in Law occurs that has a material adverse effect on the cost to Service Provider of performing its obligations under this Agreement, then the Parties shall, within thirty (30) days following receipt by Client from Service Provider of notice of such Change in Law, meet and attempt in good faith to negotiate amendments to this Agreement as are reasonably necessary to preserve the economic value of this Agreement to both Parties. If the Parties are unable to agree upon such amendments within such thirty (30) day period, then Service Provider shall have the right to terminate this Agreement without further liability to either Party except with respect to payment of amounts accrued prior to termination.

10. **Relocation of System**.

a. System Relocation. If Client ceases to conduct business operations at the Facility, or otherwise vacates the Facility prior to the expiration of the Term, Client shall have the option to provide Service Provider with a mutually agreeable substitute premises located within the same Utility district as the terminated System or in a location with similar Utility rates and Insolation. Client shall provide written notice at least sixty (60) days prior to the date that it wants to make this substitution. In connection with such substitution, Client shall execute an amended agreement that shall have all of the same terms as this Agreement except for the Site License Agreement, which will be amended to grant access rights to the real property where the System relocated to. Such amended agreement shall be deemed to be a

continuation of this Agreement without termination. Client shall also provide any new consents, estoppels, or acknowledgments reasonably required by Financing Parties in connection with the substitute premises.

b. Costs of Relocation. Client shall pay all costs associated with relocation of the System, including all costs and expenses incurred by or on behalf of Service Provider in connection with removal of the System from the Facility and installation and testing of the System at the substitute facility and all applicable interconnection fees and expenses at the substitute facility, as well as documented costs of new title search and other out-of-pocket expenses connected to preserving and refiling the security interests of Service Provider's Financing Parties in the System. In addition, Client shall pay Service Provider an amount equal to the sum of payments that Client would have made to Service Provider hereunder for electric energy that would have been produced by the System during the relocation. The Parties acknowledge and agree that a relocation of the System occurring in accordance with this Section 10 shall not result in any extension of the Term of this Agreement.

c. Determination of the amount of energy that would have been produced during any service interruption shall be based, during the first Contract Year, on the estimated levels of production and, after the first Contract Year, based on actual operation of the System in the same period in the previous Contract Year, unless Service Provider and Client mutually agree to an alternative methodology.

d. Adjustment for Insolation; Termination. Service Provider shall remove the System from the vacated Facility prior to the termination of Client's ownership, lease or other rights to use such Facility. Service Provider will be required to restore the Facility to its prior condition and shall promptly pay Client for any damage caused by Service Provider during removal of the System, but not for normal wear and tear. If the substitute facility has inferior Insolation as compared to the original Facility, Service Provider shall have the right to make an adjustment to **Exhibit 1** such that Client's payments to Service Provider are the same as if the System were located at the original Facility. If Client is unable to provide such substitute facility and to relocate the System as provided, any early termination shall require Client to pay the Early Termination Fee.

11. Removal of System at Expiration.

Upon the expiration or earlier termination of this Agreement, Service Provider shall, at its expense, remove all of its tangible property comprising the System from the Facility on a mutually convenient date, but in no event later than one hundred eighty (180) days after the expiration of the Term. Excluding ordinary wear and tear, the Facility shall be returned to its original condition including the removal of System mounting pads or other support structures. In no case shall Service Provider's removal of the System affect the integrity of Client's roof or parking area, which shall be as leak proof or drivable as it was prior to removal of the System and shall be flashed and/or patched to existing specifications. Service Provider shall leave the Facility in neat and clean order. If Service Provider fails to remove or commence substantial efforts to remove the System by such agreed upon date, Client shall have the right, at its option, to remove the System to a public warehouse and restore the Facility to its original condition (other than ordinary wear and tear) at Service Provider's cost. Client shall provide sufficient space for the temporary storage and staging of tools, materials and equipment and for the parking of construction crew vehicles and temporary construction trailers and facilities reasonably necessary during System removal at System Provider's cost.

12. Measurement.

Service Provider shall install one or more meter(s), as Service Provider deems appropriate, at or immediately before the Delivery Point to measure the output of the System. Client shall have the right to have a check meter on Client's side of the Delivery Point. Each meter shall meet the general commercial standards of the solar photovoltaic industry or the required standard of the Utility and shall be tested periodically in accordance with generally accepted standards in the industry and shall be adjusted in the event of a variance of more than one (1%) percent.

13. Default, Remedies and Damages.

a. Default. Any Party that fails to perform its responsibilities as listed below or experiences any of the circumstances listed below shall be deemed a "**Defaulting Party**" and each event of default shall be a "**Default Event**":

i. Failure of a Party to pay any amount due and payable under this Agreement, other than an amount that is subject to a good faith dispute, within thirty (30) days following receipt of written notice from the other Party (the "**Non-Defaulting Party**") of such failure to pay ("**Payment Default**");

ii. Failure of a Party to substantially perform any other material obligation under this Agreement within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure; provided, that such thirty (30) day cure period shall be extended (but not beyond ninety (90) days) if and to the extent

reasonably necessary to cure the Default Event, if (A) the Defaulting Party initiates such cure with the thirty (30) day period and continues such cure to completion and (B) there is no material adverse effect on the Non-Defaulting Party resulting from the failure to cure the Default Event;

iii. If any representation or warranty of a Party proves at any time to have been incorrect in any material respect when made and is material to the transactions contemplated hereby, if the effect of such incorrectness is not cured within thirty (30) days following receipt of written notice from the Non-Defaulting Party demanding such cure;

iv. Client loses its rights to occupy and enjoy the Premises; or (subject to Client's rights under Section 8(d) and Section 10(b)) the siting, use or operation of the System on the Premises is prevented, disturbed or interfered with by Client or any person or entity with superior rights to the Premises, such as Client's landlords or Client's or such landlord's mortgagees or other encumbrancers; (for clarity, Service Provider is the Non-Defaulting Party with respect to the events, conditions or circumstances contemplated by this clause (iv));

v. A Party, or its guarantor (if any), becomes insolvent or is a party to a bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or any general assignment for the benefit of creditors or other similar arrangement or any event occurs or proceedings are taken in any jurisdiction with respect to the Party which has a similar effect;

vi. Client prevents Service Provider from installing the System or otherwise fails to perform in a way that allows the delivery of electric energy from the System. Such Default Event shall not excuse Client's obligations to make payments that otherwise would have been due under this Agreement;

vii. Unreasonable interference by Service Provider with the operations of Client at the Premises, if the interference is curable by suspension of operation of the Generating Facilities and Service Provider fails to suspend operation of the Generating Facilities within 72 hours of Client's written notice to Service Provider regarding the interference without good cause, as determined by Client;

viii. Service Provider fails to execute and maintain all necessary Interconnection Agreements with a Utility; or

ix. Service Provider's installation or operation of a Generating Facility voids the warranty for the roof at the Property where that Generating Facility is located.

b. <u>Remedies</u>.

i. <u>Remedies for Payment Default</u>. If a Payment Default occurs, the Non-Defaulting Party may suspend performance of its obligations under this Agreement (which includes, if Service Provider is the Non-Defaulting Party, disconnecting the System). Further, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement, upon fifteen (15) days prior written notice to the Defaulting Party following the Payment Default.

ii. <u>Remedies for Other Defaults</u>. On the occurrence of a Default Event other than a Payment Default, the Non-Defaulting Party may pursue any remedy under this Agreement, at law or in equity, including an action for damages and termination of this Agreement or suspension of performance of its obligations under this Agreement, upon fifteen (15) days prior written notice to the Defaulting Party following the occurrence of the Default Event.

iii. <u>Damages Upon Termination by Default</u>. Upon a termination of this Agreement by the Non-Defaulting Party as a result of a Default Event by the Defaulting Party, the Defaulting Party shall pay a Termination Payment to the Non-Defaulting Party determined as follows (the "**Termination Payment**"):

A. <u>Client</u>. If Client is the Defaulting Party and Service Provider terminates this Agreement, the Termination Payment to Service Provider shall be equal to the values for the applicable Contract Year in the Early Termination Fee table set forth in <u>Exhibit 6</u>, calculated as the sum of (1) reasonable compensation, on a net after tax basis assuming a tax rate of thirty five percent (35%), for, as applicable and unused, the loss or recapture of (a) the investment tax credit equal to twenty-six percent (26%) of the System value; (b) modified accelerated cost recovery system (MACRS) accelerated depreciation equal to eighty five percent (85%) of the System value, as applicable and unused; (c) loss of any Environmental Attributes or Environmental Incentives that accrue or are otherwise assigned to Service Provider

pursuant to the terms of this Agreement (Service Provider shall furnish Client with a detailed calculation of such compensation if such a claim is made); (d) other financing and associated costs not included in (a), (b) and (c), (2) the net present value (using a discount rate of five percent (5%)) of the projected payments over the Term post-termination, had the Term remained effective for the full Initial Term, and (3) any and all other amounts previously accrued under this Agreement and then owed by Client to Service Provider. The Parties agree that actual damages to Service Provider in the event this Agreement terminates prior to the expiration of the Term as the result of a Default Event by Client would be difficult to ascertain, and the applicable Termination Payment is a reasonable approximation of the damages suffered by Service Provider as a result of early termination of this Agreement. The Termination Payment shall not be less than zero.

B. Service Provider. If Service Provider is the Defaulting Party and Client terminates this Agreement, the Termination Payment to Client shall be equal to the sum of (1) the net present value (using a discount rate of five percent (5%)) of the excess, if any, of the reasonably expected cost of electric energy from the Utility over the Contract Price for the reasonably expected production of the System for the remainder of the Initial Term or the then current Additional Term, as applicable; (2) all costs reasonably incurred by Client in re-converting its electric supply to service from the Utility; (3) any removal and repair costs incurred by Client, and (4) any and all other amounts previously accrued under this Agreement and then owed by Service Provider to Client. The Termination Payment shall not be less than zero.

C. Obligations Following Termination. If a Non-Defaulting Party terminates this Agreement pursuant to this Section 13(b), then following such termination, Service Provider shall, at the sole cost and expense of the Defaulting Party, remove the equipment (including mounting pads and support structures) constituting the System. The Non-Defaulting Party shall take all commercially reasonable efforts to mitigate its damages as the result of a Default Event.

D. Rights of California Infrastructure and Economic Development Bank ("IBank"). Client has previously entered into that certain Site Lease and Financing Lease ("IBank Leases"), both dated August 1, 2020, to provide for the acquisition of the real property upon which the Facility is located (the "Property"). Nothing contained in this Agreement shall in any way limit or otherwise impact the rights of IBank with respect to the IBank Leases or its rights provided thereunder with respect to the Property. Neither IBank nor any successor-in-interest to IBank shall have any liability or obligation to Service Provider under any circumstance. In the event IBank obtains possession of the Property or the Facility, IBank shall have no obligation to take any action with respect to the System and Client shall remove any System from the Property and Facility and return the Property and Facility to its original condition, normal wear and tear excepted, within 90 calendar days of the date IBank obtains such possession. As a condition precedent to this Agreement, Client shall deposit sufficient funds to return the Property and Facility to its original condition, normal wear and tear excepted, into a restricted account to be held solely for this purpose, which can be in the form of funds, a bond, a letter of credit, or other security instrument sufficient to accomplish such purposes, as determined by Client. Further, Service Provider agrees that so long as the IBank Leases remain in effect Client shall be solely responsible for any payments or other obligations, monetary or otherwise due under this Agreement. The Service Provider hereby forever waives and releases any claim, known or unknown, contingent or actual, whether or not matured, it may hold now or in the future against IBank related in any way to the Property, Facility, and/or System.

14. Representations and Warranties.

a. General Representations and Warranties. Each Party represents and warrants to the other the following:

i. Such Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; the execution, delivery and performance by such Party of this Agreement have been duly authorized by all necessary corporate, partnership or limited liability company action, as applicable, and do not and shall not violate any law; and this Agreement is valid obligation of such Party, enforceable against such Party in accordance with its terms (except as may be limited by applicable bankruptcy, insolvency,

reorganization, moratorium and other similar laws now or hereafter in effect relating to creditors' rights generally).

ii. Such Party has obtained all licenses, authorizations, consents and approvals required by any Governmental Authority or other third party and necessary for such Party to own its assets, carry on its business and to execute and deliver this Agreement; and such Party is in compliance with all laws that relate to this Agreement in all material respects.

b. Client's Representations and Warranties. Client represents and warrants to Service Provider the following:

i. License. Client has the full right, power and authority to grant the License contained in the Site License Agreement and Section 8(a), subject to the rights of IBank under IBank Leases. Such grant of the License does not violate any law, ordinance, rule or other governmental restriction applicable to Client or the Facility and is not inconsistent with and will not result in a breach or default under any agreement by which Client is bound or that affects the Facility. If Client does not own the Premises or Facility, Client has obtained all required consents from the owner of the Premises and/or Facility to grant the License and enter into and perform its obligations under this Agreement.

ii. Other Agreements. Neither the execution and delivery of this Agreement by Client nor the performance by Client of any of its obligations under this Agreement conflicts with or will result in a breach or default under any agreement or obligation to which Client is a party or by which Client or the Facility is bound.

iii. Accuracy of Information. All information provided by Client to Service Provider, as it pertains to the Facility's physical configuration, Client's planned use of the Facility, and Client's estimated electricity requirements, is accurate in all material respects, to the best of Client's knowledge.

iv. Client Status. Client is not a public utility or a public utility holding company and is not subject to regulation as a public utility or a public utility holding company.

v. No Pool Use. No electricity generated by the System will be used to heat a swimming pool.

c. Service Provider's Representations and Warranties. Service Provider represents and warrants to Client the following:

i. To Service Provider's knowledge, manufacturers' warranties will be in effect with respect to the System;

ii. To Service Provider's knowledge, manufacturer's warranties will be in effect with respect to any roof installment or improvement;

iii. To Service Provider's knowledge, the Delivery Point contains sufficient capacity to accommodate the System;

iv. To Service Provider's knowledge, there is no material adverse change that affects the creditworthiness of Service Provider or its subcontractors to perform Service Provider's obligations under this Agreement;

v. Service Provider has received adequate assurance from its financiers that required funding arrangements have been established.

15. System and Facility Damage and Insurance.

a. System and Facility Damage.

i. Service Provider's Obligations. If the **System** is damaged or destroyed other than by Client's gross negligence or willful misconduct, Service Provider shall promptly repair and restore the System to its pre-existing condition; provided, however, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Initial Term or during any Additional Term, Service Provider shall not be required to restore the System, but may instead terminate this Agreement, unless Client agrees (A) to pay for the cost of such restoration of the System or (B) to purchase the System "AS-IS" at the greater of (1) the Fair Market Value of the System and (2) the sum of the amounts described in Section 13.b.iii.A)(1) and Section 13.b.iii.A)(3). Notwithstanding the foregoing, Client acknowledges that if the System constitutes collateral for the benefit of the Financing Parties, such Financing Parties or an agent or trustee on their behalf will be

the loss payees in respect of property or casualty insurance for the System and will have the right to apply the proceeds of such insurance in accordance with the financing arrangements to which they are a party.

ii. Client's Obligations. If the **Facility** is damaged or destroyed by casualty of any kind or any other occurrence other than Service Provider's gross negligence or willful misconduct, such that the operation of the System and/or Client's ability to accept the electric energy produced by the System are materially impaired or prevented, Client shall promptly repair and restore the Facility to its pre-existing condition; provided, however, that, at any time, Client may elect either (A) to restore the Facility or (B) to pay the Early Termination Fee and all other costs previously accrued but unpaid under this Agreement and thereupon terminate this Agreement.

b. **Insurance Coverage.** At all times while Service Provider is undertaking activities at the Facility, and during the Term, Service Provider and Client shall maintain the following insurance:

i. Service Provider's Insurance. Service Provider shall maintain (A) property insurance on the System for the replacement cost thereof, (B) commercial general liability insurance with coverage of at least $1,000,000 per occurrence and $2,000,000 annual aggregate, (C) employer's liability insurance with coverage of at least $1,000,000, (D) workers' compensation insurance as required by law, and (E) automobile liability insurance with coverage at least as broad as Insurance Services Office form CA 00 01 including coverage of not less than $1,000,000 combined single limit for each accident.

ii. Client's Insurance. Client, through its self-insurance policy with the California Joint Power Insurance Authority, shall keep in full force and effect a primary policy of at least Two Million dollars ($2,000,000) annual aggregate.

c. **Policy Provisions.** All insurance policies provided hereunder shall (i) contain a provision whereby the insurer agrees to give the party not providing the insurance (A) not less than ten (10) days written notice before the insurance is cancelled, or terminated as a result of non-payment of premiums, or (B) not less than thirty (30) days written notice before the insurance is otherwise cancelled or terminated, (ii) be written on an occurrence basis, and (iii) be maintained

with companies either rated no less than A-VII as to Policy Holder's Rating in the current edition of A.M. Best's Insurance Guide or otherwise reasonably acceptable to the other Party.

d. **Certificates.** Upon the other Party's request each Party shall deliver to the other Party certificates of insurance evidencing the above required coverage. A Party's receipt, review or acceptance of such certificate shall in no way limit or relieve the other Party of the duties and responsibilities to maintain insurance as set forth in this Agreement.

e. **Deductibles.** Unless and to the extent that a claim is covered by an indemnity set forth in this Agreement, each Party shall be responsible for the payment of its own deductibles.

16. Ownership;

a. **Ownership of System**. Client acknowledges that Service Provider (or its successor(s) or assignee(s)) is and will at all times be the legal and beneficial owner of the System, and that the System is and shall remain personal property and shall not attach to or be deemed a part of, or be a fixture of or to, the Facility or the Premises. Each of the Service Provider and Client agree that the Service Provider (or the designated assignee of Service Provider permitted under Section 19) is the tax owner of the System and all tax filings and reports will be filed in a manner consistent with this Agreement. The System shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code and otherwise for purposes of state and federal law. Service Provider shall file UCC1 Financing Statement and renew prior to such expiration dates at Service Provider's cost and expense. Client covenants that it will use commercially reasonable efforts to place all parties having an interest in or a mortgage, pledge, lien, charge, security interest, encumbrance or other claim of any nature on the Facility or the Premises on notice of the ownership of the System and the legal status or classification of the System as personal property. If there is any mortgage or fixture filing against the Premises which could reasonably be construed as prospectively attaching to the System as a fixture of the Premises, Client shall provide a disclaimer or release from such lienholder. To the extent that Client does not own the Premises or Facility, Client shall provide to Service Provider immediate written notice of receipt of notice of eviction from the Premises or Facility or termination of Client's lease of the Premises and/or Facility.

b. **Determination of Fair Market Value**. "**Fair Market Value**" means, in Service Provider's reasonable determination and agreed to by Client, the greater of: (i) the amount that would be paid in an arm's length, free market transaction, for cash, between an informed, willing seller and an informed willing buyer, neither of whom is under compulsion to complete the transaction, taking into account, among other things, the age, condition and performance of the System and advances in solar technology, provided that installed equipment shall be valued on an installed basis, shall not be valued as scrap if it is functioning and in good condition and costs of removal from a current location shall not be a deduction from the valuation, and (ii) the present value (using a discount rate of twelve percent (12%)) of all associated future income streams expected to be received by Service Provider arising from the operation of the System for the remaining term of the Agreement including but not limited to the expected price of electricity, and Tax Attributes and factoring in future costs and expenses associated with the System avoided. Service Provider shall give written notice to Client of such determination, along with a full explanation of the calculation of Fair Market Value, including without limitation, an explanation of all assumptions, figures and values used in such calculation and factual support for such assumptions, figures and values. If Client reasonably objects to Service Provider's determination of Fair Market Value within thirty (30) days after Service Provider has provided written notice of such determination, the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to determine the Fair Market Value of the System. Such appraiser shall act reasonably and in good faith to determine the Fair Market Value of the System based on the formulation set forth herein, and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding upon the Parties in the absence of fraud or manifest error. The costs of the appraisal shall be borne by the Parties equally. Upon purchase of the System, Client will assume complete responsibility for the operation and maintenance of the System and liability for the performance of the System, and Service Provider shall have no further liabilities or obligations hereunder, except to transfer all documentation and applicable warranties for installed equipment to the extent in effect at such time.

17. Indemnification and Limitations of Liability.

a. **General**. Each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party and the directors, officers, shareholders, partners, members, agents and employees of such other Party, and the respective affiliates of each thereof (collectively, the "**Indemnified Parties**"), from and against all loss, damage, expense, liability and other claims, including court costs and reasonable attorneys' fees (collectively, "**Liabilities**") resulting from any third party actions relating to the breach of any representation or warranty set forth in Section 14 and from injury to or death of persons, and damage to or loss of property to the extent caused by or arising out of the negligent

acts or omissions of, or the willful misconduct of, the Indemnifying Party (or its contractors, agents or employees) in connection with this Agreement; provided, however, that nothing herein shall require the Indemnifying Party to indemnify the Indemnified Party for any Liabilities to the extent caused by or arising out of the negligent acts or omissions of, or the willful misconduct of, the Indemnified Party. This Section 17(a) however, shall not apply to liability arising from any form of hazardous substances or other environmental contamination, such matters being addressed exclusively by Section 17(c). For purposes of this Section 17, indemnification of Client shall also include indemnification of IBank. Nothing contained in this Section 17 or elsewhere in this Agreement shall create any obligation of IBank to indemnify any other party.

b. **Notice and Participation in Third Party Claims**. The Indemnified Party shall give the Indemnifying Party written notice with respect to any Liability asserted by a third party (a "**Claim**"), as soon as possible upon the receipt of information of any possible Claim or of the commencement of such Claim. The Indemnifying Party may assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party. The Indemnified Party may, however, select separate counsel if both Parties are defendants in the Claim and such defense or other form of participation is not reasonably available to the Indemnifying Party. The Indemnifying Party shall pay the reasonable attorneys' fees incurred by such separate counsel until such time as the need for separate counsel expires. The Indemnified Party may also, at the sole cost and expense of the Indemnifying Party, assume the defense of any Claim if the Indemnifying Party fails to assume the defense of the Claim within a reasonable time. Neither Party shall settle any Claim covered by this Section 17(b) unless it has obtained the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. The Indemnifying Party shall have no liability under this Section 17(b) for any Claim for which such notice is not provided if that the failure to give notice prejudices the Indemnifying Party.

c. **Environmental Indemnification**. Service Provider shall indemnify, defend and hold harmless all of Client's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance (as defined in Section 17(c)(i)) to the extent deposited, spilled or otherwise caused by Service Provider or any of its contractors or agents. Client shall indemnify, defend and hold harmless all of Service Provider's Indemnified Parties from and against all Liabilities arising out of or relating to the existence at, on, above, below or near the Premises of any Hazardous Substance, except to the extent deposited, spilled or otherwise caused by Service Provider or any of its contractors or agents. Each Party shall promptly notify the other Party if it becomes aware of any Hazardous Substance on or about the Premises or the Premises generally or any deposit, spill or release of any Hazardous Substance. Service Provider shall not use Hazardous Substances in the Facility or at the Premises.

i. "**Hazardous Substance**" means any chemical, waste or other substance (A) which now or hereafter becomes defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under any laws pertaining to the environment, health, safety or welfare, (B) which is declared to be hazardous, toxic, or polluting by any Governmental Authority, (C) exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority, (D) the storage, use, handling, disposal or release of which is restricted or regulated by any Governmental Authority, or (E) for which remediation or cleanup is required by any Governmental Authority.

d. **Limitations on Liability**.

i. No Consequential Damages. Neither Party nor its directors, officers, shareholders, partners, members, agents and employees, subcontractors or suppliers shall be liable for any indirect, special, incidental, exemplary, or consequential loss or damage of any nature arising out of their performance or non-performance hereunder even if advised of such. This section does not apply, however, to any Termination Payment or any other damages the calculation of which is specifically provided for in this Agreement. In addition, the Parties agree that (1) in the event that Service Provider is required to recapture any Tax Credits or other tax benefits as a result of a breach of this Agreement by Client, such recaptured amount shall be deemed to be direct and not indirect or consequential damages.

ii. Limitation of Time to Bring Action. Any action against Service Provider must be brought within three (3) years after the cause of action accrues.

18. **Force Majeure**.

a. "**Force Majeure**" means any event or circumstances beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure. It shall include, without limitation, failure or interruption of the production, delivery or acceptance of electricity due to: an act of god; war (declared or undeclared); sabotage; riot; insurrection; pandemic, civil unrest or disturbance; military or guerilla action; terrorism; economic sanction or embargo; civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake; abnormal weather condition or actions of the elements; hurricane; flood; lightning; wind; drought; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means); the failure to act on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued); unavailability of electricity from the utility grid, equipment, supplies or products (but not to the extent that any such availability of any of the foregoing results from the failure of the Party claiming Force Majeure to have exercised reasonable diligence); and failure of equipment not utilized by or under the control of the Party claiming Force Majeure.

b. Except as otherwise expressly provided to the contrary in this Agreement, if either Party is rendered wholly or partly unable to timely perform its obligations under this Agreement because of a Force Majeure event, that Party shall be excused from the performance affected by the Force Majeure event (but only to the extent so affected) and the time for performing such excused obligations shall be extended as reasonably necessary; provided, that: (i) the Party affected by such Force Majeure event, as soon as reasonably practicable after obtaining knowledge of the occurrence of the claimed Force Majeure event, gives the other Party prompt oral notice, followed by a written notice reasonably describing the event; (ii) the suspension of or extension of time for performance is of no greater scope and of no longer duration than is required by the Force Majeure event; and (iii) the Party affected by such Force Majeure event uses all reasonable efforts to mitigate or remedy its inability to perform as soon as reasonably possible. The Term shall be extended day for day for each day performance is suspended due to a Force Majeure event.

c. Notwithstanding anything herein to the contrary, the obligation to make any payment due under this Agreement shall not be excused by a Force Majeure event that solely impacts Client's ability to make payment.

d. If a Force Majeure event continues for a period of one hundred eighty (180) days or more within a twelve (12) month period and prevents a material part of the performance by a Party hereunder, the Party not claiming the Force Majeure shall have the right to terminate this Agreement without fault or further liability to either Party (except for amounts accrued but unpaid).

19. Assignment and Financing.

a. **Assignment**. This Agreement may not be assigned in whole or in part by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, provided however in the event of a sale by Client of the Premises, Client shall have the right to assign this Agreement and the Site License Agreement concurrently to the purchaser of Premises; provided such purchaser is sufficiently creditworthy as determined by Service Provider. Notwithstanding the foregoing, Service Provider may, without the prior written consent of Client, (i) assign, pledge or otherwise collaterally assign its interests in this Agreement and the System to any Financing Party, (ii) directly or indirectly assign this Agreement and the System to an affiliate or subsidiary of Service Provider, (iii) assign this Agreement and the System to any entity through which Service Provider is obtaining financing or capital for the System and (iv) assign this Agreement and the System to any person succeeding to all or substantially all of the assets of Service Provider (provided that Service Provider shall be released from liability hereunder as a result of any of the foregoing permitted assignments only upon assumption of Service Provider's obligations hereunder by the assignee and only if the assignee shall have credit which is equal to or better than the credit of Service Provider at the time of execution of this Agreement). In the event of any such assignment, the Service Provider shall be released from all its liabilities and other obligations under this Agreement. However, any assignment of Service Provider's rights and/or obligations under this Agreement shall not result in any change to Client's rights and obligations under this Agreement, any material change in the terms of this Agreement or any material reduction in the obligations of Service Provider hereunder. Client's consent to any other assignment shall not be unreasonably withheld if Client has been provided with reasonable proof that the proposed assignee (x) has comparable experience in operating and maintaining photovoltaic solar systems comparable to the System and providing services comparable to those contemplated by this Agreement and (y) has the financial capability to maintain the System and provide the services contemplated by this Agreement in the manner required by this Agreement. This Agreement shall be binding on and inure to the benefit of the successors and assignees that become party to this Agreement in accordance with its terms and conditions.

b. **Financing**. The Parties acknowledge that Service Provider may obtain construction and long-term financing or other credit support from one or more Financing Parties. In connection with an assignment pursuant to Section 19(a)(i)-

(iv), Client agrees to execute any consent, estoppel or acknowledgement in form and substance reasonably acceptable to such Financing Parties.

c. **Successor Servicing**. The Parties further acknowledge that in connection with any construction or long term financing or other credit support provided to Service Provider or its affiliates by Financing Parties, that such Financing Parties may require that Service Provider or its affiliates appoint a third party to act as backup or successor provider of operation and maintenance services with respect to the System and/or administrative services with respect to this Agreement (the "**Successor Provider**"). Client agrees to accept performance from any Successor Provider so appointed so long as such Successor Provider performs in accordance with the terms of this Agreement and there is no material reduction in the obligations hereunder owed to Client by Service Provider or such Successor Provider.

20. **Confidentiality and Publicity**.

a. **Confidentiality**. If either Party provides confidential information, including business plans, strategies, financial information, proprietary, patented, licensed, copyrighted or trademarked information, and/or technical information regarding the design, operation and maintenance of the System or of Client's business ("**Confidential Information**") to the other or, if in the course of performing under this Agreement or negotiating this Agreement a Party learns Confidential Information regarding the facilities or plans of the other, the receiving Party shall (a) protect the Confidential Information from disclosure to third parties with the same degree of care accorded its own confidential and proprietary information, and (b) refrain from using such Confidential Information, except in the negotiation and performance of this Agreement, including but not limited to obtaining financing for the System. Notwithstanding the above, a Party may provide such Confidential Information to its, officers, directors, members, managers, employees, agents, contractors and consultants (collectively, "**Representatives**"), and affiliates, lenders, and potential assignees of this Agreement (provided and on condition that such potential assignees be bound by a written agreement or legal obligation restricting use and disclosure of Confidential Information). Each such recipient of Confidential Information shall be informed by the Party disclosing Confidential Information of its confidential nature and shall be directed to treat such information confidentially and shall agree to abide by these provisions. In any event, each Party shall be liable (with respect to the other Party) for any breach of this provision by any entity to whom that Party improperly discloses Confidential Information. The terms of this Agreement (but not its execution or existence) shall be considered Confidential Information for purposes of this Section 20(a), except as set forth in Section 20(b). All Confidential Information shall remain the property of the disclosing Party and shall be returned to the disclosing Party or destroyed after the receiving Party's need for it has expired or upon the request of the disclosing Party. Each Party agrees that the disclosing Party would be irreparably injured by a breach of this Section 20(a) by the receiving Party or its Representatives or other person to whom the receiving Party discloses Confidential Information of the disclosing Party and that the disclosing Party may be entitled to equitable relief, including injunctive relief and specific performance, in the event of a breach of the provision of this Section 20(a). To the fullest extent permitted by applicable law, such remedies shall not be deemed to be the exclusive remedies for a breach of this Section 20(a), but shall be in addition to all other remedies available at law or in equity.

b. **Permitted Disclosures**. Notwithstanding any other provision in this Agreement, neither Party shall be required to hold confidential any information that (i) becomes publicly available, (ii) is required to be disclosed to a Governmental Authority under applicable law or pursuant to a validly issued subpoena (but a receiving Party subject to any such requirement shall promptly notify the disclosing Party of such requirement to the extent permitted by applicable law), (iii) is independently developed by the receiving Party, (iv) becomes available to the receiving Party without restriction from a third party under no obligation of confidentiality or (v) is required to be disclosed to the extent required under applicable law, including but not limited to the California Public Records Act. If disclosure of information is required by a Governmental Authority, the disclosing Party shall, to the extent permitted by applicable law, notify the other Party of such required disclosure promptly upon becoming aware of such required disclosure and shall cooperate with the other Party in efforts to limit the disclosure to the maximum extent permitted by law.

21. **Goodwill and Publicity.** Neither Party shall use any name, trade name, service mark or trademark of the other Party in any promotional or advertising material without the prior written consent of such other Party. The Parties shall coordinate and cooperate with each other when making public announcements related to the execution and existence of this Agreement, and each Party shall have the right to promptly review, comment upon and approve any publicity materials, press releases or other public statements by the other Party that refer to, or that describe any aspect of, this Agreement. Neither Party shall make any press release or public announcement of the specific terms of this Agreement (except for filings or other statements or releases as may be required by applicable law) without the specific prior written consent of the other Party; provided that if a Party does not respond to a request to review a press release or public announcement within ten (10) days of notice of the same, then such Party may issue such press release or public announcement without the consent of the other Party. Without limiting the generality of the foregoing, all public statements must accurately reflect the rights and obligations of the Parties under this Agreement, including the ownership of Environmental Attributes and Environmental Incentives and any related reporting rights.

22. Miscellaneous Provisions

a. **Choice of Law**. The law of the state where the System is located shall govern this Agreement without giving effect to conflict of laws principles. The Parties hereby designate Santa Barbara County, California to be the proper jurisdiction and venue for any suit or action arising out of this Agreement.

b. **Remedies and Attorneys' Fees**. In the event of any dispute under the terms of this Agreement, the aggrieved Party shall first give written notice to the other Party setting forth the nature of the dispute and the relief requested. The Parties shall then attempt to resolve the dispute by escalating the dispute within their respective organizations. If the Parties are unable to resolve the dispute within thirty (30) days after written notice is given, either Party may pursue all of its rights and remedies available at law or in equity. The prevailing party in any dispute arising out of this Agreement shall be entitled to reasonable attorneys' fees and costs.

c. **Notices**. All notices under this Agreement shall be in writing and shall be by personal delivery, facsimile transmission, electronic mail, overnight courier, or regular, certified, or registered mail, return receipt requested, and deemed received upon personal delivery, acknowledgment of receipt of electronic transmission, the promised delivery date after deposit with overnight courier, or five (5) days after deposit in the mail. Notices shall be sent to the person identified in this Agreement at the addresses set forth in this Agreement or such other address as either party may specify in writing. Each party shall deem a document faxed, emailed or electronically sent in PDF form to it as an original document.

d. **Survival**. Provisions of this Agreement that should reasonably be considered to survive termination of this Agreement shall survive. For the avoidance of doubt, surviving provisions shall include, without limitation, Section 7(j) (No Warranty), Section 14 (Representations and Warranties), Section 15(b) (Insurance Coverage), Section 17 (Indemnification and Limitations of Liability), Section 20 (Confidentiality and Publicity), Section 22(a) (Choice of Law), Section 22 (b) (Remedies and Attorneys' Fees), Section 22(c) (Notices), Section 22 (g) (Comparative Negligence), Section 22(h) (Non-Dedication of Facilities), Section 22(j) (Service Contract), Section 22(k) (No Partnership) Section 22(l) (Full Agreement, Modification, Invalidity, Counterparts, Captions) and Section 22(n) (No Third Party Beneficiaries).

e. **Further Assurances**. Each of the Parties hereto agree to provide such information, execute and deliver any instruments and documents and to take such other actions as may be necessary or reasonably requested by the other Party which are not inconsistent with the provisions of this Agreement and which do not involve the assumptions of obligations other than those provided for in this Agreement, to give full effect to this Agreement and to carry out the intent of this Agreement.

f. **Right of Waiver**. Each Party, in its sole discretion, shall have the right to waive, defer or reduce any of the requirements to which the other Party is subject under this Agreement at any time; provided, however that neither Party shall be deemed to have waived, deferred or reduced any such requirements unless such action is in writing and signed by the waiving Party. No waiver will be implied by any usage of trade, course of dealing or course of performance. A Party's exercise of any rights hereunder shall apply only to such requirements and on such occasions as such Party may specify and shall in no event relieve the other Party of any requirements or other obligations not so specified. No failure of either Party to enforce any term of this Agreement will be deemed to be a waiver. No exercise of any right or remedy under this Agreement by Client or Service Provider shall constitute a waiver of any other right or remedy contained or provided by law. Any delay or failure of a Party to exercise, or any partial exercise of, its rights and remedies under this Agreement shall not operate to limit or otherwise affect such rights or remedies. Any waiver of performance under this Agreement shall be limited to the specific performance waived and shall not, unless otherwise expressly stated in writing, constitute a continuous waiver or a waiver of future performance.

g. **Comparative Negligence**. It is the intent of the Parties that where negligence is determined to have been joint, contributory or concurrent, each Party shall bear the proportionate cost of any Liability.

h. **Non-Dedication of Facilities**. Nothing herein shall be construed as the dedication by either Party of its facilities or equipment to the public or any part thereof. Neither Party shall knowingly take any action that would subject the other Party, or other Party's facilities or equipment, to the jurisdiction of any Governmental Authority as a public utility or similar entity. Neither Party shall assert in any proceeding before a court or regulatory body that the other Party is a public utility by virtue of such other Party's performance under this agreement. If Service Provider is reasonably likely to become subject to regulation as a public utility, then the Parties shall use all reasonable efforts to restructure their relationship under this Agreement in a manner that preserves their relative economic interests while ensuring that Service Provider does not become subject to any such regulation. If the Parties are unable to agree upon such

restructuring, Service Provider shall have the right to terminate this Agreement without further liability, and Service Provider shall remove the System in accordance with Section 11 of this Agreement.

i. **Estoppel**. Either Party hereto, without charge, at any time and from time to time, within thirty (30) business days after receipt of a written request by the other party hereto, shall deliver a written instrument, duly executed, certifying to such requesting party, or any other person specified by such requesting Party: (i) that this Agreement 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; (ii) whether or not to the knowledge of any 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 Agreement and, if so, specifying the same and also whether or not to the knowledge of such party the other 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. Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

j. **Service Contract**. The Parties intend this Agreement to be a "service contract" within the meaning of Section 7701(e)(3) of the Internal Revenue Code of 1986. Client will not take the position on any tax return or in any other filings suggesting that it is anything other than a purchase of electricity from the System.

k. **No Partnership**. No provision of this Agreement shall be construed or represented as creating a partnership, trust, joint venture, fiduciary or any similar relationship between the Parties. No Party is authorized to act on behalf of the other Party, and neither shall be considered the agent of the other.

l. **Full Agreement, Modification, Invalidity, Counterparts, Captions**. This Agreement, together with any Exhibits, completely and exclusively states the agreement of the Parties regarding its subject matter and supersedes all prior proposals, agreements, or other communications between the Parties, oral or written, regarding its subject matter. This Agreement may be modified only by a writing signed by both Parties. If any provision of this Agreement is found unenforceable or invalid, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole. In such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law. This Agreement may be executed in any number of separate counterparts and each counterpart shall be considered an original and together shall comprise the same Agreement. The captions or headings in this Agreement are strictly for convenience and shall not be considered in interpreting this Agreement.

m. **Forward Contract**. The transaction contemplated under this Agreement constitutes a "forward contract" within the meaning of the United States Bankruptcy Code, and the Parties further acknowledge and agree that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

n. **No Third-Party Beneficiaries**. Except for assignees and Financing Parties permitted under Section 19, this Agreement and all rights hereunder are intended for the sole benefit of the Parties hereto and shall not imply or create any rights on the part of, or obligations to, any other Person.

o. **Non-Interference with Use and Compliance with Codes**.

i. Service Provider shall cause the Facility to be designed, constructed, installed and operated in a manner that is consistent with this Agreement and that will not unreasonably interfere with Client's use of the Premises.

ii. Service Provider shall be responsible for complying with all applicable zoning requirements and applicable laws, rules and regulations. Service Provider shall be responsible for any and all violations incurred against the Premises from operation of the Facility (other than for violations caused by the actions or inactions of Client).

End of Exhibit 3

Exhibit 4
Form of Site License Agreement

[to be attached]

Exhibit 5
Expected Contract Quantity (kWh) by Contract Year

Contract Year	Expected Electrical Energy (kWh)	Contract Year	Expected Electrical Energy (kWh)
1	313,721	**16**	290,192
2	312,152	**17**	288,623
3	310,584	**18**	287,055
4	309,015	**19**	285,486
5	307,447	**20**	283,918
6	305,878	**21***	282,349
7	304,309	**22***	280,780
8	302,741	**23***	279,212
9	301,172	**24***	277,643
10	299,604	**25***	276,075
11	298,035		
12	296,466		
13	294,898		
14	293,329		
15	291,761		

*** If Additional Term is exercised.**

Exhibit 6
Early Termination Fee by Contract Year

Contract Year	Early Termination Fee ($/W-dc)	Contract Year	Early Termination Fee ($/W-dc)
1	5.14	**16**	1.14
2	4.60	**17**	0.94
3	4.06	**18**	0.73
4	3.51	**19**	0.51
5	2.95	**20**	0.26
6	2.39	**21***	N/A
7	2.31	**22***	N/A
8	2.22	**23***	N/A
9	2.12	**24***	N/A
10	2.02	**25***	N/A
11	1.90		
12	1.77		
13	1.63		
14	1.48		
15	1.31		

*** If Additional Term is exercised.**

Exhibit 7
System Technical Specifications

1. Site Access

Service Provider shall conform to all Client rules and requirements for accessing sites. The Client or the applicable Authority Having Jurisdiction may regulate road usage, road closures, number of vehicles, access points, etc. Site visits shall be approved, and proper check-in requirements must be followed. Service Provider shall provide signage and/or electronic notification of possible operational impacts upon Client request. Unless otherwise determined by Client, Service Provider shall be responsible for providing bathroom and storage facilities for all workers on-site, and shall be responsible for procuring, installing, securing, and removing temporary security fencing and scaffolding.

Project Management

2.1 Project Manager

Service Provider shall assign a Project Manager from their firm upon execution of the Agreement and receipt of Notice to Proceed. The Project Manager shall ensure that all contract, schedule, and reporting requirements of the Project are met and shall be the primary point of contact for the Client.

2.2 Project Schedule

A Project Schedule is to be prepared and submitted to the Client within 10 days of Agreement execution. The Client will review and approve the Project Schedule prior to the initiation of work. Updates shall be submitted every other week, though the Client may allow less frequent updates at their discretion. The submittal shall be a Critical Path Method (CPM) schedule describing all Project activities including design, equipment procurement, construction, and commissioning. In particular, Service Provider shall include Client review of submittals on the Critical Path. The schedule shall also reflect the requirement that construction activities must be coordinated to minimize impacts on normal operations at each site, including ongoing construction activities.

Sufficient information shall be shown on the Project Schedule to enable proper control and monitoring of the Work. The Project Schedule shall show the intended time for starting and completing each activity; the duration of each activity; submittal and approval times; design; delivery of materials, equipment and software; all testing; and other significant items related to the progress of the Work. The Project Schedule shall include a CPM network diagram of sufficient detail to show how Mandatory Milestones are intended to be met. If a schedule submitted by Service Provider includes changes affecting the achievement of Mandatory Milestones, Service Provider should clearly identify and justify those changes.

Service Provider is encouraged to phase the Work in a way that supports efficient and effective delivery of design and build services. The following Mandatory Milestones shall be reflected in the schedule and where applicable, represents the dates upon which each milestone is to be achieved for all sites in this Agreement.

Mandatory Milestones

Mandatory Milestone	**Date**
50% Schematic Design submittal	
90% Design Development submittal	
100% Construction Documents submittal for permitting	

Approved Construction Documents	
Notice to Proceed	
Mobilization	
Substantial Completion	
Final Completion	

2.3 Submittals

Service Provider shall provide the following submittals as part of the performance of the Work. The cost of developing and providing submittals shall be included in the Project price.

Agreement Submittals

Submittal	**Submittal Date**	**Exhibit D.1 Section**
I. System Design		**TBD**
a. System Design Documentation	At each design milestone	TBD
b. Warranties	At Construction Documents milestone	TBD
c. Testing Plan	At Construction Documents milestone	TBD
d. Power production modeling	At Construction Documents milestone	TBD
II. Procurements and Construction		**TBD**
a. Safety Plan	30 days before commencement of construction	TBD
b. As-built Documentation	After completion of Proving Period	TBD
III. Testing		**TBD**
a. Acceptance Test Results	After Acceptance Test	TBD
b. Startup Test Results	After Startup Test	TBD
c. Monitoring Data (Proving Period)	Continually throughout Proving Period	TBD
d. Proving Period Report	30 days after System Startup	TBD
IV. Training		**TBD**
a. Training Materials	30 days before Training Session	TBD
b. Monitoring Manual	30 days before Training Session	TBD
c. Operations & Maintenance Manual	30 days before Training Session	TBD

2.4 Solar and Storage Incentives

Where applicable, Service Provider shall submit applications for all available energy incentives or, should the Client already have submitted such applications, assume responsibility for all future requirements (agreements, submittals, etc.) related to these programs. This includes actions necessary to ensure compliance with the Utility net metering program and all interconnection agreements and related documents for Client participation and utilization of the benefits of each applicable program. Service Provider shall attend all site verification visits conducted by the applicable public utility or Governmental Authority and shall assist the Client in satisfying the requirements of the incentive program. Service Provider shall be responsible for providing updated documentation to incentive program administrators throughout the project, as required by rules of the relevant incentive programs.

2.5 Interconnection

Service Provider shall be responsible for preparing, submitting, and procuring interconnection application through appropriate utility and department. Service Provider shall accept responsibility for payment for utility interconnection studies and/or project management that are anticipated and required. No costs associated with utility grid infrastructure upgrades or modifications or any work on SCE side of the meter will be borne by the Service Provider. Pre-existing code violations, if present, shall not be Service Provider responsibility. At project completion, Service Provider shall confirm Permission To Operate with the utility, and shall verify most financially-beneficial rate schedule and billing for the Client.

Service Provider must comply with all interconnection requirements. Systems installed as part of this project will take advantage of Net Energy Metering (NEM), unless specified otherwise by Client or its agents. Service Provider shall be responsible for ensuring the system design and interconnection qualifies for NEM, as applicable.

System Design

3.1 Design Review Process/ Phases

The Client will review and approve design documentation based on the requirements in this RFP and as detailed in Section 3.3 of this document. The Client may request additional documents as needed. Prior to the first design submission, the Service Provider and Client shall agree upon precise organization and format of the design submittals. The Client will review all submittals, provide written comments, and conduct Design Review Meetings for each stage of the process. Service Provider shall provide additional detail, as required, at each successive stage of the Design Review. Service Provider shall not order equipment and materials until Schematic Design submittals have been approved. Service Provider shall not begin construction until Construction Documents have been approved and all required permits have been obtained. The Client will formally approve, in writing, each phase of the design and is the sole arbiter of whether each phase of the design has been completed. The Service Provider shall not enter a subsequent design phase without the approval of the Client. Such approvals shall not be unreasonably withheld.

Service Provider is responsible for providing designs approved by the appropriate professional engineers registered in the State of California. Costs for engineering reviews and approvals shall be borne by the Service Provider. System designs must consider Client aesthetic issues and not conflict with any current Client operations.

3.2 Service Providers' License Classification

The Client requires that Respondents possess, at all times during construction activities, a General Contractor License (B), Electrical Contractor License (C-10), or Solar Contractor License (C-46). It shall be acceptable for a Respondent that does not possess a C-10 or C-46 License to list a Subcontractor with a C-10 or C-46 License.

3.3 Design Submittals

3.3.1 Plan Set

Service Provider shall prepare a comprehensive submittal package for each phase of the Work that will be reviewed and approved by the Client. At a minimum, each submittal package shall include the elements required to convey in sufficient detail the following for each phase of the design, as applicable:

- Site Layout Drawings, with distances from roof edges and existing buildings and equipment
- Underground Utilities
- Construction Specifications (trenching, mounting, etc.)

- Equipment Layout Drawings
- Electrical Single-Line and Three-Line Diagrams
- Module Stringing Diagrams
- Electric Wire and Conduit Schedule
- Electrical Warning Labels & Placards Plans
- Lighting Plan (for shade structures)
- Architectural Drawings
- Structural/Mechanical Drawings, including roof penetration details
- Geotechnical and/or Surveyor Drawings and Studies
- Manufacturer's Cut Sheets with Equipment Specifications
- Data Acquisition System (DAS) Specifications, Cut Sheets, and Data Specifications

Service Provider shall include adequate time for Client review and approval of submittals, as well as re-submittals and re-reviews. Minimum Client review time shall be ten (10) business days from the date of receipt of each submittal package during each phase of the Design Review.

3.3.2 Production Modeling

Production modeling of the PV systems shall be performed using HelioScope, System Advisor Model (SAM), PVSYST, or equivalent modeling software using TMY3 weather data for the location closest to the site. The simulations shall accurately simulate energy production for proposed system layouts, sizes, and orientation. It is critical that PV production models are accurate with all methodology and assumptions described. The County, City, Agency or its agents will independently verify production models are accurate to the designed systems and utilize simulation results for economic evaluations. Service Provider shall be responsible for updating the production models each time sufficient changes are made to the proposed system designs that will impact production.

Service Provider shall avoid excessive shading on modules to the extent possible. Where shading losses are encountered, Service Provider shall perform a shading analysis justifying the basis for their design and explaining why shading does not create an adverse performance and/or economic impact.

3.4 Permits and approvals

Construction Documents must be reviewed and approved by all authorities having jurisdiction (AHJs) over the work, which may include, but are not limited to: the Client, the City or County in which the work is being done, and the utility. Service Provider shall be responsible for obtaining all approvals and shall account for permitting and inspection requirements in their system designs, project pricing, and schedule. Service Provider shall attend all site verification visits conducted by the applicable public utility or Governmental Authority, including any special inspections for trenching, rebar, concrete, welding, and roof attachment work, according to AHJ requirements. The Client will not grant Service Provider relief based on Service Provider's incomplete or incorrect understanding of permitting and approval requirements.

3.5 Technical Requirements

3.5.1 General Considerations

All documentation and components furnished by Service Provider shall be developed, designed, and/or fabricated using high quality design, materials, and workmanship meeting the requirements of the Client and all applicable industry codes and

standards. The installations shall comply with at least, but not limited to, the latest approved versions of the International Building Code (IBC), National Electrical Code (NEC), Utility Interconnection Requirements, California Building Standards Commission Codes, and all other federal, state, and local jurisdictions having authority.

3.5.2 Electrical Design Standards

The design, products, and installation shall comply with at least, but not limited to, the following electrical industry standards, wherever applicable:

- National Electric Code (NEC)
- Illumination Engineering Society of North America (IESNA) Lighting Standards
- Institute of Electrical and Electronics Engineers (IEEE) Standards
- National Electrical Manufacturers Association (NEMA)
- Underwriters Laboratories, Inc. (UL)
- National Fire Protection Association (NFPA)
- California Public Utility Commission (CPUC) and Utility Requirements
- American National Standards Institute (ANSI)
- Occupational Health and Safety Administration (OSHA)
- International Code Council (ICC) Codes
- California Building Standards Commission (BSC) Codes

3.5.3 Modules

In addition to the above, the PV modules proposed by Service Provider shall comply with at least, but not limited to, the following:

- IEEE 1262 “Recommended Practice for Qualifications of Photovoltaic Modules”.
- System modules shall be UL1703 listed and CEC listed.
- Modules shall be new, undamaged, fully warranted without defect.
- If PV modules using hazardous materials are to be provided, then the environmental impact of the hazardous material usage must be disclosed, including any special maintenance requirements and proper disposal/recycling of the modules at the end of their useful life.

3.5.4 Battery Cells

In addition to complying with applicable standards listed under 3.5.2, battery cells proposed by Service Provider shall comply with appropriate fire safety standards including, but not limited to, the following:

- NFPA 855
- UL 1642 Standard for Lithium Batteries (Cells)
- UL 9540 Standard for Energy Storage Systems and Equipment

3.5.5 Inverters

In addition to the above, inverters proposed by Service Provider must comply with at least, but not limited to the following:

- Inverters shall be suitable for grid interconnection and shall be compliant with all Utility interconnection requirements, including those requiring rapid shut-off capabilities.
- IEEE 929-2000 – "Recommended Practice for Utility Interface of Photovoltaic Systems".
- Inverters shall be UL 1741 and IEEE 1547 compliant.
- Inverters shall be CEC-listed with an efficiency of 95.5% or higher.
- Inverters must automatically reset and resume normal operation after a power limiting operation.
- Inverters shall be sized to provide maximum power point tracking for voltage and current range expected from PV array for temperatures and solar insolation conditions expected for Project conditions.
- Enclosures shall be rated NEMA 3R when the inverter is located outdoors.
- Inverter selection shall consider anticipated noise levels produced and minimize interference with Client activities.

3.5.6 Electrical Balance of System Components

- Each proposed PV system shall include, at a minimum, one fused DC disconnect and one fused AC disconnect for safety and maintenance concerns.
- String combiner boxes shall be arc-fault-detecting, load-break, disconnecting types, such that opening the combiner boxes shall break the circuit between combiner box feeders and inverters.
- All wiring materials and methods must adhere to industry-standard best practices, and all inter-module connections must require the use of a specialized tool for disconnecting.

3.5.7 Mounting Systems

The mounting systems shall be designed and installed such that the PV modules may be fixed or tracking with reliable components proven in similar projects, and shall be designed to resist dead load, live load, corrosion, UV degradation, snow loads, wind loads, and seismic loads appropriate to the geographic area over the expected 25-year lifetime. Service Provider shall conduct an analysis, and submit evidence thereof, including calculations, of each structure affected by the performance of the scope described herein, and all attachments and amendments. The analysis shall demonstrate that existing structures are not compromised or adversely impacted by the installation of PV, equipment, or other activity related to this scope. Mounting systems must also meet the following requirements at a minimum:

- All structural components, including array structures, shall be designed in a manner commensurate with attaining a minimum 25-year design life. Particular attention shall be given to the prevention of corrosion at the connections between dissimilar metals and to withstanding significant snow loads.
- Thermal loads caused by fluctuations of component and ambient temperatures shall be accounted for in the design and selection of mounting systems such that neither the mounting system nor the surface on which it is mounted shall degrade or be damaged over time.
- Each PV module mounting system must be certified by the module manufacturer as (1) an acceptable mounting system that shall not void the module warranty, and (2) that it conforms to the module manufacturer's mounting parameters.
- For unframed modules, bolted and similar connections shall be non-corrosive and include locking devices designed to prevent twisting over the 25-year design life of the PV system.
- Final coating and paint colors shall be reviewed and approved by the Client during Design Review.
- Painting or other coatings must not interfere with the grounding and bonding of the array.

3.5.8 Corrosion Control

In addition to the above, Corrosion Control proposed by Service Provider must comply with at least, but not limited to the following requirements:

- Fasteners and hardware throughout system shall be stainless steel or material of equivalent corrosion resistance
- Racking components shall be anodized aluminum, hot-dipped galvanized steel, or material of equivalent corrosion resistance
- Unprotected steel not to be used in any components
- Each PV system and associated components must be designed and selected to withstand the environmental conditions of the site (e.g., snow, temperature extremes, winds, rain, flooding, etc.) to which they will be exposed.

3.5.9 Roofing Requirements

The installation of PV modules, inverters and other equipment shall provide adequate room for access and maintenance of existing equipment on the building roofs. A minimum of three feet of clearance will be provided between PV equipment and existing mechanical equipment and other equipment mounted on the roof. Clearance guidelines of the local fire marshal shall be followed. The installation of solar systems will be reviewed for code compliance and adherence to the California *State Fire Marshal Solar Photovoltaic Installation Guideline*. The PV equipment shall not be installed in a way that obstructs airflow into or out of building systems or equipment.

Proposed roof top mounted systems may be ballasted or penetrating systems and must meet or exceed the following requirements:

- Systems shall not exceed the ability of the existing structure to support the entire solar system and withstand increased wind uplift and seismic loads. The capability of the existing structure to support proposed solar systems shall be verified by Service Provider prior to design approval.
- Roof penetrations, if part of the mounting solution, shall be kept to a minimum.
- Service Provider shall perform all work so that existing roof warranties shall not be voided, reduced, or otherwise negatively impacted. As part of the design submittals, Service Provider shall include signed certificates from the roofing manufacturer stating:
    - The roofing Service Provider is certified installer of Complete Roofing System.
    - The manufacturer's Technical Representative is qualified and authorized to approve project.
    - Project Plans and specs meet the requirements of the warranty of the Complete Roofing System for the specified period.
    - Existing warranty incorporates the new roofing work and flashing work.
- No work shall compromise roof drainage, cause damming or standing water or cause excessive soil build-up.
- All materials and/or sealants must be chemically compatible.
- All penetrations shall be waterproofed.
- Client shall approve in writing the detail(s) for the sealing of any roof penetrations, as part of system design review and approval. Approval must be made prior to Service Provider proceeding with work. The Client will also make available the manufacturer for the existing roof in consultation with Service Provider as part of the design process.
- Service Provider is responsible for remediating any damage to roofing material during installation of solar systems.

3.5.10 Shade Structure Requirements

Service Provider will be responsible for incorporating the following elements in the design and construction of the System:

- Minimum height: all shade structures shall be designed to have a minimum clear height of ten (10) feet, unless specified in a Site's Specification Sheet to be taller to accommodate larger vehicles at the site.
- All shade structures shall be installed with a fascia surrounding the exposed edge of the structure's purlins.
- Shade structures located in parking lots shall have concrete bollards installed around support posts. The bollards shall extend up to a minimum elevation of 36" above finished grade. This requirement may be waived at the Client's sole discretion.
- Shade structure columns, beams, and fascia shall be painted to match site colors or to a color of the Client's approval.

3.5.11 Ancillary Equipment Enclosures

Service Provider will be responsible for incorporating the following elements in the design and construction of the System:

- Location: all ancillary equipment shall be located in a manner that minimizes its impact to normal Client operations and minimizes the visual impacts to the site.

3.5.12 Placards and Signage

- Placards and signs shall correspond with requirements in the National Electric Code and the interconnecting utility in terms of appearance, wording, and placement.
- Permanent labels shall be affixed to all electrical enclosures, with nomenclature matching that found in As-Built Electrical Documents.
- Height clearance signage must be provided for structures with anticipated vehicle or human traffic underneath.

3.5.13 Infrastructure for Ground Mount Systems

Service Provider will be responsible for incorporating the following elements in the design and construction of the Systems:

- Fencing: the site shall be surrounded by a fence to prevent unauthorized personnel from gaining access the site. The fence shall be an eight (8) foot high chain link fence with vinyl privacy slats, unless otherwise stated or agreed to by Client.
- Gates shall be installed to enable site access for trucks.
- A pathway a minimum of ten (10) feet wide passable by a maintenance truck shall be provided within the array fence to allow for access to all equipment enclosed within the fence area.
- Access to water for maintenance (module cleaning) purposes, as determined adequate by Service Provider and approved by the Client.
- Access to low voltage (120V) AC power to power maintenance equipment and miscellaneous equipment.
- Service Provider shall install and ensure activation of sufficient security cameras on site to monitor array area, connected to the site's security system, in collaboration with the Client, unless requirement is waived by Client.
- Service Provider will be responsible for installing an acceptable surface cover material under and around the modules and throughout the site that provides appropriate weed control, erosion and dust management. Service Provider shall be responsible for ongoing weed mitigation of the site to reduce impacts of shading on modules.
- Service Provider will be responsible for creating an access road to any ground mount system for maintenance and fire access purposes. The access road shall be passable under all weather conditions.

3.5.14 Wiring and Cabling Runs

- Service Provider shall install all AC conductors in conduit.
- Direct burial wire will not be acceptable. Conduit buried underground shall be suitable for the application and compliant with all applicable codes. PVC shall be constructed of a virgin homopolymer PVC compound and be manufactured according to NEMA and UL specifications. All PVC conduit feeders shall contain a copper grounding conductor sized per NEC requirements and continuity shall be maintained throughout conduit runs and pullboxes. Minimum conduit size shall be ¾". A tracing/caution tape must be installed in the trench over all buried conduit.
- Conduit installed using horizontal directional boring (HDB), shall include tracer tape or traceable conduit. The minimum depth of the conduit shall be per NEC. The Seller is responsible for demonstrating that all conduits installed utilizing horizontal boring meets the minimum depth requirement and is solely responsible for any remediation costs and schedule impacts if the specification is not met. The HDB contractor must provide documentation of final depth and routes of all conduit installed in horizontal bores.
- Conduit installed on building roofs shall be installed in a manner to reduce visibility. Any conduit penetrations through roof surfaces shall not be made within one (1) foot of the roof edge to reduce visibility. If conduit is installed on the exterior face of any building, it shall be painted to match the existing building color. In all cases, the visible impact of conduit runs shall be minimized and the design and placement of conduit shall be reviewed and approved by the Client as part of Design Review.
- All exposed conduit runs over 100-feet in length or passing over building connection points shall have expansion joints to allow for thermal expansion and building shift.
- Service Provider shall install and secure the exposed string cable homeruns along the beams or structure where any combiner box is installed.
- All exposed string wiring must be installed above the lower surface of the racking members. Wire loops under framing members are not acceptable.
- Acceptable wire loss in DC circuits is < 1.5% and acceptable wire loss in AC circuits is < 1.5% as well.
- All cable terminations, excluding module-to-module and module-to-cable harness connections, shall be permanently labeled.
- All electrical connections and terminations shall be torqued according to manufacturer specifications and marked/sealed at appropriate torque point.

3.5.15 Grounding and Bonding

- Module ground wiring splices shall be made with irreversible crimp connectors.
- All exposed ground wiring must be routed above the lower surface of any structural framing.

3.5.16 Shade Structure Lighting

- Installation of shade structure PV systems in all locations shall include the installation of new high-efficiency lighting. Installation of shade structure PV systems shall include the removal of existing security light poles, foundations, and fixtures that are no longer effective.
- New lighting shall be LED.
- New parking lot fixtures shall be installed to provide parking lot illumination compliant with IESNA requirements or recommendations for illumination and safety.
- Minimum horizontal illuminance of one (1) foot-candle shall be maintained at ground level with a uniformity ratio (maximum to minimum) of 15:1.

- The new lighting is required to illuminate the entire parking area and adjacent pedestrian walkways affected by the removal of existing lights, not just the area under the PV modules.
- A photometric illumination plot must be submitted for each parking lot showing all existing lighting and proposed new canopy lighting.
- Submit California Title 24 Outdoor Lighting calculations with all lighting drawings and show evidence of compliance.
- Photocell controls shall be used in conjunction with a lighting control system for all exterior lighting and energize lighting when ambient lighting levels fall below two (2) foot-candles measured horizontally at ground level. Lighting shall also be required to operate manually without regards to photocell input. Replacement parking lot lighting shall be served from an existing parking lot lighting circuit and any existing circuits and existing control function shall be maintained, or if replaced, done so at the approval of the Client.

3.5.17 Monitoring System, DAS, and Reporting

Service Provider shall design, build, activate and ensure proper functioning of Data Acquisition Systems (DAS) that enable the Client to track the performance of the PV Systems as well as environmental conditions through an online web-enabled graphical user interface and information displays. Service Provider shall provide equipment to connect the DAS via existing hardline, Wi-Fi network, or cellular data network at all locations. The means of data connection will be determined during design.

The DAS(s) shall provide access to at least the following data:

- Instantaneous AC system output (kW)
- PV System production (kWh) over pre-defined intervals that may be user configured
- In-plane irradiance
- Ambient and cell temperature
- Inverter status flags and general system status information
- System availability
- Site Load information. Available load data for the meter the system is connected to shall be collected by the solar monitoring solution as part of the DAS.

Environmental data (temperatures and irradiance) shall be collected via an individual weather station installed at the site

Data collected by the DAS shall be presented in an online web interface, accessible from any computer through the Internet with appropriate security (e.g., password-controlled access). The user interface shall allow visualization of the data at least in the following increments: 15 minutes, hour, day, week, month, and year. The interface shall access data recorded in a server that may be stored on-site or remotely with unfettered access by the Client for the life of the Project. The online interface shall enable users to export all available data in Excel or ASCII comma-separated format for further analysis and data shall be downloadable in at least 15-minute intervals for daily, weekly, monthly and annual production.

The Monitoring system shall enable Client staff to diagnose potential problems and perform remediating action. The monitoring system shall provide alerts when the system is not functioning within acceptable operating parameters. These parameters shall be defined during the design phase of the Project and specified in the DAS design document. At a minimum, Client shall have the ability to compare irradiance to simultaneous power production measurements through linear regression analysis.

Additionally, Service Provider shall make available, at no additional cost, the following reports for a term of 5 years after Final Completion of the project:

- Monthly Production report shall be available online to the Client personnel.
- System performance data shall be made available electronically to the Client in a format and at a frequency to be determined during the Design Review process.
- Additional reports shall be made available to the Client to assist the Client in reconciling system output with utility bills and the production guarantee, as determined in the Design Review process.

A Monitoring Manual shall be provided to the Client in printed or on-line form that describes how to use the monitoring system, including the export of data and the creation of custom reports.

3.5.18 FAA Requirements

Service Provider shall be responsible to submit the appropriate FAA Form 7460-1, along with any other required forms and documentation, for all proposed PV systems within the approach or takeoff paths or on the property of airports as defined by the Code of Federal Regulations Title 14 Part 77.9.

3.6 Warranties

Service Provider shall provide a comprehensive ten (10) year warranty on all system components against defects in materials and workmanship under normal application, installation, and use and service conditions.

Additionally, the following minimum warranties are required:

- PV Modules: The PV modules are to be warranted against degradation of power output of greater than 10% of the original minimum rated power in the first ten (10) years and greater than 20% in the first twenty (25) years of operation.
- Inverters: Inverters shall carry a minimum 10-year warranty.
- Battery Cells: The battery cells, or cell configurations, used in this project shall carry a minimum of 10-year warranty.
- Meters: At minimum, meters shall have a five (5) year warranty. For meters integrated in inverters, the meter warranty period must match the inverter.
- Mounting system: Minimum fifteen (15) year warranty, covering at least structural integrity and corrosion.
- Balance of system components: The remainder of system components shall carry manufacturer warranties conforming to industry standards.

All warranties must be documented and be fully transferable to the Client.

All work performed by Service Provider must not render void, violate, or otherwise jeopardize any preexisting Client facility or building warranties or the warranties of system components.

Procurement/Construction

4.1 TREE REMOVAL

Any trees that are in the footprint of systems to be installed by the Seller shall be removed by the Seller at their expense, subject to the approval of the Client. A tree shall be considered to be in the footprint of a system if its canopy would extend over any part of the system, including structural components or modules. The Client will remove or prune, at its discretion, trees planted outside of the work area that shade PV systems (at present time or in the foreseeable future), provided the Seller identifies these

trees during the design process. The Seller shall be responsible for any required tree remediation efforts resulting from tree removal that is deemed the Seller's responsibility.

4.2 LINE LOCATION

Service Provider will be responsible for locating, identifying and protecting existing underground utilities conduits, piping, substructures, etc. and ensuring that no damage is inflicted upon existing infrastructure. In addition to USA Dig and utility line-locating, a private line-locator must be used for any project requiring underground work.

4.3 QUALITY CONTROL

To ensure safety and quality of the installation, Service Provider shall:

- Implement policies and procedures to ensure proper oversight of construction work, verification of adherence to construction documents and contractual requirements, and rapid identification and mitigation of issues and risks.
- Utilize best practice methods for communicating progress, performing work according to the approved Project schedule, and completing the Project on-time.
- Keep the Site clean and orderly throughout the duration of construction. All trash and rubbish shall be disposed of off-site by licensed waste disposal companies and in accordance with applicable Law.
- Fully comply with all applicable notification, safety and Work rules (including Client safety standards) when working on or near Client facilities.
- Provide Special Inspection for trenching, rebar, concrete, welding, and roof attachment work, according to AHJ requirements.
- Provide all temporary road and warning signs, flagmen or equipment as required to safely execute the Work. Street sweeping services shall also be provided as required to keep any dirt, soil, mud, etc. off of roads. Comply with all state and local storm water pollution prevention (SWPP) ordinances.

4.4 REMOVAL AND REMEDIATION

Service Provider shall remove all construction spoils, abandoned footings, utilities, construction equipment and other byproducts of construction. All disturbed areas including landscaping, asphalt, and concrete shall be remediated to be in equal or better condition than found. Service Provider shall not be responsible for any ADA parking requirements, re-striping, or adjustments to parking areas. Unforeseen underground conditions are not the responsibility of the Service Provider and may result in additional costs after geotechnical studies or utility locating is performed, except for spread footings, which have been assumed in project costs. Removal or disposal of any hazardous substances are not the responsibility of the Service Provider. Service Provider shall not be responsible for superficial or cosmetic evidence of construction restoration.

The site shall be left clean and free of debris or dirt that has accumulated as a result of construction operations.

Testing and Commissioning

Following completion of construction, Service Provider shall provide the following services related to startup and performance testing of the PV systems:

- Acceptance Testing
- Proving Period

A detailed Testing Plan covering each of the phases above shall be submitted and approved by the Client prior to substantial completion of construction. A detailed description of each phase is provided below.

5.1 ACCEPTANCE TESTING

Service Provider shall perform a complete acceptance test for each PV System. The acceptance test procedures include component tests as well as other standard tests, inspections, safety and quality checks. All testing and commissioning shall be conducted in accordance with the manufacturer's specifications.

The section of the Testing Plan that covers Acceptance Testing shall be equivalent or superior to the CEC (California Energy Commission) "Guide to Photovoltaic (PV) System Design and Installation", Section 4 and shall cover at least the following:

- Detailed list of all items to be inspected and tests to be conducted.
- Acceptance Criteria: For each test phase, specifically indicate what is considered an acceptable test result.

The Acceptance Testing section of the Testing Plan shall include (but not be limited to) the following tests:

- String-level voltage (open circuit) and amperage (under load) testing for all PV strings. Amperage testing shall be performed concurrently with irradiance testing.
- Inverter testing for all inverters. The inverters shall be commissioned on-site by a qualified technician and shall confirm that the inverter can be operated locally per specification and that automatic operations such as wake-up and sleep routines, power tracking and fault detection responses occur as specified. Performance testing shall be performed concurrently with irradiance testing.
- Testing of all sensors of the DAS.
- Testing of the Data Presentation interface of the DAS.

After Service Provider conducts all Acceptance Testing based on the Testing Plan approved by the Client prior to substantial completion, Service Provider shall submit a detailed Acceptance Test Report to the Client for review.

The Acceptance Test Report shall document the results of the tests conducted following the Testing Plan and include additional information such as the date and time each test was performed. It shall also refer to any problem and deficiencies found during testing. If there was troubleshooting done, the Report shall describe the troubleshooting methods and strategy. Service Provider shall be responsible for providing the labor and equipment necessary to troubleshoot the System.

5.2 PROVING PERIOD (30 DAYS)

Upon completion of Acceptance Testing and System Startup, and approval by the Client, Service Provider shall monitor the system during a thirty (30) day Proving Period and submit a report for Client review and approval prior to final acceptance by the Client. This includes monitoring system output and ensuring the correct functioning of system components over this time. The values for the following data shall be acquired every fifteen (15) minutes over thirty (30) days:

- AC system output (kW)
- PV system production (kWh)
- In-plane irradiance
- Ambient and cell temperature
- Inverter status flags and general system status information

- System availability

Service Provider shall utilize calibrated test instruments and the DAS and monitoring system to collect the test data described above, which shall be made available to the Client for access throughout the Proving Period. Service Provider shall determine through analysis of data from the Proving Period whether the PV system delivers the expected production as determined by the final approved design (i.e., Construction Documents). Actual production shall be compared against expected production using actual weather data and other system inputs (such as module cell temperature factor, module mismatch, inverter efficiency, and wiring losses) for calculating expected production. The production figures for all meters, whether existing or installed by or on behalf of the IOU or by or on behalf of the Respondent, shall be correlated during this test to verify their accuracy in measuring system production.

All data monitoring and reports required in Section 3.5.16 shall be fully functional and available to the Client at the commencement of the Proving Period. Data and reporting requirements are included in the testing scope of the Proving Period and deficiencies in these areas (including missing data, inaccurate reports, and other issues that make validation of system performance inconclusive) shall be grounds for denying approval of the Proving Period Report.

If the PV system does not perform to design specifications, Service Provider shall perform diagnostic testing. Deficiencies shall be identified with proposed corrective actions submitted to the Client, and the Proving Period test repeated. Service Provider shall be responsible for providing the labor and equipment necessary to troubleshoot the system. The Proving Period Report shall be submitted after the successful completion of this phase and submitted to the Client for review and approval. The report shall contain, but not be limited to, the following information; calculations shall be provided in Excel format with formulas visible to allow for peer review:

- System description
- Test period
- Test results
- Anomalies identified during test
- Corrective action performed
- Actual measured performance
- Calculations detailing expected performance under TMY conditions

5.3 CLOSE-OUT DOCUMENTATION REQUIREMENTS

Close-Out documents prepared by Service Provider must include at minimum, but not limited to, the following items:

- Final As-Built Drawing Set with accurate string diagram, provided in (2) hard copy sets and an electronic copy in both DWG and PDF format (or as desired by Client).
- Megger test Results
- Module flash-test results with serial numbers
- Component warranties
- Signed inspections cards from AHJ and required Special Inspections
- Interconnection agreements and Permission To Operate
- Owner's Manual

5.4 TRAINING

The Service Provider shall provide two (2) hours of on-site training for Client personnel in all aspects of operation, routine maintenance, and safety of the PV systems, DAS, and monitoring solution. At a minimum, training topics shall include the following:

- PV and battery storage (as appliable) system safety, including shut-down procedures
- PV module maintenance and troubleshooting
- Inverter overview and maintenance procedures
- Calibration and adjustment procedures for the inverters and tracking systems (if any)
- DAS and monitoring solution, including standard and custom reporting

The on-site portion of the training program shall be scheduled to take place at the jobsite at a time agreeable to both the Client and Service Provider.

Operations and Maintenance

Service Provider shall perform all necessary preventive and corrective maintenance, which includes routine maintenance adjustments, replacements, and electrical panel/transformer/ inverter cleaning (interior and exterior) with supporting documentation delivered to the Client after the Work has been performed. Maintenance by Service Provider shall ensure that all warranties, particularly inverter warranties, are preserved. Service Provider shall determine the frequency and timing of panel wash-downs based on system monitoring data, as described below. Environmental sensors such as pyranometers shall be tested and recalibrated at least once every three (3) years.

For any maintenance visits, Service Provider shall give 3-day advance notification to Client, and no on-site visits shall be performed without approval of the Client, except in case of emergency.

Service Provider shall perform the following maintenance services, at a minimum, as described in the following sections:

6.1 PREVENTIVE MAINTENANCE

Preventive Maintenance shall be performed at least annually and include:

- System testing (voltage/amperage) at inverter and string levels
- System visual inspection to include but not be limited to the list below. All discovered issues should be resolved as needed.
- Inspect for stolen, broken or damaged PV modules, record damage and location. Report to the Client and wait for the Client to authorize a course of action.
- Inspect PV wiring for loose connections and wire condition.
- Inspect for wires in contact with the structure or hanging loose from racking.
- Check mechanical attachment of the PV modules to the racking.
- Check attachment of racking components to each other and the structure.
- Verify proper system grounding is in place from panels to the inverter.
- Check conduits and raceways for proper anchorage to structures.
- Inspect all metallic parts for corrosion.

- Check combiner boxes for proper fuse sizes and continuity.
- Inspect all wiring connections for signs of poor contact at terminals (burning, discoloration).
- Inspect disconnects for proper operation.
- Survey entire jobsite for debris or obstructions.
- Inspect fasteners for proper torque and corrosion.
- Inspect inverter pad for cracking or settling.
- Inspect electrical hardware for proper warning and rating labeling.
- Inspect alignment of arrays and racking to identify settling foundations or loose attachments.
- Inspect operation of tracking hinges, pivots, motors and actuators if present.
- Check for proper operation and reporting of monitoring hardware.
- Inspect sealed electrical components for condensation buildup.
- Inspect wiring and hardware for signs of damage from vandalism or animal damage.
- Routine system maintenance to include correction of loose electrical connections, ground connections, replacement of defective modules found during testing, other minor maintenance repair work.
- Module cleaning, at a frequency to be determined by the ongoing monitoring of the system such that effect on production is no more than 5%, but not less often than twice a year.
- Routine DAS maintenance to include sensor calibration and data integrity check.

6.2 TROUBLESHOOTING, INSPECTION AND ADDITIONAL REPAIRS

- Dispatch of field service resources within two business days of notification (via automated or manual means) for repairs as necessary to maintain system performance.
- Any corrective action required to restore the system to fully operational status shall be completed within 24 hours of the service resources arriving on-site.
- Major system repairs, not to include mid-voltage switchgear or transformers.

6.3 CUSTOMER SERVICE SUPPORT

- Support telephone line made available to Client staff to answer questions or report issues.
- Support line shall be staffed during operational hours from 8 am – 6 pm California Standard Time. During times outside of this operational period, an urgent call shall be able to be routed to a supervisor for immediate action.

6.4 MAJOR COMPONENT MAINTENANCE AND REPAIR

- Inverter repair and component replacement and refurbishment as required in the event of inverter failure.
- Inverter inspection and regular servicing as required under inverter manufacturer’s warranty specifications. Those include but are not limited to the following annually:
- Check appearance/cleanliness of the cabinet, ventilation system and all exposed surfaces.
- Inspect, clean/replace air filter elements
- Check for corrosion on all terminals, cables and enclosure.
- Check all fuses.

- Perform a complete visual inspection of all internally mounted equipment including subassemblies, wiring harnesses, contactors, power supplies and all major components.
- Check condition of all the AC and DC surge suppressors.
- Torque terminals and all fasteners in electrical power connections.
- Check the operation of all safety devices (E-stop, door switches).
- Record all operating voltages and current readings via the front display panel.
- Record all inspections completed.
- Inform inverter manufacturer of all deficiencies identified.
- Oversee inverter manufacturer performance of In-Warranty replacement of failed inverter components.
- Customer advocacy with vendors.

6.5 OTHER SYSTEM SERVICES

- O&M Manuals – Service Provider shall provide three (3) copies of O&M Manuals. Updated editions of O&M Manuals shall be sent electronically to the Client as they become available.
- Management of long-term service and warranty agreements, ongoing.
- Service Provider shall log all maintenance calls and document all maintenance activities. These activities shall be presented in a report, which is to be submitted to the Client upon request.

SITE LICENSE AGREEMENT

This SITE LICENSE AGREEMENT (this "Agreement") is made, dated and effective as of _____, 2021 (the "Effective Date"), between City of Goleta, a California municipal corporation ("Owner"), and _Monarch Solar 1, LLC_, a _California Limited Liability Company_ ("Licensee") (each of Owner and Licensee is sometimes referred to herein as a "Party," and together, collectively, the "Parties"), in light of the following facts and circumstances:

RECITALS

WHEREAS, Licensee is in the business of developing, constructing, erecting and operating solar energy conversion systems and power generation facilities for the production of electrical energy for sale to utility companies, power marketers, power exchanges and other users;

WHEREAS, the Parties, simultaneously herewith, have entered into that certain Energy Services Agreement (the "ESA"), whereby Owner shall purchase from Licensee energy produced by the Power Facilities (as defined herein);

WHEREAS, Owner owns or leases certain real property located in Santa Barbara County, California, as more particularly described on Exhibit A attached hereto and by this reference made a part hereof (the "Property"); and

WHEREAS, Licensee desires to license an area of the Property ("License Area") as more particularly described on Exhibit A attached hereto and by this reference made a part hereof and Owner desires to grant such license and rights to the License Area, on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual obligations and covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Owner and Licensee (each, a "Party" and together, the "Parties") hereby agree as follows:

1. Demise of License.

1.1. Demise. Owner hereby licenses, demises, and warrants to Licensee and Licensee hereby licenses, hires and takes from Owner, the License Area for the purposes described in this Agreement, together with the right to all rents, royalties, credits and profits derived from the Power Facilities (as defined herein), on the terms provided herein.

1.2. Purpose. The foregoing license and grant of rents, royalties, credits and profits created by this Agreement (collectively, the "License") is for (i) the production of energy, including solar energy, and for any and all related or ancillary purposes, and Licensee shall have the non-exclusive right to use the License Area and the unobstructed receipt of and access to sunlight across the License Area for solar energy generation purposes, and (ii) the development, construction, erection and operation of the Power Facilities including but not limited to solar and

energy storage all of the foregoing activities (collectively, "Development Activities"). Development Activities consist of:

(a) determining the feasibility of solar energy conversion and power generation on the License Area, including studies of available sunlight and other data and extracting soil samples;

(b) constructing, reconstructing, erecting, installing, improving, replacing, relocating and removing from time to time, and maintaining, repairing, using and operating, any new or installed, or undertaking (i) solar power generating equipment, inverters, mounting and tracking systems, monitoring systems, solar collectors, and solar energy conversion systems of any type or technology, but excluding the existing generator on the License Area (the "Solar Equipment"); (ii) electrical generation and distribution facilities and like equipment associated with the generation and distribution of electricity; (iii) overhead and underground control, communications and radio relay systems; (iv) energy storage facilities of every kind or description, unless owned by Owner or another licensee; (v) sunlight measurement, research or development equipment; (vi) laydown and construction areas; (vii) signs and fences; (viii) trimming, cutting down, and removing trees (whether natural or cultivated), brush, vegetation, and fire and electrical hazards now or hereafter existing on the Property which might materially obstruct receipt of or access to sunlight throughout the Property or pose a fire risk of any sort; and (ix) other improvements, facilities, machinery and equipment in any way related to or associated with any of the foregoing (collectively, "Power Facilities"), on the License Area. The activities allowed in (iv) through (ix) are conditioned upon receipt of Owner's written consent in each instance, which consent shall not be unreasonably withheld, conditioned or delayed; and

(c) exercising non-exclusive rights of vehicular and pedestrian ingress and egress upon, over and across the Property, for purposes of conducting Development Activities and accessing Power Facilities upon, over and across any and all now existing or hereafter constructed access routes; and

(d) undertaking any other activities, whether accomplished by Licensee or a third party authorized by Licensee, that Licensee and Owner reasonably determine are necessary, useful or appropriate to accomplish any of the foregoing purposes or in furtherance of the terms of the ESA. In no case shall such activities impact Owner's access or operations or occur without Owner's express consent.

1.3. Included Rights. The following rights shall be included within the License.

(a) Subjacent and Lateral Support. Subjacent and lateral support on the License Area for the Power Facilities to whatever extent is necessary for the safe construction, operation and maintenance of such Power Facilities, as reasonably determined by Licensee. Owner shall not excavate, nor permit excavation, so near the sides of or underneath the Power Facilities as to undermine or otherwise adversely affect their stability.

(b) Access. The right of access, ingress and egress to and from the License Area.

2. **Term**.

2.1. Original Term and Renewal Terms. This Agreement shall be for an initial term (the "Original Term") commencing on the Effective Date and continuing until the twentieth (20^{th}) anniversary of the Commercial Operations Date (as defined below). As used herein, "Term" shall mean, collectively, the Original Term and any Renewal Terms (as defined below).

2.2. Commercial Operations Date. For purposes of this Agreement, "Commercial Operations Date" shall have the meaning set forth for such term in the ESA.

2.3. Renewal Terms. Subject to the terms of the ESA, the Parties may extend and renew the term of this Agreement for up to one (1) additional period of five (5) years (the "Renewal Term").

3. **RESERVED**.

4. **Ownership of Power Facilities**. Subject to any rights afforded pursuant to the ESA, Owner shall have no ownership or other interest in any Power Facilities installed in the License Area or any profits derived therefrom, and Licensee may mortgage, sell, lease or remove the Power Facilities at any time. Owner shall have no lien or security interest in the Power Facilities, and expressly waives any statutory lien, landlord's lien or other lien or security interest. Except as set forth in the ESA, Owner shall not be entitled to any payments, credits, benefits, emissions reductions, offsets, incentives, grants or allowances of any kind, howsoever entitled, attributable to the Power Facilities or the electric energy, capacity or other generator-based products produced therefrom, all of which shall accrue solely to the benefit of Licensee. Owner shall have no ownership or other interest in any scientific or engineering data at any point in time or for any duration of time collected at the Power Facilities or on the License Area. Such scientific or engineering data is the sole and exclusive property of Licensee. Possession of such data by Owner shall not constitute ownership of such data.

5. **Taxes**. Licensee shall be responsible for and shall timely pay before the same become delinquent, any taxes, assessments or other governmental charges that shall or may during the Term be imposed on the Power Facilities. Owner shall be responsible for and shall timely pay before the same become delinquent, all taxes, assessments or other governmental charges that shall or may during the Term be imposed on, or arise in connection with the License Area itself; provided, however, that Licensee shall pay directly for any increase in such taxes, assessments or other governmental charges accruing during the Term to the extent resulting directly and solely from the presence of the Power Facilities on the License Area, provided, however, that Owner shall deliver to Licensee copies of all notices of or relating to all such charges no later than the earlier of two (2) weeks following Owner's receipt of each such notice or forty-five (45) days prior to the date that any such charge is due and payable. Except as specifically provided in this paragraph, Licensee shall not be responsible for any property taxes, assessments or other governmental charges or fees levied against the License Area. If Owner should fail to timely pay any taxes, assessments or other governmental charges for which Owner is responsible hereunder and foreclosure thereof shall be threatened, then, without limiting Licensee's other remedies under this Agreement or otherwise, Licensee may (but shall not be obligated to) pay the same, and Owner shall reimburse Licensee, all such amounts paid, including any late fees or interest, together with any court costs and reasonable attorneys' fees incurred by Licensee in connection therewith.

6. **Licensee's Representations, Warranties and Covenants**. Licensee hereby represents, warrants and covenants as follows:

6.1. Insurance. Without limiting indemnification obligations of Licensee hereunder and pursuant to the ESA, and prior to commencement of Development Activities, Licensee shall obtain, provide and maintain at its own expense during the Term, policies of insurance of the type and amounts described below and in a form reasonably satisfactory to Owner.

(a) General Liability Insurance. Licensee shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than $1,000,000 per occurrence, $2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(b) Automobile Liability Insurance. Licensee shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Licensee arising out of or in connection with Development Activities to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than $1,000,000 combined single limit for each accident.

(c) Workers' Compensation Insurance. Licensee shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least $1,000,000) (the coverages required pursuant to Section 6.1(a) – (c) are referred to collectively, as the "Insurance").

(d) Waiver of Subrogation. All Insurance shall be endorsed to waive subrogation against Owner, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Licensee or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Licensee hereby waives its own right of recovery against Owner and shall require similar written express waivers and insurance clauses from each of its subcontractors. Licensee shall submit to Owner, along with certificates of insurance and a waiver of subrogation endorsement in favor of Owner, its officers, agents, employees and volunteers.

(e) Proof of Insurance. Licensee shall provide certificates of insurance to Owner as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by Owner's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with Owner at all times during the term of this contract. Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

(f) Duration of Coverage**.** Licensee shall procure and maintain the Insurance for the duration of the Term.

(g) Primary/Non-Contributing. The Insurance shall be primary, and any insurance or self-insurance procured or maintained by Owner shall not be required to contribute to the Insurance. The limits of Insurance required may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis

for the benefit of Owner before the Owner's own insurance or self-insurance shall be called upon to protect it as a named insured.

(h) Owner's Rights of Enforcement and Waiver of Rights. In the event any policy of Insurance does not comply with the specifications set forth in this Section 6.1, or is canceled and not replaced, Owner may obtain the insurance it deems necessary, and any premium paid by Owner will be promptly reimbursed by Licensee. Licensee acknowledges and agrees that any actual or alleged failure on the part of the Owner to inform Licensee of non-compliance with any requirement imposes no additional obligations on the Owner nor does it waive any rights hereunder.

(i) Insurers. All insurance policies shall be issued by an insurance company (A) currently authorized by the State of California Insurance Commissioner to transact business or (B) on the List of Approved Surplus Line Insurers maintained by the Commissioner from time to time, in either case with an assigned policyholders' rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by Owner's Risk Manager.

(j) Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Licensee maintains higher limits than the minimums shown above, the Owner requires and shall be entitled to coverage for the higher limits maintained by the Licensee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Owner.

(k) Notice of Cancellation. Licensee agrees to oblige its insurance agent or broker and insurers to provide to Owner with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(l) Additional Insured. Insurance policies shall provide or be endorsed to provide that Owner and its officers, officials, employees, agents, and volunteers shall be additional insureds under such policies.

(m) A severability of interests provision must apply for all additional insureds ensuring that the Insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The Insurance shall not contain any cross-liability exclusions.

(n) Pass-through Clause. Licensee agrees to ensure that its sub-consultants, sub-contractors, and any other party engaged to undertake Development Activities provide the same minimum insurance coverage and endorsements required of Licensee. Licensee agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Licensee agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to Owner for review.

(o) Owner's Right to Revise Specifications. The Owner reserves the right at any time during the Term to change the amounts and types of Insurance required by giving the Licensee ninety (90) days' advance written notice of such change. If such change results in substantial additional cost to the Licensee, the Owner and Licensee may renegotiate Licensee's compensation.

(p) Notice of Claims**.** Licensee shall give Owner prompt and timely notice of claims made or suits instituted that arise out of or result from Licensee's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

6.2. Indemnity. Licensee shall indemnify Owner and the California Infrastructure and Economic Development Bank ("IBank") against liability for all claims, harm, damage of any kind, including physical damage to property and for physical injuries to Owner or the public, to the extent caused by Licensee's construction, operation or removal of Power Facilities and undertaking of Development Activities on the License Area, except to the extent such damage or injury is caused by the negligence or willful misconduct of Owner, IBank, or their agents, employees, contractors, subcontractors, successors, assigns, guests or invitees. The foregoing indemnity shall not extend to property damage or personal injuries attributable to risks of known and unknown dangers associated with electrical generating facilities, such as electromagnetic fields, and Licensee shall in no case be liable for losses of rent, business opportunities, profits or any other consequential damages that may result from the conduct of Development Activities on the License Area. Licensee shall take reasonable safety measures to reduce the risk that Licensee's activities will cause harm to Owner or IBank. Licensee's obligations under this Section 6.2 shall survive the termination or expiration of this Agreement.

6.3. Requirements of Governmental Agencies. Licensee, at its expense, shall comply in all material respects with valid laws, ordinances, statutes, orders and regulations of any governmental agency applicable to the Power Facilities. Licensee shall have the right, in its sole discretion, to contest by appropriate legal proceedings, the validity or applicability to the License Area or Power Facilities of any law, ordinance, statute, order, regulation, property assessment or the like now or hereafter made or issued by any federal, state, local or other governmental agency or entity. Owner may choose to cooperate in every reasonable way in such contest, at no out-of-pocket expense to Owner, so long as such cooperation does not materially interfere with Owner's exercise of its police powers, performance of its municipal functions, and compliance with applicable laws.

6.4. Construction Liens. Licensee shall keep the Property free and clear of all liens and claims of liens for labor and services performed on, and materials, supplies or equipment furnished to, the Property in connection with Licensee's use of the Property pursuant to this Agreement; provided, however, that if Licensee wishes to contest any such lien, Licensee shall, within ninety (90) days after it receives written notice of the filing of such lien, remove or bond over such lien from the Property pursuant to applicable law.

6.5. Hazardous Materials. Licensee shall not violate, and shall indemnify Owner against any violation by Licensee or Licensee's agents, employees, contractors, subcontractors, successors or assigns, of any federal, state or local law, ordinance, or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any substance, material or waste which is now or hereafter classified

as hazardous or toxic, or which is regulated under current or future federal, state or local law, ordinance, or regulation, on or under the Property.

6.6. Licensee's Authority. Licensee has the unrestricted right and authority to execute this Agreement. Each person signing this Agreement on behalf of Licensee is authorized to do so. When signed by Licensee, this Agreement constitutes a valid and binding agreement enforceable against Licensee in accordance with its terms.

7. **Owner's Representations, Warranties and Covenants**. Owner hereby represents, warrants and covenants as follows:

7.1. Quiet Enjoyment. Licensee shall have the non-exclusive quiet use and enjoyment of the License Area in accordance with the terms of this Agreement without any interference of any kind by Owner or any person claiming by, through or under Owner, subject, however, to the general rights herein reserved by Owner. Owner and its activities on the License Area and any grant of rights Owner makes to any other person shall not interfere with any of Licensee's activities pursuant to this Agreement.

7.2. Title to Property. Except as disclosed on Exhibit B attached hereto and by this reference made a part hereof, Owner's fee simple title to the Property is free and clear of all liens, encumbrances, easements, leases, mortgages, deeds of trust, security interests, fractured interests, mineral, oil or gas rights, options to purchase or lease, claims and disputes (collectively, "Liens"), and, with the exception of IBank or as otherwise disclosed, there are no tenants on or other parties in possession of the License Area. Owner shall fully cooperate with and assist Licensee in (i) obtaining a subordination agreement, non-disturbance agreement or other appropriate agreement from each party holding a Lien (recorded or unrecorded) or in possession of the Property that might interfere with Licensee's rights under this Agreement; and (ii) removing any Liens from Owner's fee simple title to the Property that interferes with Licensee's use of the License Area. A non-disturbance agreement is an agreement between Licensee and the holder of a Lien providing that the holder of the Lien shall not disturb Licensee's possession or rights under this Agreement or terminate this Agreement so long as Owner is not entitled to terminate this Agreement under the provisions of this Agreement. Owner shall not grant, create, allow or suffer any Lien or other encumbrance on title to the Property, except those matters set forth on Exhibit B. Nothing contained herein shall apply to any interest in the Property currently held by IBank created pursuant to that certain Financing Lease and that certain Site Lease, both dated as of August 1, 2020, with respect to acquiring the Property (collectively, the "Leases"), and Licensee further understands that no subordination and non-disturbance agreement or other agreement will be obtained from IBank with respect to its interest in the Property.[2]

7.3. Condition of License Area. To the Owner's actual current knowledge, there are no physical conditions of the License Area, nor any other material adverse facts or conditions relating to the License Area or any portion thereof, that could delay, interfere with or impair Licensee's operations or the exercise of any of Licensee's other rights under this Agreement, or which could, with the passage of time, the giving of notice or both, have such an effect. Owner has disclosed to Licensee in writing any and all improvements existing on, under or over the License Area, and no

[2] NTD: This IBank language remains under review by Licensee's lenders for its potential impact on project financing.

improvements currently exist on, under or over the License Area that have been constructed or installed without all necessary and proper permits, licenses and approvals.

7.4. No Interference. Owner's activities and any grant of rights Owner makes to any person or entity, whether located on the License Area or elsewhere, shall not, currently or prospectively, interfere with the construction, installation, maintenance or operation of the Power Facilities, access over the Property to such Power Facilities; any Development Activities; or the undertaking of any other activities permitted hereunder. Without limiting the generality of the foregoing, Owner shall exercise reasonable judgment in not engaging in any activity that might cause a decrease in the output or efficiency of the Power Facilities.

7.5. Siting and Setbacks. Owner consents to Licensee's siting of the Power Facilities at a location upon the License Area in locations reasonably agreed to between the Parties.

7.6. Cooperation. Owner shall assist and fully cooperate with Licensee, at no out-of-pocket expense to Owner, in complying with or obtaining any land use permits and approvals, building permits, environmental impact reviews or any other approvals required for the financing, construction, installation, replacement, relocation, maintenance, operation or removal of Power Facilities, including execution of applications for such approvals. Owner shall make available to Licensee copies of all field tiling surveys, plans, entitlement-related studies, and other geotechnical and other site assessments, surveys, environmental assessments, reports, test results, correspondence to or from any governmental agency, and other such records of Owner relating to the Property.

7.7. Indemnity. Owner will indemnify Licensee against liability for physical damage to the License Area, Power Facilities or any other property of Licensee and for physical injuries to Licensee, Licensee's contractors, materialmen, invitees, guests or the public, to the extent caused by Owner's activities or the activities of Owner's employees, contractors or agents on the Property, except to the extent such damage or injury is caused by the operations, activities, negligence or willful misconduct of Licensee or its agents, employees, contractors, subcontractors, successors or assigns. Owner shall take reasonable safety measures to reduce the risk that Owner's activities will cause harm to Licensee. Owner's obligations under this Section 7.7 shall survive the termination or expiration of this Agreement.

7.8. No Brokers. No brokers' commission, finders' fees or other charges are due any broker, agent or other party in connection with Owner's execution of this Agreement, or if any are now due or shall become due in the future, then Owner shall promptly pay the same from its own funds and shall indemnify, hold harmless and defend Licensee against any and all claims and demands therefor made by any such broker, finder, agent or other party, or any of their respective successors and assigns or other parties claiming through them.

7.9. No Litigation. No litigation is pending, and, to Owner's knowledge, no actions, claims or other legal or administrative proceedings are pending, threatened or anticipated with respect to, or that could affect, the Property, this Agreement or Licensee's rights hereunder.

7.10. Hazardous Materials. Owner represents and warrants to Licensee that, except as expressly set forth in Schedule 7.10 and based on Owner's actual, current knowledge: (i) the Property is not in any violation of any federal, state or local law, ordinance or regulation, and Owner has not received any communication from any governmental authority alleging that the

Property is in violation of any federal, state or local law, ordinance or regulation relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any substance, material or waste ("Hazardous Materials") which is now or hereafter classified as hazardous or toxic or which is regulated under current or future laws on or under the Property ("Environmental Laws"); and (ii) the Property has not been previously used for the production, generation, transportation, treatment, storage, or use of Hazardous Materials. Owner shall indemnify and hold Licensee harmless against any i) breach by Owner of the foregoing representations and warranties, and ii) any violation of, or liability arising under, any Environmental Laws relating to the generation, manufacture, production, use, storage, release or threatened release, discharge, disposal, transportation or presence of any Hazardous Materials on or under the Property, except to the extent that such violation is a result of Licensee's activities on the Property. Without limitation of the foregoing, Owner shall be solely responsible for any and all costs associated with the cleanup, transportation, remediation, and/or monitoring of any Hazardous Materials on or under the Property, and any related compliance actions, except to the extent that the presence of such Hazardous Materials is a result of Licensee's activities on the Property. Owner's obligations under this Section 7.10 shall survive the termination or expiration of this Agreement

7.11. Certain Notifications. Owner shall promptly notify Licensee in writing of, and shall deliver to Licensee, promptly upon receipt, copies of any notices or communications received by Owner relating to: (i) compliance with or violation of laws, ordinances, statutes, orders and regulations applicable to the Power Facilities or License Area; (ii) compliance with or violation of laws, ordinances, statutes, orders and regulations relating to Hazardous Materials in the License Area; (iii) the filing or threatened filing of any construction or mechanic's lien against the Power Facilities or any interest in the Property, whether or not arising through Licensee, which may affect Licensee's use of the License Area; and (iv) any litigation or other proceeding filed or threatened in relation to the Power Facilities, Licensee's Development Activities on the License Area, this Agreement or any interest of Owner or Licensee in the License Area or hereunder.

7.12. Owner's Authority. Owner is the sole owner of the Property, holds marketable title to such Property and has the unrestricted right and authority to execute this Agreement and to grant to Licensee the rights granted hereunder. Owner owns all of the oil, gas and other minerals in, on, under or that may be produced from the Property, howsoever drilled, mined or produced (the "Mineral Estate"). All persons having any ownership interest in the Property have signed this Agreement. Each person signing this Agreement on behalf of Owner is authorized to do so. When signed by Owner, this Agreement constitutes a valid and binding agreement enforceable against Owner in accordance with its terms. Owner is not the subject of any bankruptcy, insolvency or probate proceeding.

8. **Assignment.**

8.1. Assignments by Licensee. Licensee shall at all times have the right to sell, assign, encumber, transfer or grant equal or subordinate rights and interests (including co-licenses, separate licenses, sublicenses or similar rights (however denominated)) (a "Transfer") in, the License and/or any or all right or interest in this Agreement, or any or all right or interest of Licensee in the License Area or in any or all of the Power Facilities that Licensee may now or hereafter install on the License Area, to one or more persons (an "Assignee"), in each case with Owner's consent, which consent shall not be unreasonably withheld; provided, however, that

Licensee shall have the right to complete a Transfer without Owner's advanced consent to (a) an Affiliate of Licensee or (b) a License Mortgagee (as defined herein). Any Transfer shall be subject to all of the terms, covenants and conditions of this Agreement. Licensee shall notify Owner in writing of any such sale, assignment, transfer or grant. Upon Licensee's Transfer of its entire interest hereunder as to all or any portion of the Licensed Area, or as may otherwise be provided in the applicable sale, assignment, transfer or grant document, Owner shall recognize the Assignee as Licensee's proper successor, the Assignee shall have all of the assigned rights, benefits and obligations of Licensee under and pursuant to this Agreement, and Licensee shall be relieved of all of its obligations relating to the assigned interests under this Agreement that relate to acts or omissions that occur or accrue following the effective date of such Transfer.

8.2. Assignments by Owner. The burdens of this Agreement and other rights contained herein shall run with and against the Property and shall be a charge and burden thereon for the duration of this Agreement and shall be binding upon and against Owner and its successors and assigns. Owner shall notify Licensee in writing of any sale, assignment or transfer of any of Owner's interest in the License Area. Until such notice is received, Licensee shall have no duty to any successor Owner, and Licensee shall not be in default under this Agreement if it continues to make all payments to the original Owner before notice of sale, assignment or transfer is received. In no case shall Owner sever or attempt to sever the Property's solar energy rights or interests from the Property's fee title or otherwise convey, assign or transfer or attempt to convey, assign or transfer this Agreement, except to a successor owner of the Property. For the avoidance of doubt, this Section 8.2 shall in no way limit any rights or remedies available to Licensee pursuant to the ESA upon a transfer of ownership in the License Area.

9. **Mortgagee Protection**. In the event that any mortgage, deed of trust or other security interest in this Agreement or any Power Facilities is entered into by Licensee or an Assignee, including a sale-leaseback (i.e., a transaction in which Licensee sells its interest in this Agreement and/or the Power Facilities and then leases those interests back from the purchaser) (a "License Mortgage"), then any person who is the mortgagee or beneficiary of a License Mortgage, including the purchaser in a sale-leaseback transaction (a "License Mortgagee") shall, for so long as its License Mortgage is in existence and until the lien thereof has been extinguished, be entitled to the protections set forth in this Section 9. Licensee or any License Mortgagee shall send written notice to Owner of the name and address of any such License Mortgagee, as well as any change of the name or address of any License Mortgagee.

9.1. License Mortgagee's Right to Possession, Right to Acquire and Right to Assign. A License Mortgagee shall have the absolute right: (a) to assign its security interest; (b) to enforce its lien and acquire title to the License by any lawful means; (c) to take possession of and operate the Power Facilities, the License Area or any portion thereof and to perform all obligations to be performed by Licensee hereunder, or to cause a receiver to be appointed to do so; and (d) to acquire the License by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the License to a third party. Owner's consent shall not be required for the acquisition of the encumbered license or sublicense estate by a third party who acquires the same by or subsequent to foreclosure or assignment in lieu of foreclosure. Nothing contained in this Section shall be construed to infringe upon the rights of IBank pursuant to the Leases.

9.2. Notice of Default; Opportunity to Cure. As a precondition to exercising any rights or remedies as a result of any alleged default by Licensee, Owner shall give written notice of the

default to each License Mortgagee concurrently with delivery of such notice to Licensee, specifying in detail the alleged event of default and the required remedy. In the event Owner gives such a written notice of default, the following provisions shall apply:

(a) A "monetary default" means failure to pay when due any fee, payment, real property taxes, insurance premiums or other monetary obligation of Licensee under this Agreement; any other event of default is a "non-monetary default."

(b) The License Mortgagee shall have the same period after receipt of notice of default to remedy the default, or cause the same to be remedied, as is given to Licensee after Licensee's receipt of notice of default, plus, in each instance, the following additional time periods: (i) thirty (30) days, for a total of ninety (90) days after receipt of the notice of default in the event of any monetary default; and (ii) forty-five (45) days, for a total of one hundred five (105) days after receipt of the notice of default in the event of any non-monetary default, provided that such one hundred five (105) day period shall be extended for the time reasonably required to complete such cure, including the time required for the License Mortgagee to perfect its right to cure such non-monetary default by obtaining possession of the License Area (including possession by a receiver) or by instituting foreclosure proceedings, provided the License Mortgagee acts with reasonable and continuous diligence. The License Mortgagee shall have the absolute right to substitute itself for Licensee and perform the duties of Licensee hereunder for purposes of curing such defaults. Owner expressly consents to such substitution, agrees to accept such performance, and authorizes the License Mortgagee (or its employees, agents, representatives or contractors) to enter upon the License Area to complete such performance with all the rights, privileges and obligations of the original Licensee hereunder. Owner shall not, and shall have no right to, terminate this Agreement prior to expiration of the cure periods available to a License Mortgagee as set forth above.

(c) During any period of possession of the License Area by a License Mortgagee (or a receiver requested by such License Mortgagee) and/or during the pendency of any foreclosure proceedings instituted by a License Mortgagee, the License Mortgagee shall pay or cause to be paid all other monetary charges payable by Licensee hereunder which have accrued and are unpaid at the commencement of said period and those which accrue thereafter during said period. Following acquisition of Licensee's License by the License Mortgagee or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or **by a purchaser** at a foreclosure sale, this Agreement shall continue in full force and effect and the License Mortgagee or party acquiring title to Licensee's License shall, as promptly as reasonably possible, commence the cure of all defaults hereunder and thereafter diligently process such cure to completion, whereupon Owner's right to terminate this Agreement based upon such defaults shall be deemed waived; provided, however, the License Mortgagee or party acquiring title to Licensee's License shall not be required to cure those non-monetary defaults, if any, which are not reasonably susceptible of being cured or performed by such party ("Non-Curable Defaults"). Non-Curable Defaults shall be deemed waived by Owner upon completion of foreclosure proceedings or acquisition of Licensee's interest in this Agreement by such party.

(d) Reserved.

(e) Neither the bankruptcy nor the insolvency of Licensee shall be grounds for terminating this Agreement as long as all other obligations of Licensee hereunder are paid or

performed by or on behalf of Licensee or the License Mortgagee in accordance with the terms of this Agreement.

(f) Nothing herein shall be construed to extend this Agreement beyond the Term or to require a License Mortgagee to continue foreclosure proceedings after the default has been cured. If the default is cured and the License Mortgagee discontinues foreclosure proceedings, this Agreement shall continue in full force and effect.

9.3. New License Agreement. Upon any rejection or other termination of this License pursuant to any process undertaken with respect to Licensee under the United States Bankruptcy Code, at the request of a Licensee Mortgagee made within ninety (90) calendar days of such termination or rejection, Owner shall, subject to applicable rules, procedures and laws governing public contracts, including but not limited to the public process of obtaining City Council approval of contract documents, enter into a new agreement with the requesting party having substantially the same terms and conditions as this License.

9.4. License Mortgagee's Consent to Amendment, Termination or Surrender. Notwithstanding any provision of this Agreement to the contrary, the parties agree that so long as there exists an unpaid License Mortgage, this Agreement shall not be modified or amended, and Owner shall not accept a surrender of the License Area or any part thereof or a cancellation or release of this Agreement from Licensee prior to expiration of the Term without the prior written consent of the License Mortgagee. This provision is for the express benefit of and shall be enforceable by such License Mortgagee.

9.5. No Waiver. No payment made to Owner by a License Mortgagee shall constitute an agreement that such payment was, in fact, due under the terms of this Agreement; and a License Mortgagee having made any payment to Owner pursuant to Owner's wrongful, improper or mistaken notice or demand shall be entitled to the return of any such payment.

9.6. Further Amendments. At Licensee's request, Owner shall consider amending this Agreement to include any provision which may reasonably be requested by a proposed License Mortgagee; provided, however, that such amendment does not impair any of Owner's rights under this Agreement or materially increase the burdens or obligations of Owner hereunder. Upon request of any License Mortgagee, Owner may be requested to execute any additional instruments reasonably required to evidence such License Mortgagee's rights under this Agreement. All amendments to this Agreement and execution of additional instruments on the part of Owner are subject to applicable rules, procedures and laws governing public contracts, including but not limited to the public process of obtaining City Council approval of contract documents.

10. Default and Termination.

10.1. Licensee's Right to Terminate. Notwithstanding anything to the contrary set forth in this Agreement, Licensee shall have the right to terminate this Agreement at any time, and without cause, effective upon thirty (30) days' prior written notice to Owner from Licensee, if, and only if, such termination is allowable under the ESA. In the event this Agreement is terminated by Licensee in accordance with this paragraph, Owner authorizes Licensee to execute and record a notice of termination of this Agreement evidencing such termination.

10.2. Owner's Right to Terminate. Except as qualified by any subsequent actions and approvals of Owner pursuant to Section 9, Owner shall have the right to terminate this Agreement if (a) a material default in the performance of Licensee's obligations under this Agreement shall have occurred and remains uncured, (b) Owner notifies Licensee in writing of the default, which notice sets forth in reasonable detail the facts pertaining to the default and specifies the method of cure, and (c) the default has not been remedied within sixty (60) days after Licensee receives such written notice, or, if cure will take longer than sixty (60) days, Licensee has not begun diligently to undertake the cure within the relevant time period and thereafter prosecute the cure to completion, in the opinion of Owner. In the event this Agreement is terminated by Owner in accordance with this paragraph, Owner and Licensee shall thereafter execute and record a notice of termination evidencing such termination. No termination of this Agreement pursuant to this paragraph shall be effective unless a notice of termination has been executed and recorded in accordance with this paragraph.

10.3. Termination of Power Purchase Agreement. This Agreement shall terminate and be of no further force or effect in the event that (a) the ESA terminates pursuant to its terms, effective upon receipt by the non-defaulting party of the "Termination Payment" due thereunder, if for termination related to Owner default, termination for convenience, or for failed relocation, or upon Owner notification to Licensee of ESA termination without payment of the "Termination Payment" thereunder for reason of failure of either Party to achieve Conditions of its Obligations or Licensee default; or (b) Owner exercises its purchase option under the power purchase agreement, effective upon Owner acquiring title to the Power Facilities.

10.4. Effect of Termination or Expiration. Upon the termination or expiration of this Agreement, Licensee shall, as soon as practicable thereafter, unless otherwise mutually agreed upon, (a) remove from the License Area all above surface grade Power Facilities and other personal property owned, located, installed or constructed by or on behalf of Licensee thereon, (b) remove concrete footings, foundations and other fixtures of Licensee to a depth of two feet (2') below the surface grade, (c) cover up all pit holes, trenches and other borings and excavations made by or on behalf of Licensee, (d) leave the surface of the License Area free from debris arising from the foregoing or from the operations or activities of Licensee and (e) otherwise restore the License Area disturbed by Licensee to a condition reasonably similar to its original condition, consistent with the uses permitted by this Agreement, reasonable wear and tear excepted. Reclamation shall include, as reasonably required, repair or replacement of damaged drainage tile, leveling, terracing, mulching and other reasonably necessary measures to prevent soil erosion. Owner shall provide Licensee with reasonable access to the License Area during the performance of such removal and other work by Licensee for a period of six (6) months following the termination or expiration of this Agreement. If Licensee fails to remove any property as provided in this paragraph within six (6) months following the termination or expiration of this Agreement, or such longer period as Owner may provide by extension, Owner may do so, in which case Licensee shall reimburse Owner for reasonable and documented costs of removal and restoration incurred by Owner, net of any amounts reasonably recoverable by Owner with respect to the salvage value of any such Power Facilities.

10.5. Owner's Duty. Notwithstanding anything contained in this Agreement to the contrary, Owner shall use commercially reasonable efforts to mitigate its damages in the event that Licensee defaults hereunder.

10.6. Licensee's Duty. Notwithstanding anything contained in this Agreement to the contrary, Licensee shall use commercially reasonable efforts to mitigate its damages in the event that Owner defaults hereunder.

10.7. Default by Owner. In the event that Owner fails to comply with or perform any or all of the obligations, covenants, warranties or agreements to be performed, honored or observed by Owner hereunder, or interferes with Licensee's use of the License Area in accordance with the terms of this Agreement, which default continues for more than thirty (30) days after Licensee's delivery of written notice to Owner specifying such default, or if such default is of a nature to require more than thirty (30) days for remedy and continues beyond the time reasonably necessary to cure (and Owner has not undertaken procedures to cure such default within such thirty (30) day period and diligently pursued such efforts to complete such cure), Licensee may exercise any right or remedy available to Licensee at law or in equity, including but not limited to obtaining an injunction.

10.8. Default by Licensee. In the event that Licensee fails to comply with or perform any or all of the obligations, covenants, warranties or agreements to be performed, honored or observed by Licensee hereunder, which default continues for more than thirty (30) days after Owner's delivery of written notice to Licensee specifying such default, or if such default is of a nature to require more than thirty (30) days for remedy and continues beyond the time reasonably necessary to cure (and Licensee has not undertaken procedures to cure such default within such thirty (30) day period and diligently pursued such efforts to complete such cure), Owner may exercise any right or remedy available to Owner at law or in equity, including but not limited to obtaining an injunction.

11. **Rights of the IBank**. Owner has previously entered into that certain Site Lease and Financing Lease ("IBank Leases"), both dated August 1, 2020, to provide for the acquisition of the Property. Nothing contained in this Agreement shall in any way limit or otherwise impact the rights of IBank with respect to the IBank Leases or its rights provided thereunder with respect to the Property. Neither IBank nor any successor-in-interest to IBank shall have any liability or obligation to Licensee under any circumstance. In the event IBank obtains possession of the Property or the Facility, IBank shall have no obligation to take any action with respect to the Solar Equipment and Owner shall remove any Solar Equipment from the License Area and return the Property and Facility to its original condition, normal wear and tear excepted, within 90 calendar days of the date IBank obtains such possession. As a condition precedent to this Agreement, Owner shall deposit sufficient funds to return the property to its original condition, normal wear and tear excepted, into a restricted account to be held solely for this purpose, which can be in the form of funds, a bond, a letter of credit, or other security instrument sufficient to accomplish such purposes, as determined by Owner. Further, Licensee agrees that so long as the IBank Leases remain in effect the Owner shall be solely responsible for any payments or other obligations, monetary or otherwise due under this Agreement. The Licensee hereby forever waives and releases any claim, known or unknown, contingent or actual, whether or not matured, it may hold now or in the future against IBank related in any way to the Solar Equipment.

12. **Miscellaneous.**

a. Enforced Delay.

i. Force Majeure Delay – Definition. Performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, walkouts, riots, floods, earthquakes, fires, acts of terrorism, epidemic, pandemic, quarantine, casualties, acts of God, litigation, governmental restrictions imposed or mandated by governmental entities, enactment of conflicting state or federal laws or regulations (but only if the Party claiming delay complies at all times with the provisions of this Agreement pertaining to such conflicting laws), or other similar circumstances beyond the reasonable control of the Parties and which substantially interferes with the ability of a Party to perform its obligations under this Agreement (a "Force Majeure Delay").

ii. Force Majeure Delay - Extension of Time. An extension of time for any Force Majeure Delay shall be for the period of the enforced delay and shall start to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other parties within thirty (30) days of knowledge of the commencement of the cause. Notwithstanding the foregoing, none of the foregoing events, set forth in this Section 12a, shall constitute a Force Majeure Delay unless and until the Party claiming such delay and interference delivers to the other Parties written notice describing the event, its cause, when and how such Party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Any Party claiming a Force Majeure Delay shall deliver such written notice within thirty (30) days after it has actual knowledge of the Force Majeure Delay. The time for performance will be extended for such period of time as the cause of such delay exists.

b. Condemnation; Casualty. All payments made on account of any taking or threatened taking of the Licensed Area or any part thereof in condemnation proceedings or by inverse condemnation by a government agency, governmental body or private party under the exercise of the right of eminent domain may be made to Owner, except that Licensee shall be entitled to from condemning authority, and Owner shall request that such condemning authority make payment directly to Licensee of: (i) any removal and relocation costs of the Power Facilities, (ii) any loss of or damage to any Power Facilities, (iii) the loss of use of any portion of the Property by Licensee (including impediments to or interference with the receipt of sunlight) and (iv) Licensee's lost profits, measured in each case with regard to the effect on Licensee's use of the Property and any effect on Licensee's use of other property. If such condemning authority has made payment for the costs associated with (i) through (iv) to Owner, then Owner shall forthwith make payment to Licensee of the award to which Licensee is entitled. Licensee shall have the right to participate in any condemnation settlement proceedings and Owner shall not enter into any binding settlement agreement without the prior written consent of Licensee, which consent shall not be unreasonably withheld. Should title to or possession of all of the License Area be permanently taken or should a partial taking render the remaining portion of the License Area unsuitable for Licensee's use (as determined by Licensee), then Licensee may terminate this Agreement upon such vesting of title or taking of possession. In the event of a casualty that damages or destroys any portion of the Power Facilities, Client may elect either (A) to restore the Power Facilities or (B) to pay the Early Termination Fee pursuant to the ESA and all other costs previously accrued but unpaid under the ESA and thereupon terminate this Agreement.

c. Confidentiality. To the fullest extent allowed by law, Owner shall maintain in the strictest confidence (i) the terms of (including the amounts payable under) this Agreement, (ii) any information regarding Licensee's Development Activities and (iii) any other information that is proprietary or that Licensee requests be held confidential, in each such case whether disclosed by Licensee or discovered by Owner ("Confidential Information"). Excluded from the foregoing is any such information that is in the public domain for any reason, including by reason of prior publication through no act or omission of Owner. Owner shall not use Confidential Information for its own benefit or publish or otherwise disclose it to others; provided, however, that Owner may disclose Confidential Information to (a) Owner's personal advisors, (b) any prospective purchaser of the Property or (c) pursuant to any applicable law, including the California Public Records Act, and to lawful process, subpoena or court order.

d. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon Owner and Licensee and, to the extent provided in any assignment or other transfer under Section 8.1 hereof, any Assignee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them, and shall be deemed covenants running with the land and be binding upon the Property. References to Licensee in this Agreement shall be deemed to include Assignees that hold a direct ownership interest in this Agreement.

e. Memorandum of License Agreement. Owner and Licensee shall execute in recordable form, and Licensee shall then record, a memorandum of this Agreement satisfactory in form and substance to Owner and Licensee. Licensee shall pay all costs of recording such memorandum. Owner hereby consents to the recordation of the interest of an Assignee in the License Area.

f. Notices. All notices or other communications required or permitted hereunder, including payments to Owner, shall, unless otherwise provided herein, be in writing, and shall be personally delivered, delivered by reputable overnight courier, or sent by registered or certified mail, return receipt requested and postage prepaid, addressed as follows:

If to Owner:	If to Licensee:
Michelle Greene, City Manager	

Notices personally delivered shall be deemed given the day so delivered. Notices given by overnight courier shall be deemed given on the first business day following the mailing date. Notices mailed as provided herein shall be deemed given on the third business day following the mailing date. Any Party may change its address for purposes of this subsection by giving written notice of such change to the other Party in the manner provided in this subsection.

g. Further Assurances; Cooperation. Except as provided in Sections 6.3 and 9.6, Owner shall fully support and cooperate with Licensee in the conduct of its Development Activities and the exercise of its rights hereunder (including with Licensee's efforts to obtain from any governmental authority or any other person or entity any environmental impact review, use permit, building permit, any other permit of any nature, entitlement, approval, authorization or other rights to sell, assign, transfer or finance any Power Facilities or interest in the License or under this Agreement or obtain any financing).

h. Estoppel Certificates. Owner shall, within thirty (30) days after a written request by Licensee, any Assignee or any License Mortgagee, execute, acknowledge and deliver to the requesting party such estoppel certificates (certifying as to such matters as may reasonably be requested, including, without limitation, that this Agreement is unmodified and in full force and effect (or modified and stating the modifications), the dates to which the payments and any other charges have been paid, and that there are no defaults existing (or that defaults exist and stating the nature of such defaults)) and/or consents to assignment (whether or not such consent is actually required) and/or non-disturbance agreements as Licensee, any Assignee or any License Mortgagee may reasonably request from time to time during the term of this Agreement. At Licensee's option, such certificates, consents and agreements may be recorded and Owner consents to such recording.

i. No Waiver; No Abandonment. No waiver of any right under this Agreement shall be effective for any purpose unless it is in writing and is signed by the Party hereto possessing the right, nor shall any such waiver be construed to be a waiver of any subsequent right, term or provision of this Agreement. Further, (i) no act or failure to act on the part of Licensee shall be deemed to constitute an abandonment, surrender or termination of any interest under this Agreement, except upon termination of this Agreement by Licensee, (ii) nonuse of the Agreement or any license or interest hereunder shall not prevent the future use of the entire scope thereof; and (iii) no use of or improvement to the License Area, and no assignment, transfer or grant under Section 8 or otherwise, or use resulting from any such transfer or grant, shall, separately or in the aggregate, constitute an overburdening of this Agreement or any license or interest hereunder.

j. No Merger. There shall be no merger of this Agreement, or of the License created by this Agreement, with the fee estate in the Property by reason of the fact that this Agreement or the License or any interest therein may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Property and all persons (including, without limitation, each License Mortgagee) having an interest in this Agreement or in the estate of Owner and Licensee shall join in a written instrument effecting such merger and shall duly record the same.

k. Entire Agreement. This Agreement, together with its attached exhibits, contains the entire agreement between the Parties with respect to the subject matter hereof, and any prior or contemporaneous agreements, discussions or understandings, written or oral (including any options or agreements for leases, confidentiality agreements, and/or access agreements previously entered into by the Parties with respect to the Property), are superseded by this Agreement and shall be of no force or effect. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing and signed by each of the Parties.

l. Governing Law. The terms and provisions of this Agreement shall be interpreted in accordance with the laws of the state in which the Property is located applicable to contracts made and to be performed within such state and without reference to the choice of law principles of such state or any other state.

m. Dispute Resolution. Any dispute arising between the Parties, which cannot be settled amicably by the Parties, concerning the Property, the License, any provision of this Agreement or the rights and duties of the Parties in regard thereto, including any alleged breach of this Agreement, may be resolved by any remedy available at law. The Parties may agree to enter

into non-binding arbitration to resolve disputes. Any arbitration shall be conducted by the American Arbitration Association (the "AAA") before a single arbitrator in Santa Barbara County, California.

n. Interpretation. The Parties agree that the terms and provisions of this Agreement embody their mutual intent and that such terms and conditions are not to be construed more liberally in favor of, or more strictly against, either Party.

o. Partial Invalidity. Should any term or provision of this Agreement, or the application thereof to any person or circumstance, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Notwithstanding any other provision of this Agreement, the parties agree that in no event shall the term of the License or this Agreement be longer than the longest period permitted by applicable law; provided, however, that Licensee shall be entitled to record an instrument preserving the effectiveness or record notice of this Agreement.

p. Other General Provisions. Except with respect to the rights conferred hereunder upon License Mortgagees (which License Mortgagees and their respective successors and assigns are hereby expressly made third party beneficiaries hereof to the extent of their respective rights hereunder), the covenants contained herein are made solely for the benefit of the Parties and their respective successors and assigns and shall not be construed as benefiting any person or entity who is not a Party to this Agreement. Neither this Agreement nor any agreements or transactions contemplated hereby shall be interpreted as creating any partnership, joint venture, association or other relationship between the Parties, other than that of landowner and Licensee. Licensee's shareholders, directors, officers, partners and members shall not have any personal liability for any damages arising out of or in connection with this Agreement. The use of the neuter gender includes the masculine and feminine, and the singular number includes the plural, and vice versa, whenever the context so requires. The terms "include", "includes" and "including", as used herein, are without limitation. Captions and headings used herein are for convenience of reference only and do not define, limit or otherwise affect the scope, meaning or intent hereof.

q. Counterparts; Facsimiles or PDF. This Agreement may be executed and recorded in two or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument. Each Party shall be entitled to rely upon executed copies of this Agreement transmitted by facsimile or electronic "PDF" to the same and full extent as the originals.

[*The remainder of this page is intentionally left blank.*]

IN WITNESS WHEREOF, Owner and Licensee, acting through their duly authorized representatives, have executed this Agreement with the intent that it be effective as of the Effective Date, and certify that they have read, understand and agree to the terms and conditions of this Agreement.

OWNER:

City of Goleta,
a California municipality_____
_____

By: _____
Name: Michelle Greene_____
Title: City Manager_____

LICENSEE:

Monarch Solar 1, LLC,
a California limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A

The License Area

The License Area shall be for the outlined area of 130 Cremona Drive, Goleta, CA 93117, as shown in the graphic below, as needed solely for the construction, operation, and maintenance of the Power Facilities.

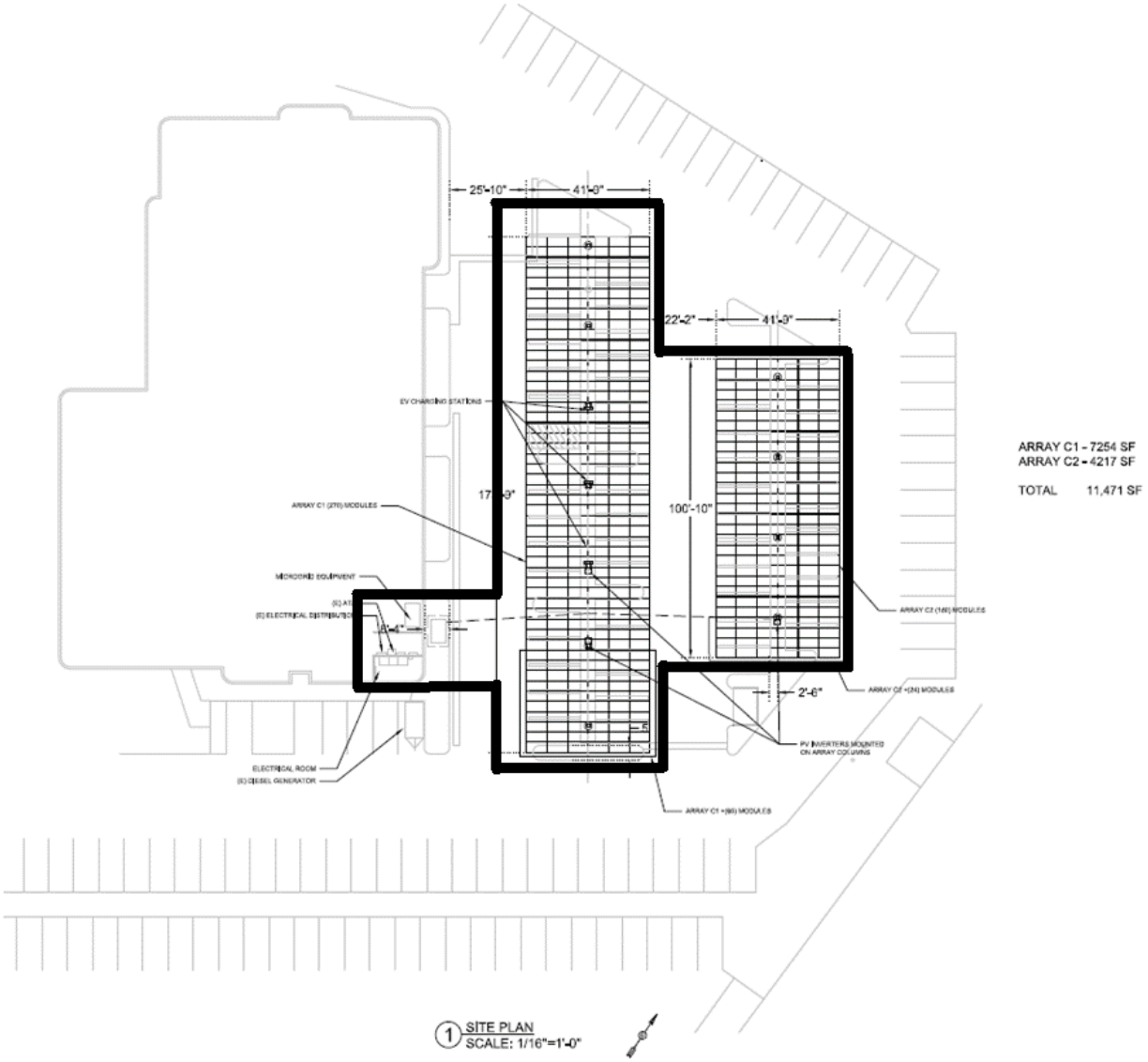


EXHIBIT B

Title Matters

[to be attached]

Schedule 7.10

Exceptions to Hazardous Materials Representations

None known.

ATTACHMENT 3

Loan Documents

(Promissory Note, Pledge Agreement, Company Guarantee)

PROMISSORY NOTE

$309,770.00 [__], 2022

FOR VALUE RECEIVED, Monarch Solar I, LLC, a California limited liability company ("Maker"), promises to pay to the order of the City of Goleta (together with its successors and assigns, "Holder"), the principal sum of THREE HUNDRED NINE THOUSAND SEVEN HUNDRED SEVENTY DOLLARS ($309,770.00), or such lesser amount as shall have been advanced by Holder to or on behalf of Maker pursuant to the terms hereof (the "Principal Amount"), together with interest as provided in this promissory note (this "Note", and such outstanding principal amount, the "Loan"), as follows:

1. Funding of Loan. The Loan shall be funded in a single advance (the "Advance") by Holder as set forth herein. The Advance shall be made in the amount of the Principal Amount. Maker shall submit a written request for the Advance including the following: (i) a description of the Goleta City Hall project, a 210kW-dc carport solar project located at 130 Cremona Drive, Suite B, Goleta, California 93117 (the "Project"), (ii) and notice of commercial operation date, and any other details as may be reasonably required by Holder. The written request for the Advance shall be subject to the approval of the Holder for funding in its reasonable discretion.

2. Interest. The Loan shall accrue interest, at an Annual Percentage Rate equal to two and two tenths of a percent (2.20%) (the "Interest Rate"). All accrued but unpaid interest shall be added to the principal amount of the Loan, and paid on the Maturity Date. The Interest Rate shall apply both before and after Holder obtains any judgment on this Note, unless the applicable judgment interest rate is higher than the Interest Rate, in which case the judgment interest rate shall apply. Interest on overdue amounts shall accrue and be payable on demand at the rate provided in Section 13 of this Note.

3. Maturity and Acceleration. Maker shall repay the entire unpaid principal balance of the Loan, together with all accrued and unpaid interest at the Interest Rate to the date of payment and all reasonable costs of collection including attorneys' fees (collectively, the "Obligations"), upon the earliest to occur of (such date, the "Maturity Date"): (i) the date that is twenty (20) years after the date hereof; (ii) the date on which the Obligations become due and payable pursuant to Section 5 of this Note, or (iii) the date on which the Obligations become due and payable pursuant to Section 11 of this Note after the occurrence and continuance of an Event of Default.

4. Prepayment. This Note may be prepaid, either in whole or in part, at any time prior to the Maturity Date, by making payment equal to remaining principal in the year of prepayment (in accordance with Attachment 1 to this Note).

5. Payments. Maker shall make quarterly payments to Holder in accordance with Attachment 2 to this Note. Maker shall pay all Obligations in lawful money of the United States in immediately available funds, free and clear of, and without deduction or offset for, any present or future taxes, levies, imposts, charges, withholdings, or liabilities with respect thereto; or any other defenses, offsets, set-offs, claims, counterclaims, credits, or deductions of any kind. Maker's obligations under this Note are absolute and unconditional, and are completely independent of all circumstances whatsoever other than as expressly described in this Note.

6. Usury Savings. Nothing in this Note shall require Maker to pay or permit Holder to collect from Maker interest exceeding the maximum amount permitted by law in commercial loan transactions between parties of the character of the parties to this Note. Maker shall not be obligated to pay any interest in excess of such maximum amount. The interest payable under this Note by Maker shall in no event exceed such maximum amount permitted by law.

7. Representations and Warranties. Maker hereby represents and warrants to Holder that: (i) Maker is a limited liability company duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; (ii) Maker has all requisite limited liability company power and authority to issue this Note and perform its obligations hereunder; (iii) this Note is the legal, valid and binding obligation of Maker, enforceable against it in accordance with its terms; and (iv) neither the execution and delivery of this Note nor compliance with or fulfillment of its terms, will conflict with, result in a breach of the terms, conditions or provisions of, or constitute a default or an event creating rights of acceleration, termination or cancellation or a loss of rights under, or result in the creation or imposition of any lien, encumbrance or similar restriction, under (a) the governing documents of Maker or (b) any material contract to which Maker is a party.

8. Affirmative Covenants. Until the Obligations are paid in full, Maker shall: (i) maintain its legal existence; (ii) conduct its business in material compliance with all applicable laws and regulations; (iii) pay when due all taxes, fees and other charges upon it and its assets; (iv) keep its properties insured under policies with such provisions, for such amounts and with such insurers as is standard and customary for reputable companies engaged in similar businesses which name Holder as the "lender loss payee;" (v) maintain its assets in good condition and repair; and (vi) furnish all financial and other information concerning Maker's business as may be reasonably requested by Holder from time to time.

9. Negative Covenants. Until the Obligations are paid in full, without the prior written consent of Holder, Maker shall not: (i) incur any other indebtedness for borrowed money or the deferred purchase price of any assets (other than trade payables incurred in the ordinary course of business); (ii) create or allow any other liens or security interests on any of its assets; (iii) merge or consolidate with any other company or sell or transfer all or any substantial part of its assets; (iv) declare or pay any dividend or other distribution on or with respect to any of its equity interests, or redeem or repurchase any of its equity interests; (v) acquire or make any investment in any other business or entity; or (vi) engage in any business activity other than the acquisition, development and construction of the Project and activities reasonably related thereto.

10. Security. To secure payment and performance of the Obligations, Maker hereby grants to Holder a first priority security interest in all of the property described below in which Maker has or acquires an interest, wherever located, whether now owned or hereafter arising or acquired (collectively, the "Collateral"): all equipment, fixtures, and inventory (including all goods held for sale, lease or demonstration or to be furnished under contracts of service, goods leased to others, trade-ins and repossessions, raw materials, work in process and materials or supplies used or consumed in Maker's business), including all spare and repair parts, special tools, equipment and replacements for any of the foregoing, and any software embedded therein or related thereto, all commercial tort claims, all deposit accounts and all cash balances from time to time credited to such accounts, all letter-of-credit rights (whether or not the letter of credit is evidenced by a writing), all accounts, general intangibles and other contract rights or rights to the payment of money, all securities, investment property, including all equity interests in subsidiaries and other persons or entities, all insurance claims and proceeds, all supporting obligations that support the payment or performance of any of the foregoing, all additions and accessions to, all proceeds, products, offspring and profits of, and all rights and privileges incident to, any of the foregoing, including all dividends, distributions, proceeds and amounts distributable or payable from, upon or in respect of such property, and all rights and privileges incident to, any of the foregoing. Maker authorizes Holder to prepare and file financing statements and other documents describing the Collateral in such jurisdictions as Holder deems appropriate in order to perfect or continue perfected Holder's security interest.

The Collateral shall not include any contract or general intangible to the extent that the grant by Maker of a security interest in Maker's right, title and interest therein is prohibited by legally enforceable provisions

of any contract or agreement governing such contract or general intangible, would give any other party to such contract or agreement a legally enforceable right to terminate its obligations thereunder, or is permitted only with the consent of another party, if the requirement to obtain such consent is legally enforceable and such consent has not been obtained. Upon the occurrence of any Event of Default under this Note, Holder shall have all rights and remedies for default provided by the Uniform Commercial Code as in effect in the State of California, as well as any other applicable law and this Note and the other agreements of Maker relating hereto.

In addition, this Note is secured by all existing and future security agreements, pledge agreements, and other collateral agreements, between Holder and Maker, as may be requested by Holder to effectuate, perfect or otherwise evidence the grant of a security interest in any of the Collateral, between Holder and any endorser or guarantor of this Note, and between Holder and any other person providing collateral security for Maker's obligations, including but not limited to that certain Company Guarantee by Maker for the benefit of Holder and that certain Pledge Agreement by Symbiont Energy, LLC, a California limited liability company, for the benefit of Holder (collectively, the "Collateral Documents"), and payment may be accelerated according to any of them.

Upon the occurrence of the Discharge Date (as defined below), all rights under this Note shall terminate, and the Collateral shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, and Holder shall cooperate with Maker to file any termination statements and other documents to evidence the same as Maker reasonably requests and at Maker's expense. The term "Discharge Date" means the payment in full in cash of the principal and interest on the Loan, all fees and all other expenses, amounts, Secured Obligations (as defined in the Collateral Documents) or Obligations (excluding contingent indemnification and reimbursement expenses, that, by their express terms, survive the repayment of the Obligations).

11. Event of Default; Remedies. Maker will be deemed to be in default under this Note upon the occurrence of any of the following events (each an "Event of Default"): (i) immediately, upon the filing by Maker of any voluntary petition in bankruptcy or any petition for relief under the federal bankruptcy code or any other state or federal law for the relief of debtors; (ii) within forty-five (45) days unless such event has been cured, upon the filing against Maker of any involuntary petition in bankruptcy or any petition for relief under the federal bankruptcy code or any other state or federal law for the relief of debtors; (iii) immediately, upon the Maker's becoming insolvent, or admitting in writing its inability to pay its debts as they become due, or execution by Maker of an assignment for the benefit of creditors or any similar composition or arrangement with its creditors; (iv) within forty-five (45) days, unless such appointment has been dismissed, of the appointment of a receiver, custodian, trustee or similar party to take possession of Maker's assets or property; (v) within thirty (30) days, unless cured, of any material breach, default or violation under this Note (other than a failure to pay any Obligations when due); and (vi) within five (5) days, unless cured, of a failure to pay any Obligations when due hereunder. Upon the occurrence of an Event of Default that is continuing, the entire unpaid principal amount of this Note, all unpaid accrued interest and any other outstanding Obligations under this Note shall automatically and immediately become due and payable without presentment, demand or notice of any kind. In addition, upon the occurrence of an Event of Default, Holder may, at its option, do any of the following: (a) take possession of the Collateral without notice or hearing, and Maker hereby expressly waives any right to notice or a prior hearing; (b) enter upon Maker's premises or other premises where any Collateral may be located to take possession of the Collateral and otherwise exercise its rights under this Note or applicable law; (c) require Maker to assemble the Collateral and make it available to Holder at a place designated by Holder; (d) sell or otherwise dispose of all or any part of the Collateral at public or private sale in accordance with the Uniform Commercial Code; and/or (e) exercise its other rights and remedies under this Note and applicable law. Holder may purchase any or all Collateral at any private sale. Reasonable notice of a public or private sale,

if required, shall be given if notice is mailed to Maker at least ten (10) calendar days prior to the time of the sale or other disposition.

12. Power of Attorney. Maker hereby irrevocably constitutes and appoints Holder and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of Maker and in the name of Maker or in its own name, for the purpose of carrying out the terms of this Note, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Note (including without limitation Section 11 of this Note).

13. Overdue Rate. If any payment required by this Note becomes more than five (5) days overdue, then the Interest Rate on such unpaid amount shall, during the period such Event of Default is continuing, be increased to the rate otherwise applicable at the time plus five percent (5.00%) per annum.

14. Renewals; Extensions; Amendment. Maker and any endorsers and guarantors of this Note, and all others who are or may become liable for all or any part of the Loan, consent to any number of renewals or extensions of time for payment of this Note. Any such renewals or extensions shall not affect their liability. This Note may only be amended in writing, signed by Maker and Holder.

15. Notices. Any notices under this Note shall be given by personal delivery or by nationally recognized overnight courier service at the addresses specified below or any address specified in writing from time to time by Maker and Holder. Notices shall be effective upon receipt or upon affirmative refusal to accept delivery.

If to Holder:

City of Goleta
130 Cremona Drive, Suite B
Goleta, CA 93117
Attention: Michelle Greene

If to Maker:

Monarch Solar I, LLC
1345 Encinitas Blvd, Unit 133
Encinitas, CA 92024
Attention: Symbiont Energy

16. Waivers. Maker and any endorsers and guarantors of this Note, and all others who may become liable for all or any part of the obligations evidenced by this Note, severally waive presentment for payment, protest, notice of protest, dishonor, notice of dishonor, demand, notice of non-payment, and the benefit of all statutes, ordinances, judicial rulings, and other legal principles of any kind, now or hereafter enacted or in force, affording any right of cure or any right to a stay of execution or extension of time for payment or exempting any property of such person from levy and sale upon execution of any judgment obtained by the holder in respect of this Note.

17. GOVERNING LAW; VENUE; JURY TRIAL WAIVER. THIS NOTE SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF CALIFORNIA (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATION LAW), WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES THAT WOULD REQUIRE THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION. Each of the parties hereto hereby irrevocably and unconditionally (i) submits, for itself and its property, to the exclusive jurisdiction of any California State court or Federal court of the United States of America sitting in or having jurisdiction over

Santa Barbara County, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Note or the transactions contemplated hereby, or for recognition or enforcement of any judgment, and agrees that all claims in respect of any such action or proceeding may be heard and determined in such California State court or, to the extent permitted by law, in such Federal court, (ii) waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Note or the transactions contemplated hereby in any California State court or in any such Federal court and (iii) waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. THE PARTIES WAIVE JURY TRIAL IN ANY ACTION TO ENFORCE OR INTERPRET, OR OTHERWISE ARISING FROM, THIS NOTE.

18. Severability. If any provision of this Note is invalid or unenforceable, then the other provisions shall remain in full force and effect.

19. Costs and Expenses. Each Party agrees to pay its own costs and expenses incurred in connection with the preparation, negotiation, execution and delivery of this Note. Maker agrees to pay all costs and expenses, including reasonable fees and expenses of counsel for Holder, incurred by Holder in connection with the enforcement of its rights under this Note.

IN WITNESS WHEREOF, Maker by its duly authorized officer has executed this Note as of the date first written above.

MONARCH SOLAR I, LLC

By:_____

Name:_____

Title:_____

Attachment 1
Amortization Table

	Starting Balance	Principal	Interest	Ending Balance
Year 1	$309,770.00	$8,192.88	$6,814.94	$301,577.12
Year 2	$301,577.12	$8,793.02	$6,634.70	$292,784.10
Year 3	$292,784.10	$9,416.46	$6,441.25	$283,367.64
Year 4	$283,367.64	$10,063.94	$6,234.09	$273,303.71
Year 5	$273,303.71	$10,736.21	$6,012.68	$262,567.50
Year 6	$262,567.50	$11,434.05	$5,776.48	$251,133.45
Year 7	$251,133.45	$12,158.27	$5,524.94	$238,975.18
Year 8	$238,975.18	$12,909.68	$5,257.45	$226,065.50
Year 9	$226,065.50	$13,689.14	$4,973.44	$212,376.36
Year 10	$212,376.36	$14,497.50	$4,672.28	$197,878.86
Year 11	$197,878.86	$15,335.67	$4,353.33	$182,543.19
Year 12	$182,543.19	$16,204.56	$4,015.95	$166,338.63
Year 13	$166,338.63	$17,105.11	$3,659.45	$149,233.51
Year 14	$149,233.51	$18,038.30	$3,283.14	$131,195.22
Year 15	$131,195.22	$19,005.10	$2,886.29	$112,190.11
Year 16	$112,190.11	$20,276.93	$2,468.18	$91,913.18
Year 17	$91,913.18	$21,320.02	$2,022.09	$70,593.16
Year 18	$70,593.16	$22,400.01	$1,553.05	$48,193.15
Year 19	$48,193.15	$23,518.01	$1,060.25	$24,675.15
Year 20	$24,675.15	$24,675.15	$542.85	$-00.00

Attachment 2
Repayment Schedule

Quarterly Payment	30-Mar	30-Jun	30-Sep	30-Dec
Year 1	$3,751.95	$3,751.95	$3,751.95	$3,751.95
Year 2	$3,856.93	$3,856.93	$3,856.93	$3,856.93
Year 3	$3,964.43	$3,964.43	$3,964.43	$3,964.43
Year 4	$4,074.51	$4,074.51	$4,074.51	$4,074.51
Year 5	$4,187.22	$4,187.22	$4,187.22	$4,187.22
Year 6	$4,302.63	$4,302.63	$4,302.63	$4,302.63
Year 7	$4,420.80	$4,420.80	$4,420.80	$4,420.80
Year 8	$4,541.78	$4,541.78	$4,541.78	$4,541.78
Year 9	$4,665.64	$4,665.64	$4,665.64	$4,665.64
Year 10	$4,792.45	$4,792.45	$4,792.45	$4,792.45
Year 11	$4,922.25	$4,922.25	$4,922.25	$4,922.25
Year 12	$5,055.13	$5,055.13	$5,055.13	$5,055.13
Year 13	$5,191.14	$5,191.14	$5,191.14	$5,191.14
Year 14	$5,330.36	$5,330.36	$5,330.36	$5,330.36
Year 15	$5,472.85	$5,472.85	$5,472.85	$5,472.85
Year 16	$5,686.28	$5,686.28	$5,686.28	$5,686.28
Year 17	$5,835.53	$5,835.53	$5,835.53	$5,835.53
Year 18	$5,988.26	$5,988.26	$5,988.26	$5,988.26
Year 19	$6,144.56	$6,144.56	$6,144.56	$6,144.56
Year 20	$6,304.50	$6,304.50	$6,304.50	$6,304.50

Attachment 3:

FORM OF PLEDGE AGREEMENT

PLEDGE AGREEMENT

FOR VALUE RECEIVED, the undersigned Symbiont Energy, LLC, a California limited liability company, with current address of 1345 Encinitas Blvd, Unit 133, Encinitas, California 92024 (the "Pledgor"), does hereby pledge, assign, sell, set over, transfer and convey unto the City of Goleta (together with its successors and assigns, "Secured Party"), all of Pledgor's right, title and interest in and to Monarch Solar I, LLC, a California limited liability company (the "Project Company") in which Pledgor owns one hundred percent (100%) of the membership interests, together with all proceeds thereof and all rights in connection therewith, including without limitation all rights to receive payments and distributions in respect thereto (hereinafter collectively called the "Collateral"). This Agreement is made as collateral security to induce the Secured Party to extend credit to the Project Company and secures the payment of all debts, obligations and liabilities of the Project Company to the Secured Party heretofore, now or hereafter made, incurred or created, whether voluntary or involuntary and however arising, whether due or not due, absolute or contingent, liquidated or unliquidated, determined or undetermined, otherwise secured or unsecured, whether the Project Company is liable individually or jointly with others, whether for principal, interest or other debts, obligations or liabilities, and whether or not any or all such debts, obligations and liabilities are or become barred by any statute of limitations or otherwise unenforceable, including without limitation, all indebtedness of the Project Company to Secured Party pursuant to a Promissory Note of the Project Company in the principal amount of $309,770 dated the date hereof (the "Note"), the Obligations as defined in the Note, and all obligations of Pledgor under this Agreement (hereinafter collectively called the "Secured Obligations"); and the rights of said Secured Party in the security afforded hereby shall continue until the Discharge Date (as defined in the Note), and shall not be invalidated, impaired or cease so long as the Discharge Date has not occurred.

None of the following shall affect the liabilities of Pledgor under this Agreement, or the rights of the Secured Party with respect to the Collateral: (a) acceptance or retention by the Secured Party of other property or interests as security for the Obligations, or for the liability of any person other than Pledgor with respect to the Secured Obligations; (b) the release of all or any other security for any of the Secured Obligations; (c) any release, extension, renewal, modification or compromise of any of the Secured Obligations or the liability of any obligor thereon; or (d) failure by the Secured Party to resort to other security or any person liable for any of the Secured Obligations before resorting to the Collateral hereunder.

Pledgor hereby irrevocably authorizes and directs the Project Company and the officers or managers thereof, upon the demand of the Secured Party, to make all payments and distributions in respect to the interest of Pledgor in the Project Company directly to the Secured Party as assignee hereunder and to deliver to the Secured Party copies of all notices given by the Project Company to its members as such.

The Pledgor warrants that it is the owner of the Collateral free and clear of all liens, encumbrances or security interests (other than the Secured Party's security interest) with complete authority (subject to applicable law) to pledge and assign such Collateral to the Secured Party. Pledgor further represents that it has not heretofore made any pledge, transfer or assignment of any interest in the Project Company and agrees that it will not in the future make any pledge, transfer or assignment thereof. Pledgor shall deliver to Secured Party copies of all notices, statements, or other communications received by Pledgor from the Project Company.

Pledgor will execute and deliver all documents and agreements and do all other things necessary to establish and perfect the lien on the Collateral in favor of the Secured Party created hereby. Pledgor authorizes the Secured Party to file any UCC financing statements necessary or appropriate to perfect such lien on the Collateral. Pledgor covenants that no certificates will be issued to evidence any membership interests in the Project Company.

In the event of any default on any of the Secured Obligations (including, but not limited to, an Event of Default as defined under the Note), the Secured Party shall have all rights and remedies for default provided by the California Uniform Commercial Code, as well as any other applicable law or in any evidence of or document relating to the Secured Obligations. With respect to such rights and remedies, (i) written notice, when required by law, sent to any address of Pledgor in this Agreement at least ten (10) calendar days (counting the day of sending) before the date of a proposed disposition of the Collateral is reasonable notice; (ii) Pledgor shall reimburse the Secured Party for any expense incurred by the Secured Party in protecting or enforcing its rights under this Agreement including without limitation reasonable attorneys' fees and legal expenses and all expenses of taking possession, holding, preparing for disposition, and disposing of the Collateral and after deduction of such expenses, the Secured Party may apply the proceeds of disposition to the other Secured Obligations in such order and amounts as it may elect; and (iii) the Secured Party may waive any default without waiving any other subsequent or prior default under the Secured Obligations.

In addition to the Secured Party's other rights, Pledgor irrevocably appoints the Secured Party as proxy, with full power of substitution and revocation, upon the occurrence of any default under the Secured Obligations, to exercise Pledgor's rights to attend meetings, vote, consent to and/or take any action respecting Pledgor's interest in the Project Company as fully as Pledgor might do. This proxy remains effective so long as any of the Secured Obligations are unpaid; provided, however, that nothing contained herein shall be deemed to constitute the Secured Party as member of the Project Company unless and until it acquires absolute title to the Project Company membership interests upon foreclosure subsequent to a default under the Secured Obligations or otherwise pursuant to the terms of the Note.

The Pledgor waives notice of the creation or payment of any of the Secured Obligations and of acceptance of this Agreement.

The validity, construction and enforcement of this Agreement are governed by the internal laws of the State of California. All terms not otherwise defined have the meaning assigned to them by the California Uniform Commercial Code. Invalidity of any provision of this Agreement shall not affect the validity of any other provision.

SYMBIONT ENERGY, LLC

By: _____

Name:_____

Title:_____

Date: _____, 202

Attachment 4:

FORM OF GUARANTEE

COMPANY GUARANTEE

THIS COMPANY GUARANTEE is made as of [_____], 2021, by Monarch Solar I, LLC, located at 1345 Encinitas Blvd, Unit 133, Encinitas, CA 92024 (the "Guarantor") for the benefit of the City of Goleta, a (together with its successors and assigns, "Beneficiary").

RECITALS

In respect of that certain Goleta City Hall project, a 210 kW-dc carport solar project located at 130 Cremona Drive, Suite B, Goleta, California 93117 (the "Project"), Monarch Solar I, LLC, a California limited liability company ("Project Company") has made that certain Promissory Note in the principal amount of $309.770 dated the date hereof (the "Note") evidencing certain Obligations (as defined therein) and other obligations and liabilities of Project Company to Beneficiary;

Symbiont Energy, LLC has provided that certain Pledge Agreement (the "Pledge Agreement") to Beneficiary dated the date hereof security for the Obligations and Secured Obligations (as defined in the Pledge Agreement);

NOW THIS COMPANY GUARANTEE (THIS "GUARANTEE") WITNESSES AS FOLLOWS:

1. SUPPORT OF PROJECT COMPANY PAYMENT OBLIGATIONS. Guarantor hereby (a) irrevocably and unconditionally guarantees to Beneficiary the full and timely performance of all of the Secured Obligations in accordance with the terms and conditions hereof and thereof, and (b) agrees to pay all costs, expenses and reasonable attorneys' fees incurred by Beneficiary in enforcing Guarantor's obligations hereunder. Guarantor acknowledges that Beneficiary has extended credit and will continue to extend credit to Beneficiary in material reliance upon this Guarantee. Guarantor agrees that it shall not be necessary or required that Beneficiary exercise any right, assert any claim or demand, or enforce any remedy whatsoever against Project Company or any other person before or as a condition to enforcement of Guarantor's obligations hereunder. This Guarantee shall be a continuing guarantee and shall remain in full force and effect until the Discharge Date (as defined in the Note).

2. ABSOLUTE OBLIGATIONS. Guarantor agrees that its obligations under this Guarantee are absolute, primary and unconditional under all circumstances. Guarantor's obligations under this Guarantee shall not be released, impaired, reduced, discharged or otherwise affected by, and shall continue in full force and effect notwithstanding the occurrence of the insolvency, bankruptcy, arrangement, adjustment, composition, liquidation, dissolution or other similar event or lack of authority of Project Company, whether now existing or hereafter arising. Guarantor unconditionally and irrevocably waives each and every defense which, under principles of guarantee or suretyship law, would otherwise operate to impair or diminish its liability hereunder, and nothing whatever except the occurrence of the Discharge Date shall operate to discharge Guarantor's liability hereunder. Without limiting the generality of the foregoing, Beneficiary shall have the right, which may be exercised from time to time without diminishing or impairing the liability of Guarantor in any respect, and without notice of any kind to Guarantor, to (a) extend any additional credit to Project Company, (b) accept any collateral, security or other guarantee for any obligations of Project Company, and deal with any such collateral or security, (c) determine how, when and what application of payments, credits and collections, if any, shall be made on the obligations of Project Company and accept partial payments, and (d) grant, permit or enter into any waiver, amendment, extension, modification, refinancing, indulgence, compromise, settlement, subordination, discharge or release of (i) any Secured Obligations and any agreement relating thereto, (ii) any obligations of any other guarantor or other person or entity liable for payment of the Secured Obligations and any agreement relating thereto, and (iii) any collateral or security for any of the foregoing or any agreement relating thereto.

3. CERTAIN WAIVERS. Guarantor hereby unconditionally waives (a) presentment, notice of dishonor, protest, demand for payment and all notices of any kind, including without limitation: notice of acceptance hereof; notice of the creation of any of the Secured Obligations; notice of nonpayment, nonperformance or other default on any such Secured Obligations; and notice of any action taken to collect upon or enforce any such Secured Obligations; (b) any subrogation to the rights of Beneficiary against Project Company and any other claim against Project Company which arises as a result of payments made by Guarantor pursuant to this Guarantee, until the occurrence of the Discharge Date; (c) any claim for contribution against any co-guarantor until the occurrence of the Discharge Date; and (d) any setoffs or counterclaims against Beneficiary which would otherwise impair Beneficiary's rights against Guarantor hereunder.

4. REPRESENTATIONS. Guarantor represents and warrants that: (a) it is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation and has the power to enter into and perform its obligations under this Guarantee; and (b) this Guarantee has been duly authorized by Guarantor, has been duly executed and delivered by Guarantor and constitutes the legal, valid and binding obligation of Guarantor enforceable against Guarantor in accordance with its terms, except as such enforceability may be subject to the effect of general principles of equity or limited by or subject to any bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights generally.

5. NO WAIVERS. No failure or delay by Beneficiary in exercising any right, power or privilege under this Guarantee or the Secured Obligations or any agreement relating thereto shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided by law or in any document, instrument or agreement executed in connection with the Secured Obligations.

6. SEVERABILITY. If any provision of this Guarantee is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable, this Guarantee shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part thereof, and the remaining provisions thereof shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance therefrom.

7. MODIFICATION IN WRITING. No modification, consent, amendment, or waiver of any provision of this Guarantee, and no consent to any departure by Guarantor therefrom shall be effective unless the same shall be in writing and signed by an officer of Beneficiary, and then shall be effective only in the specific instance and for the specific purpose for which given.

8. SUCCESSORS AND ASSIGNS. All covenants and agreements contained in this Guarantee shall be binding on Guarantor, its successors and assigns, and shall inure to the benefit of Beneficiary, its successors and assigns.

9. REINSTATEMENT. This Guarantee shall remain in full force and effect or be reinstated (if a release or discharge has occurred), as the case may be, if at any time any payment (or any part thereof) to Beneficiary under the Secured Obligations is rescinded or must otherwise be restored by Beneficiary pursuant to any insolvency, bankruptcy, reorganization, receivership or other debtor relief granted to Project Company or pursuant to any other legal or equity action, any prior release or discharge from the terms of this Guarantee given to Guarantor by Beneficiary shall be deemed without effect and void ab initio with respect to such payment.

10. GOVERNING LAW. The validity, performance and interpretation of this Guarantee shall be governed by the laws of the State of California, United States of America, and the parties hereto submit irrevocably and unconditionally to the exclusive jurisdiction of the State Courts of, and the Federal Courts in the State of California. Guarantor irrevocably appoints as its agent for service of process in the State of California each of the president, chief financial officer, any vice president, secretary and treasurer of Guarantor.

11. WAIVER OF JURY TRIAL. Guarantor hereby waives any and all right to trial by jury in any action or proceeding relating to this Guarantee, or any document delivered hereunder or in connection herewith, or any transaction arising from or connected to any of the foregoing. Guarantor represents that this waiver is knowingly, willingly and voluntarily given.

THIS GUARANTEE is signed the day and year first above written.

SIGNED FOR AND ON BEHALF OF	ACCEPTED BY
Monarch Solar I, LLC	City of Goleta
By:_____	By:_____
Name: _____	Name: _____
Title: _____	Title: _____

ATTACHMENT 4

Staff Presentation

CITY HALL SOLAR PHOTOVOLTAIC PROJECT ENERGY SERVICES AGREEMENT

OPTONY

Presentation to the City Council

October 19, 2021

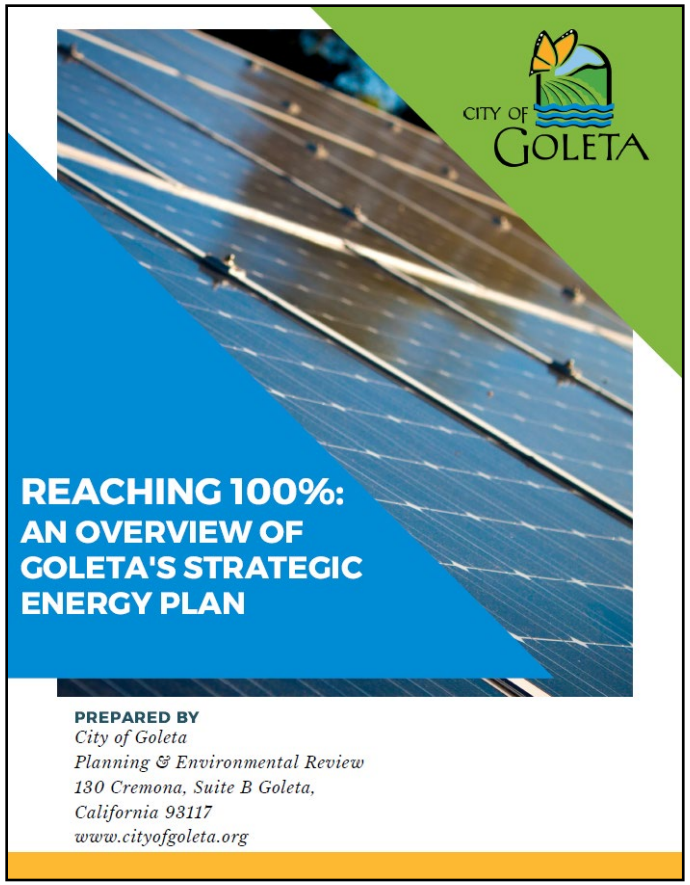
Presentation by:
Cindy Moore, Sustainability Manager
Jonathan Whelan, Optony Inc.

CITY OF GOLETA

Presentation Overview

1. Actions to Date
2. Other Considerations
3. Recommended Option
4. Conclusion
5. Proposed Council Recommendation

1. Actions to Date



- 100% Renewable Energy Goals
  - ✓ Strategic Energy Plan Implementation
- Technical & Financial Analysis of Solar PV & Energy Storage Opportunities
- Additional Analysis of Solar PV and Energy Storage for Resilience Purposes
- RFP Issued, Proposals Reviewed, & Recommendation
- City Council Direction to Proceed
- City Council Finance & Audit Committee

CITY OF GOLETA

2. Other Considerations

IRS & IBank Constraints

✓ Private Activity Use

- Tax limitations on tax-exempt debt; PPA is private activity
- City's finance arrangement with IBank for the purchase of City Hall limits square footage that can be used for "private benefit"
- Proposed PV footprint fits within allowable area (17%)

✓ Site Control – System Removal

- IBank requirement for removal in unlikely event of default
- City assumption of removal obligation

2. Other Considerations

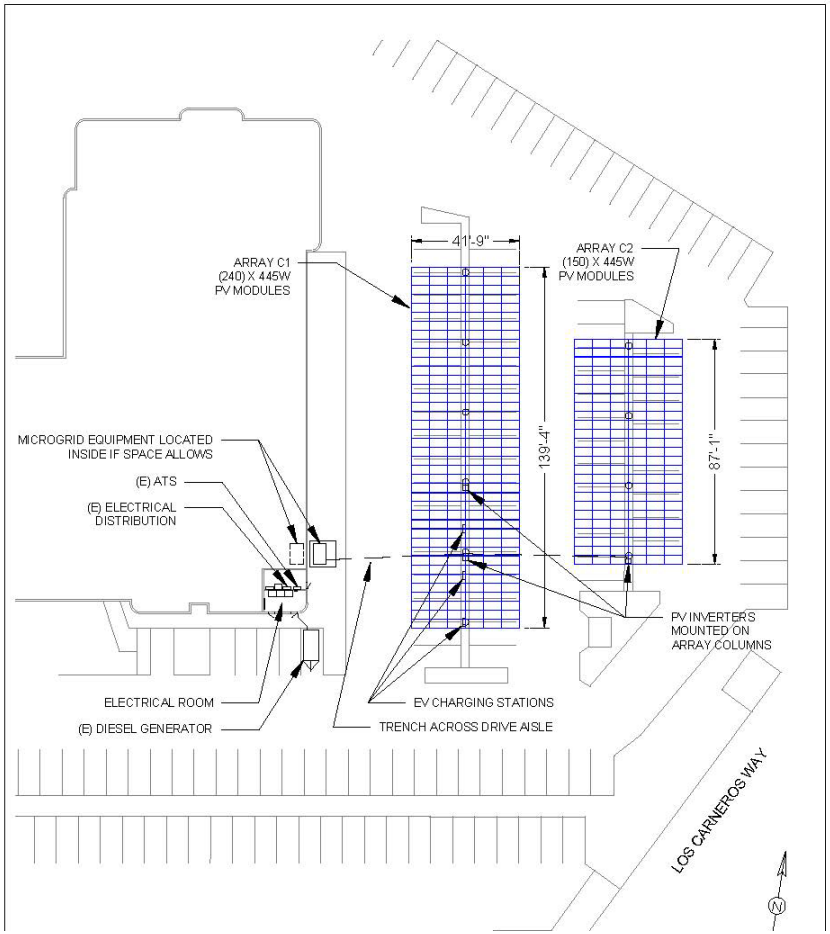
Modification to PPA Approach

✓ Hybrid PPA Model

- IBank terms limit service provider's ability to borrow
- Project loan of $309,770 from City to the project at a 2.2% interest rate, to be repaid over the 20-year term
- Interest payments to the City on the loan would be approximately $84,000 over the term
- Guaranteed by project company / project

3. Recommended Option – Hybrid Approach

Microgrid-ready, PV-only System Financed with PPA and Loan



- ✓ 210 kW system, carport only system

3. Recommended Option – Hybrid Approach

Microgrid-ready, PV-only System Financed with PPA and Loan

	Hybrid PPA	Direct Purchase
Solar-Only	210 kW	210 kW
City Capital Expenditure	$309,770, repaid @ 2.2%	$698,200
25-Year Savings	$270,325	$586,975
Net Present Value of 25-Year Savings (@ 3%)	$50,236	$194,474
Operational Responsibility	Solar Developer	City
Performance Risk	Solar Developer	City
Component Replacement	Solar Developer	City
End-of-Term Removal	Solar Developer	City

4. Conclusion

- ✓ Installing the recommended solar PV-only system has the potential to offset close to 100% of the historic building electricity usage
- ✓ Significantly reduce the City's carbon footprint and demonstrate leadership both locally and statewide
- ✓ The PV-only system would increase budget certainty and result in net savings to the City
- ✓ Hybrid PPA model with loan earns interest, while 3rd party still responsible for procurement, install, and O&M

5. City Council Recommendation

A. Adopt Resolution 21-__, entitled, "A Resolution of the City Council of the City of Goleta, California, Making a Determination for a Categorical Exemption under the California Environmental Quality Act and Findings on Energy Savings Under California Government Code Sections 4217.10 et seq."; and

B. Approve and authorize the City Manager to execute an Energy Services Agreement, related project loan documents with Symbiont Energy, LLC for a 20-year power purchase agreement including final design, construction and startup of a microgrid-ready, solar photovoltaic system that integrates conduit for electric vehicle charging at City Hall in substantial conformance with Attachments 2 and 3, and all other related necessary documents as approved by the City Attorney.

C. Approve a budget appropriation of $309,770 as a loan to the project and $94,500 as a system removal fund from the General Fund Unassigned Reserve and the Sustainability Reserve Account to the Sustainability Program (account 101-40-4500-51200).