



Yucaipa Valley Water District

12770 Second Street, Yucaipa, California 92399 Phone: (909) 797-5117

Notice and Agenda of a Meeting of the Board of Directors

Tuesday, April 13, 2021 at 4:00 p.m.

Due to the spread of COVID-19 and in accordance with the Governor's Executive Order N-29-20 (a copy of which is attached to this agenda), the Yucaipa Valley Water District will be conducting this meeting by teleconference only. Public comments on matters listed on the agenda or on any matter within the District's jurisdiction will be received during Public Comments, Agenda Item No. III.

**This meeting is available by calling (888) 475-4499
Meeting ID: 676-950-731#**

**Participate in the meeting online at
<https://zoom.us/j/676950731>
Passcode: 765589**

There will be no public physical location for attending this meeting in person. The District's Board meeting room will be closed to the public until further notice.

If you are unable to participate by telephone, you may submit comments and/or questions in writing for the Board's consideration by sending them to inquiry@yvwd.us. Submit your written inquiry prior to the start of the meeting. All public comments received prior to the start of the meeting will be provided to the Board and may be read into the record or compiled as part of the record.

- I. CALL TO ORDER**
 - II. ROLL CALL**
 - III. PUBLIC COMMENTS** - At this time, members of the public may briefly address the Board of Directors on matters within its jurisdiction or on any matter listed on this agenda.
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Any person who requires accommodation to participate in this meeting should contact the District office at (909) 797-5117, at least 48 hours prior to the meeting to request a disability-related modification or accommodation.

Materials that are provided to the Board of Directors after the meeting packet is compiled and distributed will be made available for public review during normal business hours at the District office located at 12770 Second Street, Yucaipa. Meeting materials are also available on the District's website at www.yvwd.dst.ca.us

IV. CONSENT CALENDAR - All consent calendar matters are routine and will be acted upon in one motion. There will be no discussion of these items unless board members, administrative staff, or members of the public request specific items to be discussed and/or removed prior to the vote for approval.

- A. Minutes of Meetings
 - 1. Board Meeting - April 6, 2021

V. STAFF REPORT

VI. DISCUSSION ITEMS

- A. Consideration of Solar Power Purchase, Energy Storage, and Microgrid Services and Site Leases for Power Resiliency Facilities at the Yucaipa Valley Regional Water Filtration Facility and the Wochholz Regional Water Recycling Facility [[Director Memorandum No. 21-072 - Page 15 of 188](#)]

RECOMMENDED ACTION: That the Board approve: (1) Solar Power Purchase, Energy Storage and Microgrid Services Agreements; (2) Site Lease Agreements; (3) Memorandum of Site Lease Agreements; and (4) adopt Resolution No. 2021-20 to Authorize Entering into a Power Purchase Agreement, Site Lease, and Authorizing the Filing of a Notice of Exemption under the California Environmental Quality Act.

VII. BOARD REPORTS & DIRECTOR COMMENTS

VIII. ANNOUNCEMENTS

- A. April 20, 2021 at 4:00 p.m. - Board Meeting - **Teleconference Only**
- B. April 27, 2021 at 4:00 p.m. - Board Meeting - **Teleconference Only**
- C. May 4, 2021 at 4:00 p.m. - Board Meeting - **Teleconference Only**
- D. May 11, 2021 at 4:00 p.m. - Board Meeting - **Teleconference Only**
- E. May 18, 2021 at 4:00 p.m. - Board Meeting - **Teleconference Only**
- F. May 25, 2021 at 4:00 p.m. - Board Meeting - **Teleconference Only**
- G. June 1, 2021 at 4:00 p.m. - Board Meeting - **Teleconference Only**

IX. ADJOURNMENT

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-29-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS despite sustained efforts, the virus continues to spread and is impacting nearly all sectors of California; and

WHEREAS the threat of COVID-19 has resulted in serious and ongoing economic harms, in particular to some of the most vulnerable Californians; and

WHEREAS time bound eligibility redeterminations are required for Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries to continue their benefits, in accordance with processes established by the Department of Social Services, the Department of Health Care Services, and the Federal Government; and

WHEREAS social distancing recommendations or Orders as well as a statewide imperative for critical employees to focus on health needs may prevent Medi-Cal, CalFresh, CalWORKs, Cash Assistance Program for Immigrants, California Food Assistance Program, and In Home Supportive Services beneficiaries from obtaining in-person eligibility redeterminations; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19 pandemic.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567 and 8571, do hereby issue the following order to become effective immediately:

IT IS HEREBY ORDERED THAT:

1. As to individuals currently eligible for benefits under Medi-Cal, CalFresh, CalWORKs, the Cash Assistance Program for Immigrants, the California Food Assistance Program, or In Home Supportive Services benefits, and to the extent necessary to allow such individuals to maintain eligibility for such benefits, any state law, including but not limited to California Code of Regulations, Title 22, section 50189(a) and Welfare and Institutions Code sections 18940 and 11265, that would require redetermination of such benefits is suspended for a period of 90 days from the date of this Order. This Order shall be construed to be consistent with applicable federal laws, including but not limited to Code of Federal Regulations, Title 42, section 435.912, subdivision (e), as interpreted by the Centers for Medicare and Medicaid Services (in guidance issued on January 30, 2018) to permit the extension of

otherwise-applicable Medicaid time limits in emergency situations.

2. Through June 17, 2020, any month or partial month in which California Work Opportunity and Responsibility to Kids (CalWORKs) aid or services are received pursuant to Welfare and Institutions Code Section 11200 et seq. shall not be counted for purposes of the 48-month time limit set forth in Welfare and Institutions Code Section 11454. Any waiver of this time limit shall not be applied if it will exceed the federal time limits set forth in Code of Federal Regulations, Title 45, section 264.1.
3. Paragraph 11 of Executive Order N-25-20 (March 12, 2020) is withdrawn and superseded by the following text:

Notwithstanding any other provision of state or local law (including, but not limited to, the Bagley-Keene Act or the Brown Act), and subject to the notice and accessibility requirements set forth below, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body or state body. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference conference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, a least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended.

A local legislative body or state body that holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements set forth below, shall have satisfied any requirement that the body allow

members of the public to attend the meeting and offer public comment. Such a body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

Accessibility Requirements: If a local legislative body or state body holds a meeting via teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the body shall also:

- (i) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the Americans with Disabilities Act and resolving any doubt whatsoever in favor of accessibility; and
- (ii) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to subparagraph (ii) of the Notice Requirements below.

Notice Requirements: Except to the extent this Order expressly provides otherwise, each local legislative body and state body shall:

- (i) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by the Bagley-Keene Act or the Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable; and
- (ii) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in such means of public observation and comment, or any instance prior to the issuance of this Order in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of such means, a body may satisfy this requirement by advertising such means using "the most rapid means of communication available at the time" within the meaning of Government Code, section 54954, subdivision (e); this shall include, but need not be limited to, posting such means on the body's Internet website.

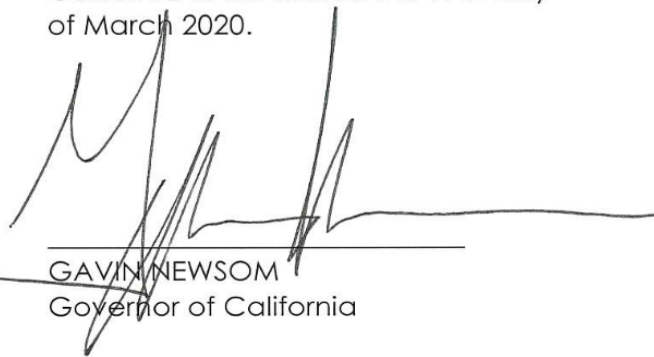
All of the foregoing provisions concerning the conduct of public meetings shall apply only during the period in which state or local public health officials have imposed or recommended social distancing measures.

All state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 17th day of March 2020.



GAVIN NEWSOM
Governor of California

Consent Calendar



MINUTES OF A BOARD MEETING - TELECONFERENCE

April 6, 2021 at 4:00 pm

Directors Present:

Chris Mann, President
Lonni Granlund, Vice President
Jay Bogh, Director
Joyce McIntire, Director
Dennis Miller, Director

Staff Present:

Wade Allsup, Information Systems Specialist
Erin Anton, Administrative Supervisor
Jennifer Ares, Water Resource Manager
Tysa Baeumel, Administrative Clerk IV
Madeline Blua, Water Resource Specialist
Allison Edmisten, Chief Financial Officer
Ashley Gibson, Regulatory Compliance Manager
Dustin Hochreiter, Senior Engineering Technician
Tim Mackamul, Operations Manager
Steven Molina, Public Works Supervisor
Matt Porras, Implementation Manager
Mike Rivera, Public Works Supervisor
Charles Thomas, Operations Manager
Joseph Zoba, General Manager

Directors Absent:

None

Consulting Staff Present:

David Wysocki, Legal Counsel

Registered Guests and Others Present:

Madeline Chen, Ortega Strategies Group
Wynona Duvall, City of Calimesa
Bruce Granlund
Michelle Lopez, News Mirror

Due to the spread of COVID-19 and in accordance with the Governor's Executive Order N-29-20 (a copy of which was attached to the meeting agenda), the Yucaipa Valley Water District conducted this meeting by teleconference.

The meeting was available to the public by calling (888) 475-4499 using meeting identification number 676-950-731 and live presentation material was available at <https://zoom.us/j/676950731> using passcode 765589.

CALL TO ORDER

The regular meeting of the Board of Directors of the Yucaipa Valley Water District was called to order by President Chris Mann at 4:00 p.m.

ROLL CALL

The roll was called with Director Jay Bogh, Director Lonni Granlund, Director Chris Mann, Director Joyce McIntire, and Director Dennis Miller present.

PUBLIC COMMENTS

None.

CONSENT CALENDAR

Director Joyce McIntire moved to approve the consent calendar and Director Lonni Granlund seconded the motion.

A. Minutes of Meetings

1. Board Meeting - March 30, 2021

The motion was approved by the following vote:

Director Jay Bogh - Yes
Director Lonni Granlund - Yes
Director Chris Mann - Yes
Director Joyce McIntire - Yes
Director Dennis Miller - Yes

STAFF REPORT

General Manager Jospheh Zoba provided information about the following items:

- The Beaumont Basin Watermaster meeting will be held on April 7, 2021.
- The San Bernardino Valley Municipal Water District Advisory Commission on Water Policy will be held on April 8, 2021.

DISCUSSION ITEMS:

DM 21-065

OVERVIEW OF THE
REPORT TO THE
CALIFORNIA
LEGISLATURE ON THE
2012-2016 DROUGHT

General Manager Joseph Zoba provided information about Report to the California Legislature on the 2012-2016 Drought. While it is unlikely that there is time to adopt the recommendations from this report prior to the next drought, the District should monitor legislation to determine the impacts of the proposed policies during dry conditions.

DM 21-066

CONSIDERATION OF
RESOLUTION NO. 2021-
19 AUTHORIZING THE
RELEASE OF
UNCLAIMED MONIES
TO THE YUCAIPA
VALLEY WATER
DISTRICT PURSUANT

Chief Financial Officer Allison Edmisten presented Resolution No. 2021-19 regarding the release of unclaimed monies to the District pursuant to Government Code Section 50055.

Director Dennis Miller moved that the Board adopt Resolution No. 2021-19.

Director Jay Bogh seconded the motion.

The motion was approved by the following vote:
Director Jay Bogh - Yes

TO GOVERNMENT
CODE SECTION 50055

Director Lonni Granlund - Yes
Director Chris Mann - Yes
Director Joyce McIntire - Yes
Director Dennis Miller - Yes

DM 21-067

UPDATE ON THE
YUCAIPA VALLEY
WATER DISTRICT
WATER WISE
LANDSCAPE CONTEST

Water Resource Specialist Madeline Blua presented a summary of the awards and process for administering the Water Wise Landscape Contest.

Director Lonni Granlund moved that the Board authorize District staff to implement the 2021 Water Wise Landscape Contest for a cost not to exceed \$3,100 in prizes.

Director Dennis Miller seconded the motion.

The motion was approved by the following vote:

Director Jay Bogh - Yes
Director Lonni Granlund - Yes
Director Chris Mann - Yes
Director Joyce McIntire - Yes
Director Dennis Miller - Yes

DM 21-068

CONSIDERATION OF
CREATING AN OPT-
OUT PROGRAM FOR
THE AUTOMATED
METER
INFRASTRUCTURE
(AMI) NETWORK

General Manager Joseph Zoba presented a policy that would allow customers to opt out of having a receiver/transmitter installed at their water meter box.

The board members expressed concerns about the policy.

No action was taken on this item.

DM 21-069

CONSIDERATION TO
AUTHORIZE THE
CONVERSION TO A
NEW CUSTOMER
UTILITY BILLING
PORTAL AND
PAYMENT PLATFORM

Chief Financial Officer Allison Edmisten presented information about a new service provider for online bill notifications, payment processing, and account information.

Director Joyce McIntire moved that the Board authorize the General Manager to execute a contract with Invoice Cloud.

Director Dennis Miller seconded the motion.

The motion was approved by the following vote:

Director Jay Bogh - Absent
Director Lonni Granlund - Yes
Director Chris Mann - Yes
Director Joyce McIntire - Yes
Director Dennis Miller - Yes

DM 21-070

AUTHORIZATION TO SOLICIT BIDS FOR THE REPLACEMENT OF DRINKING WATER RESERVOIRS R-17.1.1 AND R-17.1.2, YUCAIPA

Implementation Manager Matthew Porras provided an overview of the R-17.1 Reservoir Replacement Project. The design drawings are complete and the project is ready to be publicized for solicitation of construction bids.

Director Joyce McIntire moved that the Board authorize the District staff to solicit bids for the replacement of the drinking water reservoirs R-17.1.1 and R-17.1.2.

Director Lonni Granlund seconded the motion.

The motion was approved by the following vote:

- Director Jay Bogh - Absent
- Director Lonni Granlund - Yes
- Director Chris Mann - Yes
- Director Joyce McIntire - Yes
- Director Dennis Miller - Yes

DM 21-071

AUTHORIZATION TO SOLICIT BIDS FOR THE CALIMESA RECYCLED WATER CONVEYANCE PROJECT

Implementation Manager Matthew Porras provided an overview of the Calimesa Recycled Water Conveyance Pipeline. The District staff is still working with the State Water Resources Control Board to secure financing for the project.

Director Joyce McIntire moved that the Board authorize the General Manager to solicit bids for the Calimesa Recycled Water Conveyance Project.

Director Dennis Miller seconded the motion.

The motion was approved by the following vote:

- Director Jay Bogh - Absent
- Director Lonni Granlund - Yes
- Director Chris Mann - Yes
- Director Joyce McIntire - Yes
- Director Dennis Miller - Yes

BOARD REPORTS AND DIRECTOR COMMENTS

Director Joyce McIntire and Director Lonni Granlund reported on the San Gorgonio Pass Water Agency meeting held on April 5, 2021.

ANNOUNCEMENTS

Director Chris Mann called attention to the announcements listed on the agenda.

ADJOURNMENT

The meeting was adjourned at 5:05 p.m.

Respectfully submitted,

Joseph B. Zoba, Secretary

(Seal)

Staff Report



Discussion Items





Date: April 13, 2021

Prepared By: Joseph Zoba, General Manager

Subject: Consideration of Solar Power Purchase, Energy Storage, and Microgrid Services and Site Leases for Power Resiliency Facilities at the Yucaipa Valley Regional Water Filtration Facility and the Wochholz Regional Water Recycling Facility

Recommendation: That the Board approve: (1) Solar Power Purchase, Energy Storage and Microgrid Services Agreements; (2) Site Lease Agreements; (3) Memorandum of Site Lease Agreements; and (4) adopt Resolution No. 2021-20 to Authorize Entering into a Power Purchase Agreement, Site Lease, and Authorizing the Filing of a Notice of Exemption under the California Environmental Quality Act.

The District staff has been working towards the development of power production facilities at our two most important facilities - the Yucaipa Valley Regional Water Filtration Facility and the Wochholz Regional Water Recycling Facility. By producing power at these two locations, the District will be less susceptible power outages, brownouts, and Public Safety Power Shutoff events, while having the ability to control anticipated rising energy costs. Both District facilities will be powered by new microgrid energy systems consisting of solar arrays, battery storage equipment, and natural gas generators. These two independent systems with microgrid controllers will significantly enhance the routine operation and emergency capabilities of these vital water and wastewater assets in our community.



Over the past few months, the District staff worked with Engie to prepare power purchase agreements and site leases for the Yucaipa Valley Regional Water Filtration Facility and the Wochholz Regional Water Recycling Facility. The District staff was augmented with specific knowledge and talent from: David Wysocki, Legal Counsel; Robin Baral, Special Counsel from Meyers Nave; Danny Gold from Green Water and Power, and John Weaver from the Solar Power Guy. These individuals have extensive knowledge and technical experience with power projects and power purchase agreements.

While the Yucaipa Valley Water District is one of the first in our area to develop an independent power supply at the size and scope included in the attached agreements, we believe that the concept of co-locating power facilities at water treatment and sewer treatment facilities will likely become extremely common for communities that have the available space.



ENGIE Overview

Global

#1 Provider
of energy services

\$67 Billion
in revenue in 2019

171,100
employees worldwide

North America



315 MW

Solar PV in operation in California,
3,900 MW in development

\$5.1 billion
in revenue



Managing **\$22.9 Billion**
of annual energy spend for more than
1,000 public and private sector clients

6,500
employees



Over 55,000
Projects completed in North America

≈ 100%
low carbon or carbon free
generation



Resiliency Program Benefits

- ✓ **Creates \$73 million in net savings** after paying for all costs over the life of the program
- ✓ **Provides resiliency for critical facilities** paid out of project savings
- ✓ **Free 4-hour battery storage systems** due to Self Generation Incentive Program
- ✓ **ENGIE guarantees 90%** of the energy savings
- ✓ **20-year guaranteed life** of battery storage system



Carbon emissions reduction equivalent of removing 2,105 cars of the road annually

- ✓ Provides a hedge against rising electricity costs which are expected to increase substantially in the future. SCE has asked for a **20.1% price increase just in 2021**: <https://www.cpuc.ca.gov/General.aspx?id=10433>
- ✓ **Includes natural gas gensets** at both sites for true long-term resiliency
- ✓ **Peace of mind** – ENGIE will own and maintain all systems
- ✓ **Stimulates local economy** and provides local jobs

Attachments (based on page numbers in upper right corner of this memorandum):

1. Green Water and Power Analysis of Yucaipa Valley Water District Power Purchase Agreements ([Page 4 of 165](#))
2. Resolution No. 2021-20 to Authorize Entering into a Power Purchase Agreement, Site Lease, and Authorizing the Filing of a Notice of Exemption under the California Environmental Quality Act ([Page 11 of 165](#))
3. Solar Power Purchase, Energy Storage and Microgrid Services Agreement - Yucaipa Valley Regional Water Filtration Facility ([Page 14 of 165](#))
4. Site Lease - Yucaipa Valley Regional Water Filtration Facility ([Page 64 of 165](#))
5. Memorandum of Site Lease - Yucaipa Valley Regional Water Filtration Facility ([Page 82 of 165](#))
6. Solar Power Purchase, Energy Storage and Microgrid Services Agreement - Wochholz Regional Water Recycling Facility ([Page 90 of 165](#))
7. Site Lease - Wochholz Regional Water Recycling Facility ([Page 140 of 165](#))
8. Memorandum of Site Lease - Wochholz Regional Water Recycling Facility ([Page 158 of 165](#))



MEMORANDUM

Via E-mail

DATE: April 6, 2021
TO: Robin Baral, Meyers Nave
FROM: Danny Gold, Green Water and Power
RE: **Yucaipa Valley Water District – Power Purchase Agreements**

At the direction of Yucaipa Valley Water District (District), Meyers Nave requested that Green Water and Power (GWP) provide technical support in connection with legal services in the District's negotiation of two Power Purchase Agreements for the installation of a solar photovoltaic (PV) and battery energy storage systems at the Henry N. Wochholz Regional Water Recycling Facility (RWRF) and Regional Water Filtration Facility (RWFF).

This report summarizes three key issues, involving 1) system size, 2) contract pricing and 3) system component selection that arose out of GWP's review of the PPAs, which included review of proposed savings calculations and project cash flow, and technical considerations regarding the proposed system sizes for the PV modules and battery storage components.

GWP reviewed the draft PPAs, and materials provided by Engie, the District and the District's consulting engineers to validate some of the assumptions used by Engie in developing its project cash flow and savings calculations. GWP did not review the feasibility of the proposed natural gas generator set or the battery system in operating either plant. This "microgrid" design will be implemented after the PPAs are adopted, prior to commercial operation of the PV system.

1) System Size

GWP identified a potential risk of oversizing under the PPAs. These agreements are commonly structured so that the customer (i.e. District) must pay for all electricity produced and stored by the system. Oversizing is a concern if the system is sized at a scale that exceeds the electricity needs of the customer. Here, sizing for the RWRF system initially assumed a 50% increase in future electricity usage, due to planned upgrades. In discussions with District

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From: Green Water & Power
Re: Yucaipa Valley Water District – Power Purchase Agreements
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staff and its consultant engineers, however, timing of the full buildout of the RWRF remains unclear. As the PV system will be built out in one initial phase, system sizing that accounted for a 50% increase would have likely resulted in the system being oversized for at least the first several years of the PPA term.

The PV system at the RWRF was ultimately resized to meet less than 100% of the current electricity needs of the RWRF. The battery storage system, however, will be sized to potentially accommodate larger load requirements. Engie and the District have also represented that the backup natural gas generator set will be sized to accommodate future load requirements. This approach eliminates the risk of system oversizing, while allowing future expansion of the PV system, if agreeable to the customer and power supplier.

2) Project Cash Flow

During the PV system redesign, Engie provided a revised pro forma or project cash flow (**Attachment 1**). The project cash flow identifies potential savings to the District in the form of reduced electricity usage from SCE (factoring time-of-day rates) plus reduced demand charges, which assume that the battery storage component will reduce peak loads at the RWRF and RWFF.

Engie's final project cash flow indicates savings to the District of up to \$73,153,969 (2020 dollars) over the 28-year term of the PPAs. This assumes the battery storage component will result in demand charge savings of up to \$15,333,245. It should be noted, however, that battery storage is still a relatively new add-on to PV systems, and neither Tesla nor Engie were able to provide guarantees that the battery storage system will actually achieve the proposed reductions in peak load. For example, if the battery system were to go offline for more than a 15-minute increment, demand savings for the month would not be realized.

As there is currently no industry standard to guarantee performance of the battery system, a conservative estimate of the project cash flow should remove the potential battery storage project savings when factoring a minimum level of savings to the District. Here, if battery storage project savings are not factored into the project cash flow overall, the PPAs will still likely generate considerable savings in Year 1 (approximately \$340,000), with larger annual savings to occur over the term, as the contract price does not include an annual escalator.

3) System Components

GWP reviewed the proposed solar PV and battery system to be installed under the proposed PPAs. The PV system will use a combination of LG and Jinko modules, and the battery storage component will consist of Tesla Megapack ground mounted batteries. Engie has represented that a portion of the system will utilize solar panels that were acquired through 'safe harbor' policies that allow Engie to take advantage of a larger investment tax credit, which the District realizes through a reduced contract price under the PPAs.

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From: Green Water & Power
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GWP asked Engie to compare the use of LG modules, which generally have a higher per unit cost, with other module manufacturers to identify whether more cost effective modules could be installed under the PPAs. Engie responded by providing a list of the guaranteed panel efficiency of the large solar manufacturers. LG was selected due to the higher efficiency guarantees which, over time, will result in higher savings to the District.

Last, it is common for PPAs to include provisions where system components may be replaced, if new models are released or certain components are not available. GWP advised the District to negotiate assurances that the Tesla Megapack batteries will be installed, as the range of high quality battery manufacturers is currently limited. As a result, the PPAs were revised to include a provision that any replacement to the Tesla Megapack batteries, or any other identified component manufacturer, will require District approval.

Thank you for the opportunity to work with the District.

3730840.1

ATTACHMENT 1



Project Cash Flow – RWRFF & RWFF

Year	Electricity Generation kWh	Solar Project Savings \$	Battery Storage Project Savings \$	Total Project Savings \$	Total Project Savings \$	Total Avoided Cost \$/kWh	PPA Price	Annual PPA Cost	Buyout Price	Maintenance Cost	Total Project Costs	Net Savings
Year 1	13,777,736	\$1,435,406	\$463,717	\$1,899,124	\$0,1378	\$0,0795	\$1,094,692	\$0	\$0	\$0	\$1,094,692	\$904,432
Year 2	13,705,847	\$1,499,641	\$466,903	\$1,966,544	\$0,1449	\$0,0795	\$1,089,218	\$0	\$0	\$0	\$1,089,218	\$897,325
Year 3	13,640,303	\$1,566,750	\$511,248	\$2,077,998	\$0,1523	\$0,0795	\$1,083,772	\$0	\$0	\$0	\$1,083,772	\$894,225
Year 4	13,572,102	\$1,636,862	\$536,810	\$2,173,672	\$0,1602	\$0,0795	\$1,078,354	\$0	\$0	\$0	\$1,078,354	\$1,095,319
Year 5	13,504,241	\$1,710,111	\$563,651	\$2,273,762	\$0,1684	\$0,0795	\$1,072,962	\$0	\$0	\$0	\$1,072,962	\$1,200,801
Year 6	13,436,720	\$1,786,639	\$591,833	\$2,378,472	\$0,1770	\$0,0795	\$1,067,597	\$0	\$0	\$0	\$1,067,597	\$1,310,875
Year 7	13,369,536	\$1,866,591	\$621,425	\$2,488,016	\$0,1861	\$0,0795	\$1,062,259	\$0	\$0	\$0	\$1,062,259	\$1,425,757
Year 8	13,302,689	\$1,950,121	\$652,496	\$2,602,617	\$0,1956	\$0,0795	\$1,056,948	\$0	\$0	\$0	\$1,056,948	\$1,545,670
Year 9	13,236,175	\$2,037,389	\$685,121	\$2,722,510	\$0,2057	\$0,0795	\$1,051,663	\$0	\$0	\$0	\$1,051,663	\$1,670,847
Year 10	13,169,994	\$2,128,562	\$719,371	\$2,847,939	\$0,2162	\$0,0795	\$1,046,405	\$0	\$0	\$0	\$1,046,405	\$1,801,535
Year 11	13,104,144	\$2,223,815	\$755,346	\$2,979,161	\$0,2273	\$0,0795	\$1,041,173	\$0	\$0	\$0	\$1,041,173	\$1,937,989
Year 12	13,038,624	\$2,323,331	\$793,113	\$3,116,444	\$0,2390	\$0,0795	\$1,035,967	\$0	\$0	\$0	\$1,035,967	\$2,080,478
Year 13	12,973,430	\$2,427,300	\$832,769	\$3,260,069	\$0,2513	\$0,0795	\$1,030,787	\$0	\$0	\$0	\$1,030,787	\$2,229,282
Year 14	12,908,563	\$2,535,922	\$874,408	\$3,410,329	\$0,2642	\$0,0795	\$1,025,633	\$0	\$0	\$0	\$1,025,633	\$2,384,696
Year 15	12,844,020	\$2,649,404	\$918,128	\$3,567,532	\$0,2778	\$0,0795	\$1,020,505	\$0	\$0	\$0	\$1,020,505	\$2,547,027
Year 16	12,779,800	\$2,767,965	\$964,034	\$3,731,999	\$0,2920	\$0,0795	\$1,015,402	\$0	\$0	\$0	\$1,015,402	\$2,716,597
Year 17	12,715,901	\$2,891,831	\$1,012,236	\$3,904,068	\$0,3070	\$0,0795	\$1,010,325	\$0	\$0	\$0	\$1,010,325	\$2,893,742
Year 18	12,652,322	\$3,021,241	\$1,062,848	\$4,084,089	\$0,3228	\$0,0795	\$1,005,274	\$0	\$0	\$0	\$1,005,274	\$3,078,815
Year 19	12,589,060	\$3,156,441	\$1,115,990	\$4,272,432	\$0,3394	\$0,0795	\$1,000,247	\$0	\$0	\$0	\$1,000,247	\$3,272,184
Year 20	12,526,115	\$3,297,692	\$1,171,790	\$4,469,482	\$0,3568	\$0,0795	\$995,246	\$0	\$0	\$0	\$995,246	\$3,474,236
Year 21	12,463,484	\$3,445,264	\$0	\$3,445,264	\$0,3764	\$0,0795	\$990,270	\$0	\$0	\$0	\$990,270	\$2,454,984
Year 22	12,401,167	\$3,599,440	\$0	\$3,599,440	\$0,3903	\$0,0795	\$985,318	\$0	\$0	\$0	\$985,318	\$2,614,121
Year 23	12,339,161	\$3,760,514	\$0	\$3,760,514	\$0,3048	\$0,0795	\$980,392	\$0	\$0	\$0	\$980,392	\$2,780,123
Year 24	12,277,465	\$3,928,797	\$0	\$3,928,797	\$0,3200	\$0,0795	\$975,490	\$0	\$0	\$0	\$975,490	\$2,953,308
Year 25	12,216,078	\$4,104,611	\$0	\$4,104,611	\$0,3360	\$0,0795	\$970,612	\$0	\$0	\$0	\$970,612	\$3,133,999
Year 26	12,154,998	\$4,288,293	\$0	\$4,288,293	\$0,3528	\$0,0795	\$965,759	\$0	\$0	\$0	\$965,759	\$3,322,533
Year 27	12,094,223	\$4,480,194	\$0	\$4,480,194	\$0,3704	\$0,0795	\$960,931	\$0	\$0	\$0	\$960,931	\$3,519,263
Year 28	12,033,752	\$4,680,682	\$0	\$4,680,682	\$0,3890	\$0,0795	\$956,126	\$0	\$0	\$0	\$956,126	\$3,724,566
Year 29	11,973,583	\$4,890,143	\$0	\$4,890,143	\$0,4084	\$0,0000	\$0	\$0	\$496,929	\$105,471	\$602,300	\$4,287,843
Year 30	11,913,715	\$5,108,977	\$0	\$5,108,977	\$0,4288	\$0,0000	\$0	\$0	\$0	\$107,581	\$107,581	\$5,001,396
Totals	384,717,949	\$87,199,931	\$15,333,245	\$102,533,176			\$28,669,326		\$496,929	\$213,052	\$29,379,207	\$73,153,969

Project Cash Flow – RWRP



Year	Electricity Generation kWh	Solar Project Savings \$	Battery Storage Project Savings \$	Total Project Savings \$	Total Project Savings \$	Total Avoided Cost \$/kWh	PPA Price	Annual PPA Cost	Buyout Price	Maintenance Cost	Total Project Costs	Net Savings
Year 1	7,381,073	\$804,063	\$263,018	\$1,067,081	\$1,067,081	\$0.1432	\$0.0847	\$625,177	\$0	\$0	\$625,177	\$431,905
Year 2	7,344,168	\$804,045	\$265,069	\$1,069,114	\$1,069,114	\$0.1506	\$0.0847	\$622,051	\$0	\$0	\$622,051	\$483,863
Year 3	7,307,447	\$877,637	\$278,953	\$1,156,590	\$1,156,590	\$0.1583	\$0.0847	\$618,941	\$0	\$0	\$618,941	\$537,649
Year 4	7,270,910	\$916,911	\$292,900	\$1,209,811	\$1,209,811	\$0.1664	\$0.0847	\$615,846	\$0	\$0	\$615,846	\$593,985
Year 5	7,234,595	\$957,943	\$307,545	\$1,265,488	\$1,265,488	\$0.1749	\$0.0847	\$612,767	\$0	\$0	\$612,767	\$652,721
Year 6	7,198,382	\$1,000,811	\$322,923	\$1,323,734	\$1,323,734	\$0.1839	\$0.0847	\$609,703	\$0	\$0	\$609,703	\$714,031
Year 7	7,162,390	\$1,045,597	\$339,069	\$1,384,666	\$1,384,666	\$0.1933	\$0.0847	\$606,654	\$0	\$0	\$606,654	\$778,011
Year 8	7,126,578	\$1,092,388	\$356,022	\$1,448,410	\$1,448,410	\$0.2032	\$0.0847	\$603,621	\$0	\$0	\$603,621	\$844,789
Year 9	7,090,945	\$1,141,272	\$373,823	\$1,515,095	\$1,515,095	\$0.2137	\$0.0847	\$600,603	\$0	\$0	\$600,603	\$914,492
Year 10	7,055,491	\$1,192,344	\$392,514	\$1,584,858	\$1,584,858	\$0.2246	\$0.0847	\$597,600	\$0	\$0	\$597,600	\$987,258
Year 11	7,020,213	\$1,245,701	\$412,140	\$1,657,841	\$1,657,841	\$0.2362	\$0.0847	\$594,612	\$0	\$0	\$594,612	\$1,063,229
Year 12	6,985,112	\$1,301,447	\$432,747	\$1,734,194	\$1,734,194	\$0.2483	\$0.0847	\$591,639	\$0	\$0	\$591,639	\$1,142,565
Year 13	6,950,187	\$1,359,686	\$454,384	\$1,814,071	\$1,814,071	\$0.2610	\$0.0847	\$588,681	\$0	\$0	\$588,681	\$1,225,390
Year 14	6,915,436	\$1,420,532	\$477,104	\$1,897,636	\$1,897,636	\$0.2744	\$0.0847	\$585,737	\$0	\$0	\$585,737	\$1,311,899
Year 15	6,880,859	\$1,484,101	\$500,959	\$1,985,060	\$1,985,060	\$0.2885	\$0.0847	\$582,809	\$0	\$0	\$582,809	\$1,402,251
Year 16	6,846,454	\$1,550,515	\$526,007	\$2,076,521	\$2,076,521	\$0.3033	\$0.0847	\$579,895	\$0	\$0	\$579,895	\$1,496,627
Year 17	6,812,222	\$1,619,900	\$552,307	\$2,172,207	\$2,172,207	\$0.3189	\$0.0847	\$576,995	\$0	\$0	\$576,995	\$1,595,212
Year 18	6,778,161	\$1,692,391	\$579,922	\$2,272,313	\$2,272,313	\$0.3352	\$0.0847	\$574,110	\$0	\$0	\$574,110	\$1,698,203
Year 19	6,744,270	\$1,768,125	\$608,919	\$2,377,044	\$2,377,044	\$0.3525	\$0.0847	\$571,240	\$0	\$0	\$571,240	\$1,805,804
Year 20	6,710,549	\$1,847,249	\$639,364	\$2,486,613	\$2,486,613	\$0.3706	\$0.0847	\$568,383	\$0	\$0	\$568,383	\$1,918,230
Year 21	6,676,996	\$1,929,913	\$673,364	\$2,603,277	\$2,603,277	\$0.3890	\$0.0847	\$565,542	\$0	\$0	\$565,542	\$1,964,372
Year 22	6,643,611	\$2,016,277	\$711,364	\$2,727,641	\$2,727,641	\$0.4085	\$0.0847	\$562,714	\$0	\$0	\$562,714	\$1,453,563
Year 23	6,610,393	\$2,106,505	\$751,364	\$2,857,869	\$2,857,869	\$0.4292	\$0.0847	\$559,900	\$0	\$0	\$559,900	\$1,546,605
Year 24	6,577,341	\$2,200,771	\$791,364	\$2,992,135	\$2,992,135	\$0.4510	\$0.0847	\$557,101	\$0	\$0	\$557,101	\$1,643,670
Year 25	6,544,454	\$2,299,256	\$831,364	\$3,130,620	\$3,130,620	\$0.4739	\$0.0847	\$554,315	\$0	\$0	\$554,315	\$1,744,941
Year 26	6,511,732	\$2,402,147	\$871,364	\$3,273,511	\$3,273,511	\$0.4979	\$0.0847	\$551,544	\$0	\$0	\$551,544	\$1,850,604
Year 27	6,479,173	\$2,509,644	\$911,364	\$3,421,008	\$3,421,008	\$0.5230	\$0.0847	\$548,786	\$0	\$0	\$548,786	\$1,960,858
Year 28	6,446,777	\$2,621,950	\$951,364	\$3,573,304	\$3,573,304	\$0.5492	\$0.0847	\$546,042	\$0	\$0	\$546,042	\$2,075,908
Year 29	6,414,544	\$2,739,282	\$991,364	\$3,730,646	\$3,730,646	\$0.5766	\$0.0000	\$0	\$280,343	\$0	\$280,343	\$2,402,314
Year 30	6,382,471	\$2,861,865	\$1,031,364	\$3,893,229	\$3,893,229	\$0.6052	\$0.0000	\$0	\$0	\$0	\$0	\$57,758
Totals	206,102,894	\$48,846,270	\$8,366,289	\$57,212,559	\$57,212,559	\$0.4884	\$0.0000	\$16,373,008	\$280,343	\$114,384	\$16,767,735	\$40,444,824



Project Cash Flow – RWFF

Year	Electricity Generation kWh	Solar Project Savings \$	Battery Storage Project Savings \$	Total Project Savings \$	Total Project Savings \$	Total Avoided Cost \$/kWh	PPA Price	Annual PPA Cost	Buyout Price	Maintenance Cost	Total Project Costs	Net Savings
Year 1	6,396,663	\$631,343	\$210,689	\$842,042	\$842,042	\$0.1316	\$0.0734	\$469,515	\$0	\$0	\$469,515	\$372,527
Year 2	6,364,680	\$659,596	\$221,234	\$880,830	\$880,830	\$0.1384	\$0.0734	\$467,167	\$0	\$0	\$467,167	\$413,662
Year 3	6,332,856	\$689,113	\$232,295	\$921,408	\$921,408	\$0.1455	\$0.0734	\$464,832	\$0	\$0	\$464,832	\$456,577
Year 4	6,301,192	\$719,951	\$243,910	\$963,861	\$963,861	\$0.1530	\$0.0734	\$462,507	\$0	\$0	\$462,507	\$501,353
Year 5	6,269,686	\$752,168	\$256,106	\$1,008,274	\$1,008,274	\$0.1608	\$0.0734	\$460,195	\$0	\$0	\$460,195	\$548,079
Year 6	6,238,338	\$785,828	\$268,911	\$1,054,739	\$1,054,739	\$0.1691	\$0.0734	\$457,894	\$0	\$0	\$457,894	\$596,845
Year 7	6,207,146	\$820,994	\$282,357	\$1,103,350	\$1,103,350	\$0.1778	\$0.0734	\$455,605	\$0	\$0	\$455,605	\$647,746
Year 8	6,176,110	\$857,733	\$296,474	\$1,154,208	\$1,154,208	\$0.1869	\$0.0734	\$453,326	\$0	\$0	\$453,326	\$700,881
Year 9	6,145,230	\$896,117	\$311,298	\$1,207,415	\$1,207,415	\$0.1965	\$0.0734	\$451,060	\$0	\$0	\$451,060	\$756,355
Year 10	6,114,503	\$936,218	\$326,863	\$1,263,081	\$1,263,081	\$0.2066	\$0.0734	\$448,805	\$0	\$0	\$448,805	\$814,276
Year 11	6,083,931	\$978,114	\$343,206	\$1,321,320	\$1,321,320	\$0.2172	\$0.0734	\$446,561	\$0	\$0	\$446,561	\$874,759
Year 12	6,053,511	\$1,021,884	\$360,366	\$1,382,251	\$1,382,251	\$0.2283	\$0.0734	\$444,328	\$0	\$0	\$444,328	\$937,923
Year 13	6,023,244	\$1,067,614	\$378,385	\$1,445,999	\$1,445,999	\$0.2401	\$0.0734	\$442,106	\$0	\$0	\$442,106	\$1,003,892
Year 14	5,993,128	\$1,115,389	\$397,304	\$1,512,693	\$1,512,693	\$0.2524	\$0.0734	\$439,896	\$0	\$0	\$439,896	\$1,072,798
Year 15	5,963,162	\$1,165,303	\$417,169	\$1,582,472	\$1,582,472	\$0.2654	\$0.0734	\$437,696	\$0	\$0	\$437,696	\$1,144,776
Year 16	5,933,346	\$1,217,450	\$438,028	\$1,655,478	\$1,655,478	\$0.2790	\$0.0734	\$435,508	\$0	\$0	\$435,508	\$1,219,970
Year 17	5,903,679	\$1,271,931	\$459,929	\$1,731,860	\$1,731,860	\$0.2934	\$0.0734	\$433,330	\$0	\$0	\$433,330	\$1,298,530
Year 18	5,874,161	\$1,328,850	\$482,925	\$1,811,776	\$1,811,776	\$0.3084	\$0.0734	\$431,163	\$0	\$0	\$431,163	\$1,380,612
Year 19	5,844,790	\$1,388,316	\$507,072	\$1,895,388	\$1,895,388	\$0.3243	\$0.0734	\$429,008	\$0	\$0	\$429,008	\$1,466,380
Year 20	5,815,566	\$1,450,443	\$532,425	\$1,982,869	\$1,982,869	\$0.3410	\$0.0734	\$426,863	\$0	\$0	\$426,863	\$1,556,006
Year 21	5,786,488	\$1,515,351	\$558,371	\$2,073,722	\$2,073,722	\$0.3594	\$0.0734	\$424,728	\$0	\$0	\$424,728	\$1,649,628
Year 22	5,757,556	\$1,583,163	\$584,817	\$2,167,980	\$2,167,980	\$0.3794	\$0.0734	\$422,605	\$0	\$0	\$422,605	\$1,747,568
Year 23	5,728,768	\$1,654,009	\$611,864	\$2,265,873	\$2,265,873	\$0.3994	\$0.0734	\$420,492	\$0	\$0	\$420,492	\$1,849,518
Year 24	5,700,124	\$1,728,026	\$639,511	\$2,367,537	\$2,367,537	\$0.4194	\$0.0734	\$418,389	\$0	\$0	\$418,389	\$1,955,937
Year 25	5,671,624	\$1,805,355	\$667,858	\$2,473,213	\$2,473,213	\$0.4394	\$0.0734	\$416,297	\$0	\$0	\$416,297	\$2,067,468
Year 26	5,643,266	\$1,886,145	\$696,905	\$2,583,050	\$2,583,050	\$0.4594	\$0.0734	\$414,216	\$0	\$0	\$414,216	\$1,719,929
Year 27	5,615,049	\$1,970,550	\$726,652	\$2,697,202	\$2,697,202	\$0.4794	\$0.0734	\$412,145	\$0	\$0	\$412,145	\$1,568,405
Year 28	5,586,974	\$2,058,732	\$757,199	\$2,815,931	\$2,815,931	\$0.4994	\$0.0734	\$410,084	\$0	\$0	\$410,084	\$1,646,648
Year 29	5,559,039	\$2,150,860	\$788,546	\$2,949,406	\$2,949,406	\$0.5194	\$0.0734	\$408,033	\$216,486	\$48,846	\$456,879	\$1,895,529
Year 30	5,531,244	\$2,247,111	\$820,693	\$3,097,804	\$3,097,804	\$0.5394	\$0.0734	\$406,000	\$216,486	\$48,846	\$454,832	\$2,197,969
Totals	178,615,055	\$38,353,861	\$6,966,956	\$45,320,817	\$45,320,817			\$12,296,318	\$216,486	\$98,668	\$12,611,472	\$32,708,145

RESOLUTION NO. 2021-20

RESOLUTION TO AUTHORIZE ENTERING INTO A POWER PURCHASE AGREEMENT, SITE LEASE, AND AUTHORIZING THE FILING OF A NOTICE OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

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, Yucaipa Valley Water District (“District”) desires to reduce the steadily rising costs of meeting the energy needs at its facilities; and

WHEREAS, the District requested proposals from qualified firms to design and build two photovoltaic systems, with battery storage and backup natural gas generators, at two locations: the Henry N. Wochholz Regional Water Recycling Facility Project and the Yucaipa Valley Regional Water Filtration Facility; and

WHEREAS, the Board of Directors proposes to enter into two power purchase agreements and related contract documents (“Power Purchase Agreements” or “PPAs”) and facility ground lease (“Site Lease”) with California Solar 3, LLC, a subsidiary of Engie USA (“Engie”), pursuant to which Engie will design, construct, install, maintain, and operate on District property certain energy saving improvements consisting of solar photovoltaic facilities and battery storage systems and arrange with the local utility for interconnection of the facilities, which will generate energy for the sites on which such facilities are located; and

WHEREAS, the District has completed an analysis showing that the anticipated cost to the District for the electrical energy provided by the PPAs will be less than the anticipated marginal cost to the District of electrical energy that would have been consumed by the District in the absence of those purchases; and

WHEREAS, the Board of Directors proposes to enter into the Power Purchase Agreements, and Site Lease substantially in the form presented at this meeting, subject to such changes, insertions or omissions as the General Manager or his designee deems reasonably necessary following the District board’s adoption of this Resolution; and

WHEREAS, the District’s proposed approval of the Power Purchase Agreements is a project for purposes of the California Environmental Quality Act (“CEQA”); and

WHEREAS, the state CEQA Guidelines (14 Cal. Code Reg. § 1500 et seq.) exempts certain projects from further CEQA evaluation, including the following: (1) projects that involve minor alterations to existing facilities (14 Cal. Code Reg., § 15301, “Class 1”); (2) minor alterations to land (14 Cal. Code Reg., § 15302, “Class 4”); and (4) the construction or placement of minor accessory structures to existing facilities (14 Cal. Code Reg., § 15311, “Class 11”); and the Project is categorically exempt under one or more of such exemptions; and

WHEREAS, installation of the renewable energy facilities pursuant to Power Purchase Agreements does not involve any of the following unusual circumstances under CEQA

Guidelines section 15300.2 and so the Power Purchase Agreements are eligible for a categorical exemption:

- (a) the cumulative impact of successive projects of the same type in the same place, which over time are significant;
- (b) an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances;
- (c) a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway;
- (d) a hazardous waste site which is included on any list compiled pursuant to Section 65962.5 of the Government Code; and
- (e) a project which may cause a substantial adverse change in the significance of a historical resource; and

WHEREAS, Public Resources Code section 21080.35 statutorily exempts from CEQA evaluation the installation of a solar energy system, including associated equipment, at an existing parking lot; and

WHEREAS, the Board of Directors finds that portions of the system are to be installed on graveled areas adjacent to existing roadways which the District has or could have used for parking, and such areas are exempt from CEQA review pursuant of Public Resources Code section 21080.35, and none of the following are required:

- (a) the removal of a tree required to be planted, maintained, or protected pursuant to local, state, or federal requirements, unless the tree dies and there is no requirement to replace the tree; or
- (b) the removal of a native tree over 25 years old; or

NOW, THEREFORE, based upon the above-referenced recitals, the Board of Directors hereby finds, determines and orders as follows:

1. The Board of Directors finds that the terms of the Power Purchase Agreements and Site Lease are in the best interests of the District, and the Board of Directors hereby approves the Power Purchase Agreements and Site Lease, subject to such changes, insertions or omissions as the District General Manager or his designee reasonably deems necessary.
2. The General Manager or designee is hereby authorized and directed to negotiate any further changes, insertions and omissions to the Power Purchase Agreement and Site Lease as he reasonably deems necessary, and thereafter to execute and deliver the Power Purchase Agreements and Site Lease following the District board's adoption of this Resolution. The District General Manager or designee is further authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this Resolution and said agreements.

3. Adoption of the Power Purchase Agreements and Site Lease is hereby found to be exempt from the requirements of CEQA pursuant to the Class 1, Class 4, and Class 11 exemptions, as described above.
4. Adoption of the Power Purchase Agreements is hereby found to be exempt from the requirements of CEQA pursuant to Public Resources Code section 21080.35, as described above.
5. District staff is hereby directed to file a Notice of Exemption for the Project in accordance with CEQA, the CEQA Guidelines, and the findings set forth in this Resolution.

This Resolution was adopted at a meeting of the Board of Directors of Yucaipa Valley Water District on April 13, 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

YUCAIPA VALLEY WATER DISTRICT

Chris Mann, President Board of Directors

ATTEST:

Joseph B. Zoba, General Manager

SOLAR POWER PURCHASE, ENERGY STORAGE AND MICROGRID SERVICES AGREEMENT

This Solar Power Purchase, Energy Storage and Microgrid Services Agreement (this "**Agreement**"), is made and entered into as of _____ 2021 (the "**Effective Date**"), by and between California Solar 3, LLC, a Delaware limited liability company (collectively, "**Supplier**"), and Yucaipa Valley Water District, a County Water District ("**Customer**"). Supplier and Customer are sometimes hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**." There are no other parties to this Agreement.

WHEREAS, Customer owns certain properties located at the following location (the "**Property**"):

Property	Address
Yucaipa Valley Regional Water Filtration Facility (" RWFF ")	35477 Oak Glen Road, Yucaipa, CA 92399

WHEREAS, Customer seeks to develop a cost-effective and reliable energy plan to ensure that Customer can provide water and sewer facilities for the community at all times and, in furtherance of this goal, Customer issued a request for proposals for an integrated energy resiliency project from experienced microgrid development organizations.

WHEREAS, Supplier responded to Customer's request for proposals and demonstrated sufficient expertise in development of microgrid systems and, in reliance on Supplier's expertise, Customer has selected Supplier to develop a microgrid system in furtherance of Customer's reliable energy plan.

WHEREAS, in order to effectuate Customer's reliable energy plan, Customer desires to buy and Supplier desires to sell all electricity produced by one or more solar energy photovoltaic generating systems (collectively, the "**PV System**") described herein.

WHEREAS, Customer also desires to receive and Supplier wishes to provide services from one or more battery energy storage systems (collectively, the "**BESS**") to be installed by Supplier on the Property and integrated with one or more PV Systems, microgrid controls and a natural gas generator (the BESS, microgrid controls, natural gas generator and the PV System, collectively, the "**System**") at the locations shown on the site plans (the "**Site Plans**"). The Microgrid Services are described in further detail in Section 2.5.

WHEREAS, a material consideration for Customer to enter into this Agreement is Customer's desire to receive, and Supplier's agreement to provide, reliable System operations that will allow the RWRF to receive sufficient electrical output to operate in the event of a planned or unplanned emergency shut-off of the electrical grid, due to wildfire or other causes.

WHEREAS, the scope of work attached as Exhibit A (the "**Scope of Work**") describes in detail the System that Supplier will construct, install, own, operate and maintain on the Property (collectively, the "**Project**").

WHEREAS, Customer and Supplier will enter into one or more site lease agreements, in the form attached hereto as Exhibit G (each, a "**Site Lease**"), under the terms of which Customer has leased those portions of the Property (with those portions defined in the Site Lease as the

“*Premises*”) indicated in the Site Plans to Supplier for the purposes of constructing, operating and maintaining the System.

NOW THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINED TERMS; RULES OF INTERPRETATION

Section 1.1 Defined Terms. Capitalized terms used in this Agreement, which are not otherwise defined herein, shall have the meanings ascribed to them in Exhibit E.

Section 1.2 Rules of Interpretation. The rules of interpretation in Exhibit F shall apply to this Agreement unless expressly provided otherwise.

ARTICLE 2
SALE OF ENERGY OUTPUT; PROVISION OF MICROGRID SERVICES

Section 2.1 Sale and Purchase of Energy Output; Delivery of Energy Storage, Microgrid Services; Supplier’s Provision of Services to Third Parties.

(a) Supplier will generate, deliver and sell all Energy Output generated by the PV System to Customer and will provide the Energy Storage and microgrid Services to the Customer using the BESS, a natural gas generator and installed microgrid controls, and Customer will take delivery and purchase from Supplier all Energy Output from the PV System and the BESS delivered to the Interconnection Points during the Term of this Agreement, at the Contract Price shown on Exhibit B for the applicable Contract Year, as such Contract Price may be adjusted pursuant to the terms hereof, including without limitation for loss of Insolation arising from a breach of Section 7.5(a). Customer shall have no obligation to pay for Energy Output or Energy Storage and microgrid Services delivered from the System after the expiration of the Term or any early termination of this Agreement. Title to and risk of loss of all Energy Output and Microgrid Services will pass from Supplier to Customer at the Interconnection Points.

(b) For the convenience of the Customer, Supplier has included its charges for the delivery of Energy Output from the PV System and delivery of Microgrid Services into a single Contract Price.

Section 2.2 Expected Energy Output. Supplier has estimated that the System will deliver the Expected Energy Output indicated on Exhibit C. The Parties acknowledge that the System’s performance and size may change as planning and engineering is completed, and the final Expected Energy Output will be determined by such planning and engineering. The Parties further acknowledge that the insolation level of the PV System may be less than assumed in the initial calculation of the Expected Energy Output (e.g., due to shading or shadowing), and the final Expected Energy Output from the PV System and the capacity of the BESS to deliver the Microgrid Services will be determined on a System’s Commercial Operation Date by Supplier,

acting in its reasonable discretion, to reflect any such reduction of insolation available to the PV System and changes in the capacity of the BESS.

Section 2.3 Environmental Attributes, Environmental Incentives and Tax Benefits. Customer's purchase of Energy Output and Microgrid Services does not include Environmental Attributes associated with the System, Environmental Incentives, Tax Benefits or other incentives that exist as of the Effective Date or that may become available due to any Change in Law. Supplier shall be the sole owner of the System, any Environmental Attributes, Environmental Incentives or Tax Benefits derived from the ownership of the System and, until delivered or provided to the Customer at the Interconnection Point, all Energy Output generated by and Microgrid Services provided from the System. Any grant, rebate, incentive payment or credit by the Utility, the Federal Government, the State or any other agency paid as a result of the design, development, construction, operation and maintenance of the System shall inure to the benefit of Supplier. Customer will cooperate in good faith to enable Supplier to obtain all available Environmental Attributes, Environmental Incentives and Tax Benefits, including assignment to Supplier of any Environmental Incentives received by Customer in connection with the System or this Agreement. If the standards used to qualify the System for Environmental Attributes, Environmental Incentives or Tax Benefits to which Supplier is entitled under this Agreement are changed or modified, Customer shall, at Supplier's request and expense, use all reasonable efforts to cause the System to comply with new standards as changed or modified.

Section 2.4 Production Guarantee. Supplier guarantees that not less than ninety percent (90%) of the Expected Energy Output tabulated in Exhibit C hereof (subject to adjustment as set forth below) will be produced every Measurement Period during the Term (the "*Production Guarantee*"). All Energy Output delivered to the Interconnection Point prior to the Final Commercial Operation Date shall be included in the Energy Output for the first Contract Year. After the end of every Contract Year beginning with the third Contract Year, Supplier will compare the Energy Output that has occurred in the aggregate over the Measurement Period then ended with the aggregate Expected Energy Output for such Measurement Period from Schedule C hereof after reducing Expected Energy Output to account for any loss of Energy Output attributable to (i) Scheduled Outages as defined in Section 5.6(a), (ii) decreases in Insolation as defined in Section 7.5(a)(i), (iii) Customer Misconduct as defined in Section 6.2(a), and (iv) and Excusable Events (collectively, the "*Adjusted Expected Energy Output*"). "*Measurement Period*" means each rolling three (3) year period commencing with the first day of the month immediately following the Final Commercial Operation Date.

(a) Energy Savings Report. Supplier shall provide a detailed reconciliation of the Production Guarantee to Customer (i) on a monthly basis, in which the Energy Output, Expected Energy Output, Adjusted Expected Energy Output, and any Production Shortfalls shall be calculated in a running total, and (ii) annually, within ninety (90) days after the end of each Contract Year, in which the annual reconciliation will compare annual Energy Output, Expected Energy Output, Adjusted Expected Energy Output, and any Production Shortfalls and Production Shortfall Penalties that may have occurred.

(b) Production Shortfall. If the Energy Output for a Measurement Period was less than ninety percent (90%) of the Adjusted Expected Energy Output for such Measurement Period, then the "*Production Shortfall*" (in units of kWh) will be the *difference* between (i) ninety percent (90%) of the Adjusted Expected Energy Output for such Measurement Period *minus* (ii) the *sum* of (1) the aggregate Energy Output for such

Measurement Period plus (2) the then outstanding Excess Energy Output. The existence of a Production Shortfall will not be an event of default, but Supplier will owe Customer a Production Shortfall Penalty which will be credited to Customer on the subsequent Energy Output Invoice.

(c) Excess Energy Output. The “*Excess Energy Output*” will be the cumulative amount of Energy Output in excess of Adjusted Expected Energy Output, expressed in kWh. Excess Energy Output will be increased, each Contract Year, by the *difference*, to the extent positive, between (i) the Energy Output for such Contract Year *minus* (ii) the Adjusted Expected Energy Output for such Contract Year. Excess Energy Output will be decreased, each Contract Year, by the *difference*, to the extent positive, between (i) the Adjusted Expected Energy Output for such Contract Year *minus* (ii) the Energy Output for such Contract Year. For the avoidance of doubt, Excess Energy Output will not be reduced below zero.

(d) Production Shortfall Penalty. The “*Production Shortfall Penalty*” will be an amount, expressed in Dollars, calculated by *multiplying* (i) the Production Shortfall (expressed in kWh) by (ii) the Shortfall Rate.

(e) Shortfall Rate. The “*Shortfall Rate*” will be \$0.0582 per kWh, which is the difference between (A) the Average Offset Electricity Cost, which is \$0.1316 per kWh, minus (B) the Contract Price for Year 1, which is \$0.0734 per kWh.

(f) Weather Adjustment. Whenever the measured annual global incident irradiation for a Contract Year is less than the expected annual global incident irradiation, the Adjusted Expected Energy Output for such Contract Year will be multiplied by a ratio, expressed as a percentage, calculated by dividing (i) the measured annual global incident irradiation for such Contract Year by (ii) the expected annual global incident irradiation (the “*Weather Adjustment*”).

Section 2.5 Microgrid Services. In addition to the sale of Energy Output generated by the PV System for the Contract Price, Supplier shall also utilize the BESS, the microgrid controls and the natural gas generator to deliver Energy to the Customer during a Utility outage event (“*Microgrid Services*”). The Microgrid Services include the following:

(a) Incentive Compliance and Reporting: Supplier shall provide all operation and monitoring services required in order to comply with the California Self-Generation Incentive Program (“CA SGIP”). Supplier shall be responsible for ensuring compliance with the CA SGIP guidelines, and for all data gathering and submission compliance as required by CA SGIP. Customer will designate Supplier as the assigned “Payee” on the CA SGIP Incentive Claim Form. Customer will cooperate in good faith to enable Supplier to obtain all CA SGIP Incentives received by Customer in connection with the System.

(b) Demand Charge Management: Supplier shall operate the BESS in such a manner so as to eliminate or reduce Demand Charges to the maximum extent reasonably feasible. Supplier, in its sole discretion, will determine the charging source for the BESS, which may be up to one hundred percent (100%) from the PV System, and may prevent utility grid power from flowing into the BESS. In all other respects, Supplier shall provide such operation, monitoring and support services to optimize the BESS’s capacity and

schedule the BESS to reduce peak load in an effort to mitigate Demand Charges, while maximizing the Environmental Incentives (including CA SGIP) and Tax Benefits of the System. “*Demand Charges*” means the local distribution utility fees based upon the highest 15-minute period of demand (kW) usage for each billing period (including peak time, partial peak, and off-peak periods) for the System over each monthly bill cycle applicable to the System.

(c) BESS and Microgrid Technology. All software, Supplier documentation, installation drawings, and other proprietary technology installed in conjunction with the BESS, microgrid controls or otherwise provided by Supplier is the sole property of Supplier. Customer agrees that it will not access in any way whatsoever or attempt to gain access to any software, data, and/or information generated by the BESS or microgrid controls. Customer agrees that it will only have access to BESS data and/or software that Supplier makes available to Customer pursuant to this Agreement.

(d) Microgrid Term. The term for Microgrid Services shall be for twenty (20) years (“*Microgrid Term*”), starting on the Commercial Operation Date. Within one (1) year of the expiration of the Microgrid Term, Supplier shall provide equipment and pricing options to Customer for extending the operation of the BESS and for continuing the Microgrid Services for the remaining duration of the Term of this Agreement. The Parties agree to work in good faith to amend the terms of this Agreement to extend the Microgrid Term. In the event the Parties are not able to mutually agree upon an extension to the Microgrid Term, this Agreement shall continue in full force and effect.

ARTICLE 3 CONDITIONS PRECEDENT

Section 3.1 Conditions Precedent. The obligations of Supplier under this Agreement to construct, install, maintain and operate the System and to sell Energy Output generated thereby and provide Microgrid Services therefrom shall be conditioned on the occurrence of each of the following conditions (“*Conditions Precedent*”) except to the extent waived by Supplier:

(a) Site Lease. The Site Lease and any subordination, non-disturbance and attornment agreement required thereunder shall have been duly executed by the Parties and shall be in full force and effect;

(b) Approvals & Permits. All Required Approvals shall have been obtained;

(c) CEQA. Customer, as lead agency, shall have complied with all requirements under CEQA for installation of the Systems;

(d) Interconnection. Customer shall have executed and submitted, and Supplier shall have entered into, as necessary, all contracts and delivered all other documents required by the Utility in connection with this Agreement and the transactions contemplated hereby (collectively, “*Utility Documents*”) to the reasonable satisfaction of Supplier, or the Utility shall have waived the requirement for such Utility Documents;

(e) EPC Contracts. Supplier and its prime contractor (the “*EPC Contractor*”) shall have entered into a contract for construction and installation of the System (the “*EPC Contract*”), on terms acceptable to Supplier;

(f) Customer Authorizations. Customer shall have signed all authorizations and other documents reasonably required by Supplier to obtain any Environmental Attributes, Environmental Incentives, Tax Benefits or other incentives contemplated in Section 2.3;

(g) No Defaults. No default by Customer hereunder, or any event which, with the giving of notice or the lapse of time or both, would become a Customer default, shall have occurred and be continuing;

(h) Financing. Supplier shall have received or shall have obtained all commitments and contractual rights to receive all equity, debt, tax equity and other financing, in such forms and from such parties as is satisfactory to Supplier and as Supplier determines necessary to develop, construct, operate and maintain the System during the Term, and all conditions precedent to the effectiveness of any and all such financings and the drawdown of funds thereunder shall have been satisfied or waived to Supplier’s satisfaction;

(i) Representation & Warranties. The representations and warranties of Customer set forth in this Agreement shall be true and correct in all material respects;

(j) Financial Statements. Supplier shall have received and accepted the Financial Statements of Customer;

(k) Site Condition. Supplier shall have completed a physical inspection of the Premises including, if applicable, review of real estate due diligence and of geotechnical studies provided to Supplier, to confirm the suitability of the Premises for the System, to the extent that the foregoing are reasonably observable consistent with Prudent Industry Practices; and

(l) Insurance. Customer shall have submitted evidence of the insurance required under this Agreement.

Section 3.2 Conditions Precedent. The obligations of Customer under this Agreement prior to issuing the notice to proceed, purchasing Energy Output and receiving and paying for the Microgrid Services shall be conditioned on the occurrence of the following conditions, except to the extent waived by Customer:

(a) Insurance. Supplier shall have submitted evidence of the insurance required under this Agreement;

(b) Supplier shall have completed any and all mitigation measures, if required under CEQA and adopted by Supplier in connection with installation and operation of the System; and

The representations and warranties of Supplier set forth in this Agreement shall be true and correct in all material respects.

To the extent not waived by either Party, after documenting compliance with all of the above Conditions Precedent, Customer shall provide notice to proceed to Supplier. If Supplier is unable to satisfy all Conditions Precedent applicable to Supplier within one hundred and fifty (150) days after the Effective Date, extended on a day for day basis for Force Majeure and Excusable Events, Customer may, but is not required to (1) waive or extend such requirements in a written notice to Supplier if such delays were outside of Supplier's control and could not have been reasonably anticipated or mitigated; or (2) terminate this Agreement without triggering any default provision, and such termination shall not subject Customer to any other liability.

ARTICLE 4 TERM; EARLY TERMINATION

Section 4.1 Term. The term of this Agreement will commence on the Effective Date and continue for twenty-eight (28) years after the Final Commercial Operation Date (the "*Term*"), unless and until terminated earlier pursuant to the terms of this Agreement. The Parties agree to cooperate in good faith to ensure Commercial Operation Date prior to October 31, 2022.

Section 4.2 Supplier Early Termination. Supplier shall have the right (but not the obligation) to terminate this Agreement and the Site Lease(s), without liability, should any of the following occur:

- (a) prior to the Commercial Operation Date, Supplier discovers or encounters latent, unknown or unforeseen site conditions or other Concealed Conditions relating to the Premises that differ materially from documented site conditions and that, in Supplier's reasonable determination, adversely impact the System's production and economic viability;
- (b) prior to the Commercial Operation Date for a System, any of the Conditions Precedent have not been met or waived by Supplier;
- (c) one or more Environmental Incentives is eliminated or altered for reasons outside of the control of Supplier, or another Change in Law, rule, or regulation occurs, and Supplier provides proof of financial impossibility or violation of Supplier's financial arrangement or the terms of this Agreement, to the reasonable satisfaction of Customer; except to the extent that this Agreement is amended pursuant to Section 10.1;
- (d) an Extended Material Force Majeure, as described in Section 9.2, occurs;
- (e) Customer fails to maintain in full force and effect the insurance required by this Agreement; or
- (f) Customer terminates the Site Lease for any reason or Supplier's access to the Property is materially impaired.

In the event Supplier exercises its right under this Section 4.2 prior to the Commercial Operation Date, Supplier shall remove the System or improvements from the Property and return the Premises to its previous, graded condition. In the event Supplier exercises its rights under this Section after the Commercial Operation Date, Customer may elect to (a) purchase the System in

accordance with Article 16, as of the time of Supplier's notice; or (b) require Supplier to remove the System in accordance with Section 4.4.

Section 4.3 Customer Early Termination. Customer shall have the right (but not the obligation) to terminate this Agreement prior to the expiration of the Term without liability should any of the following occur:

- (a) an Extended Material Force Majeure, as described in Section 9.2, occurs;
- (b) Supplier fails to maintain in full force and effect the insurance required by this Agreement;
- (c) Supplier fails to commence construction by December 31, 2021, which date shall be extended on a day for day basis for any Excusable Event;

Section 4.4 Removal of System at End of Term. Except as otherwise provided herein or in a Site Lease, Supplier shall, within one hundred eighty (180) days following the end of the Term or earlier termination of this Agreement, at Supplier's sole cost and expense, remove the System from the Premises and restore the Premises to their original condition, normal wear and tear excluded. Customer shall provide Supplier and its contractors, agents, consultants and representatives access at all reasonable times to the Premises and the System for purposes of such removal and restoration. If Supplier fails to remove the System by such time, Customer may consider the System(s) abandoned and shall have the right, but not the obligation, to remove the System(s) and restore the Premises to their original condition, normal wear and tear excluded, at Supplier's cost. In the event that Supplier does not remove the System as specified herein, Customer shall also have the option of continuing to receive all Energy Output from the System at no cost to Customer until the System is removed by either Supplier or Customer. This Section shall not be interpreted to limit Customer's other available lawful remedies.

Section 4.5 Survival of Obligations. Cancellation, expiration, or earlier termination of this Agreement shall not relieve the Parties of obligations with respect to (a) the payment of any amounts owed to the other Party arising prior to or resulting from termination or breach of this Agreement and (b) provisions of this Agreement regarding confidentiality, indemnification and post-termination obligations, which shall survive until the expiration of the applicable statute(s) of limitations.

ARTICLE 5 INSTALLATION AND MAINTENANCE OF THE SYSTEMS

Section 5.1 Construction of the System by Supplier.

- (a) Supplier shall, at its sole cost and expense, design, commission and hire a licensed contractor to construct and install the System substantially in accordance with the description of the System set forth in Exhibit A attached hereto and Applicable Laws. Supplier shall ensure that any party contracting for engineering, design, or construction of the System possesses knowledge, experience, expertise, licensing, and financial capacity and creditworthiness necessary for completing the obligations under this Agreement. If

Supplier encounters Concealed Conditions or discovers that information provided by Customer and relied upon by Supplier is inaccurate, the Contract Price, 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 Supplier. In such event, the Parties will adjust the Contract Price pursuant to Section 5.1(d) below. All contractors performing construction work on the System shall possess a Class A and C-10 California Contractor State License, and all other required licenses for performing work under this Agreement, prior to performing any work on the System. Prior to contracting with any such party, Supplier shall obtain and review the qualification of such party, and complete any necessary background check or fingerprinting as required by law or by Customer.

(b) Supplier will prepare and submit all drawings and specifications to Customer for review. Customer will review the documents and provide any comments in writing to Supplier within twenty (20) Business Days after receipt of the documents. Supplier will incorporate appropriate Customer comments into the applicable drawings and specifications. Supplier reserves the right to issue the drawings and specifications in phases to allow construction to be performed in phases. If Customer fails to provide written comments within the twenty (20) Business Day period, Customer will be deemed to have no comments and to have given the notice to proceed with construction. If Customer requests changes or modifications to the Scope of Work, to include the costs of interconnection in the Contract Price pursuant to Section 5.4, or an Excusable Event occurs during Customer's review, the Parties agree to adjust the Contract Price pursuant to Section 5.1(d) below.

(c) Customer shall ensure that Supplier and its contractors have reasonable access at all reasonable times to the Premises, in accordance with the Site Lease or otherwise, for the purpose of designing, commissioning, constructing, installing, testing, operating, inspecting, maintaining, repairing, removing and replacing the System, and to any documents, materials and records of Customer relating to the Premises that Supplier or its contractors reasonably request in conjunction with such activities. Supplier shall, and shall cause its contractors to, comply with all reasonable access and notice procedures agreed upon between Customer and Supplier from time to time in writing relating to activities conducted by or on behalf of Supplier on the Premises relating to the System. During any such activities, Supplier shall, and shall cause the EPC Contractor to, comply with Customer's reasonable safety and security procedures (as may be promulgated from time to time and communicated to Supplier), and Supplier shall, and shall cause its contractors to, conduct such activities in such a manner and such a time and day as to minimize interference with Customer's activities to the extent reasonably practicable. Notwithstanding anything to the contrary in this Section 5.1(c), Supplier and its contractors shall be allowed immediate access to the Premises and the System in connection with any emergency condition then existing with respect to the System that could reasonably be expected to pose an imminent threat to the safety of persons or property.

(d) Contract Price Adjustment. For any changes to the Scope of Work described in Section 5.1(a) and Section 5.1(b) that are eligible for Environmental Incentives, the Contract Price will be adjusted from the first dollar, by \$0.0048 per kWh for every Five Hundred Thousand Dollars (\$500,000) or portion thereof in the EPC Contractor's

additional costs. For any changes to the Scope of Work described in Section 5.1(a) and Section 5.1(b) that are not eligible for Environmental Incentives, the Contract Price will be adjusted from the first dollar, by \$0.0073 per kWh for every Five Hundred Thousand Dollars (\$500,000) or portion thereof in the EPC Contractor's additional costs.

(e) Any changes to the Scope of Work, or the parts or components listed in the Scope of Work in Exhibit A, must be approved by Customer either during the above-referenced plan review process or prior to installation.

Section 5.2 Maintenance.

(a) During the Term, Supplier will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, including (i) operating and maintaining the System in good condition and repair and in accordance with Applicable Laws, requirements of applicable insurance policies and permits, Prudent Industry Practices, and the terms of this Agreement and the Site Lease, and (ii) reasonably monitoring the System's performance in an effort to minimize any loss of Energy Output caused by a System malfunction. Customer will pay for repairs and maintenance of the Premises, and of the System to the extent resulting from Customer's (w) failure to adequately maintain the Premises, (x) negligence, (y) willful misconduct, or (z) breach of this Agreement or any Site Lease.

(b) Supplier shall not be responsible for any work done by others on any part of the System unless Supplier authorizes that work in advance in writing. Supplier 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 Supplier or Supplier's contractors. If the System requires repairs for which Customer is responsible, Customer shall pay Supplier for diagnosing and correcting the problem at Supplier's or Supplier's contractors' then-current standard rates. Supplier shall provide Customer with reasonable notice prior to accessing the System to make standard repairs. When performing repairs to, and maintenance of, the System, Supplier or Supplier's contractors shall comply with all Applicable Laws.

(c) Nothing in this Agreement shall limit Customer's ability and obligation to maintain the Premises in a reasonable manner consistent with Customer's current and past practices; *provided, however*, that Customer shall be obligated to comply with Section 5.6 for maintenance that requires a Scheduled Outage. In the event that Customer's maintenance of the Premises prevents or limits deliveries of Energy Output to Customer, Customer shall pay all damages, costs and expenses arising in connection with such maintenance, including lost revenues under this Agreement and loss of Environmental Attributes or Environmental Incentives. Customer acknowledges, agrees and accepts that activities conducted by or on behalf of Supplier on the Premises relating to the System may interfere with Customer's maintenance of the Premises or Customer's conduct of business thereon. Supplier agrees to take all commercially reasonable measures to minimize such interference.

Section 5.3 Required Approvals.

(a) Supplier shall be responsible for obtaining all Required Approvals, other than CEQA. However, Supplier shall not be responsible for satisfying any permit

requirements relating to (i) any pre-existing, open and/or unresolved requirements of any other Governmental Authorities that the Customer may be subject to which are not directly related to the System, and (ii) any requirements or improvements required for compliance with Americans with Disabilities Act (“*ADA*”) resulting in the construction, improvement or renovation of the Customer’s buildings and/or structures.

(b) Customer will be responsible for obtaining the applicable approvals required under CEQA. Customer is also responsible for hiring and paying inspectors, and for fees associated with plan checks (including expedited plan checks), permits, inspections, and certifications, utility interconnection(s), and any additional work or additions to Scope of Work that may be required by the Utilities as part of the Interconnection Agreement(s). Customer shall assist and cooperate with Supplier in obtaining and maintaining all Required Approvals.

Section 5.4 Interconnection. Customer shall apply for and obtain, and shall be responsible for all costs, fees, charges and obligations, all interconnection agreements required to connect the System to the Utility distribution system, including but not limited to fees associated with system upgrades and operation and maintenance carrying charges. If Customer elects, the costs associated with applying for and obtaining interconnection agreements with the Utility, and for any changes to Customer’s or Utility’s equipment necessitated by the interconnection will be added to the Contract Price pursuant to Section 5.1(b). Customer shall not make any material changes to the electrical equipment at the Premises after the date on which the applicable interconnection application is submitted unless such changes would not adversely affect the Utility’s approval of such interconnection. Any material changes to the electrical equipment on the Property must be promptly reported to Supplier. Customer shall cooperate with Supplier in obtaining and maintaining the Utility Interconnection Agreement(s). Customer shall be responsible for arranging delivery of Energy Output from each Interconnection Point to Customer and any installation and operation of equipment on Customer’s side of the Interconnection Points necessary for acceptance and use of the Energy Output.

Section 5.5 Emergencies. Each Party will notify the other within twenty-four (24) hours after the discovery of any material malfunction of the System or interruption in the supply of Energy from the System (a “*System Emergency*”). Supplier will correct, or cause to be corrected, the conditions that caused the System Emergency as soon as reasonably possible after the earlier of (i) receiving notice from the Customer or (ii) discovery of the System Emergency by Supplier. Customer shall not disconnect the System, and Supplier shall not have any obligation to disconnect the System, subject to the following sentence. In cases of emergency in which Customer determines that the continued operation of the System presents an imminent threat requiring immediate action to prevent or mitigate the loss or impairment of life, health, property or essential public services, Customer may disconnect the System from the Premises prior to notification of Supplier. Customer will notify Supplier within four (4) hours after the System is disconnected, and such disconnection shall be no longer than reasonably necessary to address the exigent circumstances that required such disconnection. Only Supplier or Supplier’s representative will be authorized to reconnect the System.

Section 5.6 Scheduled Outages.

(a) Customer shall be permitted up to twenty-four (24) hours offline per System per Contract Year (each such time period, a “*Scheduled Outage*”), during which

Customer shall not be obligated to accept, and if not accepted, pay for, Energy Output; *provided, however*, that Customer shall have notified Supplier in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of such Scheduled Outage.

(b) Customer shall take all commercially reasonable measures to cause any Scheduled Outage to occur at a time earlier than 8:00 a.m. local time or later than 6:00 p.m. local time and not between April 1 and November 1 of any calendar year.

(c) In the event that Scheduled Outages at the Premises exceed twenty-four (24) hours per System per Contract Year for a reason other than a Force Majeure event, and for all unscheduled outages, Supplier shall reasonably estimate the amount of Energy Output that would have been delivered to Customer during each hour of such excess Scheduled Outages or unscheduled outages and shall invoice Customer for such amount, which shall be payable in accordance with Section 12.2.

Section 5.7 Upgrade of System. Supplier shall have the right but not the obligation, from time to time and at its own expense, to install upgrades or make other changes to the System so as to increase their efficiency or otherwise improve their operational characteristics. If upgrades to be performed by Supplier require any modifications to interconnection or new Interconnection Agreement(s), such upgrades shall be conditioned upon the Parties agreeing to the division of costs associated with the upgrade.

Section 5.8 Prevailing Wages. This Agreement is subject to compliance with the prevailing wage provisions of the California Labor Code and the prevailing wage rate determinations of the Department of Industrial Relations. These rates are on file at Customer's main office or may be obtained online at <http://www.dir.ca.gov/dlsr>. Supplier shall post a copy of these rates at the Premises. Supplier and all contractors and subcontractor(s) performing work at the Premises shall comply with all applicable Labor Code provisions, which include, but are not limited to registration as a public works contractor, employment of apprentices, and the payment of not less than the required prevailing rates and overtime. Supplier shall indemnify, hold harmless and defend Customer, its elected officials, officers, agents, and employees from and against any and all claims, demands, losses or liabilities of any kind or nature which Supplier, its elected officials, officers, agents, and employees may sustain or incur for noncompliance with any applicable Labor Code provisions arising out of or in connection with the Project.

Section 5.9 Trenching. Pursuant to California Labor Code §6705, if the Project is a public work involving an estimated expenditure in excess of \$25,000 and includes the excavation of any trench or trenches five (5) feet or more in depth, Supplier will, in advance of excavation, submit to Customer and/or a registered civil or structural engineer, employed by Customer, to whom authority to accept has been delegated, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches, which provisions will be no less effective than the current and applicable CAL-OSHA Construction Safety Orders. No excavation of such trench or trenches may be commenced until this detailed plan has been accepted by Customer or by the person to whom authority to accept has been delegated by Customer. Pursuant to California Labor Code §6705, nothing in this paragraph imposes tort liability on Customer or any of its employees.

Section 5.10 Hazardous Materials. Pursuant to California Public Contract Code §7104, if the Project is a public work involving digging trenches or other excavations that extend deeper than four (4) feet below the surface of the ground, Supplier will promptly, and before the following conditions are disturbed, notify Customer, in writing, of any (a) material that Supplier believes may be material that is hazardous waste, as defined in California Health and Safety Code §25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (b) subsurface or latent physical conditions at the Premises differing from those indicated by information about the site made available to Supplier before the Effective Date; or (c) unknown physical conditions at the Premises of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement. Customer will promptly investigate the conditions and, if it finds that the conditions do materially so differ or do involve hazardous waste, and cause a decrease or increase in Supplier's cost of, or the time required for, performance of any part of the Project will issue a change order under the procedures described in this Agreement. If a dispute arises between Customer and Supplier, whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in Supplier's cost of, or time required for, performance of any part of the Project, Supplier will not be excused from any scheduled completion date provided for by this Agreement but will proceed with all work to be performed under this Agreement. Supplier will retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the Parties. Neither Party shall introduce or use any Hazardous Material on, in or under the Premises in violation of any applicable law. If a Party becomes aware of any Hazardous Material on, in, or under the Premises, in violation of any applicable law, such Party shall promptly notify the other Party of the type and location of such Hazardous Material in writing. Each Party agrees to indemnify, defend and hold harmless the other Party and their employees, board members, and agents from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability, including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments, and reasonable attorney fees that any Party may suffer or incur due to the existence of any Hazardous Materials on the Property or the migration of any Hazardous Materials to other properties or the release of any Hazardous Materials into the environment ("*Environmental Claims*"), that relate to or arise from such Party's activities on the Premises, except to the extent directly attributable to the negligent acts or omissions or willful misconduct of the other Party. Customer shall further indemnify, defend and hold harmless Supplier and its Affiliates and their employees and agents from and against any and all Environmental Claims due to the presence of any Hazardous Materials in, on or under the Premises prior to the Effective Date. The indemnifications in this Section 5.10 specifically includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. Supplier shall be responsible for, and shall promptly conduct any investigation and remediation as required by any applicable environmental law or other law relating to, all spills or other releases of any Hazardous Materials to the extent not caused by Customer, that have occurred or which may occur on the Premises. This Section 5.10 shall survive the termination or expiration of this Agreement.

ARTICLE 6
OWNERSHIP OF SYSTEM; GOVERNMENTAL CHARGES

Section 6.1 System Ownership.

(a) Notwithstanding the System's presence and operation on the Premises, except in the case of a sale-and-leaseback financing (in which case title to the System would transfer to the applicable Financing Party), Supplier shall at all times retain title to and be the legal and beneficial owner of the System and all alterations, additions or improvements thereto, and the System shall remain the property of Supplier or Supplier's assigns. In no event shall anyone claiming by, through or under Customer (including any present or future mortgagee of the Premises) have any rights in or to the System at any time. Customer acknowledges and agrees that Supplier may be required to grant, or cause to be granted, to its Financing Parties a security interest in the System. Customer expressly disclaims, waives and agrees, and shall cause each person with an interest in the Premises to disclaim, waive and agree for the benefit of Supplier, not to assert or permit any lien, security interest or any other rights it may have in the System, from time to time, pursuant to this Agreement, at law or in equity.

(b) Supplier and/or its Financing Parties shall be the owner of the System for federal income tax purposes and, as such, Supplier and/or its Financing Parties shall be entitled to all Tax Benefits, Environmental Attributes and Environmental Incentives.

(c) Nothing in this Agreement shall be construed to convey to Customer a license or other right to trademarks, copyrights, technology or other intellectual property of Supplier or associated with the System.

Section 6.2 System Loss.

(a) Supplier shall bear the risk of any System Loss excluding, however, any System Loss caused totally or partially by the acts or failures to act of any Customer Person or their respective agents, representatives, customers, vendors, visitors, employees, contractors or invitees (collectively, "*Customer Misconduct*").

(b) In the event of any System Loss that, in the reasonable judgment of Supplier, results in less than total damage, destruction or loss of the System, this Agreement will remain in full force and effect and Supplier will, at Supplier's sole cost and expense, repair or replace the System as quickly as practicable; *provided, however*, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Term, Supplier shall not be required to restore the System, but may instead, in its sole discretion, terminate this Agreement with respect to the System upon notice to Customer. Notwithstanding the foregoing, to the extent that such System Loss has been caused by Customer Misconduct, Customer shall, promptly upon demand from Supplier, pay all damages, costs and expenses arising in connection with such System Loss, including, without limitation, cost of repair, loss of any tax benefits (including ITC recapture and accelerated depreciation), lost revenues under this Agreement and loss of Environmental Attributes or Environmental Incentives. Within ten (10) Business Days after written demand from Supplier, Customer shall pre-pay or post security acceptable to Supplier for any repair expenses reasonably estimated and agreed to by Supplier.

(c) In the event of any System Loss that, in the reasonable judgment of Supplier, results in total damage, destruction or loss of the System, Supplier shall, within a reasonable time following the occurrence of such System Loss, notify Customer whether Supplier will repair or replace the System or terminate this Agreement with respect to the System.

(i) In the event that Supplier notifies Customer that it will terminate this Agreement, in whole or in part, such notice shall include the date of termination and Supplier shall promptly remove the affected System from the Premises in accordance with Section 4.4.

(ii) In the event that Supplier notifies Customer that Supplier will repair or replace the System, this Agreement will remain in full force and effect with respect to the System and Supplier will repair or replace the System as quickly as practicable

(iii) If such System Loss has been caused, totally or partially, by Customer Misconduct, Customer shall, promptly upon demand from Supplier, pay all damages proportional to Customer's misconduct, costs and expenses arising in connection with such System Loss, including, without limitation, cost of repair, loss of any tax benefits (including ITC recapture and accelerated depreciation), lost revenues under this Agreement and loss of Environmental Attributes or Environmental Incentives. The calculation of losses described in the preceding sentence shall be based upon Energy Output calculated as provided in Section 5.6(c). Within ten (10) Business Days after written demand from Supplier, Customer shall pre-pay or post security acceptable to Supplier for any repair expenses reasonably estimated by Supplier.

(d) Permanent Shutdown. If the System is shut down permanently due to cessation of Customer's operations, Customer's vacating the Premises, renovation, damage, destruction or closure of all or a portion of the Premises, or for any other cause attributable to Customer and not attributable to Force Majeure, then Supplier may terminate this Agreement and Customer shall, promptly upon demand from Supplier, pay all damages, costs and expenses arising in connection with such permanent shutdown, including, without limitation, cost of removal, loss of any tax benefits (including ITC recapture and accelerated depreciation), lost revenues under this Agreement and loss of Environmental Attributes or Environmental Incentives.

Section 6.3 Governmental Charges.

(a) Supplier shall be responsible for local, state and federal income taxes attributable to Supplier for income received and property held under this Agreement or pursuant to the Site Lease, including any possessory interests.

(b) Customer shall be responsible for all Governmental Charges attributable to (i) the sale of the Energy Output from Supplier to Customer customarily charged by the electric utility serving Customer or imposed specifically upon the production of renewable and/or distributed electrical energy, irrespective of whether imposed before, upon or after the delivery of the Energy Output to Customer at the Interconnection Points and (ii) the ownership of the Premises where the System is installed. Customer shall promptly

reimburse Supplier for any such Governmental Charges that are assessed to and paid by Supplier.

(c) Both Parties shall use reasonable efforts to administer this Agreement and implement its provisions so as to minimize Governmental Charges. In the event any of the sales of Energy Output hereunder are to be exempted from or not subject to one or more Governmental Charges, the applicable Party shall, promptly upon the other Party's request therefor, provide the applicable Party with all necessary documentation to evidence such exemption or exclusion. Supplier shall not directly or indirectly cause, create, or incur any liens on or with respect to the Site Lease or Supplier's interest herein. If Supplier breaches its obligations under this Section, it shall immediately notify Customer in writing, shall promptly cause such lien to be discharged and released of record without cost to Customer, and shall defend and indemnify Customer against all fees, costs and expenses incurred in discharging and releasing such lien.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES; COVENANTS

Section 7.1 Representations and Warranties. Each Party represents and warrants to the other Party that:

(a) 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 are within its corporate power and authority, have been duly authorized by all necessary corporate, partnership or limited liability action, as applicable, and do not violate any of the terms and conditions of such Party's governing documents, any contracts to which such Party is a party, or any Applicable Law;

(b) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against such Party in accordance with its terms, subject to any bankruptcy, insolvency, reorganization and other Laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the applicable court;

(c) such Party is acting for its own account, and has made its own independent decision to enter into this Agreement, and is not relying upon the advice or recommendations of the other Party in so doing;

(d) such Party is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;

(e) such Party understands that the other Party is not acting as a fiduciary for or as an adviser to it or its Affiliates;

(f) except as previously disclosed in writing to the other Party, there is no pending or, to the knowledge of such Party, threatened litigation, action or proceeding against such Party which could reasonably be expected to have a material adverse effect on such Party or its ability to perform its obligations under this Agreement or any Site Lease or which purports to affect the legality, validity or enforceability of this Agreement or the transactions contemplated hereby;

(g) except as previously disclosed in writing to the other Party, there is no pending bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency law, or any dissolution, winding up or liquidation proceeding, in respect to such Party;

(h) such Party is not a “foreign person” within the meaning of section 168(h) of the Code, and such Party will not assign or otherwise transfer its rights under this Agreement to any such “foreign person”; and

(i) the Parties intend for this Agreement to be treated as a “service contract” within the meaning of section 7701(e)(3) of the Code.

Section 7.2 Additional Representations, Warranties and Covenants of Customer.

Customer represents and warrants that:

(a) to the best of Customer’s knowledge there are no facts, circumstances or other matters that may interfere with or delay the design, permitting, construction, installation, testing, operation or maintenance of the System;

(b) all information provided by Customer to Supplier, as it pertains to the Premises and the physical configuration of Customer’s facilities at the Premises, is accurate in all material respects; and

(c) Customer 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.

Section 7.3 Additional Representations, Warranties and Covenants of Supplier.

Supplier represents and warrants as follows:

(a) In compliance with NEM 2.0 interconnection requirements:

(i) the major solar components (PV modules and inverters) of the System are on the verified equipment list maintained by the California Energy Commission;

(ii) other equipment has safety certification from a national recognized testing laboratory, to the extent required by the Utility;

(iii) a manufacturer’s warranty of at least ten (10) years has been provided with the major solar components; and

(iv) a manufacturer’s warranty of at least ten (10) years has been provided with the major BESS components.

(b) Supplier has the financial capacity, creditworthiness and bonding sufficient to satisfy all of Supplier’s obligations under this Agreement, including any instance of default or other failure by Supplier’s contractors to complete the work required to satisfy Supplier’s obligations under this Agreement.

Section 7.4 Supplier’s Covenants. Supplier covenants and agrees to the following:

(a) Health and Safety, Legal Requirements. Supplier will take all necessary and reasonable safety precautions with respect to all work in connection with the installation, operation and maintenance of the System and will comply with all Applicable

Laws pertaining to the health and safety of persons, the environment and real and personal property.

(b) Movement of System. Supplier will cooperate with Customer to effectuate moving any part of the System for Customer's maintenance, inspection or repair of Customer's Premises where the System is installed; *provided* that if Customer moves any part of the System for such purpose it shall be at Customer's sole cost and expense.

(c) Qualifications. Supplier possesses the necessary expertise and qualifications to fulfill its obligations under this Agreement, including but not limited to operating the System as a microgrid in the event of an emergency shutoff of the grid by the Utility.

Section 7.5 Customer's Covenants. Customer covenants and agrees as follows:

(a) Interference with System.

(i) Customer acknowledges and agrees that access to sunlight ("*Insolation*") is essential to the System's operation. Accordingly, Customer shall not permit any interference with Insolation on and at the Premises. Without limiting the generality of the foregoing, Customer shall not construct or permit to be constructed any structure on the Premises, permit the growth of foliage on the Premises, or emit or permit the emission of suspended particulate matter, smoke, fog or steam or other airborne matter on the Premises, in each case that adversely affects Insolation of the System. Supplier shall be entitled to an equitable adjustment of the Contract Price for any breach by Customer of this Section 7.5(a)(i).

(ii) If a Change in Law occurs, or if Customer becomes aware of any potential development or other activity on adjacent or nearby properties that could result in diminishing the Insolation to the Premises, Customer shall advise Supplier of such information and reasonably cooperate with Supplier in measures to preserve existing levels of Insolation at the Premises. To the extent any filings, notices or other arrangements are available pursuant to Applicable Law for the purpose of protecting the Insolation of the System, Customer will cooperate with Supplier in preparing and filing any necessary documentation related thereto, and in reasonably and commensurately adjusting the amounts payable by Customer for Energy Output.

(b) Health and Safety, Legal Requirements. Customer will at all times maintain the Premises consistent with all Applicable Laws pertaining to the health of safety of persons, the environment and real and personal property.

(c) Security. Customer will take all necessary actions to ensure that the System is secure, including monitoring the Premises so as to ensure that the System is not vandalized or impermissibly altered.

(d) Maintenance. Except for the repair and maintenance of the System (which shall be performed by Supplier in accordance with this Agreement), Customer will at all times maintain and repair the part of the Premises upon which the System is installed.

(e) Notice of Damage. To the extent of Customer's actual knowledge, Customer will promptly notify Supplier of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System provided, however, that nothing herein shall be interpreted to mean Customer has any obligation to inspect or maintain the System.

(f) Environmental Incentives. Customer will not take any actions that materially impair the value to Supplier of any Environmental Attributes, Environmental Incentives or Tax Benefits.

ARTICLE 8 DEFAULT

Section 8.1 Supplier Default. The following events will be defaults with respect to Supplier (each a "*Supplier Default*"):

(a) Supplier commences or acquiesces to a bankruptcy proceeding, or an involuntary bankruptcy proceeding is commenced against Supplier that remains undismissed for a period of sixty (60) days;

(b) Supplier fails to perform any material covenant or obligation set forth in this Agreement if such failure is not remedied within twenty (20) Business Days after receipt of written notice;

(c) Any representation or warranty made by Supplier in this Agreement is false or misleading in any material respect when made or when repeated if such breach is not cured or remedied (including by payment of money to Customer) within thirty (30) days after receipt of written notice from Customer;

(d) Supplier fails to pay when due any payment required under this Agreement if such failure is not remedied within ten (10) days after receipt of written notice from Customer; or

(e) Supplier fails to provide or maintain in full force and effect any required insurance, if such failure is not remedied within ten (10) Business Days after receipt of written notice from Customer.

Section 8.2 Customer Default. The following events will be defaults with respect to Customer (each a "*Customer Default*"):

(a) Customer commences or acquiesces to a bankruptcy proceeding, or an involuntary bankruptcy proceeding is commenced against Customer that remains undismissed for a period of sixty (60) days;

(b) Customer fails to perform any material covenant or obligation set forth in this Agreement if such failure is not remedied within twenty (20) Business Days after receipt of written notice;

(c) Any representation or warranty made by Customer in this Agreement is false or misleading in any material respect when made or when repeated if such breach is not cured or remedied (including by payment of money to Supplier) within thirty (30) days after receipt of written notice from Supplier;

(d) Customer fails to pay when due any payment required under this Agreement if such failure is not remedied within twenty (20) Business Days after receipt of written notice from Supplier;

(e) Customer fails to sign authorizations needed to obtain any Environmental Attributes, Environmental Incentives or Tax Benefits contemplated in this Agreement, *provided* that Customer is afforded twenty (20) Business Days to cure such default;

(f) Customer fails to sign or breaches any term of any interconnection agreement requirement by the Utility for interconnection of the System, *provided* that Customer is afforded twenty (20) Business Days to cure such default;

(g) Customer defaults as lessor under any Site Lease, which default remains uncured beyond any applicable notice and cure period therein; or

(h) Customer fails to provide or maintain in full force and effect any required insurance, if such failure is not remedied within twenty (20) Business Days after receipt of written notice from Supplier.

Section 8.3 Remedies for Event of Default. If at any time an Event of Default has occurred and is continuing, the non-defaulting Party may do any of the following (a) pursue applicable remedies or damages at law or equity, (b) suspend performance under this Agreement, or (c) with notice to the defaulting Party, terminate this Agreement (the date of such notice, an “*Early Termination Date*”). In the event an Early Termination Date notice is provided, the non-defaulting Party shall have the right as of the date of such notice to withhold any payments due to the defaulting Party under this Agreement (other than payments owed for any period prior to such date).

Section 8.4 Customer Rights Upon Termination for Default. If a Supplier Event of Default has occurred and is continuing, and Customer elects to terminate this Agreement as provided in Section 8.3, Customer shall be entitled, at its sole discretion, to (a) require Supplier to remove the System as provided in Section 4.4, or (b) if such Supplier Event of Default occurs after the sixth (6th) anniversary of the Commercial Operation Date, exercise the Purchase Option provided in ARTICLE 16. In the event that Customer elects either of the foregoing remedies, such express remedy shall be the sole and exclusive remedy available to Customer as a result of termination of this Agreement, subject, however, to Section 8.9. Supplier’s liability shall be limited as set forth in such provision and all other remedies or damages at law or in equity are hereby waived by Customer.

Section 8.5 Supplier Rights Upon Termination for Default. If a Customer Event of Default has occurred and is continuing, and Supplier elects to terminate this Agreement as provided in Section 8.3, Customer shall, promptly upon demand from Supplier, pay all damages, costs and expenses arising in connection with such termination, including, without limitation, loss of any tax benefits (including ITC recapture and accelerated depreciation), lost revenues under this Agreement and loss of Environmental Attributes or Environmental Incentives, and Supplier shall be entitled (but not obligated) to remove the System from the Premises at Customer’s expense.

Section 8.6 Payment Due Notice. In the event that Customer is required to make a payment to Supplier pursuant to Section 8.5, then Supplier shall notify Customer of the amount of such payment and any amount otherwise due and outstanding under this Agreement or any Site Lease. Such notice will include a written statement explaining in reasonable detail the calculation

of such amount. Customer shall be required to make such payment and any amount otherwise due and outstanding under this Agreement or any Site Lease to Supplier within fifteen (15) Business Days after the receipt of such notice.

Section 8.7 Closeout Setoffs. Upon the occurrence of an Event of Default, the non-defaulting Party will be entitled, at its option, and in its discretion, to set off against any amounts due and owing to the defaulting Party any amounts due and owing by the defaulting Party to the non-defaulting Party under this Agreement or any Site Lease.

Section 8.8 Remedies Cumulative. Except as provided in Section 8.4, the rights and remedies contained in this ARTICLE 8 are cumulative with the other rights and remedies available under this Agreement or at law or in equity. The non-defaulting Party shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available under this Agreement.

Section 8.9 Unpaid Obligations. Notwithstanding anything to the contrary herein, the defaulting Party shall in all events remain liable to the non-defaulting Party for any amount payable by the defaulting Party in respect of any of its obligations remaining outstanding after any such exercise of rights or remedies.

ARTICLE 9 FORCE MAJEURE

Section 9.1 Effect of Excusable Events. Neither Party will be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to a documented Excusable Event, *provided* that the Party claiming relief as a result of an Excusable Event: (i) provides prompt written notice and documentation of the Excusable Event; (ii) exercises all reasonable efforts to mitigate the effects of the Excusable Event; and (iii) resumes performance of its obligations hereunder as soon as practicable thereafter.

Section 9.2 Extended Material Force Majeure. If an event of a Force Majeure prevents, in whole or in material part, the performance of Supplier for a period of one hundred eighty (180) days or longer and such Force Majeure event has a material adverse effect on the System as a whole (an “*Extended Material Force Majeure*”), then either Party may, upon thirty (30) days’ notice, terminate this Agreement without further liability; *provided, however* that Supplier shall be granted additional time after such 180-day period as reasonably necessary to cure any reconstruction-related delays.

ARTICLE 10 CHANGE IN LAW

Section 10.1 Change in Law. The Contract Price is based on assumptions related to the availability to Supplier of the Environmental Attributes, Environmental Incentives and Tax Benefits, and on Supplier’s exemption from regulation as a public utility or a public utility holding company. In the event of the elimination or alteration of one or more Environmental Attributes, Environmental Incentives or Tax Benefits, or any other Change in Law that directly or indirectly results in a material adverse economic impact on Supplier in respect of this Agreement (including due to a Law that increases Supplier’s cost of compliance with this Agreement), the Parties shall

work in good faith to amend the provisions of this Agreement within twenty (20) Business Days after Supplier provides notice to Customer of such elimination or alteration, as may be reasonably necessary to restore the allocation of economic benefits and burdens contemplated by this Agreement as of the Effective Date. If the Parties cannot agree on such amendment within such twenty (20) Business Day period, then Supplier shall have the right (but not the obligation) to terminate this Agreement pursuant to Section 4.2(c).

ARTICLE 11
ASSIGNMENT & FINANCING

Section 11.1 Assignment.

(a) Supplier may sell, transfer, or assign its rights under this Agreement or any right, interest, or obligation therein (collectively, an "Assignment") only upon the prior written consent of Customer, which consent may not be unreasonably withheld, conditioned or delayed, provided that any assignee possesses all required skills, knowledge, expertise, experience, and financial capacity and creditworthiness necessary to perform Supplier's obligations under this Agreement, and assumes in writing the obligations of Supplier under this Agreement. Supplier shall provide Customer with no less than sixty (60) calendar days' notice of the request to transfer ownership of the System. Notice shall identify the party purchasing the System and provide sufficient detail of the proposed owner for Customer to evaluate the new owner. Notice shall include, but not be limited to, the following details of the proposed owner: Experience with PPA's and current portfolio; Past two years of financials; Proof of insurance, meeting Customer's requirements and naming Customer; Confirmation of operations and maintenance provider and outline of operations and maintenance program if different from existing; details and example of annual report and invoicing; and confirmation that all terms under this Agreement and any related documents and agreements will be performed. Notwithstanding the foregoing, Supplier may, without the prior written consent of District assign, mortgage, pledge, grant security interests, sell or otherwise encumber its interests in this Agreement to any Secured Party in connection with any financing for the ownership, acquisition, construction, operation or use of the Solar Facility as set forth in Section 11.2. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

(b) Customer's consent to any other assignment shall not be unreasonably withheld if Customer 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 (y) has the financial capability to operate and maintain the System in the manner required by this Agreement. Any such assignee of this Agreement shall assume in writing, in form and content reasonably satisfactory to Customer, the due performance of all Supplier's obligations under this Agreement, including any accrued obligations at the time of the assignment. A copy of the assignment agreement, fully executed and acknowledged by the assignee, shall be sent to Customer not less than ten (10) days before the effective date of such assignment.

(c) For the purposes of this Section 11.1, the following shall not be deemed an assignment of this Agreement: any (i) sale, assignment, transfer or disposition of the System, directly or indirectly, to an affiliate of Supplier, *provided, however*, that any such affiliate shall agree to be bound by the terms and conditions hereof and shall have sufficient financial or other operational capabilities as reasonably determined by Customer, or (ii) transaction which results in a change of control of Supplier. Change of control shall be defined in common law, and may be the result of a single or multiple related transactions which result in the cumulative transfer of more than fifty percent (50%) of the voting stock or equity interests of Supplier.

Section 11.2 Financing. Customer acknowledges and agrees that Supplier may finance the acquisition and installation of the System through a loan, lease, or partnership from or with one or more third parties and that Supplier's obligations may be secured by, among other collateral, a pledge or collateral assignment of this Agreement and a first security interest in the System. To facilitate any such transaction, Customer (a) consents to the collateral or full assignment by Supplier to its Financing Parties of the Supplier's right, title and interest in and to this Agreement and the System, (b) agrees to take any reasonable actions (including payment of reasonable fees incurred from such action, not to exceed \$500) and provide any documentation reasonably requested by Supplier within ten (10) Business Days of such request in connection with such a transaction (including acceptance and execution of any reasonable consent agreements requested by Financing Parties, which may include customary lender protections, such as extended cure rights), and (c) will use commercially reasonable efforts to place its successors and assigns on notice of Supplier's ownership of the System, the existence of the security interest, and the fact that the System are not part of the Premises or fixtures thereof, as necessary and appropriate to avoid confusion or adverse claims.

ARTICLE 12 METERING & BILLING

Section 12.1 System Meter. Supplier will install and maintain a commercially available revenue grade interval data-recording meter, meeting the reporting requirements of the Western Renewable Energy Generation Information System ("*Meter*"), for measuring the quantity of Energy provided by the PV System. Supplier shall maintain all interval metering data, and shall provide Customer access, via SCADA integration or online monitoring, to the PV System's metered energy, on an ongoing basis. Supplier shall also monitor the performance of the BESS using equipment and software installed as part of the BESS. Supplier shall arrange for the Meter to be tested once per year. Supplier shall bear all costs and expenses associated with annual Meter testing. Customer shall be notified at least ten (10) Business Days in advance of such tests and shall have a right to be present during such tests. Supplier shall provide Customer with the detailed results of all Meter tests. If such annual testing reveals that such Meter is inaccurate by more than two percent (2%), then the Supplier invoices shall be adjusted for the period in which the inaccurate measurements were made. Should such period of inaccuracy be unknown, then the invoices covering the period of time since the time of the last Meter test shall be adjusted for the amount of the inaccuracy, on the assumption that the inaccuracy persisted during one-half ($\frac{1}{2}$) of such period, but in no event more than one (1) year. If metering error is less than two percent (2%), such Meter shall be deemed accurate and no invoices shall be adjusted. Supplier shall pay for the cost of the repairs, or replacement, necessary to restore the Meter to proper working order.

In addition, the Meter shall be inspected and tested for accuracy at such other times as Customer may reasonably request, but in no event more than once every six (6) month period. Customer shall bear the cost of the additionally requested Meter testing, unless such test shows that a Meter was inaccurate by more than two percent (2%), in which case Supplier shall bear Meter testing costs.

If a Meter is out of service or is discovered to be inaccurate pursuant to this Section 12.1, Supplier shall determine measurements of Energy Output from the PV System and monitor the performance of the BESS in a commercially reasonable manner by reference to quantities of Energy Output from the PV System measured during periods of similar conditions when such Meter was registering accurately. If no reliable information exists as to the period of time during which such Meter was registering inaccurately, it shall be assumed that the period of such inaccuracy was equal to one-half ($\frac{1}{2}$) of the period from the date of the last previous test of such Meter (or if no such test had been conducted, from the Commercial Operation Date) through the date the inaccuracy of such Meter has been discovered. If, for calculation purposes, no time period of similar conditions, during which the Meter registered accurately, can be determined, measurements of Energy Output from the PV System shall be calculated in good faith by Supplier with reference to applicable solar production modeling and solar insolation data generally accepted in the solar industry.

Section 12.2 Payment. Supplier will deliver or cause to be delivered to Customer a single invoice (on a form mutually acceptable to Supplier and Customer) for the PV System's Energy Output and the Microgrid Services provided by Supplier from the BESS, microgrid controls and natural gas generator by the tenth (10th) day of each calendar month (or upon a monthly schedule reasonably acceptable to Customer and Supplier) for the amount then due for the preceding calendar month. Each invoice will set forth (i) the Energy Output delivered to Customer in the preceding month, and (ii) the total amount to be paid by Customer to Supplier for Energy Output delivered in the preceding month. Supplier will provide a monthly report setting forth the year and month of the Agreement Term, Expected Energy Output for the relevant year, the cumulative total of Expected Energy Output for that relevant year compared to the cumulative actual Energy Output for that relevant year, and any applicable offsets or credits to such invoice amounts. Customer shall pay the invoiced amount on or before thirty (30) days following the date of the invoice, which shall be referred to as the "***Due Date***." If the Due Date is not a Business Day, payment shall be due on the following Business Day. Supplier's obligation to deliver invoices and Customer's obligation to make payment shall commence for the first calendar month after the calendar month in which the Commercial Operation Date occurs. Any invoice not paid by the Due Date shall accrue interest at the lesser of (i) one and one-half percent (1.5%) per month or (ii) the maximum rate permitted by law.

Section 12.3 Netting and Setoff. The Parties will net any and all mutual debts and payment obligations that are due and owing under this Agreement or any Site Lease. Accordingly, unless otherwise agreed by the Parties, all amounts owed by one Party to the other Party under this Agreement or any Site Lease, including any related damages and any applicable interest, payments or credits, will be netted such that only the excess amount remaining due will be paid by the Party that owes it. Each Party shall have the right to set off any undisputed amount due and owing to such Party from the other Party under this Agreement or any Site Lease against any undisputed amount due and owing from such Party to the other Party under this Agreement or any Site Lease.

Section 12.4 Meter Data. Supplier shall gather and maintain Meter data, including but not limited to interval data registered at least once every fifteen (15) minutes (the “Meter Data”) and shall make such Meter Data available to Customer or maintain the Meter Data such that Customer can access the Meter Data remotely through a secure internet site or such other remote access as the Parties mutually agree to. Supplier shall maintain all records related to invoices and Meter Data for at least twenty four (24) months from the date of such invoice or Meter Data. Such records shall be available for audit by Customer.

ARTICLE 13 INDEMNITY

Section 13.1 Indemnity. Each Party agrees that it will indemnify, defend and hold harmless the other, the others representatives, employees, agents, officers, directors, shareholders, members, contractors and subcontractors, and their respective successors and permitted assigns (“*Indemnified Parties*”), from and against any and all claims, suits, penalties, obligations, losses, payments, liabilities, causes of action, costs, damages, and expenses (“*Losses*”) (including, without limitation, the actual or alleged injury to or death of any person or loss or damage to property of any person (including property of the Indemnified Parties)), to the extent arising out of the negligence or wrongful actions or inactions of the indemnifying Party or that of its representatives, employees, agents, officers, directors, shareholders, members, contractors and subcontractors, and/or their successors or assigns (“*Indemnifying Parties*”). In no event, however, will the Indemnifying Parties be required to reimburse or indemnify any of the Indemnified Parties to the extent such Losses are due to the negligence or wrongful actions or inactions of the Indemnified Parties. In addition, Customer shall indemnify, defend and hold harmless Supplier, Supplier’s representatives, employees, agents, officers, directors, shareholders, members, contractors and subcontractors, and their respective successors and permitted assigns from and against any Losses related to any and all Environmental Conditions, except to extent that the same are caused by the negligence or wrongful actions or inactions of Supplier, Supplier’s representatives, employees, agents, officers, directors, shareholders, members, contractors and subcontractors, and their respective successors and permitted assigns.

ARTICLE 14 INSURANCE

Section 14.1 Supplier’s Insurance. Supplier shall maintain the following insurance coverages in full force and effect throughout the Term: (a) workers’ compensation insurance at the statutory limits, and employer’s liability insurance with coverage of \$1,000,000; (b) automobile liability coverage of \$1,000,000 combined single limit per occurrence covering owned, hired, and non-owned vehicles; (c) commercial general liability insurance with limits of \$1,000,000 per occurrence for property damage and injury to or death of one or more persons, and with an aggregate limit of \$2,000,000; (d) umbrella policy of \$5,000,000; (e) “all risk” insurance in an amount sufficient to insure it against loss or destruction of the Premises (other than the System), including losses occasioned by operation of the System; and (f) property insurance providing coverage in an amount not less than the replacement cost of the System. Supplier’s insurance shall equal or exceed an A-:VIII rating as listed in Best’s Insurance Guide’s latest edition.

Section 14.2 Customer's Insurance. Customer shall maintain the following insurance coverages in full force and effect throughout the Term: (a) workers' compensation insurance at the statutory limits, and employer's liability insurance with coverage of \$1,000,000; (b) commercial general liability insurance with limits of \$1,000,000 per occurrence for property damage and injury to or death of one or more persons, and with an aggregate limit of \$2,000,000; (c) umbrella policy of \$5,000,000; ; and (e) property and casualty insurance for the System providing coverage for the Customer's liability pursuant to Section 6.2(b), Section 6.2(c) or Section 6.2(d), in an amount not less than the replacement cost of the System. Customer's insurance shall equal or exceed an A:VIII rating as listed in Best's Insurance Guide's latest edition.

Each Party shall name the other Party as an additional insured under their respective liability insurance policies. At the request of a Party, the other Party shall provide certificates of insurance and copies of applicable policy endorsements to the requesting Party. Supplier shall have such coverages in place prior to conducting any work on Customer's Premises.

Section 14.3 The Parties waive all rights against each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this ARTICLE 14 or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Parties and their respective property damage insurers also waive all rights of subrogation against the other Party, its directors, officers, agents and employees. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

ARTICLE 15 LIMITATION OF LIABILITY / WARRANTIES

Section 15.1 LIMITATION OF LIABILITY. EXCEPT WITH RESPECT TO THE INDEMNIFICATION PROVISIONS SET FORTH IN THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT. SUPPLIER'S AGGREGATE LIABILITY HEREUNDER, WHETHER ARISING OUT OF BREACH OF CONTRACT OR WARRANTY, TORT (INCLUDING NEGLIGENCE) FRAUD, PRODUCT LIABILITY, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, SHALL NOT EXCEED \$1,000,000. CUSTOMER'S AGGREGATE LIABILITY HEREUNDER SHALL BE BASED ON PROOF OF DAMAGES, AND ANY AND ALL SUCH DAMAGES ARISING OUT OF BREACH OF CONTRACT OR WARRANTY, TORT (INCLUDING NEGLIGENCE) FRAUD, PRODUCT LIABILITY, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, SHALL NOT EXCEED THE COST OF BUYOUT FOR THE SYSTEM. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY (A) IN THE CASE OF FRAUD OR WILLFUL MISCONDUCT BY A PARTY, (B) TO ANY AMOUNTS RECOVERED FROM AN INSURANCE POLICY OF PROVIDER, OR (C) TO ANY SHORTFALL PAYMENTS BY SUPPLIER.

Section 15.2 EXCLUSION OF WARRANTIES. THE INSTALLATION, OPERATIONS, AND ENERGY OUTPUT PROVIDED BY SUPPLIER TO CUSTOMER

PURSUANT TO THIS AGREEMENT WILL BE “AS-IS, “WHERE-IS.” EXCEPT AS EXPRESSLY PROVIDED HEREIN, SUPPLIER MAKES NO REPRESENTATIONS OR WARRANTIES, AND ALL OTHER WARRANTIES, IMPLIED OR EXPRESSED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

ARTICLE 16 PURCHASE OPTION

Section 16.1 Grant of Purchase Option. On the seventh (7th) anniversary of the Final Commercial Operation Date (unless such anniversary does not fall on a Business Day, in which case the Purchase Option may be exercised on the first Business Day following such anniversary) or upon expiration of the Term, and provided that no Customer Event of Default has occurred and is then continuing, Customer shall have the option to purchase all, but not less than all, of Supplier’s right, title and interest in and to the System Assets on the terms set forth in this Agreement (the “*Purchase Option*”). Customer shall furnish written notice to Supplier of its interest to purchase the System Assets not more than nine (9) months and not less than six (6) months prior to (i) the relevant anniversary of the Final Commercial Operation Date, or (ii) the expiration of the Term, as applicable. The Purchase Option may be exercised by Customer during the Exercise Period (as defined below) following a Final Determination (as defined below) related to a valuation performed pursuant to this ARTICLE 16.

Section 16.2 Customer Request for Determination of System Value.

(a) Customer shall have the right to provide a notice to Supplier requiring a determination of the Fair Market Value of the System Assets in accordance with Section 16.4, (i) at any time within the periods set forth in Section 16.1 or (ii) in the notice under Section 8.3 following a Supplier Event of Default (subject to Section 8.4).

(b) Promptly following receipt of Customer’s notice pursuant to Section 16.2(a), Supplier shall make the System Assets, including records relating to the operations, maintenance, and warranty repairs, available to Customer for its inspection during normal business hours, and Supplier shall provide Customer with Supplier’s appraisal of the Fair Market Value of the System Assets, which appraisal shall be based on Supplier’s knowledge of the distributed generation solar power industry.

(c) Customer may, but is not obligated to, accept Supplier’s appraisal. If Customer does not accept such appraisal within ten (10) days of receiving the appraisal from Supplier, but Customer nevertheless wishes to proceed with the purchase of the System Assets, the Parties shall meet to discuss the appraisal. If they are unable to reach agreement within thirty (30) days of Customer’s receipt of the appraisal from Supplier, then the Parties shall mutually select a nationally recognized Independent Appraiser with experience and expertise in the distributed generation solar power industry.

Section 16.3 Selection of Independent Appraiser. If Supplier and Customer do not agree upon the appointment of an Independent Appraiser within twenty (20) Business Days, then at the end of such twenty (20) Business Day period Supplier and Customer shall notify each other in writing of their respective designation of three proposed Independent Appraisers. Supplier and Customer shall, within five (5) Business Days of receipt of such notice, strike two of the proposed

Independent Appraisers designated by each of Supplier and Customer, respectively, and shall provide notice thereof to the other Party. The remaining two proposed Independent Appraisers shall, within two (2) Business Days of each Party's notice, select one of themselves to perform the valuation and provide notice thereof to Supplier and Customer, *provided* that if either Supplier or Customer still objects to the valuation being performed by such selected Independent Appraiser, then, within two (2) Business Days of the selection notice, such two proposed Independent Appraisers shall select a third Independent Appraiser (who may not be one of the Independent Appraisers originally designated by the parties or another Independent Appraiser) and such third Independent Appraiser shall perform the duties of the Independent Appraiser as set forth herein. Such selection shall be final and binding on Supplier and Customer.

Section 16.4 Determination of Fair Market Value.

(a) The Independent Appraiser shall, within twenty (20) Business Days of appointment, make a preliminary determination of the Fair Market Value of the System Assets (the "*Preliminary Determination*").

(b) Upon making such Preliminary Determination, the Independent Appraiser shall provide such Preliminary Determination to Supplier and Customer, together with all supporting documentation that details the calculation of the Preliminary Determination. Supplier and Customer shall have the right to object to the Preliminary Determination within twenty (20) Business Days of receiving such Preliminary Determination; *provided* that the objecting Party provides a written explanation documenting the reasons for its objection. Within ten (10) Business Days after the expiration of such twenty (20) Business Day period, the Independent Appraiser shall issue the Independent Appraiser's final determination (the "*Final Determination*") to Supplier and Customer, which shall specifically address the objections received by the Independent Appraiser and whether such objections were taken into account in making the Final Determination. Except in the case of fraud or manifest error, the Final Determination of the Independent Appraiser shall be final and binding on the Parties.

Section 16.5 Calculation of Purchase Price. The purchase price (the "*Purchase Price*") payable by Customer for the System Assets shall be equal to the greater of (i) the applicable Buyout Amount as of the date of the Final Determination and (ii) Fair Market Value as determined by the process described above.

Section 16.6 Costs and Expenses of Independent Appraiser. Supplier and Customer shall each be responsible for payment of one-half ($\frac{1}{2}$) of the costs and expenses of any Independent Appraiser.

Section 16.7 Exercise of Purchase Option. Customer shall have twenty (20) Business Days from the date of the Final Determination (such period, the "*Exercise Period*"), to exercise the Purchase Option, at the Purchase Price by providing notice thereof (an "*Exercise Notice*") to Supplier. Once Customer delivers its Exercise Notice to Supplier, such notice shall be irrevocable.

Section 16.8 Terms of System Purchase. On the Transfer Date (as defined below), (a) Supplier shall surrender and transfer to Customer on an as-is, where-is basis all of Supplier's right, title and interest in and to all System Assets and shall retain all liabilities arising from or related to the System Assets prior to the Transfer Date, (b) Customer shall pay the Purchase Price, by certified check, bank draft or wire transfer and shall assume all liabilities arising from or related

to the System Assets from and after the Transfer Date, and (c) both Parties shall (i) execute and deliver a bill of sale and assignment of contract rights, together with such other conveyance and transaction documents as are reasonably required to fully transfer and vest title to the System Assets in Customer, and (ii) deliver ancillary documents, including releases, resolutions, certificates, third person consents and approvals and such similar documents as may be reasonably necessary to complete the sale of the System Assets to Customer. Customer shall be responsible for the payment of all Governmental Charges in connection with the purchase and sale of the System Assets.

Section 16.9 Transfer Date. The closing of any sale of the System (the “*Transfer Date*”) pursuant to this ARTICLE 16 will occur no later than twenty (20) Business Days from the date of delivery of the Exercise Notice to Supplier. The Term of this Agreement shall end on the Transfer Date.

ARTICLE 17 MISCELLANEOUS

Section 17.1 Notices. All notices, communications and waivers under this Agreement shall be in writing and shall be delivered (a) in person, (b) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (c) sent by reputable overnight express courier, or (d) sent via email, in each case to the persons at the addresses below, or to any other address that the receiving Party designates in writing:

If to Supplier:

California Solar 3, LLC% ENGIE Distributed Solar
1360 Post Oak Boulevard, Suite 400
Houston, TX 77056
ATTN: General Counsel
Email: generalcounselEDS@engie.com

If to Customer:

[Address]
[Attention]

Notices shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by reputable overnight express courier, then on the next Business Day immediately following the day sent, (iii) if sent by registered or certified mail, then on the earlier of the third (3rd) Business Day after the day sent, or, if earlier, when actually received; and (iv) if sent by email, when confirmation of receipt is received.

Section 17.2 Integration; Exhibits. This Agreement, together with the Exhibits attached hereto, and the Site Lease constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersede all prior agreements relating to the subject matter hereof, which are of no further force or effect. In the event of discrepancy or ambiguity between or among the Agreement, its Exhibits, and the Site Lease, the following order of precedence shall be used:

- (a) Amendments and change orders to the Agreement, any Site Lease or the Exhibits, in inverse chronological order (i.e., most recent first) and in the same order as the documents they are modifying;
- (b) this Agreement;
- (c) the Site Lease; and
- (d) the Exhibits.

Section 17.3 Industry Standards. Except as otherwise described herein, for the purposes of this Agreement, the normal standards of performance within the solar photovoltaic distributed power generation industry in the relevant market will be the measure of whether a Party's performance is reasonable and timely. Unless expressly defined herein, words having well-known technical or trade meanings will be so construed.

Section 17.4 Cumulative Remedies. Except as stated to the contrary herein, any right or remedy of Supplier or Customer shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

Section 17.5 Limited Effect of Waiver. The failure of Supplier or Customer to enforce any of the provisions of this Agreement, or the waiver thereof, will not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance of any other provision in any instance.

Section 17.6 Governing Law; Jurisdiction; Disputes.

(a) This Agreement is entered into under and shall be construed in accordance with and governed by the laws of the State of California, without giving effect to conflict of laws principles.

(b) The Parties agree to make a good faith attempt to resolve any and all controversies, claims, disagreements, or disputes between the Parties arising out of or related to this Agreement ("*Dispute*"). In the event of any Dispute, either Party may give notice of the Dispute to the other Party. In the event a Party Disputes all or a portion of an invoice or other payment, the disputing Party shall timely pay any undisputed portion of such amount due. The Parties shall first use good faith, reasonable, diligent efforts to resolve the Dispute within ninety (90) days from the date of such notice. If the Parties do not resolve their dispute within ninety (90) days of notice, then the Parties may, upon mutual agreement, submit to mediation before a mutually agreed upon mediator. In the event the Dispute is not resolved through mediation, the Parties may pursue their legal rights through any other legally permissible means.

(c) If a Dispute, or any portion thereof, remains unresolved after informal dispute resolution, the Supplier shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to Supplier's right to bring a civil action against Customer. For purposes of those provisions, the running of the time within which a claim must be presented to Customer shall be tolled from the time Supplier submits its written Dispute until the time the Dispute is denied by Customer, including any time utilized by any applicable meet and confer process. Pending resolution of the Dispute, Supplier and its subcontractors

shall continue to perform under this Agreement and shall not cause a delay during any dispute, claim, negotiation, mediation, or arbitration proceeding, except by written agreement of Customer.

Section 17.7 Severability. If any term, covenant or condition in this Agreement is found, to any extent, to be invalid or unenforceable in any respect under Applicable Law, the remainder of this Agreement shall not be affected, and the rest of the Agreement will be valid and enforceable to the fullest extent permitted by law and, if appropriate, such invalid or unenforceable provision will be modified or replaced to give effect to the underlying intention of the Parties and to the intended economic benefit of the Parties.

Section 17.8 Successors and Assigns. This Agreement and the rights and obligations hereunder are binding upon and will inure to the benefit of Supplier and Customer and their respective successor and permitted assigns.

Section 17.9 Counterparts; Imaged Agreements. This Agreement may be executed and delivered (including by facsimile transmission or portable document format) in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart. Any original executed Agreement, confirmation or other related document may be photocopied and stored on computer tapes and disks (the "*Imaged Agreement*"). The Imaged Agreement, if introduced as evidence on paper, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party will object to the admissibility of the Imaged Agreement on the basis that such were not originated or maintained in documentary form.

Section 17.10 Estoppels. Either Party, without charge, at any time and from time to time and within ten (10) Business Days after receipt of a written request by the other Party, 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 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.

Section 17.11 Amendment. This Agreement may be amended only in writing signed by both Supplier and Customer.

Section 17.12 No Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties hereto and no right or cause of action shall accrue by reason hereof for the benefit of any third-party not a party hereto, other than indemnitees and any secured parties.

Section 17.13 Attorney's Fees. Should any litigation be commenced between the Parties concerning the Premises, this Agreement, the Site Lease, or the rights and duties of either Party in relation thereto, the Party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in the litigation, to a reasonable sum for its attorney's fees in such litigation, which shall be determined by the court in such litigation or in a separate action brought for that purpose.

[signatures on the following page]

IN WITNESS WHEREOF, and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Supplier and Customer have executed this Agreement as of the Effective Date.

California Solar 3, LLC

Yucaipa Valley Water District, a County Water District

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

**EXHIBIT A
SCOPE OF WORK**

Contractor will design, engineer, and install solar energy photovoltaic generating systems, battery energy storage systems, microgrid controls, and natural gas generators at the Premises as provided below:

PV Systems, Battery Energy Storage Systems, and Natural Gas Generators to be Installed

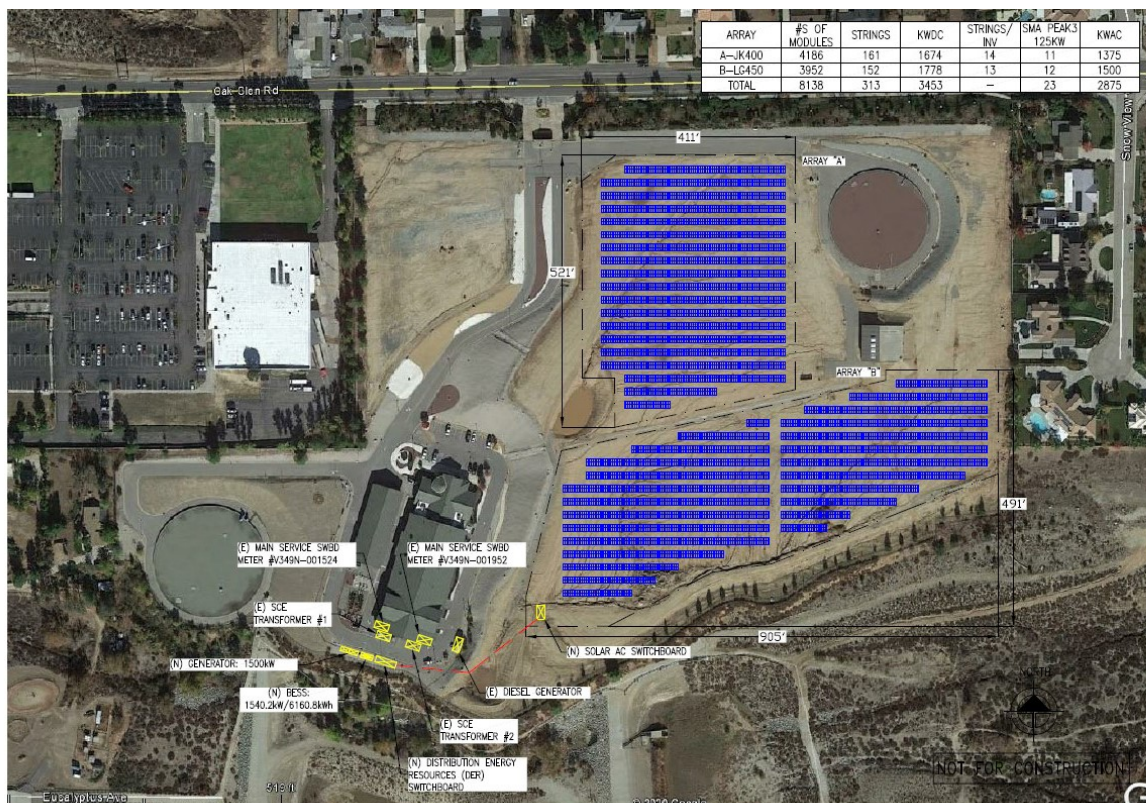
ECM #	Description
RE-02	Solar Photovoltaic Fixed-tilt Ground Mounted Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)
B-02	Battery Energy Storage and Microgrid Controls Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)
M-02	Natural Gas Backup Generator Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)

Site Addresses and System Sizes

ECM #	Facility	Address	Approximate System Size
RE-02	RWFF	35477 Oak Glen Road, Yucaipa, CA 92399	3,452.8 kW DC
B-02	RWFF	35477 Oak Glen Road, Yucaipa, CA 92399	1,540 kW / 6,160 kWh
M-02	RWFF	35477 Oak Glen Road, Yucaipa, CA 92399	1,500 kW

RE-02: Solar Photovoltaic Fixed-tilt Ground Mounted Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)

The PV System will consist of ground mounted PV structures. The precise design and arrangement of the PV System will be determined during final engineering and will be subject to plan check approval. Preliminary layout with location and size of arrays is shown below:



Contractor shall perform the following work:

1. Furnish and install string inverters. String inverters will be mounted on driven piles.
2. Furnish and install PV modules. PV modules to be mounted on galvanized steel purlins per approved drawings.
3. Ground mounted structure will be designed as a fix tilt system with 25-degree maximum tilt. The tilt will be finalized during final design.
4. Steel purlins will be attached to driven steel piers.
5. Steel piers to be installed via vibra-pile methods and are assumed to be installed to a depth of no more than six feet.
6. All structures will have a minimum of eighteen inches of clearance at the lowest point of the structure and finished grade.
7. Perform horizontal boring and/or trenching of existing concrete, hardscape, or asphalt areas as required to route conduits from array structures to new electrical switchgear. Repair any concrete, hardscape, landscape or asphalt damaged by the Contractor to extent required.
8. Perform underground utility survey to locate any existing utilities that are in the path of horizontal boring, vertical boring or trenching.
9. Provide and install electrical conduits and power wiring from the string inverters to the electrical switchgear.
10. Provide and install electrical conduits for communication wiring from the string inverters to the new Data Acquisition System (DAS).

11. Provide two Net Generation Output Meters (NGOM) on the Property to monitor PV production. The proposed system will tie into (2) separate Point of Interconnections (POI) – one POI for each Customer SCE meter.
12. Tie-in DAS to cellular modem connection or to nearest Customer provided, dedicated IP address.
13. Clear and grub site to the extent required for Solar PV system installation. Array structures will follow existing grade.
14. Provide Stormwater Pollution Prevention Plan (SWPPP), Erosion Control Design, and Drainage Design to the extent required for Solar PV system installation.
15. Provide Best Management Practices (BMPs) to minimize erosion, drainage, and non-stormwater discharges through Project completion.
16. Provide Material Waste Management Plan as needed through Project completion.

B-02: Battery Energy Storage and Microgrid Controls Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)

The BESS will consist of Tesla Megapack ground mounted batteries. The precise design and arrangement of the batteries will be determined during final engineering and will be subject to plan check approval. Additionally, contractor will design and install islanding Microgrid controls to incorporate RE-02, B-02, and M-02 (Solar PV, BESS, and the Natural Gas Generators).

Contractor shall perform the following work:

1. Interconnection of the BESS at the Property. Install energy storage modules and prepare for Utility Interconnection. The proposed system will tie into (2) separate POIs; one for each Customer SCE meter.
2. The BESS modules will be installed either indoor or outdoor pending final design effort and coordination with the Customer.
3. Pour concrete pad for new equipment.
4. Provide lockable panels to secure battery components.
5. Furnish and install BESS with required clearances.
6. Properly start-up and commission BESS.
7. Replace main utility breaker with an automated, remotely controllable breaker with a synch check relay. This will be done at both POIs.
8. Automated microgrid controls (with optional manual override) to integrate the solar systems described in RE-02 with the BESS described in B-02 and the generator described in M-02.
9. Switchgear modifications may be made to enable the system to island facilities from the grid, so they remain operational in case of a planned or unplanned power outage.

M-02: Natural Gas Backup Generator Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)

Provide and install (2) 750 kW Generac SG750 natural gas reciprocating internal combustion engines (generators) for a total capacity of 1,500 kW. Install new equipment pad and connect generators to either the site's existing utility natural gas supply, or a future Customer provided utility natural gas supply. No onsite fuel storage is provided. The precise design and arrangement

will be determined during final design.

Provide and install Distributed Energy Resources (DER) Switchboard to consolidate Solar PV, BESS, and Natural Gas Generators

1. Properly start-up and commission microgrid. It is assumed that customer load can be used for these processes. No allowances have been made for temporary configurations or load banks.
2. Microgrid is designed to primarily supply energy for site's operation from the solar and battery systems, with the reciprocating engines complementing those as necessary.
3. Final design of the timing of the transition from the utility grid to microgrid operations will depend upon utility interconnection requirements, existing equipment capabilities, outage scenarios and recommended best practices for safe equipment operation.
4. Design assumes that facilities' load profile during an outage will be similar and within the parameters experienced in historical usage and baselines.
5. Power shutdowns to the sites will be required to perform microgrid interconnection, initial commissioning and testing, as well as ongoing maintenance islanding tests as needed to ensure microgrid readiness.
6. System design assumes existing electrical gear is adequately sized to support additional microgrid loads. No allowances other than those specifically described above have been made for modifications to existing switchgear, Customer or utility electrical equipment.

Annual Resiliency Maintenance Services

1. Hold and manage preventative maintenance agreement for natural gas backup generators.
2. Perform quarterly review of electric load creep and control system scheduling changes.
 - a. Report results to Customer with any revisions of coverage estimate.
3. Perform one annual Simulated Resiliency Event Readiness Test:
 - a. Test will be closely scheduled and coordinated with Customer.
 - b. Microgrid system will be placed into island mode simulating a utility electrical outage.
 - c. Contractor Field Service Technicians will be on-site to conduct the test and to observe system behavior.
 - d. Each component of the microgrid and generating facilities will be allowed to operate during the test.
 - e. Contractor will document and review the readiness test results with the Customer.
4. In the event of power outage, the following services will be performed:
 - a. Customer and Contractor will communicate via email as soon as either Party becomes aware that a pre-planned utility power outage (i.e., Public Safety Power Shutoff event) is scheduled.
 - b. Customer and Contractor will communicate via email as soon as either Party becomes aware that a utility power outage has occurred, regardless of whether it was scheduled or spontaneous.
 - c. Customer and Contractor will communicate via email as soon as either Party becomes aware that a utility power outage has ended.
 - d. Post-event review of microgrid performance with Customer:
 - Assess system run-time performance.
 - Calculate the emissions benefit of having renewable based-microgrid vs. diesel back-

- up.
- Recommendations for extending the duration of microgrid operation during a utility outage.
- e. Assist with implementing lessons learned from review.

General Project Exclusions and Clarifications:

1. Fire Life Safety, and other work required as a result of San Bernardino County plan-check submission are excluded, except as noted below.
2. Tree Removal and landscape restoration is excluded from the scope of work.
3. Contractor will perform geotechnical investigation prior to final engineering. No allowance has been made for poor soil conditions (liquefaction, rock removal, caving, corrosivity, etc.).
4. Contractor has assumed Construction will be allowed to proceed smoothly and in a continuous flow. No allowance has been made to demobilize and remobilize resources due to schedule interruptions. Work will be performed during normal work hours; no overtime hours are included in the Contract Amount.
5. Temporary utilities are to be provided by Customer at no cost to Contractor (including, without limitation, trailer power, phone lines, construction power, and access to water).
6. Removal and disposal of Hazardous Substances, including asbestos containing materials, to be done by Customer. If Contractor encounters material suspected to be hazardous, Contractor will notify Customer representative and stop further work in the area until the material is removed.
7. Contractor will require the assistance of Customer personnel to secure the Project Location and to provide traffic redirection during rigging operations, and during the move-in and move-out of large equipment.
8. The Scope of Work assumes that, unless specifically identified otherwise, all existing systems are functioning properly and are up to current codes. Contractor will not be responsible for repairs or upgrades to existing systems that are not functioning properly or compliant with current codes. No allowances have been made to bring existing systems up to code. All newly installed systems will be code compliant.
9. No allowance has been made to repair or replace damaged or inoperable existing equipment that is not specifically being replaced under the Scope of Work. When such items are discovered, Contractor will immediately notify Customer representative.
10. Stainless steel hardware, PVC coated materials, cathodic protection, explosion proof material, and reinforced duct banks are excluded. Connection to any existing underground grounding system is also excluded.
11. Contractor shall use industry standard construction means and methods.
12. Customer will provide access to the facilities, laydown areas at the work sites, and a reasonable number of parking spaces for Contractor and Contractor's subcontractor vehicles in parking lots at the facilities.
13. No allowance has been made for underground obstructions or unsuitable soil conditions encountered during trenching or other excavation.
14. Repair or replacement of existing housekeeping pads, concrete pads, or base repair of existing walkway lighting are excluded, except as specifically set forth in this Scope of Work.
15. With respect to Projects with new equipment connecting to the Facility's existing electrical

distribution system, Contractor will not be responsible for the electrical integrity of the existing electrical system, e.g., the condition and proper termination of current-carrying, grounded, and grounding conductors, bus taps, protective elements, the proper protection of existing wire through knockouts, or missing components. Customer is responsible for providing and maintaining the facility's electrical distribution system that meets the latest NEC and guidelines adopted by the Authority Having Jurisdiction.

16. Customer will be responsible for Southern California Edison (SCE) Interconnection upgrade costs.
17. Customer will provide sufficient gas lines and gas flows for the new Natural Gas Generators within 20 ft. of the generators' location within six months of Contract Execution. Delays may result in a Contract Price Adjustment.
18. Customer will construct necessary Fire Lanes to and around proposed array locations, per County Fire Department requirements, within six months of Contract Execution. Delays may result in a Contract Price Adjustment.
19. Customer will provide Access Roads to and around proposed array locations within six months of Contract Execution. Access roads must be sufficient for equipment and material deliveries. Delays may result in a Contract Price Adjustment.
20. Customer will be responsible for CEQA permitting and compliance. Work related to CEQA is excluded.
21. Customer will be responsible for South Coast Air Quality Management District (SCAQMD) permitting and compliance.
22. All Scope of Work not shown on final permit approved drawings and not required to achieve the Project design criteria noted above is excluded.
23. Painting, unless specified, is excluded.
24. Gravel is excluded.
25. Fencing is excluded.
26. Water hose bibs for washing the panels are excluded. A portable water-tank will be utilized for O&M module washings.
27. No allowance has been made for screening, bird spikes, or other mitigations to eliminate nesting or occupation of wildlife on or within major equipment. Wildlife debris cleanup is excluded.
28. Contractor is not responsible for delays caused by the Utility including the failure to obtain, or delay in obtaining, any interconnection agreement, or required approval (including due to failure to make timely inspection), or delays caused by changes or modification to the Scope of Work required by the Utility, other than a failure caused by the action or inaction of the Contractor. Contractor shall be entitled to a Construction Schedule extension that is equitable to the delay caused by the Utility.
29. For the avoidance of doubt, Yucaipa Valley Water District is responsible for interconnection costs after the Interconnection Point, including any upgrade costs, levied by the Utility.

**EXHIBIT B
CONTRACT PRICE**

Year	Contract Price (\$/kWh)
1	\$0.0734
2	\$0.0734
3	\$0.0734
4	\$0.0734
5	\$0.0734
6	\$0.0734
7	\$0.0734
8	\$0.0734
9	\$0.0734
10	\$0.0734
11	\$0.0734
12	\$0.0734
13	\$0.0734
14	\$0.0734
15	\$0.0734
16	\$0.0734
17	\$0.0734
18	\$0.0734
19	\$0.0734
20	\$0.0734
21	\$0.0734
22	\$0.0734
23	\$0.0734
24	\$0.0734
25	\$0.0734
26	\$0.0734
27	\$0.0734
28	\$0.0734

EXHIBIT C
EXPECTED ENERGY PRODUCTION

Contract Year	Expected Energy Output (kWh)
1	6,396,663
2	6,364,680
3	6,332,856
4	6,301,192
5	6,269,686
6	6,238,338
7	6,207,146
8	6,176,110
9	6,145,230
10	6,114,503
11	6,083,931
12	6,053,511
13	6,023,244
14	5,993,128
15	5,963,162
16	5,933,346
17	5,903,679
18	5,874,161
19	5,844,790
20	5,815,566
21	5,786,488
22	5,757,556
23	5,728,768
24	5,700,124
25	5,671,624
26	5,643,266
27	5,615,049
28	5,586,974

**EXHIBIT D
BUYOUT AMOUNT**

<u>Anniversary of Final Commercial Operation Date</u>	<u>Buyout Amount (\$)</u>
7	\$5,649,765.53
28	\$216,485.86

EXHIBIT E
DEFINED TERMS

“*Affiliate*” means, with respect to any entity, such entity’s general partner or manager, or any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity.

“*Applicable Law*” means any statute, law, treaty, building code, rule, regulation (including, without limitation, anti-glare regulations and Federal Aviation Administration requirements), ordinance, code, enactment, injunction, writ, order, decision, authorization, judgment, decree, protocol, procedure or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, as may be in effect on the Effective Date.

“*Average Offset Electricity Cost*” means the lesser of i) the average cost of electricity purchased from the Utility, and ii) the cost of electricity avoided by the Energy produced by the System, with both costs calculated over a twelve (12) month period ending within 90 days of the Effective Date of this Agreement.

“*Business Day*” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

“*Buyout Amount*” means the amount shown on Exhibit D that corresponds to the year in which the purchase of the System occurs.

“*CEQA*” means the California Environmental Quality Act, codified at California Public Resource Code §21000 *et seq.*, and the applicable state and local guidelines promulgated thereunder.

“*Change in Law*” means any of the following events or circumstances occurring after the Effective Date: (i) an amendment, modification, interpretation, construction, enforcement standard, supplement or other change in or repeal of an existing Applicable Law; or (ii) an enactment or making of a new Applicable Law (excluding a change in any income or franchise tax law, worker’s compensation, payroll or withholding tax law).

“*Code*” means the Internal Revenue Code of 1986, as amended, or any successor federal tax statute.

“*Commercial Operation*” means that a System is capable of generating electricity and all necessary approvals for the sale, delivery and storage of such electricity have been obtained.

“*Commercial Operation Date*” means the date that Supplier notifies Customer that Commercial Operation of a System has been achieved.

“*Concealed Conditions*” means subsurface or otherwise concealed physical conditions at the Premises that Supplier could not reasonably have been expected to discover through Visual Verification in advance of the Effective Date.

“*Contract Price*” means the price of Energy Output set forth in Exhibit B.

“**Contract Year**” means each full twelve-month period following the Commercial Operation Date, and each year thereafter will be based on the succeeding twelve-month period.

“**Customer Event of Default**” means an Event of Default as to which Customer is the defaulting Party.

“**Customer Person**” means Customer, its agents, employees, subcontractors, architects, general contractors, lease/leaseback contractors or other persons acting on behalf of Customer or for whom Customer is responsible.

“” means the California Division of the State Architect.

“**Energy**” means electric energy (alternating current, expressed in kilowatt-hours) generated by the System.

“**Energy Output**” means the actual and verifiable amount of Energy delivered to Customer at the relevant Interconnection Point at any time after the Effective Date, as metered in whole kilowatt-hours (kWh) at the relevant Meter. The Energy Output delivered to Customer at an Interconnection Point shall be deemed to be equal to the energy measured at the relevant Meter; actual energy losses between a Meter and the relevant Interconnection Point shall not affect the Energy Output.

“**Environmental Attributes**” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever titled, attributable to the System, the generation of electrical energy from the System, and the displacement of conventional energy generation, that are in effect as of the Effective Date or that may come into effect in the future. Environmental Attributes include, without limitation, (i) renewable energy credits; (ii) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; and (iii) 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, irrespective of whether such Environmental Attributes accrue for the benefit of Supplier, any Affiliate, or any investor of Supplier.

“**Environmental Conditions**” means the past or present disposal, release or threatened release of any Hazardous Material and/or any other condition that could result in liability under any Environmental Law.

“**Environmental Incentives**” means any and all (i) any investment tax credits attributable to the System (or any component thereof) or Energy Output, (ii) production tax credits attributable to the System (or any component thereof) or Energy Output, (iii) accelerated depreciation attributable to the System (or any component thereof) or Energy Output, (iv) direct third-party rebates or subsidies for generation of energy by a renewable energy source, (v) fuel-related subsidies or “tipping fees” that may be paid to accept certain fuels, (vi) local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, and (vii) other financial incentives in the form of credits, tax write-offs, reductions, or allowances under Applicable Law attributable to the System (or any component thereof) or Energy

Output, irrespective of whether such Environmental Incentives accrue for the benefit of Supplier, any Affiliate, or any investor of Supplier.

“Environmental Law” means any and all federal, state, and local laws, regulations, ordinances, rules, and requirements of any Governmental Authority that concern the protection of human health or the environment.

“Excusable Event” means an act, event, occurrence, condition or cause beyond the control of Supplier, including, but not limited to, the following: (i) any act or failure to act of, or other delay caused by any Customer Person; (ii) the failure to obtain, or delay in obtaining, any interconnection agreement, or Required Approval (including due to failure to make timely inspection), or delays caused by changes and/or modifications to the Scope of Work required by a Governmental Authority, other than a failure caused by the action or inaction of Supplier; (iii) changes in the design, scope or schedule of the System required by any Governmental Authority or Customer Person; (iv) undisclosed or unforeseen conditions encountered at the Premises, including discovery or existence of Hazardous Material; (v) the failure to obtain, or delay in obtaining, approval of any Governmental Authority for design and installation of any portion of the System, including any further or subsequent approval required with respect to any change in the Scope of Work, other than a failure caused by the action or inaction of Supplier; (vi) information provided to Supplier by any Customer Person or Utility is later found to be inaccurate or incomplete; (vii) any Change in Law; (viii) delay caused by pending arbitration; or (ix) an event of Force Majeure.

“Fair Market Value” means the fair market value of the System Assets, in place, determined by an Independent Appraiser.

“Final Commercial Operation Date” means the date that Supplier notifies Customer that Commercial Operation for all Systems has been achieved.

“Financial Statements” means with respect to a Party, such Party’s most recently available unaudited balance sheet and statement of income and cash flows as of a previous fiscal quarter and such Party’s most recently available audited statement of income and of cash flows, each prepared in conformity with generally accepted accounting principles (GAAP) in the United States of America.

“Financing Party(ies)” means any person providing debt or tax equity financing for the design, development, construction, installation, operation and maintenance of the System, including any trustee or agent acting on their behalf, a lessor under a sale/leaseback transaction or a limited liability company in a partnership flip transaction or any subsidiary of such entities.

“Force Majeure” means any act or event that prevents or delays the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Force Majeure includes but is not limited to: (i) acts of God and other natural phenomena, such as storms, extraordinary seasonal conditions, tornados, hurricanes, floods, lightning, landslides, and earthquakes; (ii) explosions or fires arising from

lightning or other causes unrelated to the acts or omission of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage or vandalism, epidemic, terrorist acts, or rebellion; (iv) any industry or trade-wide national labor dispute or strike or any other strike or labor dispute not directed solely at a contractor or vendor; (v) any Utility power outage at the Premises; and (vi) action or failure to act by a Governmental Authority, including a moratorium on any activities related to this Agreement.

“Governmental Authority” means any federal, state, regional, town, county, city, municipal or local government agency, department or regulatory body having jurisdiction under Applicable Law over the matter in question.

“Governmental Charges” means all applicable federal, state and local taxes (other than taxes based on income or net worth but including sales, use, gross receipts, possessory interest, or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, independent system operator, utility, transmission and distribution provider or other similar entity, on or with respect to the Energy Output, the Premises, or this Agreement.

“Hazardous Material” 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.

“Independent Appraiser” means an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, certification, experience and training to determine the value of solar energy generating facilities of the size and age and with the operational characteristics of the System. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or within three years before his appointment have been) a director, officer or an employee of, or directly or indirectly retained as consultant or adviser to, Supplier or any Affiliate of Supplier or Customer or any Customer Person or Affiliate of Customer.

“Interconnection Point” means each of the delivery point(s) where the System connects to the existing electrical systems serving the System.

“Law” means any national, regional, state or local law, statute, rule, regulation, code, ordinance, administrative ruling, judgment, decree, order or directive of any jurisdiction applicable to this Agreement, the System, the Premises, or the transaction contemplated hereby.

“Prudent Industry Practices” means those reasonable practices, methods and acts, as they may change from time to time, that (a) are commonly used to own, manage, operate and maintain solar energy generating facilities and associated facilities of the type that are similar to the System,

safely, reliably and efficiently and in compliance with Applicable Laws and manufacturers' warranties and recommendations, **seeking claims as required therein** and (b) are consistent with the exercise of the reasonable judgment, skill, diligence, foresight and care expected of a solar energy generating facility operator in order to efficiently accomplish the desired result consistent with safety standards and Laws, in each case taking into account the location of the System, including climatic, environmental and general conditions. Prudent Industry Practices are not intended to be limited to the optimum practices or methods to the exclusion of others, but rather those practices or methods generally accepted or approved by a significant portion of the photovoltaic solar power industry during the relevant time period.

“Required Approvals” means permits, licenses or other approvals from any federal, state, or local Governmental Authority or other third parties, directly related to and required for the design, installation, construction, and operation of the System, and the sale and delivery of the Energy Output and Microgrid Services.

“Supplier Event of Default” means an Event of Default as to which Supplier is the defaulting Party.

“System Assets” means each and all of the assets of which the System are comprised, including Supplier's solar energy panels, mounting systems, carports, tracking devices, inverters, integrators battery energy storage systems and other related equipment and components installed on the Premises, electric lines and conduits required to connect such equipment to the Interconnection Points, protective and associated equipment, improvements, and other tangible and intangible assets, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of the System.

“System Loss” means loss, theft, damage or destruction of the System or System Assets, or any other occurrence or event that prevents or limits the System from operating in whole or in part, resulting from or arising out of any cause (including casualty, eminent domain, condemnation or Force Majeure).

“Tax Benefits” means the right to all items of income, deduction and depreciation arising from ownership of the System, and any tax credits under the Internal Revenue Code or applicable state law (or in either case any successor law), and any United States Treasury grant or similar program in lieu of tax credits irrespective of whether such items accrue for the benefit of Supplier, any Affiliate of Supplier, or any investor of Supplier.

“Utility” means the local provider of electric transmission and distribution services to Customer at the Premises.

“Visual Verification” means diligent physical inspection without any destructive or invasive action.

EXHIBIT F
RULES OF INTERPRETATION

In this Agreement, unless expressly provided otherwise:

(a) the words “herein,” “hereunder” and “hereof” refer to the provisions of this Agreement and a reference to a recital, Article, Section, subsection or paragraph of this Agreement or any other agreement is a reference to a recital, Article, Section, subsection or paragraph of this Agreement or other agreement in which it is used unless otherwise stated;

(b) references to this Agreement, or any other agreement or instrument, includes any schedule, exhibit, annex or other attachment hereto or thereto;

(c) a reference to a paragraph also refers to the subsection in which it is contained, and a reference to a subsection refers to the Section in which it is contained;

(d) a reference to this Agreement, any other agreement or an instrument or any provision of any of them includes any amendment, variation, restatement or replacement of this Agreement or such other agreement, instrument or provision, as the case may be;

(e) a reference to a statute or other Law or a provision of any of them includes all regulations, rules, subordinate legislation and other instruments issued or promulgated thereunder as in effect from time to time and all consolidations, amendments, re-enactments, extensions or replacements of such statute, Law or provision;

(f) the singular includes the plural and vice versa;

(g) a reference to a person includes a reference to the person’s executors and administrators (in the case of a natural person) and successors, substitutes (including persons taking by novation) and permitted assigns;

(h) words of any gender shall include the corresponding words of the other gender;

(i) “including” means “including, but not limited to,” and other forms of the verb “to include” are to be interpreted similarly;

(j) references to “or” shall be deemed to be disjunctive but not necessarily exclusive, (i.e., unless the context dictates otherwise, “or” shall be interpreted to mean “and/or” rather than “either/or”);

(k) where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of such day; and where a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of such day;

(l) a reference to a Business Day is a reference to a period of time commencing at 9:00 a.m. local time on a Business Day and ending at 5:00 p.m. local time on the same Business Day;

(m) if the time for performing an obligation under this Agreement expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day;

(n) a reference to (i) a day is a reference to a calendar day unless the defined term “Business Day” is used, (ii) a month is a reference to a calendar month and (iii) a year is a reference to a calendar year;

(o) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings;

(p) a reference to time is a reference to the time in effect in the State where the System is located on the relevant date;

(q) if a payment prescribed under this Agreement to be made by a Party on or by a given Business Day is made after 2:00 pm on such Business Day, it is taken to be made on the next Business Day; and

(r) whenever a Party's consent, approval, satisfaction, or determination will be required or permitted under this Agreement, and this Agreement does not expressly state that the Party may act in its sole discretion, such consent, approval, satisfaction, or determination will not be unreasonably withheld, qualified, conditioned, or delayed, whether or not such a "reasonableness" standard is expressly stated in this Agreement. Whenever a Party's cooperation is required for the other Party to carry out its obligations hereunder, each Party agrees that it will act in good faith and reasonably in so cooperating with the other Party or its designated representatives or assignees or subcontractors. Each Party will furnish decisions, information, and approvals required by this Agreement in a timely manner so as not to delay the other Party's performance under this Agreement.

**EXHIBIT G
SITE LEASE**

[SEE ATTACHED]

3729058.1

Yucaipa Valley Regional Water Filtration Facility (“RWFF”)

SITE LEASE AGREEMENT

This Site Lease Agreement (this “*Site Lease*”) is made and entered into as of _____ 2021 (the “*Effective Date*”) between Yucaipa Valley Water District, a County Water District (“*Lessor*”), and California Solar 3, LLC, a Delaware limited liability company having offices located at 1360 Post Oak Boulevard, Suite 400, Houston, TX 77056 (“*Lessee*”). Lessor and Lessee are at times collectively referred to hereinafter as the “*Parties*” or individually as the “*Party*.”

RECITALS

A. Lessor and Lessee have entered into a certain Solar Power Purchase Agreement (the “*Agreement*”), wherein Lessee has stated its intent to construct, install, own, operate and maintain a solar energy generating system (“*System*”), as more particularly described in Exhibit A, on the Premises (as defined below), and Lessor has agreed to lease the Premises to Lessee for such purpose. Lessee is referred to as the “*Supplier*” under the Agreement.

B. Lessor owns fee simple title to that certain real property, as more particularly described on Exhibit C (the “*Property*”), upon which the Premises is located. Lessor is referred to as the “*Customer*” in the Agreement.

C. In order to build and operate the System, Lessee requires access to and use of the Premises.

D. Lessee desires to sell to Lessor, and Lessor desires to purchase from Lessee, the Energy Output generated by the System during the Term of (and otherwise in accordance with the terms and conditions of) the Agreement.

E. In order to carry out the terms of the Agreement, Lessor agrees to lease the Premises to Lessee on the terms and conditions set forth in this Site Lease.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements contained herein, the execution of the Agreement by the Parties, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

LEASE

Section 1. Defined Terms; Rules of Interpretation. Capitalized terms used in this Site Lease and not otherwise defined herein shall have the meanings ascribed to them in Exhibit E to the Agreement. The rules of interpretation set forth in Exhibit F to the Agreement shall govern the interpretation of this Site Lease.

Section 2. Site Lease.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, during the Site Lease Term (as defined below):

(i) the exclusive use of approximately 658,486 square feet of land, which constitutes a portion of the Property;

(ii) the non-exclusive use of such additional space on the Property as mutually agreed by the Parties, including the Interconnection Point (as defined below), and as reasonably necessary for the installation, operation and maintenance of Lessee's utility lines, cables, conduits, transformers, wires, meters, monitoring equipment and other necessary equipment and appurtenances (collectively, the "*Cabling Space*") running between and among the portion of the Property and the Interconnection Point, and all necessary electrical and other utility sources located on the Property, *provided, that* all such additional space will be mutually agreeable to both Parties and will not cause any undue burden to the daily operations of Lessor;

(iii) the temporary, exclusive use of additional space on the Property immediately adjacent to the Premises as reasonably necessary during the installation, maintenance, repair, replacement, improvement or removal of the System on or from the Premises; the use of Lessor's electricity and water already available on the Property and accessible to the Premises for purposes of construction, cleaning and maintenance of the System. Lessee assumes all risk and liability associated with its use of such utilities; and

(iv) the non-exclusive right of ingress and egress from a public right-of-way over areas of the Property to and from the Premises as reasonably necessary to access the same.

(b) Lessor hereby grants to Lessee such rights of entry, rights of transit, rights of way and other rights to enter, cross and use the Property, limited to the space depicted in Exhibit B, and each part thereof for all purposes and activities in any way related or connected to the operation and construction of the System.

(c) The portion of the Property, the Interconnection Point and the Cabling Space, and the appurtenances thereto granted hereunder, collectively represent the real property leasehold interest of the Lessee (the "*Premises*"), as further described in Exhibit B attached hereto.

Section 3. Delivery of Premises.

(a) Lessor shall deliver the Premises to Lessee on the Effective Date in a condition ready for Lessee's installation of the System and free of debris.

(b) Lessor represents and warrants to Lessee that, as of the Effective Date:

(i) the Premises is: (A) fit for the intended purpose of this Site Lease and the Agreement, (B) in good condition, (C) in compliance with all Laws (as defined in Section 15), and (D) free of any substance or matter defined as a toxic or Hazardous Material;

(ii) there is no existing, pending, or, to Lessor's knowledge, threatened litigation, suit, action, or proceeding before any court or administrative agency affecting the Property, Lessor, or any constituent entity or individual of Lessor, that, if adversely determined, would be reasonably likely to adversely affect

(A) Lessor's ability to perform its obligations under this Site Lease, (B) the Property, (C) this Site Lease, or (D) Lessee's ability to use the Premises as permitted by this Site Lease (including to develop and operate the System); and

(iii) Lessor owns fee simple title to the Property, and there are no leases (including ground leases and master leases), liens, security interests or other encumbrances on the Property, except as disclosed on Exhibit D ("*Permitted Liens*") and Lessor has obtained all necessary consents and non-disturbance agreements to ensure Lessee's continued occupancy of the Property as permitted by the Site Lease.

Section 4. Term.

(a) The term of this Site Lease (the "*Site Lease Term*") shall commence on the Effective Date and, unless terminated pursuant to the terms of this Site Lease, shall expire upon the expiration of the Term or earlier termination of the Agreement *plus* the removal period provided under Section 4.4 of the Agreement (the "*Removal Period*").

(b)

(c) The leasehold interest granted herein is an *in rem* interest of record that burdens and runs with the Property and will not be extinguished or affected by a sale of the Premises completed pursuant to Bankruptcy Code § 363(f), 11 U.S.C. § 363(f).

Section 5. Rent. The Lessee agrees to pay the sum of Ten Dollars (\$10) rent to the Lessor on the Effective Date (the "*Rent*"), as consideration for Lessee's use of the Premises during the Site Lease Term.

Section 6. Use.

(a) Lessee shall use the Premises for the purpose of design, construction, installation, ownership, operation, maintenance, repair, improvement, replacement and removal of the System and uses incidental thereto (the "*Permitted Use*") and for no other purpose without the prior written consent of Lessor.

(b) Lessee shall carry out the Permitted Use in accordance with the Agreement and all Applicable Laws, rules, codes and ordinances.

(c) Without limiting any other provision of this Site Lease, Lessee agrees that Lessee's obligations under the Agreement and this Site Lease shall be performed: (i) in a good and workmanlike manner; (ii) using principles, criteria and standards generally accepted for use in connection with commercial solar power facilities of the same or similar size and type as the System in the United States; and (iii) in accordance with the Agreement and this Site Lease. All engineering work requiring certification shall be certified by professional engineers properly qualified and licensed to perform such engineering services in California.

(i) Lessor acknowledges and agrees that access to sunlight ("*Insolation*") is essential to the System's operation. Accordingly, Lessor shall not permit any interference with Insolation on and at the Premises. Without limiting the generality of the foregoing, Lessor shall not construct or permit to be constructed any structure on the Property, permit the growth of foliage on the Property, or emit or permit the emission of suspended particulate matter, smoke,

fog or steam or other airborne matter on the Property, in each case that adversely affects Insolation of the System. If a Change in Law occurs, or if Lessor becomes aware of any potential development or other activity on adjacent or nearby properties that could result in diminishing the Insolation to the Premises, Lessor shall advise Lessee of such information and reasonably cooperate with Lessee in measures to preserve existing levels of Insolation at the Premises. To the extent any filings, notices or other arrangements are available pursuant to Applicable Law for the purpose of protecting the Insolation of the System, Lessor will cooperate with Lessee in preparing and filing any necessary documentation related thereto.

(d) With twenty four (24) hours notice, Lessee shall have the continuous right to access to the Premises.

(e) Lessor covenants that Lessee shall peaceably and quietly have, hold and enjoy its leasehold interest in the Premises during the Site Lease Term for its Permitted Use of the Premises in accordance with the Agreement and this Site Lease, and Lessor shall cooperate as reasonably requested by Lessee to protect and defend Lessee's leasehold interest hereunder from any other rights or interests arising through Lessor that threaten or challenge such leasehold interest.

Section 7. Installation and Ownership of System.

(a) Lessee shall have the right at any time and from time to time to install the System and other System Assets, and repair, replace, remove, improve, enhance, relocate or replace the same or any portion thereof with new or different items with the same or different specifications so long as the installation of such System and other System Assets is otherwise in compliance with this Site Lease, the Agreement, and all Applicable Laws.

(b) Lessor acknowledges and agrees that, notwithstanding the System's presence and operation on the Premises, (i) Lessee is the exclusive owner and operator of the System, except in the case of a sale-and-leaseback financing (in which case title to the System would transfer to the applicable Financing Party), (ii) Lessor has no ownership or other interest in the System or other equipment or personal property of Lessee installed on the Premises, and (iii) Lessee may remove all or any portion of the System or other equipment or personal property at any time in compliance with this Site Lease and the Agreement. Lessor further acknowledges and agrees that the System is Lessee's personal property and may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered (collectively, a "**Transfer**") with the fee interest or leasehold rights to the Property or otherwise by Lessor, any person acting for, on behalf of, through, or for the benefit of Lessor, or any other subsequent owner of such interest in the Property. Lessor shall indemnify, defend and hold harmless Lessee against all losses, claims, costs and expenses (including attorneys' fees) incurred by Lessee in discharging and releasing any lien, encumbrance, pledge, levy or attachment on or with respect to the System, arising by, under or through Lessor. Lessor shall give Lessee at least thirty (30) days written notice prior to any Transfer of all or a portion of the Property identifying the transferee, the portion of Property to be Transferred and the proposed date of Transfer. Lessor shall require any transferee to acknowledge and consent to the terms

of this Site Lease. Lessor agrees that this Site Lease and the rights granted in Section 2 of this Site Lease shall run with the Property and survive any Transfer of the Property.

(c) Lessor acknowledges that notwithstanding the System's presence on the Premises, Lessee or its affiliate or transferee is the exclusive owner of the Energy generated by the System and owner of the Tax Benefits, Environmental Attributes and Environmental Incentives of the System.

(d) Lessor shall not permit any mechanics' or materialmen's lien to be placed upon the Premises or the System or any part thereof for any work performed on the Property during the Site Lease Term or during the six (6) month period prior to the Effective Date and shall, promptly upon discovery of the same provide Lessee with written notice of, and at its sole cost and expense, promptly remove (or cause to be removed) any such mechanics' or materialmen's lien.

(e) Notwithstanding anything to the contrary in this Site Lease or the Agreement, Lessor and Lessee acknowledge and agree that the System is not a fixture to the Property, and Lessor agrees that it will not claim, assert or assist any other entity in claiming or asserting that the System is a fixture to the Property. For the avoidance of doubt, the Lessor and Lessee acknowledge and agree that the System is the personal property of the Lessee.

Section 8. Required Approvals. Lessee's ability to use the Premises is expressly contingent upon Lessee obtaining, after the Effective Date, all certificates, permits, licenses and other approvals (collectively the "***Required Approvals***") that may be required by any federal, state, or local authorities, for the Permitted Use of the Premises. Lessor shall cooperate with Lessee in its effort to obtain such Required Approvals and shall take no action which would adversely affect the status of the Property with respect to the Permitted Use by Lessee. Lessee will carry out the activities set forth in this Section 8 in accordance with all Applicable Laws and in such a manner as will not unreasonably interfere with Lessor's operation or maintenance of the Property. In furtherance of the foregoing, the Parties acknowledge and agree that Lessee's ability to use the Premises is expressly contingent upon its obtaining Required Approvals in accordance with Section 3.1(b) of the Agreement.

Section 9. Maintenance and Security.

(a) Lessee shall be responsible for maintenance of the Premises during the Site Lease Term. Notwithstanding anything to the contrary but subject to Section 9(b), Lessee shall not be responsible for any liabilities, maintenance and repair of the Premises to the extent that such liabilities, maintenance and/or repair was due to an act or omission of Lessor or Lessor's employees, agents, contractors, representatives, tenants or invitees.

(b) During the Site Lease Term, Lessor shall maintain the Property (not including the Premises) reasonably necessary for Lessee's Permitted Use of the Premises, including any foliage and vegetation in good condition and repair. Except as otherwise provided herein, Lessor's maintenance of the Property (not including the Premises) shall be done at Lessor's sole expense. Any repair or maintenance performed by Lessor under this section shall be promptly performed and shall cause the least interference possible to the System and its operation.

(c) During the Site Lease Term, Lessee assumes all liability related to the System, and Lessor shall not be obligated to operate, maintain, repair, replace or have any other obligation related to the System or any other equipment installed by Lessee (subject, however, to any indemnity obligation of Lessor under this Site Lease).

(d) Lessee shall have the right, at its own cost, to undertake reasonable security measures necessary to protect the System and Premises against theft, loss, damage or destruction, including the use of fencing and camera-based or microwave-based security systems, provided that any such security measures shall not interfere with Lessor's SCADA system or any other plant operations or facilities.

Section 10. Removal. The Parties shall comply with the terms for removal of the System as set forth in the Agreement.

Section 11. Event of Default. An "*Event of Default*" means, with respect to a Party (a "*Defaulting Party*"), the occurrence of any of the following:

(a) any representation or warranty made by such Party in this Site Lease is false or misleading in any material respect when made or when deemed made or repeated if such breach is not cured or remedied (including by payment of money to the Non-Defaulting Party) within twenty (20) Business Days after receipt of written notice from the other Party (the "*Non-Defaulting Party*"); or

(b) the failure to perform any material covenant or obligation set forth in this Site Lease if such failure is not remedied within twenty (20) Business Days after receipt of written notice from the Non-Defaulting Party (provided that so long as the Non-Defaulting Party has initiated and is diligently attempting to effect a cure, such cure period shall be extended for an additional period not to exceed ninety (90) days so long as such extension does not have a material adverse effect on the Non-Defaulting Party).

Section 12. Remedies. Upon an Event of Default hereunder, the Non-Defaulting Party shall have the same remedies (with respect to this Site Lease) as provided to it in the Agreement (with respect to the Agreement).

Section 13. Casualty and Insurance.

(a) Subject to **Error! Reference source not found.**, if the Premises are damaged by fire or other casualty, then Lessor shall, at its expense, repair and restore the Premises to substantially their former condition within a reasonable period of time, not to exceed six (6) months after such casualty event, and this Site Lease shall remain in full force and effect.

(b)

(c) Lessor and Lessee shall maintain all insurance policies as required under the Agreement.

Section 14. Condemnation.

(a) If only a part of the Premises is taken by eminent domain or otherwise by way of condemnation such that the balance of the Premises remain suitable for the Permitted Use as reasonably determined by Lessee, then the Site Lease shall not terminate and the Lessor shall exercise commercially reasonable efforts to modify the

Premises as necessary to return them as closely as possible to their condition prior to such taking; *provided, however*, if such taking causes a material interference with Lessee's Permitted Use of the Premises, then the Parties shall meet to discuss a mutually agreeable alternative under this Site Lease to determine if Lessee's Permitted Use can still be accommodated, the Agreement can remain in full force and effect, and Lessee can still sell and deliver the Energy Output to Lessor thereunder.

(b) If all or a substantial part of the Premises are taken by eminent domain or otherwise by way of condemnation so as to render the use of the Premises unsuitable for the Permitted Use as reasonably determined by Lessee, then either Party may elect to terminate this Site Lease on not less than thirty (30) days' prior written notice to the other Party, upon which this Site Lease shall terminate and be of no further force or effect (except for those provisions which survive such termination as provided herein) on the date specified in such notice, subject to the Removal Period. If neither Party elects to terminate this Site Lease pursuant to the previous sentence, Lessor shall exercise commercially reasonable efforts to modify the Premises as necessary to return them as closely as possible to their condition prior to such taking, except that Lessor shall in no event be required to repair, replace or restore any property of Lessee comprising part of the System, which replacement or restoration shall be Lessee's responsibility.

(c) Lessor and Lessee agree that (i) all condemnation awards payable in connection with the taking of all or any portion the Premises shall belong to Lessor and (ii) all condemnation awards payable in connection with the System, any System Asset or the termination of the Site Lease or the Agreement due to condemnation of the Premises, shall belong to Lessee.

Section 15. Compliance With Laws. During the Site Lease Term, Lessor shall maintain the Property (not including the Premises), and Lessee shall maintain the Premises, in compliance with all Applicable Laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including the ADA and laws regulating Hazardous Materials) relating to the Property and the Premises. Lessee shall comply in all material respects with all Applicable Laws relating to the System and Lessee's Permitted Use of the Premises.

Section 16. Liens. Consistent with the requirements and obligations in the Agreement, including the indemnification of Lessor, in connection with its construction, ownership, operation and maintenance of the System, Lessee shall not file (nor permit to be filed by any of its representatives, employees, contractors, subcontractors, consultants or affiliates) any mechanics' or materialmen's liens on all or any portion of the Property (including the Premises). Any such mechanics' or materialmen's liens filed in violation of this Section 16 shall be removed by Lessee in accordance with the notice and cure provisions herein and shall not constitute an Event of Default under this Site Lease.

Section 17. Non-Disturbance Agreement. To the extent that any third party has or gains any interest in the Premises or any other claim, lien, encumbrance or right of possession on or against the Premises, Lessor will promptly obtain a subordination, non-disturbance and attornment agreement, in a form mutually acceptable to Lessee and any such third party in order to evidence: (i) the consent of such third party, their successors and assigns, to be bound by the

terms of the Site Lease and the transactions contemplated herein as a succeeding lessor subsequent to any transfer of or foreclosure on the Premises for the remaining term of the Site Lease; (ii) the acknowledgement by such third party, their successors and assigns, of the continuing right, title and interest of Lessee in and to the Premises and the System without disturbance for the term of the Site Lease; and (iii) the waiver by such third party, their successors and assigns, of any lien or other interest in the System for the term of the Site Lease.

Section 18. Liability and Indemnity.

(a) The Parties hereby acknowledge and agree to the indemnification provisions in the Agreement, and further agree that such provisions shall be applicable to this Site Lease.

(b) Lessee shall indemnify, defend and hold harmless Lessor, its parent, officers, agents and employees of and from any damage, claim, demand, lawsuit or action of any kind for injury to or death of persons, including employees of Lessee or Lessor, and damage or destruction of property, including, but not limited to, property of either Lessee or Lessor, any utility company, or other loss or damage incurred by Lessor, to the extent arising out of the presence, release, transportation, migration, generation, treatment, processing, storage, use or disposal of Hazardous Materials (whether intentional or unintentional, direct or indirect) at, on or from the Premises by Lessee (including the costs of assessment, containment and removal of Hazardous Materials), but only to the extent that such claims relate to Hazardous Materials physically brought onto the Premises by Lessee or Lessee's contractors (and shall specifically not include mere discovery of any existing condition on the Premises). Lessee's obligations pursuant to this Section 18(b) shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the gross negligence or willful misconduct of Lessor or Lessor's contractors, officers, employees, agents, successors, or assigns. Lessee's obligations under this Section 18(b) shall survive the termination of this Site Lease.

(c) Lessor shall indemnify, defend and hold harmless Lessee, its officers, agents and employees (the "*Lessee Indemnitees*") of and from any damage, claim, demand, lawsuit or action of any kind for injury to or death of persons, including employees of Lessee or Lessor, and damage or destruction of property, including property of either Lessee or Lessor, or other loss or damage incurred by Lessee, to the extent arising out of the presence, release, transportation, migration, generation, treatment, processing, storage, use or disposal of Hazardous Materials (whether intentional or unintentional, direct or indirect) at, on, or from the Premises by any person or entity or other source (including the costs of assessment, containment and removal of Hazardous Materials), except for such Hazardous Materials that were physically brought onto the Premises by Lessee or Lessee's contractors, whether or not such claims are related to the actions of the Lessor. Lessor's obligations pursuant to this Section 18(c) shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the gross negligence or willful misconduct of Lessee, the Lessee Indemnitees, or their respective contractors, successors or assigns. Lessor's obligations under this Section 18(c) shall survive the termination of this Site Lease.

Section 19. Assignment.

(a) Neither Party shall have the right to assign or transfer, whether voluntarily or by operation of law, any of its rights, duties or obligations under this Site Lease without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the following shall not be deemed an assignment of this Agreement: any (i) sale, assignment, transfer or disposition of the System, directly or indirectly, to an affiliate of Supplier, provided, however, that any such affiliate shall agree to be bound by the terms and conditions hereof and shall have sufficient financial or other operational capabilities as reasonably determined by Customer, or (ii) transaction which results in a change of control of Supplier. Change of control shall be defined in common law, and may be the result of a single or multiple related transactions which result in the cumulative transfer of more than fifty percent (50%) of the voting stock or equity interests of Supplier..

(b) Subject to the foregoing restrictions on assignment, this Site Lease will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

Section 20. Financing. Notwithstanding anything else in this Site Lease to the contrary, including, without limitation, the terms of Section 19, Lessor acknowledges and agrees that Lessee may finance the acquisition and installation of the System through a loan, lease, or partnership from or with one or more third parties and that Lessee's obligations may be secured by, among other collateral, a pledge or collateral assignment of this Site Lease and a first security interest in the System. To facilitate any such transaction, Lessor (a) consents to the collateral or full assignment by Lessee to its Financing Parties of Lessee's right, title and interest in and to this Site Lease and the System, (b) agrees to take any reasonable actions and provide any documentation reasonably requested by Lessee in connection with such a transaction, and (c) will use commercially reasonable efforts to place its successors and assigns on notice of the ownership of the System by Lessee, the existence of the security interest, and the fact that the System is not part of the Premises or a fixture thereof, as necessary and appropriate to avoid confusion or adverse claims.

Section 21. Jurisdiction; Disputes. The Parties hereby acknowledge and agree to the governing law and dispute resolution provisions in the Agreement, and further agree that such provisions shall be applicable to this Site Lease.

Section 22. Notices. All notices, requests, statements or payments under this Site Lease will be made to the addresses and persons specified in Section 17.1 of the Agreement in accordance with the terms and conditions therein provided.

Section 23. Taxes. Lessee shall pay all personal property taxes, business or license taxes or fees, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, assessments, bonds, levies, fees or charges of any kind which are assessed, levied, charged, confirmed, or imposed by any public authority due to Lessee's ownership and/or use and operation of the System (or any portion or component thereof), except any (i) real property taxes, (ii) personal property taxes relating to the Lessor's Property which is not a part of the Premises, and (iii) taxes computed upon the basis of the net income or payments derived from the Property by Lessor or the owner of any interest therein. Lessor shall be responsible for all applicable amounts in connection with clauses (i) through (iii) of this Section 23. Lessor

disclaims any right, title or interest in and to all tax credits, tax incentives or tax related grants or benefits relating to the System, which are, and shall remain, the exclusive property of Lessee.

Section 24. Non-Waiver. No failure or delay by either Party in exercising any right, power, privilege or remedy hereunder will operate as a waiver thereof. No waiver by either Party of a breach of any term or provision contained herein shall be effective unless signed and in writing by the waiving Party. No consent by either Party to, or waiver of, a breach by either Party, whether express or implied, shall be construed, operate as or constitute a consent to, waiver of or excuse of any other or subsequent or succeeding breach by either Party.

Section 25. Recording. Lessor shall concurrently herewith execute a memorandum of this Site Lease, in the form attached hereto as Exhibit E, which Lessee shall promptly record with the appropriate recording officer. Lessee shall be entitled to, and is hereby authorized to, file one or more precautionary UCC financing statements and/or precautionary fixture filings or similar documents in such jurisdictions as it deems appropriate with respect to the System in order to provide notice of its ownership of the System.

Section 26. Governing Law. This Site Lease will be governed by the laws of the State of California, without giving effect to principles of conflicts of laws.

Section 27. Brokerage Commissions. Lessor and Lessee have dealt directly as principals and neither Party has knowledge of any brokerage commission claimed or payable as a result of the execution of this Site Lease.

Section 28. Severability. If any part, term, or provision of this Site Lease is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality or enforceability of any other part, term or provision of this Site Lease, and shall not render this Site Lease unenforceable or invalid as a whole.

Section 29. Counterparts. This Site Lease may be executed in one or more counterparts, each of which is an original and all of which together constitute one and the same instrument. A signature on a copy of this Site Lease received by either Party by facsimile transmission or electronic signature is binding upon the other Party as an original.

Section 30. Conflict between Site Lease and Agreement. If any provisions of the Site Lease conflict with the terms or provisions of the Agreement, the terms of the Agreement shall control and take precedence.

[SIGNATURE PAGE FOLLOWS]

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

“LESSEE:”

California Solar 3, LLC
a Delaware limited liability company

By: _____
Name:
Title:

“LESSOR:”

Yucaipa Valley Water District, a County Water District

By: _____
Name:
Title:

EXHIBIT A**SYSTEM DESCRIPTION**

Supplier will cause EPC Contractor to design, engineer, and install photovoltaic power generating systems (System) at the Premises as provided in the table below:

Solar Generating Facilities to be Installed

Facility	Description	Address	Approximate System Size (kW DC)
RWFF	Solar Photovoltaic Fixed-tilt Ground Mounted Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)	35477 Oak Glen Road, Yucaipa, CA 92399	3,452.8 kW DC
RWFF	Battery Energy Storage and Microgrid Controls Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)	35477 Oak Glen Road, Yucaipa, CA 92399	1,540 kW /
RWFF	Natural Gas Backup Generator Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)	35477 Oak Glen Road, Yucaipa, CA 92399	6,160 kWh

EXHIBIT B

PREMISES



EXHIBIT C

PROPERTY

Address: 35477 Oak Glen Road, Yucaipa, CA 92399

Legal Description:¹

¹ Legal Description to be added upon receipt of Preliminary Title Reports

EXHIBIT D

PERMITTED LIENS

EXHIBIT E

MEMORANDUM OF LEASE

[Subject to revisions based on jurisdictional requirements]

This instrument prepared by and
When recorded should be mailed to:

[ENGIE PROJECT COMPANY]
1360 Post Oak Boulevard, Suite 400
Houston, TX 77056
Attn: General Counsel

(SPACE ABOVE THIS LINE FOR RECORDER’S USE ONLY)

MEMORANDUM OF SITE LEASE AGREEMENT

Lessor: _____
Lessee: _____
[ENGIE PROJECT COMPANY]
(or Assignee)
Assessor’s Parcel No.: _____
Property Address: _____

THIS MEMORANDUM OF SITE LEASE AGREEMENT (the “*Memorandum*” is dated for reference purposes only as of _____, 2021 and is made by and between _____, a _____ (“*Lessor*”), with a mailing address of _____ and [ENGIE PROJECT COMPANY], a Delaware limited liability company (“*Lessee*”) having its offices located at 1360 Post Oak Boulevard, Suite 400, Houston, TX 77056. Lessor and Lessee are at times collectively referred to herein individually as the “*Party*” and collectively as the “*Parties*.”

The Parties agree as follows:

Section 1. Site Lease Term. Lessor and Lessee have entered into a Solar Power Purchase Agreement dated as of _____, 2021 (the “*Agreement*”) whereby Lessee has agreed to construct, install, own, operate and maintain a solar energy facility on the Premises described in Section 2 below. Lessor and Lessee have also entered into a Site Lease Agreement (the “*Site Lease*”) as of _____, 2021 (the “*Effective Date*”), dated for a term which shall commence on the Effective Date and shall coincide with the term of the Agreement, *provided*

that the Lessee may have an additional period following the term of the Site Lease to remove the solar energy generation equipment and related equipment (the "**System**") from the Property as set forth in the Site Lease. The Agreement is for a term of [] years after the Final Commercial Operation Date as defined in the Agreement and may be extended upon mutual agreement by the Lessor and Lessee. The Site Lease shall terminate automatically upon termination or expiration of the Agreement, unless earlier terminated or extended pursuant to any provision of the Site Lease.

Section 2. Leased Premises. Lessor leases to Lessee and Lessee leases from Lessor certain real property which is legally described in the *Description of Property* attached hereto as Exhibit A (and such real property are hereinafter sometimes collectively referred to as the "**Property**"), for the design, installation, operation, maintenance, repair, replacement and improvement of a solar electric generating facility that produces electrical energy to be purchased by Lessor pursuant to the Agreement, including, but not limited to, solar energy panels, mounting systems, inverters, integrators and other related equipment more particularly described in the *System Description* attached hereto as Exhibit B and by this reference incorporated herein (collectively, the "**System**") together with all electrical lines required to transmit electrical energy generated by the System to the delivery point at which electrical energy is to be delivered and received under the Agreement (the "**Interconnection Point**"), together with such additional space for the installation, operation and maintenance of utility lines, cables, conduits, transformers, wires, meters, monitoring equipment and other necessary and convenient equipment and appurtenances (collectively, the "**Cabling Space**") running between and among the Property, the Interconnection Point, and all necessary electrical and other utility sources located on the Property, together with the non-exclusive right of ingress and egress from a public right-of-way, seven (7) days a week, twenty four (24) hours a day, over the Property and to and from the Premises (as hereinafter defined) for the purpose of design, installation, operation, inspection, maintenance, repair and improvements of the System. The Property, the Interconnection Point and the Cabling Space are hereinafter collectively referred to as the "**Premises.**"

Section 3. Installation and Ownership of System and System Assets.

(a) Lessee shall have the right to install the System and all related transmission lines, cables, fixtures and utilities (collectively, the "**System Assets**") within the Premises and to make such other installations on the Premises as may be reasonably necessary or desirable in connection with Lessee's operation of the System in compliance with the terms of the Agreement and all Applicable Laws. Lessor has granted Lessee the right to temporarily use additional space immediately adjacent to the Premises during installation, maintenance, repair, replacement, improvement or removal of the System and other System Assets on the Premises, provided that Lessee provides reasonable notice to Lessor of its intent to temporarily use the space and Lessee takes reasonable efforts not to impact Lessor's normal course of business. Lessee shall have the right at any time and from time to time to repair, replace, remove, improve, enhance, relocate or replace the System and other System Assets or any portion thereof with new or different items with the same or different specifications so long as the installation of such System and other System Assets is otherwise in compliance with the Site Lease, the Agreement, and all Applicable Laws.

(b) Lessor shall have no ownership or other interest in the System or any System Assets or other equipment or personal property of Lessee installed on the Premises and Lessee may remove all or any portion of the System or any System Assets at any time and from time to time as further provided in the Agreement. Without limiting the generality of the foregoing, Lessor hereby waives any statutory or common law lien that it might otherwise have in or to the System and other System Assets or any portion thereof.

(c) The lien of any third party mortgagee, deed holder, or party to any security document shall not cover the System, any System Assets or Lessee's moveable trade fixtures or other personal property of Lessee located in or on the Premises.

(d) Notwithstanding anything to the contrary in the Agreement or Site Lease, Lessor and Lessee acknowledge and agree that the System is not a fixture and Lessor agrees that it will not claim, assert or assist any other entity in claiming or asserting that the System is a fixture. Lessee will have the right to remove the System in accordance with the Agreement.

Section 4. Provisions Binding on Lessor and Lessee. All of Lessor and Lessee's obligations under the Site Lease, both affirmative and negative, are intended to and shall be binding on Lessor and Lessee, respectively, in accordance with their terms and shall be binding on their respective successors and permitted assigns and shall inure to the benefit of the Parties thereto and their respective successors and permitted assigns. All capitalized terms not otherwise defined herein shall have the same definition as set forth in the Site Lease or if not defined therein, as defined in the Agreement.

Section 5. Purpose of Memorandum. This Memorandum is prepared for the purpose of recordation only to give third parties notice of the Site Lease. It shall not constitute an amendment or modification of the Site Lease and in the event of any conflict between the terms and provisions of the Agreement or the Site Lease and this Memorandum, the terms and provisions of the Agreement, first, and then the provisions of the Site Lease shall control.

[SIGNATURE BLOCKS AND EXHIBITS EXCLUDED]

3668356.1

This instrument prepared by and
When recorded should be mailed to:

California Solar 3, LLC
1360 Post Oak Boulevard, Suite 400
Houston, TX 77056
Attn: General Counsel

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

MEMORANDUM OF SITE LEASE AGREEMENT

Lessor: Yucaipa Valley Water District
Lessee: California Solar 3, LLC (or Assignee)
Assessor's Parcel No.:
Property Address: 35477 Oak Glen Road, Yucaipa, CA 92399

THIS MEMORANDUM OF SITE LEASE AGREEMENT (the "*Memorandum*") is dated for reference purposes only as of _____, 2021 and is made by and between Yucaipa Valley Water District, a County Water District ("*Lessor*"), and California Solar 3, LLC, a Delaware limited liability company ("*Lessee*") having its offices located at 1360 Post Oak Boulevard, Suite 400, Houston, TX 77056. Lessor and Lessee are at times collectively referred to herein individually as the "*Party*" and collectively as the "*Parties*."

The Parties agree as follows:

Section 1. Site Lease Term. Lessor and Lessee have entered into a Solar Power Purchase Agreement dated as of _____, 2021 (the "*Agreement*") whereby Lessee has agreed to construct, install, own, operate and maintain a solar energy facility on the Premises described in Section 2 below. Lessor and Lessee have also entered into a Site Lease Agreement (the "*Site Lease*") as of _____, 2021 (the "*Effective Date*"), dated for a term which shall commence on the Effective Date and shall coincide with the term of the Agreement, *provided that* the Lessee may have an additional period following the term of the Site Lease to remove the solar energy generation equipment and related equipment (the "*System*") from the Property as set forth in the Site Lease. The Agreement is for a term of twenty-eight (28) years after the Commercial Operation Date as defined in the Agreement and may be extended upon mutual agreement by the Lessor and Lessee. The Site Lease shall terminate automatically upon termination or expiration of the Agreement, unless earlier terminated or extended pursuant to any provision of the Site Lease.

Section 2. Leased Premises. Lessor leases to Lessee and Lessee leases from Lessor certain real property which is legally described in the *Description of Property* attached hereto as Exhibit A (and such real property are hereinafter sometimes collectively referred to as the "*Property*"), for the design, installation, operation, maintenance, repair, replacement and

improvement of a solar electric generating facility that produces electrical energy to be purchased by Lessor pursuant to the Agreement, including, but not limited to, solar energy panels, mounting systems, inverters, integrators and other related equipment more particularly described in the *System Description* attached hereto as Exhibit B and by this reference incorporated herein (collectively, the “*System*”) together with all electrical lines required to transmit electrical energy generated by the System to the delivery point at which electrical energy is to be delivered and received under the Agreement (the “*Interconnection Point*”), together with such additional space for the installation, operation and maintenance of utility lines, cables, conduits, transformers, wires, meters, monitoring equipment and other necessary and convenient equipment and appurtenances (collectively, the “*Cabling Space*”) running between and among the Property, the Interconnection Point, and all necessary electrical and other utility sources located on the Property, together with the non-exclusive right of ingress and egress from a public right-of-way, seven (7) days a week, twenty four (24) hours a day, over the Property and to and from the Premises (as hereinafter defined) for the purpose of design, installation, operation, inspection, maintenance, repair and improvements of the System. The Property, the Interconnection Point and the Cabling Space are hereinafter collectively referred to as the “*Premises*.”

Section 3. Installation and Ownership of System and System Assets.

(a) Lessee shall have the right to install the System and all related transmission lines, cables, fixtures and utilities (collectively, the “*System Assets*”) within the Premises and to make such other installations on the Premises as may be reasonably necessary or desirable in connection with Lessee’s operation of the System in compliance with the terms of the Agreement and all Applicable Laws. Lessor has granted Lessee the right to temporarily use additional space immediately adjacent to the Premises during installation, maintenance, repair, replacement, improvement or removal of the System and other System Assets on the Premises, provided that Lessee provides reasonable notice to Lessor of its intent to temporarily use the space and Lessee takes reasonable efforts not to impact Lessor’s normal course of business. Lessee shall have the right at any time and from time to time to repair, replace, remove, improve, enhance, relocate or replace the System and other System Assets or any portion thereof with new or different items with the same or different specifications so long as the installation of such System and other System Assets is otherwise in compliance with the Site Lease, the Agreement, and all Applicable Laws.

(b) Lessor shall have no ownership or other interest in the System or any System Assets or other equipment or personal property of Lessee installed on the Premises and Lessee may remove all or any portion of the System or any System Assets at any time and from time to time as further provided in the Agreement. Without limiting the generality of the foregoing, Lessor hereby waives any statutory or common law lien that it might otherwise have in or to the System and other System Assets or any portion thereof.

(c) The lien of any third party mortgagee, deed holder, or party to any security document shall not cover the System, any System Assets or Lessee’s moveable trade fixtures or other personal property of Lessee located in or on the Premises.

(d) Notwithstanding anything to the contrary in the Agreement or Site Lease, Lessor and Lessee acknowledge and agree that the System is not a fixture and Lessor agrees that it will not claim, assert or assist any other entity in claiming or asserting that the System is a fixture. Lessee will have the right to remove the System in accordance with the Agreement.

Section 4. Provisions Binding on Lessor and Lessee. All of Lessor and Lessee's obligations under the Site Lease, both affirmative and negative, are intended to and shall be binding on Lessor and Lessee, respectively, in accordance with their terms and shall be binding on their respective successors and permitted assigns and shall inure to the benefit of the Parties thereto and their respective successors and permitted assigns. All capitalized terms not otherwise defined herein shall have the same definition as set forth in the Site Lease or if not defined therein, as defined in the Agreement.

Section 5. Purpose of Memorandum. This Memorandum is prepared for the purpose of recordation only to give third parties notice of the Site Lease. It shall not constitute an amendment or modification of the Site Lease and in the event of any conflict between the terms and provisions of the Agreement or the Site Lease and this Memorandum, the terms and provisions of the Agreement, first, and then the provisions of the Site Lease shall control.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum as of the date set forth above.

“LESSEE:”

CALIFORNIA SOLAR 3, LLC
a Delaware limited liability company

By: _____
Name: _____
Title: _____

“LESSOR:”

Yucaipa Valley Water District, a County Water District

By: _____
Name: _____
Title: _____

CERTIFICATE OF ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE _____)

COUNTY OF _____)

On _____, 202__, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

CERTIFICATE OF ACKNOWLEDGEMENT continued

STATE OF ILLINOIS)
COUNTY OF COOK)

On this, the ___ day of _____, 2021, before me, _____, a notary public, personally appeared _____, a duly authorized company representative of

California Solar 3, LLC

known to me (or who proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person(s) acted, executed the instrument for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

_____, Notary Public (Seal)

EXHIBIT A

THE PROPERTY

Address: 35477 Oak Glen Road, Yucaipa, CA 92399

Legal Description:¹

¹ Legal Description to be added upon receipt of Preliminary Title Reports

EXHIBIT B**THE PREMISES AND EASEMENTS**

Supplier will cause EPC Contractor to design, engineer, and install photovoltaic power generating systems (System) at the Premises as provided in the table below:

Solar Generating Facilities to be Installed

Facility	Description	Address	Approximate System Size (kW DC)
RWFF	Solar Photovoltaic Fixed-tilt Ground Mounted Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)	35477 Oak Glen Road, Yucaipa, CA 92399	3,452.8 kW DC
RWFF	Battery Energy Storage and Microgrid Controls Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)	35477 Oak Glen Road, Yucaipa, CA 92399	1,540 kW /
RWFF	Natural Gas Backup Generator Installation at the Yucaipa Valley Regional Water Filtration Facility (RWFF)	35477 Oak Glen Road, Yucaipa, CA 92399	6,160 kWh

SOLAR POWER PURCHASE, ENERGY STORAGE AND MICROGRID SERVICES AGREEMENT

This Solar Power Purchase, Energy Storage and Microgrid Services Agreement (this "**Agreement**"), is made and entered into as of _____ 2021 (the "**Effective Date**"), by and between California Solar 3, LLC, a Delaware limited liability company (collectively, "**Supplier**"), and Yucaipa Valley Water District, a County Water District ("**Customer**"). Supplier and Customer are sometimes hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**." There are no other parties to this Agreement.

WHEREAS, Customer owns certain properties located at the following location (the "**Property**"):

Property	Address
Henry N. Wochholz Regional Water Recycling Facility ("RWRP")	880 W County Line Road, Calimesa, CA 92320

WHEREAS, Customer seeks to develop a cost-effective and reliable energy plan to ensure that Customer can provide water and sewer facilities for the community at all times and, in furtherance of this goal, Customer issued a request for proposals for an integrated energy resiliency project from experienced microgrid development organizations.

WHEREAS, Supplier responded to Customer's request for proposals and demonstrated sufficient expertise in development of microgrid systems and, in reliance on Supplier's expertise, Customer has selected Supplier to develop a microgrid system in furtherance of Customer's reliable energy plan.

WHEREAS, in order to effectuate Customer's reliable energy plan, Customer desires to buy and Supplier desires to sell all electricity produced by one or more solar energy photovoltaic generating systems (collectively, the "**PV System**") described herein.

WHEREAS, Customer also desires to receive and Supplier wishes to provide services from one or more battery energy storage systems (collectively, the "**BESS**") to be installed by Supplier on the Property and integrated with one or more PV Systems, microgrid controls and a natural gas generator (the BESS, microgrid controls, natural gas generator and the PV System, collectively, the "**System**") at the locations shown on the site plans (the "**Site Plans**"). The Microgrid Services are described in further detail in Section 2.5.

WHEREAS, a material consideration for Customer to enter into this Agreement is Customer's desire to receive, and Supplier's agreement to provide, reliable System operations that will allow the RWRP to receive sufficient electrical output to operate in the event of a planned or unplanned emergency shut-off of the electrical grid, due to wildfire or other causes.

WHEREAS, the scope of work attached as Exhibit A (the "**Scope of Work**") describes in detail the System that Supplier will construct, install, own, operate and maintain on the Property (collectively, the "**Project**").

WHEREAS, Customer and Supplier will enter into one or more site lease agreements, in the form attached hereto as Exhibit G (each, a "**Site Lease**"), under the terms of which Customer has leased those portions of the Property (with those portions defined in the Site Lease as the

“*Premises*”) indicated in the Site Plans to Supplier for the purposes of constructing, operating and maintaining the System.

NOW THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1
DEFINED TERMS; RULES OF INTERPRETATION

Section 1.1 Defined Terms. Capitalized terms used in this Agreement, which are not otherwise defined herein, shall have the meanings ascribed to them in Exhibit E.

Section 1.2 Rules of Interpretation. The rules of interpretation in Exhibit F shall apply to this Agreement unless expressly provided otherwise.

ARTICLE 2
SALE OF ENERGY OUTPUT; PROVISION OF MICROGRID SERVICES

Section 2.1 Sale and Purchase of Energy Output; Delivery of Energy Storage, Microgrid Services; Supplier’s Provision of Services to Third Parties.

(a) Supplier will generate, deliver and sell all Energy Output generated by the PV System to Customer and will provide the Energy Storage and microgrid Services to the Customer using the BESS, a natural gas generator and installed microgrid controls, and Customer will take delivery and purchase from Supplier all Energy Output from the PV System and the BESS delivered to the Interconnection Points during the Term of this Agreement, at the Contract Price shown on Exhibit B for the applicable Contract Year, as such Contract Price may be adjusted pursuant to the terms hereof, including without limitation for loss of Insolation arising from a breach of Section 7.5(a). Customer shall have no obligation to pay for Energy Output or Energy Storage and microgrid Services delivered from the System after the expiration of the Term or any early termination of this Agreement. Title to and risk of loss of all Energy Output and Microgrid Services will pass from Supplier to Customer at the Interconnection Points.

(b) For the convenience of the Customer, Supplier has included its charges for the delivery of Energy Output from the PV System and delivery of Microgrid Services into a single Contract Price.

Section 2.2 Expected Energy Output. Supplier has estimated that the System will deliver the Expected Energy Output indicated on Exhibit C. The Parties acknowledge that the System’s performance and size may change as planning and engineering is completed, and the final Expected Energy Output will be determined by such planning and engineering. The Parties further acknowledge that the insolation level of the PV System may be less than assumed in the initial calculation of the Expected Energy Output (e.g., due to shading or shadowing), and the final Expected Energy Output from the PV System and the capacity of the BESS to deliver the Microgrid Services will be determined on a System’s Commercial Operation Date by Supplier,

acting in its reasonable discretion, to reflect any such reduction of insolation available to the PV System and changes in the capacity of the BESS.

Section 2.3 Environmental Attributes, Environmental Incentives and Tax Benefits. Customer's purchase of Energy Output and Microgrid Services does not include Environmental Attributes associated with the System, Environmental Incentives, Tax Benefits or other incentives that exist as of the Effective Date or that may become available due to any Change in Law. Supplier shall be the sole owner of the System, any Environmental Attributes, Environmental Incentives or Tax Benefits derived from the ownership of the System and, until delivered or provided to the Customer at the Interconnection Point, all Energy Output generated by and Microgrid Services provided from the System. Any grant, rebate, incentive payment or credit by the Utility, the Federal Government, the State or any other agency paid as a result of the design, development, construction, operation and maintenance of the System shall inure to the benefit of Supplier. Customer will cooperate in good faith to enable Supplier to obtain all available Environmental Attributes, Environmental Incentives and Tax Benefits, including assignment to Supplier of any Environmental Incentives received by Customer in connection with the System or this Agreement. If the standards used to qualify the System for Environmental Attributes, Environmental Incentives or Tax Benefits to which Supplier is entitled under this Agreement are changed or modified, Customer shall, at Supplier's request and expense, use all reasonable efforts to cause the System to comply with new standards as changed or modified.

Section 2.4 Production Guarantee. Supplier guarantees that not less than ninety percent (90%) of the Expected Energy Output tabulated in Exhibit C hereof (subject to adjustment as set forth below) will be produced every Measurement Period during the Term (the "*Production Guarantee*"). All Energy Output delivered to the Interconnection Point prior to the Final Commercial Operation Date shall be included in the Energy Output for the first Contract Year. After the end of every Contract Year beginning with the third Contract Year, Supplier will compare the Energy Output that has occurred in the aggregate over the Measurement Period then ended with the aggregate Expected Energy Output for such Measurement Period from Schedule C hereof after reducing Expected Energy Output to account for any loss of Energy Output attributable to (i) Scheduled Outages as defined in Section 5.6(a), (ii) decreases in Insolation as defined in Section 7.5(a)(i), (iii) Customer Misconduct as defined in Section 6.2(a), and (iv) and Excusable Events (collectively, the "*Adjusted Expected Energy Output*"). "*Measurement Period*" means each rolling three (3) year period commencing with the first day of the month immediately following the Final Commercial Operation Date.

(a) Energy Savings Report. Supplier shall provide a detailed reconciliation of the Production Guarantee to Customer (i) on a monthly basis, in which the Energy Output, Expected Energy Output, Adjusted Expected Energy Output, and any Production Shortfalls shall be calculated in a running total, and (ii) annually, within ninety (90) days after the end of each Contract Year, in which the annual reconciliation will compare annual Energy Output, Expected Energy Output, Adjusted Expected Energy Output, and any Production Shortfalls and Production Shortfall Penalties that may have occurred.

(b) Production Shortfall. If the Energy Output for a Measurement Period was less than ninety percent (90%) of the Adjusted Expected Energy Output for such Measurement Period, then the "*Production Shortfall*" (in units of kWh) will be the *difference* between (i) ninety percent (90%) of the Adjusted Expected Energy Output for such Measurement Period *minus* (ii) the *sum* of (1) the aggregate Energy Output for such

Measurement Period plus (2) the then outstanding Excess Energy Output. The existence of a Production Shortfall will not be an event of default, but Supplier will owe Customer a Production Shortfall Penalty which will be credited to Customer on the subsequent Energy Output Invoice.

(c) Excess Energy Output. The “*Excess Energy Output*” will be the cumulative amount of Energy Output in excess of Adjusted Expected Energy Output, expressed in kWh. Excess Energy Output will be increased, each Contract Year, by the *difference*, to the extent positive, between (i) the Energy Output for such Contract Year *minus* (ii) the Adjusted Expected Energy Output for such Contract Year. Excess Energy Output will be decreased, each Contract Year, by the *difference*, to the extent positive, between (i) the Adjusted Expected Energy Output for such Contract Year *minus* (ii) the Energy Output for such Contract Year. For the avoidance of doubt, Excess Energy Output will not be reduced below zero.

(d) Production Shortfall Penalty. The “*Production Shortfall Penalty*” will be an amount, expressed in Dollars, calculated by *multiplying* (i) the Production Shortfall (expressed in kWh) by (ii) the Shortfall Rate.

(e) Shortfall Rate. The “*Shortfall Rate*” will be \$0.0585 per kWh, which is the difference between (A) the Average Offset Electricity Cost, which is \$0.1432 per kWh, minus (B) the Contract Price for Year 1, which is \$0.0847 per kWh.

(f) Weather Adjustment. Whenever the measured annual global incident irradiation for a Contract Year is less than the expected annual global incident irradiation, the Adjusted Expected Energy Output for such Contract Year will be multiplied by a ratio, expressed as a percentage, calculated by dividing (i) the measured annual global incident irradiation for such Contract Year by (ii) the expected annual global incident irradiation (the “*Weather Adjustment*”).

Section 2.5 Microgrid Services. In addition to the sale of Energy Output generated by the PV System for the Contract Price, Supplier shall also utilize the BESS, the microgrid controls and the natural gas generator to deliver Energy to the Customer during a Utility outage event (“*Microgrid Services*”). The Microgrid Services include the following:

(a) Incentive Compliance and Reporting: Supplier shall provide all operation and monitoring services required in order to comply with the California Self-Generation Incentive Program (“CA SGIP”). Supplier shall be responsible for ensuring compliance with the CA SGIP guidelines, and for all data gathering and submission compliance as required by CA SGIP. Customer will designate Supplier as the assigned “Payee” on the CA SGIP Incentive Claim Form. Customer will cooperate in good faith to enable Supplier to obtain all CA SGIP Incentives received by Customer in connection with the System.

(b) Demand Charge Management: Supplier shall operate the BESS in such a manner so as to eliminate or reduce Demand Charges to the maximum extent reasonably feasible. Supplier, in its sole discretion, will determine the charging source for the BESS, which may be up to one hundred percent (100%) from the PV System, and may prevent utility grid power from flowing into the BESS. In all other respects, Supplier shall provide such operation, monitoring and support services to optimize the BESS’s capacity and

schedule the BESS to reduce peak load in an effort to mitigate Demand Charges, while maximizing the Environmental Incentives (including CA SGIP) and Tax Benefits of the System. “*Demand Charges*” means the local distribution utility fees based upon the highest 15-minute period of demand (kW) usage for each billing period (including peak time, partial peak, and off-peak periods) for the System over each monthly bill cycle applicable to the System.

(c) BESS and Microgrid Technology. All software, Supplier documentation, installation drawings, and other proprietary technology installed in conjunction with the BESS, microgrid controls or otherwise provided by Supplier is the sole property of Supplier. Customer agrees that it will not access in any way whatsoever or attempt to gain access to any software, data, and/or information generated by the BESS or microgrid controls. Customer agrees that it will only have access to BESS data and/or software that Supplier makes available to Customer pursuant to this Agreement.

(d) Microgrid Term. The term for Microgrid Services shall be for twenty (20) years (“*Microgrid Term*”), starting on the Commercial Operation Date. Within one (1) year of the expiration of the Microgrid Term, Supplier shall provide equipment and pricing options to Customer for extending the operation of the BESS and for continuing the Microgrid Services for the remaining duration of the Term of this Agreement. The Parties agree to work in good faith to amend the terms of this Agreement to extend the Microgrid Term. In the event the Parties are not able to mutually agree upon an extension to the Microgrid Term, this Agreement shall continue in full force and effect.

ARTICLE 3 CONDITIONS PRECEDENT

Section 3.1 Conditions Precedent. The obligations of Supplier under this Agreement to construct, install, maintain and operate the System and to sell Energy Output generated thereby and provide Microgrid Services therefrom shall be conditioned on the occurrence of each of the following conditions (“*Conditions Precedent*”) except to the extent waived by Supplier:

(a) Site Lease. The Site Lease and any subordination, non-disturbance and attornment agreement required thereunder shall have been duly executed by the Parties and shall be in full force and effect;

(b) Approvals & Permits. All Required Approvals shall have been obtained;

(c) CEQA. Customer, as lead agency, shall have complied with all requirements under CEQA for installation of the Systems;

(d) Interconnection. Customer shall have executed and submitted, and Supplier shall have entered into, as necessary, all contracts and delivered all other documents required by the Utility in connection with this Agreement and the transactions contemplated hereby (collectively, “*Utility Documents*”) to the reasonable satisfaction of Supplier, or the Utility shall have waived the requirement for such Utility Documents;

(e) EPC Contracts. Supplier and its prime contractor (the “*EPC Contractor*”) shall have entered into a contract for construction and installation of the System (the “*EPC Contract*”), on terms acceptable to Supplier;

(f) Customer Authorizations. Customer shall have signed all authorizations and other documents reasonably required by Supplier to obtain any Environmental Attributes, Environmental Incentives, Tax Benefits or other incentives contemplated in Section 2.3;

(g) No Defaults. No default by Customer hereunder, or any event which, with the giving of notice or the lapse of time or both, would become a Customer default, shall have occurred and be continuing;

(h) Financing. Supplier shall have received or shall have obtained all commitments and contractual rights to receive all equity, debt, tax equity and other financing, in such forms and from such parties as is satisfactory to Supplier and as Supplier determines necessary to develop, construct, operate and maintain the System during the Term, and all conditions precedent to the effectiveness of any and all such financings and the drawdown of funds thereunder shall have been satisfied or waived to Supplier’s satisfaction;

(i) Representation & Warranties. The representations and warranties of Customer set forth in this Agreement shall be true and correct in all material respects;

(j) Financial Statements. Supplier shall have received and accepted the Financial Statements of Customer;

(k) Site Condition. Supplier shall have completed a physical inspection of the Premises including, if applicable, review of real estate due diligence and of geotechnical studies provided to Supplier, to confirm the suitability of the Premises for the System, to the extent that the foregoing are reasonably observable consistent with Prudent Industry Practices; and

(l) Insurance. Customer shall have submitted evidence of the insurance required under this Agreement.

Section 3.2 Conditions Precedent. The obligations of Customer under this Agreement prior to issuing the notice to proceed, purchasing Energy Output and receiving and paying for the Microgrid Services shall be conditioned on the occurrence of the following conditions, except to the extent waived by Customer:

(a) Insurance. Supplier shall have submitted evidence of the insurance required under this Agreement;

(b) Supplier shall have completed any and all mitigation measures, if required under CEQA and adopted by Supplier in connection with installation and operation of the System; and

The representations and warranties of Supplier set forth in this Agreement shall be true and correct in all material respects.

To the extent not waived by either Party, after documenting compliance with all of the above Conditions Precedent, Customer shall provide notice to proceed to Supplier. If Supplier is unable to satisfy all Conditions Precedent applicable to Supplier within one hundred and fifty (150) days after the Effective Date, extended on a day for day basis for Force Majeure and Excusable Events, Customer may, but is not required to (1) waive or extend such requirements in a written notice to Supplier if such delays were outside of Supplier's control and could not have been reasonably anticipated or mitigated; or (2) terminate this Agreement without triggering any default provision, and such termination shall not subject Customer to any other liability.

ARTICLE 4 TERM; EARLY TERMINATION

Section 4.1 Term. The term of this Agreement will commence on the Effective Date and continue for twenty-eight (28) years after the Final Commercial Operation Date (the "*Term*"), unless and until terminated earlier pursuant to the terms of this Agreement. The Parties agree to cooperate in good faith to ensure Commercial Operation Date prior to October 31, 2022.

Section 4.2 Supplier Early Termination. Supplier shall have the right (but not the obligation) to terminate this Agreement and the Site Lease(s), without liability, should any of the following occur:

- (a) prior to the Commercial Operation Date, Supplier discovers or encounters latent, unknown or unforeseen site conditions or other Concealed Conditions relating to the Premises that differ materially from documented site conditions and that, in Supplier's reasonable determination, adversely impact the System's production and economic viability;
- (b) prior to the Commercial Operation Date for a System, any of the Conditions Precedent have not been met or waived by Supplier;
- (c) one or more Environmental Incentives is eliminated or altered for reasons outside of the control of Supplier, or another Change in Law, rule, or regulation occurs, and Supplier provides proof of financial impossibility or violation of Supplier's financial arrangement or the terms of this Agreement, to the reasonable satisfaction of Customer; except to the extent that this Agreement is amended pursuant to Section 10.1;
- (d) an Extended Material Force Majeure, as described in Section 9.2, occurs;
- (e) Customer fails to maintain in full force and effect the insurance required by this Agreement; or
- (f) Customer terminates the Site Lease for any reason or Supplier's access to the Property is materially impaired.

In the event Supplier exercises its right under this Section 4.2 prior to the Commercial Operation Date, Supplier shall remove the System or improvements from the Property and return the Premises to its previous, graded condition. In the event Supplier exercises its rights under this Section after the Commercial Operation Date, Customer may elect to (a) purchase the System in

accordance with Article 16, as of the time of Supplier's notice; or (b) require Supplier to remove the System in accordance with Section 4.4.

Section 4.3 Customer Early Termination. Customer shall have the right (but not the obligation) to terminate this Agreement prior to the expiration of the Term without liability should any of the following occur:

- (a) an Extended Material Force Majeure, as described in Section 9.2, occurs;
- (b) Supplier fails to maintain in full force and effect the insurance required by this Agreement;
- (c) Supplier fails to commence construction by December 31, 2021, which date shall be extended on a day for day basis for any Excusable Event;

Section 4.4 Removal of System at End of Term. Except as otherwise provided herein or in a Site Lease, Supplier shall, within one hundred eighty (180) days following the end of the Term or earlier termination of this Agreement, at Supplier's sole cost and expense, remove the System from the Premises and restore the Premises to their original condition, normal wear and tear excluded. Customer shall provide Supplier and its contractors, agents, consultants and representatives access at all reasonable times to the Premises and the System for purposes of such removal and restoration. If Supplier fails to remove the System by such time, Customer may consider the System(s) abandoned and shall have the right, but not the obligation, to remove the System(s) and restore the Premises to their original condition, normal wear and tear excluded, at Supplier's cost. In the event that Supplier does not remove the System as specified herein, Customer shall also have the option of continuing to receive all Energy Output from the System at no cost to Customer until the System is removed by either Supplier or Customer. This Section shall not be interpreted to limit Customer's other available lawful remedies.

Section 4.5 Survival of Obligations. Cancellation, expiration, or earlier termination of this Agreement shall not relieve the Parties of obligations with respect to (a) the payment of any amounts owed to the other Party arising prior to or resulting from termination or breach of this Agreement and (b) provisions of this Agreement regarding confidentiality, indemnification and post-termination obligations, which shall survive until the expiration of the applicable statute(s) of limitations.

ARTICLE 5 INSTALLATION AND MAINTENANCE OF THE SYSTEMS

Section 5.1 Construction of the System by Supplier.

- (a) Supplier shall, at its sole cost and expense, design, commission and hire a licensed contractor to construct and install the System substantially in accordance with the description of the System set forth in Exhibit A attached hereto and Applicable Laws. Supplier shall ensure that any party contracting for engineering, design, or construction of the System possesses knowledge, experience, expertise, licensing, and financial capacity and creditworthiness necessary for completing the obligations under this Agreement. If

Supplier encounters Concealed Conditions or discovers that information provided by Customer and relied upon by Supplier is inaccurate, the Contract Price, 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 Supplier. In such event, the Parties will adjust the Contract Price pursuant to Section 5.1(d) below. All contractors performing construction work on the System shall possess a Class A and C-10 California Contractor State License, and all other required licenses for performing work under this Agreement, prior to performing any work on the System. Prior to contracting with any such party, Supplier shall obtain and review the qualification of such party, and complete any necessary background check or fingerprinting as required by law or by Customer.

(b) Supplier will prepare and submit all drawings and specifications to Customer for review. Customer will review the documents and provide any comments in writing to Supplier within twenty (20) Business Days after receipt of the documents. Supplier will incorporate appropriate Customer comments into the applicable drawings and specifications. Supplier reserves the right to issue the drawings and specifications in phases to allow construction to be performed in phases. If Customer fails to provide written comments within the twenty (20) Business Day period, Customer will be deemed to have no comments and to have given the notice to proceed with construction. If Customer requests changes or modifications to the Scope of Work, to include the costs of interconnection in the Contract Price pursuant to Section 5.4, or an Excusable Event occurs during Customer's review, the Parties agree to adjust the Contract Price pursuant to Section 5.1(d) below.

(c) Customer shall ensure that Supplier and its contractors have reasonable access at all reasonable times to the Premises, in accordance with the Site Lease or otherwise, for the purpose of designing, commissioning, constructing, installing, testing, operating, inspecting, maintaining, repairing, removing and replacing the System, and to any documents, materials and records of Customer relating to the Premises that Supplier or its contractors reasonably request in conjunction with such activities. Supplier shall, and shall cause its contractors to, comply with all reasonable access and notice procedures agreed upon between Customer and Supplier from time to time in writing relating to activities conducted by or on behalf of Supplier on the Premises relating to the System. During any such activities, Supplier shall, and shall cause the EPC Contractor to, comply with Customer's reasonable safety and security procedures (as may be promulgated from time to time and communicated to Supplier), and Supplier shall, and shall cause its contractors to, conduct such activities in such a manner and such a time and day as to minimize interference with Customer's activities to the extent reasonably practicable. Notwithstanding anything to the contrary in this Section 5.1(c), Supplier and its contractors shall be allowed immediate access to the Premises and the System in connection with any emergency condition then existing with respect to the System that could reasonably be expected to pose an imminent threat to the safety of persons or property.

(d) Contract Price Adjustment. For any changes to the Scope of Work described in Section 5.1(a) and Section 5.1(b) that are eligible for Environmental Incentives, the Contract Price will be adjusted from the first dollar, by \$0.0043 per kWh for every Five Hundred Thousand Dollars (\$500,000) or portion thereof in the EPC Contractor's

additional costs. For any changes to the Scope of Work described in Section 5.1(a) and Section 5.1(b) that are not eligible for Environmental Incentives, the Contract Price will be adjusted from the first dollar, by \$0.0066 per kWh for every Five Hundred Thousand Dollars (\$500,000) or portion thereof in the EPC Contractor's additional costs.

(e) Any changes to the Scope of Work, or the parts or components listed in the Scope of Work in Exhibit A, must be approved by Customer either during the above-referenced plan review process or prior to installation.

Section 5.2 Maintenance.

(a) During the Term, Supplier will operate and perform all routine and emergency repairs to, and maintenance of, the System at its sole cost and expense, including (i) operating and maintaining the System in good condition and repair and in accordance with Applicable Laws, requirements of applicable insurance policies and permits, Prudent Industry Practices, and the terms of this Agreement and the Site Lease, and (ii) reasonably monitoring the System's performance in an effort to minimize any loss of Energy Output caused by a System malfunction. Customer will pay for repairs and maintenance of the Premises, and of the System to the extent resulting from Customer's (w) failure to adequately maintain the Premises, (x) negligence, (y) willful misconduct, or (z) breach of this Agreement or any Site Lease.

(b) Supplier shall not be responsible for any work done by others on any part of the System unless Supplier authorizes that work in advance in writing. Supplier 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 Supplier or Supplier's contractors. If the System requires repairs for which Customer is responsible, Customer shall pay Supplier for diagnosing and correcting the problem at Supplier's or Supplier's contractors' then-current standard rates. Supplier shall provide Customer with reasonable notice prior to accessing the System to make standard repairs. When performing repairs to, and maintenance of, the System, Supplier or Supplier's contractors shall comply with all Applicable Laws.

(c) Nothing in this Agreement shall limit Customer's ability and obligation to maintain the Premises in a reasonable manner consistent with Customer's current and past practices; *provided, however*, that Customer shall be obligated to comply with Section 5.6 for maintenance that requires a Scheduled Outage. In the event that Customer's maintenance of the Premises prevents or limits deliveries of Energy Output to Customer, Customer shall pay all damages, costs and expenses arising in connection with such maintenance, including lost revenues under this Agreement and loss of Environmental Attributes or Environmental Incentives. Customer acknowledges, agrees and accepts that activities conducted by or on behalf of Supplier on the Premises relating to the System may interfere with Customer's maintenance of the Premises or Customer's conduct of business thereon. Supplier agrees to take all commercially reasonable measures to minimize such interference.

Section 5.3 Required Approvals.

(a) Supplier shall be responsible for obtaining all Required Approvals, other than CEQA. However, Supplier shall not be responsible for satisfying any permit

requirements relating to (i) any pre-existing, open and/or unresolved requirements of any other Governmental Authorities that the Customer may be subject to which are not directly related to the System, and (ii) any requirements or improvements required for compliance with Americans with Disabilities Act (“*ADA*”) resulting in the construction, improvement or renovation of the Customer’s buildings and/or structures.

(b) Customer will be responsible for obtaining the applicable approvals required under CEQA. Customer is also responsible for hiring and paying inspectors, and for fees associated with plan checks (including expedited plan checks), permits, inspections, and certifications, utility interconnection(s), and any additional work or additions to Scope of Work that may be required by the Utilities as part of the Interconnection Agreement(s). Customer shall assist and cooperate with Supplier in obtaining and maintaining all Required Approvals.

Section 5.4 Interconnection. Customer shall apply for and obtain, and shall be responsible for all costs, fees, charges and obligations, all interconnection agreements required to connect the System to the Utility distribution system, including but not limited to fees associated with system upgrades and operation and maintenance carrying charges. If Customer elects, the costs associated with applying for and obtaining interconnection agreements with the Utility, and for any changes to Customer’s or Utility’s equipment necessitated by the interconnection will be added to the Contract Price pursuant to Section 5.1(b). Customer shall not make any material changes to the electrical equipment at the Premises after the date on which the applicable interconnection application is submitted unless such changes would not adversely affect the Utility’s approval of such interconnection. Any material changes to the electrical equipment on the Property must be promptly reported to Supplier. Customer shall cooperate with Supplier in obtaining and maintaining the Utility Interconnection Agreement(s). Customer shall be responsible for arranging delivery of Energy Output from each Interconnection Point to Customer and any installation and operation of equipment on Customer’s side of the Interconnection Points necessary for acceptance and use of the Energy Output.

Section 5.5 Emergencies. Each Party will notify the other within twenty-four (24) hours after the discovery of any material malfunction of the System or interruption in the supply of Energy from the System (a “*System Emergency*”). Supplier will correct, or cause to be corrected, the conditions that caused the System Emergency as soon as reasonably possible after the earlier of (i) receiving notice from the Customer or (ii) discovery of the System Emergency by Supplier. Customer shall not disconnect the System, and Supplier shall not have any obligation to disconnect the System, subject to the following sentence. In cases of emergency in which Customer determines that the continued operation of the System presents an imminent threat requiring immediate action to prevent or mitigate the loss or impairment of life, health, property or essential public services, Customer may disconnect the System from the Premises prior to notification of Supplier. Customer will notify Supplier within four (4) hours after the System is disconnected, and such disconnection shall be no longer than reasonably necessary to address the exigent circumstances that required such disconnection. Only Supplier or Supplier’s representative will be authorized to reconnect the System.

Section 5.6 Scheduled Outages.

(a) Customer shall be permitted up to twenty-four (24) hours offline per System per Contract Year (each such time period, a “*Scheduled Outage*”), during which

Customer shall not be obligated to accept, and if not accepted, pay for, Energy Output; *provided, however*, that Customer shall have notified Supplier in writing of each such Scheduled Outage at least forty-eight (48) hours in advance of the commencement of such Scheduled Outage.

(b) Customer shall take all commercially reasonable measures to cause any Scheduled Outage to occur at a time earlier than 8:00 a.m. local time or later than 6:00 p.m. local time and not between April 1 and November 1 of any calendar year.

(c) In the event that Scheduled Outages at the Premises exceed twenty-four (24) hours per System per Contract Year for a reason other than a Force Majeure event, and for all unscheduled outages, Supplier shall reasonably estimate the amount of Energy Output that would have been delivered to Customer during each hour of such excess Scheduled Outages or unscheduled outages and shall invoice Customer for such amount, which shall be payable in accordance with Section 12.2.

Section 5.7 Upgrade of System. Supplier shall have the right but not the obligation, from time to time and at its own expense, to install upgrades or make other changes to the System so as to increase their efficiency or otherwise improve their operational characteristics. If upgrades to be performed by Supplier require any modifications to interconnection or new Interconnection Agreement(s), such upgrades shall be conditioned upon the Parties agreeing to the division of costs associated with the upgrade.

Section 5.8 Prevailing Wages. This Agreement is subject to compliance with the prevailing wage provisions of the California Labor Code and the prevailing wage rate determinations of the Department of Industrial Relations. These rates are on file at Customer's main office or may be obtained online at <http://www.dir.ca.gov/dlsr>. Supplier shall post a copy of these rates at the Premises. Supplier and all contractors and subcontractor(s) performing work at the Premises shall comply with all applicable Labor Code provisions, which include, but are not limited to registration as a public works contractor, employment of apprentices, and the payment of not less than the required prevailing rates and overtime. Supplier shall indemnify, hold harmless and defend Customer, its elected officials, officers, agents, and employees from and against any and all claims, demands, losses or liabilities of any kind or nature which Supplier, its elected officials, officers, agents, and employees may sustain or incur for noncompliance with any applicable Labor Code provisions arising out of or in connection with the Project.

Section 5.9 Trenching. Pursuant to California Labor Code §6705, if the Project is a public work involving an estimated expenditure in excess of \$25,000 and includes the excavation of any trench or trenches five (5) feet or more in depth, Supplier will, in advance of excavation, submit to Customer and/or a registered civil or structural engineer, employed by Customer, to whom authority to accept has been delegated, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation of such trench or trenches, which provisions will be no less effective than the current and applicable CAL-OSHA Construction Safety Orders. No excavation of such trench or trenches may be commenced until this detailed plan has been accepted by Customer or by the person to whom authority to accept has been delegated by Customer. Pursuant to California Labor Code §6705, nothing in this paragraph imposes tort liability on Customer or any of its employees.

Section 5.10 Hazardous Materials. Pursuant to California Public Contract Code §7104, if the Project is a public work involving digging trenches or other excavations that extend deeper than four (4) feet below the surface of the ground, Supplier will promptly, and before the following conditions are disturbed, notify Customer, in writing, of any (a) material that Supplier believes may be material that is hazardous waste, as defined in California Health and Safety Code §25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; (b) subsurface or latent physical conditions at the Premises differing from those indicated by information about the site made available to Supplier before the Effective Date; or (c) unknown physical conditions at the Premises of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement. Customer will promptly investigate the conditions and, if it finds that the conditions do materially so differ or do involve hazardous waste, and cause a decrease or increase in Supplier's cost of, or the time required for, performance of any part of the Project will issue a change order under the procedures described in this Agreement. If a dispute arises between Customer and Supplier, whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in Supplier's cost of, or time required for, performance of any part of the Project, Supplier will not be excused from any scheduled completion date provided for by this Agreement but will proceed with all work to be performed under this Agreement. Supplier will retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the Parties. Neither Party shall introduce or use any Hazardous Material on, in or under the Premises in violation of any applicable law. If a Party becomes aware of any Hazardous Material on, in, or under the Premises, in violation of any applicable law, such Party shall promptly notify the other Party of the type and location of such Hazardous Material in writing. Each Party agrees to indemnify, defend and hold harmless the other Party and their employees, board members, and agents from and against any and all administrative and judicial actions and rulings, claims, causes of action, demands and liability, including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments, and reasonable attorney fees that any Party may suffer or incur due to the existence of any Hazardous Materials on the Property or the migration of any Hazardous Materials to other properties or the release of any Hazardous Materials into the environment ("*Environmental Claims*"), that relate to or arise from such Party's activities on the Premises, except to the extent directly attributable to the negligent acts or omissions or willful misconduct of the other Party. Customer shall further indemnify, defend and hold harmless Supplier and its Affiliates and their employees and agents from and against any and all Environmental Claims due to the presence of any Hazardous Materials in, on or under the Premises prior to the Effective Date. The indemnifications in this Section 5.10 specifically includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority. Supplier shall be responsible for, and shall promptly conduct any investigation and remediation as required by any applicable environmental law or other law relating to, all spills or other releases of any Hazardous Materials to the extent not caused by Customer, that have occurred or which may occur on the Premises. This Section 5.10 shall survive the termination or expiration of this Agreement.

ARTICLE 6
OWNERSHIP OF SYSTEM; GOVERNMENTAL CHARGES

Section 6.1 System Ownership.

(a) Notwithstanding the System's presence and operation on the Premises, except in the case of a sale-and-leaseback financing (in which case title to the System would transfer to the applicable Financing Party), Supplier shall at all times retain title to and be the legal and beneficial owner of the System and all alterations, additions or improvements thereto, and the System shall remain the property of Supplier or Supplier's assigns. In no event shall anyone claiming by, through or under Customer (including any present or future mortgagee of the Premises) have any rights in or to the System at any time. Customer acknowledges and agrees that Supplier may be required to grant, or cause to be granted, to its Financing Parties a security interest in the System. Customer expressly disclaims, waives and agrees, and shall cause each person with an interest in the Premises to disclaim, waive and agree for the benefit of Supplier, not to assert or permit any lien, security interest or any other rights it may have in the System, from time to time, pursuant to this Agreement, at law or in equity.

(b) Supplier and/or its Financing Parties shall be the owner of the System for federal income tax purposes and, as such, Supplier and/or its Financing Parties shall be entitled to all Tax Benefits, Environmental Attributes and Environmental Incentives.

(c) Nothing in this Agreement shall be construed to convey to Customer a license or other right to trademarks, copyrights, technology or other intellectual property of Supplier or associated with the System.

Section 6.2 System Loss.

(a) Supplier shall bear the risk of any System Loss excluding, however, any System Loss caused totally or partially by the acts or failures to act of any Customer Person or their respective agents, representatives, customers, vendors, visitors, employees, contractors or invitees (collectively, "*Customer Misconduct*").

(b) In the event of any System Loss that, in the reasonable judgment of Supplier, results in less than total damage, destruction or loss of the System, this Agreement will remain in full force and effect and Supplier will, at Supplier's sole cost and expense, repair or replace the System as quickly as practicable; *provided, however*, that if more than fifty percent (50%) of the System is destroyed during the last five (5) years of the Term, Supplier shall not be required to restore the System, but may instead, in its sole discretion, terminate this Agreement with respect to the System upon notice to Customer. Notwithstanding the foregoing, to the extent that such System Loss has been caused by Customer Misconduct, Customer shall, promptly upon demand from Supplier, pay all damages, costs and expenses arising in connection with such System Loss, including, without limitation, cost of repair, loss of any tax benefits (including ITC recapture and accelerated depreciation), lost revenues under this Agreement and loss of Environmental Attributes or Environmental Incentives. Within ten (10) Business Days after written demand from Supplier, Customer shall pre-pay or post security acceptable to Supplier for any repair expenses reasonably estimated and agreed to by Supplier.

(c) In the event of any System Loss that, in the reasonable judgment of Supplier, results in total damage, destruction or loss of the System, Supplier shall, within a reasonable time following the occurrence of such System Loss, notify Customer whether Supplier will repair or replace the System or terminate this Agreement with respect to the System.

(i) In the event that Supplier notifies Customer that it will terminate this Agreement, in whole or in part, such notice shall include the date of termination and Supplier shall promptly remove the affected System from the Premises in accordance with Section 4.4.

(ii) In the event that Supplier notifies Customer that Supplier will repair or replace the System, this Agreement will remain in full force and effect with respect to the System and Supplier will repair or replace the System as quickly as practicable

(iii) If such System Loss has been caused, totally or partially, by Customer Misconduct, Customer shall, promptly upon demand from Supplier, pay all damages proportional to Customer's misconduct, costs and expenses arising in connection with such System Loss, including, without limitation, cost of repair, loss of any tax benefits (including ITC recapture and accelerated depreciation), lost revenues under this Agreement and loss of Environmental Attributes or Environmental Incentives. The calculation of losses described in the preceding sentence shall be based upon Energy Output calculated as provided in Section 5.6(c). Within ten (10) Business Days after written demand from Supplier, Customer shall pre-pay or post security acceptable to Supplier for any repair expenses reasonably estimated by Supplier.

(d) Permanent Shutdown. If the System is shut down permanently due to cessation of Customer's operations, Customer's vacating the Premises, renovation, damage, destruction or closure of all or a portion of the Premises, or for any other cause attributable to Customer and not attributable to Force Majeure, then Supplier may terminate this Agreement and Customer shall, promptly upon demand from Supplier, pay all damages, costs and expenses arising in connection with such permanent shutdown, including, without limitation, cost of removal, loss of any tax benefits (including ITC recapture and accelerated depreciation), lost revenues under this Agreement and loss of Environmental Attributes or Environmental Incentives.

Section 6.3 Governmental Charges.

(a) Supplier shall be responsible for local, state and federal income taxes attributable to Supplier for income received and property held under this Agreement or pursuant to the Site Lease, including any possessory interests.

(b) Customer shall be responsible for all Governmental Charges attributable to (i) the sale of the Energy Output from Supplier to Customer customarily charged by the electric utility serving Customer or imposed specifically upon the production of renewable and/or distributed electrical energy, irrespective of whether imposed before, upon or after the delivery of the Energy Output to Customer at the Interconnection Points and (ii) the ownership of the Premises where the System is installed. Customer shall promptly

reimburse Supplier for any such Governmental Charges that are assessed to and paid by Supplier.

(c) Both Parties shall use reasonable efforts to administer this Agreement and implement its provisions so as to minimize Governmental Charges. In the event any of the sales of Energy Output hereunder are to be exempted from or not subject to one or more Governmental Charges, the applicable Party shall, promptly upon the other Party's request therefor, provide the applicable Party with all necessary documentation to evidence such exemption or exclusion. Supplier shall not directly or indirectly cause, create, or incur any liens on or with respect to the Site Lease or Supplier's interest herein. If Supplier breaches its obligations under this Section, it shall immediately notify Customer in writing, shall promptly cause such lien to be discharged and released of record without cost to Customer, and shall defend and indemnify Customer against all fees, costs and expenses incurred in discharging and releasing such lien.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES; COVENANTS

Section 7.1 Representations and Warranties. Each Party represents and warrants to the other Party that:

(a) 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 are within its corporate power and authority, have been duly authorized by all necessary corporate, partnership or limited liability action, as applicable, and do not violate any of the terms and conditions of such Party's governing documents, any contracts to which such Party is a party, or any Applicable Law;

(b) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against such Party in accordance with its terms, subject to any bankruptcy, insolvency, reorganization and other Laws affecting creditors' rights generally, and with regard to equitable remedies, the discretion of the applicable court;

(c) such Party is acting for its own account, and has made its own independent decision to enter into this Agreement, and is not relying upon the advice or recommendations of the other Party in so doing;

(d) such Party is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;

(e) such Party understands that the other Party is not acting as a fiduciary for or as an adviser to it or its Affiliates;

(f) except as previously disclosed in writing to the other Party, there is no pending or, to the knowledge of such Party, threatened litigation, action or proceeding against such Party which could reasonably be expected to have a material adverse effect on such Party or its ability to perform its obligations under this Agreement or any Site Lease or which purports to affect the legality, validity or enforceability of this Agreement or the transactions contemplated hereby;

(g) except as previously disclosed in writing to the other Party, there is no pending bankruptcy, reorganization, debt arrangement or other case or proceeding under any bankruptcy or insolvency law, or any dissolution, winding up or liquidation proceeding, in respect to such Party;

(h) such Party is not a “foreign person” within the meaning of section 168(h) of the Code, and such Party will not assign or otherwise transfer its rights under this Agreement to any such “foreign person”; and

(i) the Parties intend for this Agreement to be treated as a “service contract” within the meaning of section 7701(e)(3) of the Code.

Section 7.2 Additional Representations, Warranties and Covenants of Customer.

Customer represents and warrants that:

(a) to the best of Customer’s knowledge there are no facts, circumstances or other matters that may interfere with or delay the design, permitting, construction, installation, testing, operation or maintenance of the System;

(b) all information provided by Customer to Supplier, as it pertains to the Premises and the physical configuration of Customer’s facilities at the Premises, is accurate in all material respects; and

(c) Customer 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.

Section 7.3 Additional Representations, Warranties and Covenants of Supplier.

Supplier represents and warrants as follows:

(a) In compliance with NEM 2.0 interconnection requirements:

(i) the major solar components (PV modules and inverters) of the System are on the verified equipment list maintained by the California Energy Commission;

(ii) other equipment has safety certification from a national recognized testing laboratory, to the extent required by the Utility;

(iii) a manufacturer’s warranty of at least ten (10) years has been provided with the major solar components; and

(iv) a manufacturer’s warranty of at least ten (10) years has been provided with the major BESS components.

(b) Supplier has the financial capacity, creditworthiness and bonding sufficient to satisfy all of Supplier’s obligations under this Agreement, including any instance of default or other failure by Supplier’s contractors to complete the work required to satisfy Supplier’s obligations under this Agreement.

Section 7.4 Supplier’s Covenants. Supplier covenants and agrees to the following:

(a) Health and Safety, Legal Requirements. Supplier will take all necessary and reasonable safety precautions with respect to all work in connection with the installation, operation and maintenance of the System and will comply with all Applicable

Laws pertaining to the health and safety of persons, the environment and real and personal property.

(b) Movement of System. Supplier will cooperate with Customer to effectuate moving any part of the System for Customer's maintenance, inspection or repair of Customer's Premises where the System is installed; *provided* that if Customer moves any part of the System for such purpose it shall be at Customer's sole cost and expense.

(c) Qualifications. Supplier possesses the necessary expertise and qualifications to fulfill its obligations under this Agreement, including but not limited to operating the System as a microgrid in the event of an emergency shutoff of the grid by the Utility.

Section 7.5 Customer's Covenants. Customer covenants and agrees as follows:

(a) Interference with System.

(i) Customer acknowledges and agrees that access to sunlight ("*Insolation*") is essential to the System's operation. Accordingly, Customer shall not permit any interference with Insolation on and at the Premises. Without limiting the generality of the foregoing, Customer shall not construct or permit to be constructed any structure on the Premises, permit the growth of foliage on the Premises, or emit or permit the emission of suspended particulate matter, smoke, fog or steam or other airborne matter on the Premises, in each case that adversely affects Insolation of the System. Supplier shall be entitled to an equitable adjustment of the Contract Price for any breach by Customer of this Section 7.5(a)(i).

(ii) If a Change in Law occurs, or if Customer becomes aware of any potential development or other activity on adjacent or nearby properties that could result in diminishing the Insolation to the Premises, Customer shall advise Supplier of such information and reasonably cooperate with Supplier in measures to preserve existing levels of Insolation at the Premises. To the extent any filings, notices or other arrangements are available pursuant to Applicable Law for the purpose of protecting the Insolation of the System, Customer will cooperate with Supplier in preparing and filing any necessary documentation related thereto, and in reasonably and commensurately adjusting the amounts payable by Customer for Energy Output.

(b) Health and Safety, Legal Requirements. Customer will at all times maintain the Premises consistent with all Applicable Laws pertaining to the health of safety of persons, the environment and real and personal property.

(c) Security. Customer will take all necessary actions to ensure that the System is secure, including monitoring the Premises so as to ensure that the System is not vandalized or impermissibly altered.

(d) Maintenance. Except for the repair and maintenance of the System (which shall be performed by Supplier in accordance with this Agreement), Customer will at all times maintain and repair the part of the Premises upon which the System is installed.

(e) Notice of Damage. To the extent of Customer's actual knowledge, Customer will promptly notify Supplier of any damage to or loss of the use of the System or that could reasonably be expected to adversely affect the System provided, however, that nothing herein shall be interpreted to mean Customer has any obligation to inspect or maintain the System.

(f) Environmental Incentives. Customer will not take any actions that materially impair the value to Supplier of any Environmental Attributes, Environmental Incentives or Tax Benefits.

ARTICLE 8 DEFAULT

Section 8.1 Supplier Default. The following events will be defaults with respect to Supplier (each a "*Supplier Default*"):

(a) Supplier commences or acquiesces to a bankruptcy proceeding, or an involuntary bankruptcy proceeding is commenced against Supplier that remains undismissed for a period of sixty (60) days;

(b) Supplier fails to perform any material covenant or obligation set forth in this Agreement if such failure is not remedied within twenty (20) Business Days after receipt of written notice;

(c) Any representation or warranty made by Supplier in this Agreement is false or misleading in any material respect when made or when repeated if such breach is not cured or remedied (including by payment of money to Customer) within thirty (30) days after receipt of written notice from Customer;

(d) Supplier fails to pay when due any payment required under this Agreement if such failure is not remedied within ten (10) days after receipt of written notice from Customer; or

(e) Supplier fails to provide or maintain in full force and effect any required insurance, if such failure is not remedied within ten (10) Business Days after receipt of written notice from Customer.

Section 8.2 Customer Default. The following events will be defaults with respect to Customer (each a "*Customer Default*"):

(a) Customer commences or acquiesces to a bankruptcy proceeding, or an involuntary bankruptcy proceeding is commenced against Customer that remains undismissed for a period of sixty (60) days;

(b) Customer fails to perform any material covenant or obligation set forth in this Agreement if such failure is not remedied within twenty (20) Business Days after receipt of written notice;

(c) Any representation or warranty made by Customer in this Agreement is false or misleading in any material respect when made or when repeated if such breach is not cured or remedied (including by payment of money to Supplier) within thirty (30) days after receipt of written notice from Supplier;

(d) Customer fails to pay when due any payment required under this Agreement if such failure is not remedied within twenty (20) Business Days after receipt of written notice from Supplier;

(e) Customer fails to sign authorizations needed to obtain any Environmental Attributes, Environmental Incentives or Tax Benefits contemplated in this Agreement, *provided* that Customer is afforded twenty (20) Business Days to cure such default;

(f) Customer fails to sign or breaches any term of any interconnection agreement requirement by the Utility for interconnection of the System, *provided* that Customer is afforded twenty (20) Business Days to cure such default;

(g) Customer defaults as lessor under any Site Lease, which default remains uncured beyond any applicable notice and cure period therein; or

(h) Customer fails to provide or maintain in full force and effect any required insurance, if such failure is not remedied within twenty (20) Business Days after receipt of written notice from Supplier.

Section 8.3 Remedies for Event of Default. If at any time an Event of Default has occurred and is continuing, the non-defaulting Party may do any of the following (a) pursue applicable remedies or damages at law or equity, (b) suspend performance under this Agreement, or (c) with notice to the defaulting Party, terminate this Agreement (the date of such notice, an “*Early Termination Date*”). In the event an Early Termination Date notice is provided, the non-defaulting Party shall have the right as of the date of such notice to withhold any payments due to the defaulting Party under this Agreement (other than payments owed for any period prior to such date).

Section 8.4 Customer Rights Upon Termination for Default. If a Supplier Event of Default has occurred and is continuing, and Customer elects to terminate this Agreement as provided in Section 8.3, Customer shall be entitled, at its sole discretion, to (a) require Supplier to remove the System as provided in Section 4.4, or (b) if such Supplier Event of Default occurs after the sixth (6th) anniversary of the Commercial Operation Date, exercise the Purchase Option provided in ARTICLE 16. In the event that Customer elects either of the foregoing remedies, such express remedy shall be the sole and exclusive remedy available to Customer as a result of termination of this Agreement, subject, however, to Section 8.9. Supplier’s liability shall be limited as set forth in such provision and all other remedies or damages at law or in equity are hereby waived by Customer.

Section 8.5 Supplier Rights Upon Termination for Default. If a Customer Event of Default has occurred and is continuing, and Supplier elects to terminate this Agreement as provided in Section 8.3, Customer shall, promptly upon demand from Supplier, pay all damages, costs and expenses arising in connection with such termination, including, without limitation, loss of any tax benefits (including ITC recapture and accelerated depreciation), lost revenues under this Agreement and loss of Environmental Attributes or Environmental Incentives, and Supplier shall be entitled (but not obligated) to remove the System from the Premises at Customer’s expense.

Section 8.6 Payment Due Notice. In the event that Customer is required to make a payment to Supplier pursuant to Section 8.5, then Supplier shall notify Customer of the amount of such payment and any amount otherwise due and outstanding under this Agreement or any Site Lease. Such notice will include a written statement explaining in reasonable detail the calculation

of such amount. Customer shall be required to make such payment and any amount otherwise due and outstanding under this Agreement or any Site Lease to Supplier within fifteen (15) Business Days after the receipt of such notice.

Section 8.7 Closeout Setoffs. Upon the occurrence of an Event of Default, the non-defaulting Party will be entitled, at its option, and in its discretion, to set off against any amounts due and owing to the defaulting Party any amounts due and owing by the defaulting Party to the non-defaulting Party under this Agreement or any Site Lease.

Section 8.8 Remedies Cumulative. Except as provided in Section 8.4, the rights and remedies contained in this ARTICLE 8 are cumulative with the other rights and remedies available under this Agreement or at law or in equity. The non-defaulting Party shall be under no obligation to prioritize the order with respect to which it exercises any one or more rights and remedies available under this Agreement.

Section 8.9 Unpaid Obligations. Notwithstanding anything to the contrary herein, the defaulting Party shall in all events remain liable to the non-defaulting Party for any amount payable by the defaulting Party in respect of any of its obligations remaining outstanding after any such exercise of rights or remedies.

ARTICLE 9 FORCE MAJEURE

Section 9.1 Effect of Excusable Events. Neither Party will be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to a documented Excusable Event, *provided* that the Party claiming relief as a result of an Excusable Event: (i) provides prompt written notice and documentation of the Excusable Event; (ii) exercises all reasonable efforts to mitigate the effects of the Excusable Event; and (iii) resumes performance of its obligations hereunder as soon as practicable thereafter.

Section 9.2 Extended Material Force Majeure. If an event of a Force Majeure prevents, in whole or in material part, the performance of Supplier for a period of one hundred eighty (180) days or longer and such Force Majeure event has a material adverse effect on the System as a whole (an “*Extended Material Force Majeure*”), then either Party may, upon thirty (30) days’ notice, terminate this Agreement without further liability; *provided, however* that Supplier shall be granted additional time after such 180-day period as reasonably necessary to cure any reconstruction-related delays.

ARTICLE 10 CHANGE IN LAW

Section 10.1 Change in Law. The Contract Price is based on assumptions related to the availability to Supplier of the Environmental Attributes, Environmental Incentives and Tax Benefits, and on Supplier’s exemption from regulation as a public utility or a public utility holding company. In the event of the elimination or alteration of one or more Environmental Attributes, Environmental Incentives or Tax Benefits, or any other Change in Law that directly or indirectly results in a material adverse economic impact on Supplier in respect of this Agreement (including due to a Law that increases Supplier’s cost of compliance with this Agreement), the Parties shall

work in good faith to amend the provisions of this Agreement within twenty (20) Business Days after Supplier provides notice to Customer of such elimination or alteration, as may be reasonably necessary to restore the allocation of economic benefits and burdens contemplated by this Agreement as of the Effective Date. If the Parties cannot agree on such amendment within such twenty (20) Business Day period, then Supplier shall have the right (but not the obligation) to terminate this Agreement pursuant to Section 4.2(c).

ARTICLE 11
ASSIGNMENT & FINANCING

Section 11.1 Assignment.

(a) Supplier may sell, transfer, or assign its rights under this Agreement or any right, interest, or obligation therein (collectively, an “Assignment”) only upon the prior written consent of Customer, which consent may not be unreasonably withheld, conditioned or delayed, provided that any assignee possesses all required skills, knowledge, expertise, experience, and financial capacity and creditworthiness necessary to perform Supplier’s obligations under this Agreement, and assumes in writing the obligations of Supplier under this Agreement. Supplier shall provide Customer with no less than sixty (60) calendar days’ notice of the request to transfer ownership of the System. Notice shall identify the party purchasing the System and provide sufficient detail of the proposed owner for Customer to evaluate the new owner. Notice shall include, but not be limited to, the following details of the proposed owner: Experience with PPA’s and current portfolio; Past two years of financials; Proof of insurance, meeting Customer’s requirements and naming Customer; Confirmation of operations and maintenance provider and outline of operations and maintenance program if different from existing; details and example of annual report and invoicing; and confirmation that all terms under this Agreement and any related documents and agreements will be performed. Notwithstanding the foregoing, Supplier may, without the prior written consent of District assign, mortgage, pledge, grant security interests, sell or otherwise encumber its interests in this Agreement to any Secured Party in connection with any financing for the ownership, acquisition, construction, operation or use of the Solar Facility as set forth in Section 11.2. This Agreement shall be binding on and inure to the benefit of the successors and permitted assignees.

(b) Customer’s consent to any other assignment shall not be unreasonably withheld if Customer 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 (y) has the financial capability to operate and maintain the System in the manner required by this Agreement. Any such assignee of this Agreement shall assume in writing, in form and content reasonably satisfactory to Customer, the due performance of all Supplier’s obligations under this Agreement, including any accrued obligations at the time of the assignment. A copy of the assignment agreement, fully executed and acknowledged by the assignee, shall be sent to Customer not less than ten (10) days before the effective date of such assignment.

(c) For the purposes of this Section 11.1, the following shall not be deemed an assignment of this Agreement: any (i) sale, assignment, transfer or disposition of the System, directly or indirectly, to an affiliate of Supplier, *provided, however*, that any such affiliate shall agree to be bound by the terms and conditions hereof and shall have sufficient financial or other operational capabilities as reasonably determined by Customer, or (ii) transaction which results in a change of control of Supplier. Change of control shall be defined in common law, and may be the result of a single or multiple related transactions which result in the cumulative transfer of more than fifty percent (50%) of the voting stock or equity interests of Supplier.

Section 11.2 Financing. Customer acknowledges and agrees that Supplier may finance the acquisition and installation of the System through a loan, lease, or partnership from or with one or more third parties and that Supplier's obligations may be secured by, among other collateral, a pledge or collateral assignment of this Agreement and a first security interest in the System. To facilitate any such transaction, Customer (a) consents to the collateral or full assignment by Supplier to its Financing Parties of the Supplier's right, title and interest in and to this Agreement and the System, (b) agrees to take any reasonable actions (including payment of reasonable fees incurred from such action, not to exceed \$500) and provide any documentation reasonably requested by Supplier within ten (10) Business Days of such request in connection with such a transaction (including acceptance and execution of any reasonable consent agreements requested by Financing Parties, which may include customary lender protections, such as extended cure rights), and (c) will use commercially reasonable efforts to place its successors and assigns on notice of Supplier's ownership of the System, the existence of the security interest, and the fact that the System are not part of the Premises or fixtures thereof, as necessary and appropriate to avoid confusion or adverse claims.

ARTICLE 12 METERING & BILLING

Section 12.1 System Meter. Supplier will install and maintain a commercially available revenue grade interval data-recording meter, meeting the reporting requirements of the Western Renewable Energy Generation Information System ("*Meter*"), for measuring the quantity of Energy provided by the PV System. Supplier shall maintain all interval metering data, and shall provide Customer access, via SCADA integration or online monitoring, to the PV System's metered energy, on an ongoing basis. Supplier shall also monitor the performance of the BESS using equipment and software installed as part of the BESS. Supplier shall arrange for the Meter to be tested once per year. Supplier shall bear all costs and expenses associated with annual Meter testing. Customer shall be notified at least ten (10) Business Days in advance of such tests and shall have a right to be present during such tests. Supplier shall provide Customer with the detailed results of all Meter tests. If such annual testing reveals that such Meter is inaccurate by more than two percent (2%), then the Supplier invoices shall be adjusted for the period in which the inaccurate measurements were made. Should such period of inaccuracy be unknown, then the invoices covering the period of time since the time of the last Meter test shall be adjusted for the amount of the inaccuracy, on the assumption that the inaccuracy persisted during one-half ($\frac{1}{2}$) of such period, but in no event more than one (1) year. If metering error is less than two percent (2%), such Meter shall be deemed accurate and no invoices shall be adjusted. Supplier shall pay for the cost of the repairs, or replacement, necessary to restore the Meter to proper working order.

In addition, the Meter shall be inspected and tested for accuracy at such other times as Customer may reasonably request, but in no event more than once every six (6) month period. Customer shall bear the cost of the additionally requested Meter testing, unless such test shows that a Meter was inaccurate by more than two percent (2%), in which case Supplier shall bear Meter testing costs.

If a Meter is out of service or is discovered to be inaccurate pursuant to this Section 12.1, Supplier shall determine measurements of Energy Output from the PV System and monitor the performance of the BESS in a commercially reasonable manner by reference to quantities of Energy Output from the PV System measured during periods of similar conditions when such Meter was registering accurately. If no reliable information exists as to the period of time during which such Meter was registering inaccurately, it shall be assumed that the period of such inaccuracy was equal to one-half ($\frac{1}{2}$) of the period from the date of the last previous test of such Meter (or if no such test had been conducted, from the Commercial Operation Date) through the date the inaccuracy of such Meter has been discovered. If, for calculation purposes, no time period of similar conditions, during which the Meter registered accurately, can be determined, measurements of Energy Output from the PV System shall be calculated in good faith by Supplier with reference to applicable solar production modeling and solar insolation data generally accepted in the solar industry.

Section 12.2 Payment. Supplier will deliver or cause to be delivered to Customer a single invoice (on a form mutually acceptable to Supplier and Customer) for the PV System's Energy Output and the Microgrid Services provided by Supplier from the BESS, microgrid controls and natural gas generator by the tenth (10th) day of each calendar month (or upon a monthly schedule reasonably acceptable to Customer and Supplier) for the amount then due for the preceding calendar month. Each invoice will set forth (i) the Energy Output delivered to Customer in the preceding month, and (ii) the total amount to be paid by Customer to Supplier for Energy Output delivered in the preceding month. Supplier will provide a monthly report setting forth the year and month of the Agreement Term, Expected Energy Output for the relevant year, the cumulative total of Expected Energy Output for that relevant year compared to the cumulative actual Energy Output for that relevant year, and any applicable offsets or credits to such invoice amounts. Customer shall pay the invoiced amount on or before thirty (30) days following the date of the invoice, which shall be referred to as the "***Due Date***." If the Due Date is not a Business Day, payment shall be due on the following Business Day. Supplier's obligation to deliver invoices and Customer's obligation to make payment shall commence for the first calendar month after the calendar month in which the Commercial Operation Date occurs. Any invoice not paid by the Due Date shall accrue interest at the lesser of (i) one and one-half percent (1.5%) per month or (ii) the maximum rate permitted by law.

Section 12.3 Netting and Setoff. The Parties will net any and all mutual debts and payment obligations that are due and owing under this Agreement or any Site Lease. Accordingly, unless otherwise agreed by the Parties, all amounts owed by one Party to the other Party under this Agreement or any Site Lease, including any related damages and any applicable interest, payments or credits, will be netted such that only the excess amount remaining due will be paid by the Party that owes it. Each Party shall have the right to set off any undisputed amount due and owing to such Party from the other Party under this Agreement or any Site Lease against any undisputed amount due and owing from such Party to the other Party under this Agreement or any Site Lease.

Section 12.4 Meter Data. Supplier shall gather and maintain Meter data, including but not limited to interval data registered at least once every fifteen (15) minutes (the “Meter Data”) and shall make such Meter Data available to Customer or maintain the Meter Data such that Customer can access the Meter Data remotely through a secure internet site or such other remote access as the Parties mutually agree to. Supplier shall maintain all records related to invoices and Meter Data for at least twenty four (24) months from the date of such invoice or Meter Data. Such records shall be available for audit by Customer.

ARTICLE 13 INDEMNITY

Section 13.1 Indemnity. Each Party agrees that it will indemnify, defend and hold harmless the other, the others representatives, employees, agents, officers, directors, shareholders, members, contractors and subcontractors, and their respective successors and permitted assigns (“*Indemnified Parties*”), from and against any and all claims, suits, penalties, obligations, losses, payments, liabilities, causes of action, costs, damages, and expenses (“*Losses*”) (including, without limitation, the actual or alleged injury to or death of any person or loss or damage to property of any person (including property of the Indemnified Parties)), to the extent arising out of the negligence or wrongful actions or inactions of the indemnifying Party or that of its representatives, employees, agents, officers, directors, shareholders, members, contractors and subcontractors, and/or their successors or assigns (“*Indemnifying Parties*”). In no event, however, will the Indemnifying Parties be required to reimburse or indemnify any of the Indemnified Parties to the extent such Losses are due to the negligence or wrongful actions or inactions of the Indemnified Parties. In addition, Customer shall indemnify, defend and hold harmless Supplier, Supplier’s representatives, employees, agents, officers, directors, shareholders, members, contractors and subcontractors, and their respective successors and permitted assigns from and against any Losses related to any and all Environmental Conditions, except to extent that the same are caused by the negligence or wrongful actions or inactions of Supplier, Supplier’s representatives, employees, agents, officers, directors, shareholders, members, contractors and subcontractors, and their respective successors and permitted assigns.

ARTICLE 14 INSURANCE

Section 14.1 Supplier’s Insurance. Supplier shall maintain the following insurance coverages in full force and effect throughout the Term: (a) workers’ compensation insurance at the statutory limits, and employer’s liability insurance with coverage of \$1,000,000; (b) automobile liability coverage of \$1,000,000 combined single limit per occurrence covering owned, hired, and non-owned vehicles; (c) commercial general liability insurance with limits of \$1,000,000 per occurrence for property damage and injury to or death of one or more persons, and with an aggregate limit of \$2,000,000; (d) umbrella policy of \$5,000,000; (e) “all risk” insurance in an amount sufficient to insure it against loss or destruction of the Premises (other than the System), including losses occasioned by operation of the System; and (f) property insurance providing coverage in an amount not less than the replacement cost of the System. Supplier’s insurance shall equal or exceed an A-:VIII rating as listed in Best’s Insurance Guide’s latest edition.

Section 14.2 Customer's Insurance. Customer shall maintain the following insurance coverages in full force and effect throughout the Term: (a) workers' compensation insurance at the statutory limits, and employer's liability insurance with coverage of \$1,000,000; (b) commercial general liability insurance with limits of \$1,000,000 per occurrence for property damage and injury to or death of one or more persons, and with an aggregate limit of \$2,000,000; (c) umbrella policy of \$5,000,000; ; and (e) property and casualty insurance for the System providing coverage for the Customer's liability pursuant to Section 6.2(b), Section 6.2(c) or Section 6.2(d), in an amount not less than the replacement cost of the System. Customer's insurance shall equal or exceed an A:VIII rating as listed in Best's Insurance Guide's latest edition.

Each Party shall name the other Party as an additional insured under their respective liability insurance policies. At the request of a Party, the other Party shall provide certificates of insurance and copies of applicable policy endorsements to the requesting Party. Supplier shall have such coverages in place prior to conducting any work on Customer's Premises.

Section 14.3 The Parties waive all rights against each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this ARTICLE 14 or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Parties and their respective property damage insurers also waive all rights of subrogation against the other Party, its directors, officers, agents and employees. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

ARTICLE 15 LIMITATION OF LIABILITY / WARRANTIES

Section 15.1 LIMITATION OF LIABILITY. EXCEPT WITH RESPECT TO THE INDEMNIFICATION PROVISIONS SET FORTH IN THIS AGREEMENT, NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, WHETHER FORESEEABLE OR NOT, ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT. SUPPLIER'S AGGREGATE LIABILITY HEREUNDER, WHETHER ARISING OUT OF BREACH OF CONTRACT OR WARRANTY, TORT (INCLUDING NEGLIGENCE) FRAUD, PRODUCT LIABILITY, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, SHALL NOT EXCEED \$1,000,000. CUSTOMER'S AGGREGATE LIABILITY HEREUNDER SHALL BE BASED ON PROOF OF DAMAGES, AND ANY AND ALL SUCH DAMAGES ARISING OUT OF BREACH OF CONTRACT OR WARRANTY, TORT (INCLUDING NEGLIGENCE) FRAUD, PRODUCT LIABILITY, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, SHALL NOT EXCEED THE COST OF BUYOUT FOR THE SYSTEM. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY (A) IN THE CASE OF FRAUD OR WILLFUL MISCONDUCT BY A PARTY, (B) TO ANY AMOUNTS RECOVERED FROM AN INSURANCE POLICY OF PROVIDER, OR (C) TO ANY SHORTFALL PAYMENTS BY SUPPLIER.

Section 15.2 EXCLUSION OF WARRANTIES. THE INSTALLATION, OPERATIONS, AND ENERGY OUTPUT PROVIDED BY SUPPLIER TO CUSTOMER

PURSUANT TO THIS AGREEMENT WILL BE “AS-IS, “WHERE-IS.” EXCEPT AS EXPRESSLY PROVIDED HEREIN, SUPPLIER MAKES NO REPRESENTATIONS OR WARRANTIES, AND ALL OTHER WARRANTIES, IMPLIED OR EXPRESSED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

ARTICLE 16 PURCHASE OPTION

Section 16.1 Grant of Purchase Option. On the seventh (7th) anniversary of the Final Commercial Operation Date (unless such anniversary does not fall on a Business Day, in which case the Purchase Option may be exercised on the first Business Day following such anniversary) or upon expiration of the Term, and provided that no Customer Event of Default has occurred and is then continuing, Customer shall have the option to purchase all, but not less than all, of Supplier’s right, title and interest in and to the System Assets on the terms set forth in this Agreement (the “*Purchase Option*”). Customer shall furnish written notice to Supplier of its interest to purchase the System Assets not more than nine (9) months and not less than six (6) months prior to (i) the relevant anniversary of the Final Commercial Operation Date, or (ii) the expiration of the Term, as applicable. The Purchase Option may be exercised by Customer during the Exercise Period (as defined below) following a Final Determination (as defined below) related to a valuation performed pursuant to this ARTICLE 16.

Section 16.2 Customer Request for Determination of System Value.

(a) Customer shall have the right to provide a notice to Supplier requiring a determination of the Fair Market Value of the System Assets in accordance with Section 16.4, (i) at any time within the periods set forth in Section 16.1 or (ii) in the notice under Section 8.3 following a Supplier Event of Default (subject to Section 8.4).

(b) Promptly following receipt of Customer’s notice pursuant to Section 16.2(a), Supplier shall make the System Assets, including records relating to the operations, maintenance, and warranty repairs, available to Customer for its inspection during normal business hours, and Supplier shall provide Customer with Supplier’s appraisal of the Fair Market Value of the System Assets, which appraisal shall be based on Supplier’s knowledge of the distributed generation solar power industry.

(c) Customer may, but is not obligated to, accept Supplier’s appraisal. If Customer does not accept such appraisal within ten (10) days of receiving the appraisal from Supplier, but Customer nevertheless wishes to proceed with the purchase of the System Assets, the Parties shall meet to discuss the appraisal. If they are unable to reach agreement within thirty (30) days of Customer’s receipt of the appraisal from Supplier, then the Parties shall mutually select a nationally recognized Independent Appraiser with experience and expertise in the distributed generation solar power industry.

Section 16.3 Selection of Independent Appraiser. If Supplier and Customer do not agree upon the appointment of an Independent Appraiser within twenty (20) Business Days, then at the end of such twenty (20) Business Day period Supplier and Customer shall notify each other in writing of their respective designation of three proposed Independent Appraisers. Supplier and Customer shall, within five (5) Business Days of receipt of such notice, strike two of the proposed

Independent Appraisers designated by each of Supplier and Customer, respectively, and shall provide notice thereof to the other Party. The remaining two proposed Independent Appraisers shall, within two (2) Business Days of each Party's notice, select one of themselves to perform the valuation and provide notice thereof to Supplier and Customer, *provided* that if either Supplier or Customer still objects to the valuation being performed by such selected Independent Appraiser, then, within two (2) Business Days of the selection notice, such two proposed Independent Appraisers shall select a third Independent Appraiser (who may not be one of the Independent Appraisers originally designated by the parties or another Independent Appraiser) and such third Independent Appraiser shall perform the duties of the Independent Appraiser as set forth herein. Such selection shall be final and binding on Supplier and Customer.

Section 16.4 Determination of Fair Market Value.

(a) The Independent Appraiser shall, within twenty (20) Business Days of appointment, make a preliminary determination of the Fair Market Value of the System Assets (the "*Preliminary Determination*").

(b) Upon making such Preliminary Determination, the Independent Appraiser shall provide such Preliminary Determination to Supplier and Customer, together with all supporting documentation that details the calculation of the Preliminary Determination. Supplier and Customer shall have the right to object to the Preliminary Determination within twenty (20) Business Days of receiving such Preliminary Determination; *provided* that the objecting Party provides a written explanation documenting the reasons for its objection. Within ten (10) Business Days after the expiration of such twenty (20) Business Day period, the Independent Appraiser shall issue the Independent Appraiser's final determination (the "*Final Determination*") to Supplier and Customer, which shall specifically address the objections received by the Independent Appraiser and whether such objections were taken into account in making the Final Determination. Except in the case of fraud or manifest error, the Final Determination of the Independent Appraiser shall be final and binding on the Parties.

Section 16.5 Calculation of Purchase Price. The purchase price (the "*Purchase Price*") payable by Customer for the System Assets shall be equal to the greater of (i) the applicable Buyout Amount as of the date of the Final Determination and (ii) Fair Market Value as determined by the process described above.

Section 16.6 Costs and Expenses of Independent Appraiser. Supplier and Customer shall each be responsible for payment of one-half ($\frac{1}{2}$) of the costs and expenses of any Independent Appraiser.

Section 16.7 Exercise of Purchase Option. Customer shall have twenty (20) Business Days from the date of the Final Determination (such period, the "*Exercise Period*"), to exercise the Purchase Option, at the Purchase Price by providing notice thereof (an "*Exercise Notice*") to Supplier. Once Customer delivers its Exercise Notice to Supplier, such notice shall be irrevocable.

Section 16.8 Terms of System Purchase. On the Transfer Date (as defined below), (a) Supplier shall surrender and transfer to Customer on an as-is, where-is basis all of Supplier's right, title and interest in and to all System Assets and shall retain all liabilities arising from or related to the System Assets prior to the Transfer Date, (b) Customer shall pay the Purchase Price, by certified check, bank draft or wire transfer and shall assume all liabilities arising from or related

to the System Assets from and after the Transfer Date, and (c) both Parties shall (i) execute and deliver a bill of sale and assignment of contract rights, together with such other conveyance and transaction documents as are reasonably required to fully transfer and vest title to the System Assets in Customer, and (ii) deliver ancillary documents, including releases, resolutions, certificates, third person consents and approvals and such similar documents as may be reasonably necessary to complete the sale of the System Assets to Customer. Customer shall be responsible for the payment of all Governmental Charges in connection with the purchase and sale of the System Assets.

Section 16.9 Transfer Date. The closing of any sale of the System (the “*Transfer Date*”) pursuant to this ARTICLE 16 will occur no later than twenty (20) Business Days from the date of delivery of the Exercise Notice to Supplier. The Term of this Agreement shall end on the Transfer Date.

ARTICLE 17 MISCELLANEOUS

Section 17.1 Notices. All notices, communications and waivers under this Agreement shall be in writing and shall be delivered (a) in person, (b) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (c) sent by reputable overnight express courier, or (d) sent via email, in each case to the persons at the addresses below, or to any other address that the receiving Party designates in writing:

If to Supplier:

California Solar 3, LLC% ENGIE Distributed Solar
1360 Post Oak Boulevard, Suite 400
Houston, TX 77056
ATTN: General Counsel
Email: generalcounselEDS@engie.com

If to Customer:

[Address]
[Attention]

Notices shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by reputable overnight express courier, then on the next Business Day immediately following the day sent, (iii) if sent by registered or certified mail, then on the earlier of the third (3rd) Business Day after the day sent, or, if earlier, when actually received; and (iv) if sent by email, when confirmation of receipt is received.

Section 17.2 Integration; Exhibits. This Agreement, together with the Exhibits attached hereto, and the Site Lease constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersede all prior agreements relating to the subject matter hereof, which are of no further force or effect. In the event of discrepancy or ambiguity between or among the Agreement, its Exhibits, and the Site Lease, the following order of precedence shall be used:

- (a) Amendments and change orders to the Agreement, any Site Lease or the Exhibits, in inverse chronological order (i.e., most recent first) and in the same order as the documents they are modifying;
- (b) this Agreement;
- (c) the Site Lease; and
- (d) the Exhibits.

Section 17.3 Industry Standards. Except as otherwise described herein, for the purposes of this Agreement, the normal standards of performance within the solar photovoltaic distributed power generation industry in the relevant market will be the measure of whether a Party's performance is reasonable and timely. Unless expressly defined herein, words having well-known technical or trade meanings will be so construed.

Section 17.4 Cumulative Remedies. Except as stated to the contrary herein, any right or remedy of Supplier or Customer shall be cumulative and without prejudice to any other right or remedy, whether contained herein or not.

Section 17.5 Limited Effect of Waiver. The failure of Supplier or Customer to enforce any of the provisions of this Agreement, or the waiver thereof, will not be construed as a general waiver or relinquishment on its part of any such provision, in any other instance of any other provision in any instance.

Section 17.6 Governing Law; Jurisdiction; Disputes.

(a) This Agreement is entered into under and shall be construed in accordance with and governed by the laws of the State of California, without giving effect to conflict of laws principles.

(b) The Parties agree to make a good faith attempt to resolve any and all controversies, claims, disagreements, or disputes between the Parties arising out of or related to this Agreement ("*Dispute*"). In the event of any Dispute, either Party may give notice of the Dispute to the other Party. In the event a Party Disputes all or a portion of an invoice or other payment, the disputing Party shall timely pay any undisputed portion of such amount due. The Parties shall first use good faith, reasonable, diligent efforts to resolve the Dispute within ninety (90) days from the date of such notice. If the Parties do not resolve their dispute within ninety (90) days of notice, then the Parties may, upon mutual agreement, submit to mediation before a mutually agreed upon mediator. In the event the Dispute is not resolved through mediation, the Parties may pursue their legal rights through any other legally permissible means.

(c) If a Dispute, or any portion thereof, remains unresolved after informal dispute resolution, the Supplier shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to Supplier's right to bring a civil action against Customer. For purposes of those provisions, the running of the time within which a claim must be presented to Customer shall be tolled from the time Supplier submits its written Dispute until the time the Dispute is denied by Customer, including any time utilized by any applicable meet and confer process. Pending resolution of the Dispute, Supplier and its subcontractors

shall continue to perform under this Agreement and shall not cause a delay during any dispute, claim, negotiation, mediation, or arbitration proceeding, except by written agreement of Customer.

Section 17.7 Severability. If any term, covenant or condition in this Agreement is found, to any extent, to be invalid or unenforceable in any respect under Applicable Law, the remainder of this Agreement shall not be affected, and the rest of the Agreement will be valid and enforceable to the fullest extent permitted by law and, if appropriate, such invalid or unenforceable provision will be modified or replaced to give effect to the underlying intention of the Parties and to the intended economic benefit of the Parties.

Section 17.8 Successors and Assigns. This Agreement and the rights and obligations hereunder are binding upon and will inure to the benefit of Supplier and Customer and their respective successor and permitted assigns.

Section 17.9 Counterparts; Imaged Agreements. This Agreement may be executed and delivered (including by facsimile transmission or portable document format) in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that all Parties need not sign the same counterpart. Any original executed Agreement, confirmation or other related document may be photocopied and stored on computer tapes and disks (the "*Imaged Agreement*"). The Imaged Agreement, if introduced as evidence on paper, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings, will be admissible as between the Parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party will object to the admissibility of the Imaged Agreement on the basis that such were not originated or maintained in documentary form.

Section 17.10 Estoppels. Either Party, without charge, at any time and from time to time and within ten (10) Business Days after receipt of a written request by the other Party, 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 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.

Section 17.11 Amendment. This Agreement may be amended only in writing signed by both Supplier and Customer.

Section 17.12 No Third Party Beneficiaries. This Agreement is solely for the benefit of the Parties hereto and no right or cause of action shall accrue by reason hereof for the benefit of any third-party not a party hereto, other than indemnitees and any secured parties.

Section 17.13 Attorney's Fees. Should any litigation be commenced between the Parties concerning the Premises, this Agreement, the Site Lease, or the rights and duties of either Party in relation thereto, the Party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in the litigation, to a reasonable sum for its attorney's fees in such litigation, which shall be determined by the court in such litigation or in a separate action brought for that purpose.

[signatures on the following page]

IN WITNESS WHEREOF, and in confirmation of their consent to the terms and conditions contained in this Agreement and intending to be legally bound hereby, Supplier and Customer have executed this Agreement as of the Effective Date.

California Solar 3, LLC

Yucaipa Valley Water District, a County Water District

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

**EXHIBIT A
SCOPE OF WORK**

Contractor will design, engineer, and install solar energy photovoltaic generating systems, battery energy storage systems, microgrid controls, and natural gas generators at the Premises as provided below:

PV Systems, Battery Energy Storage Systems, and Natural Gas Generators to be Installed

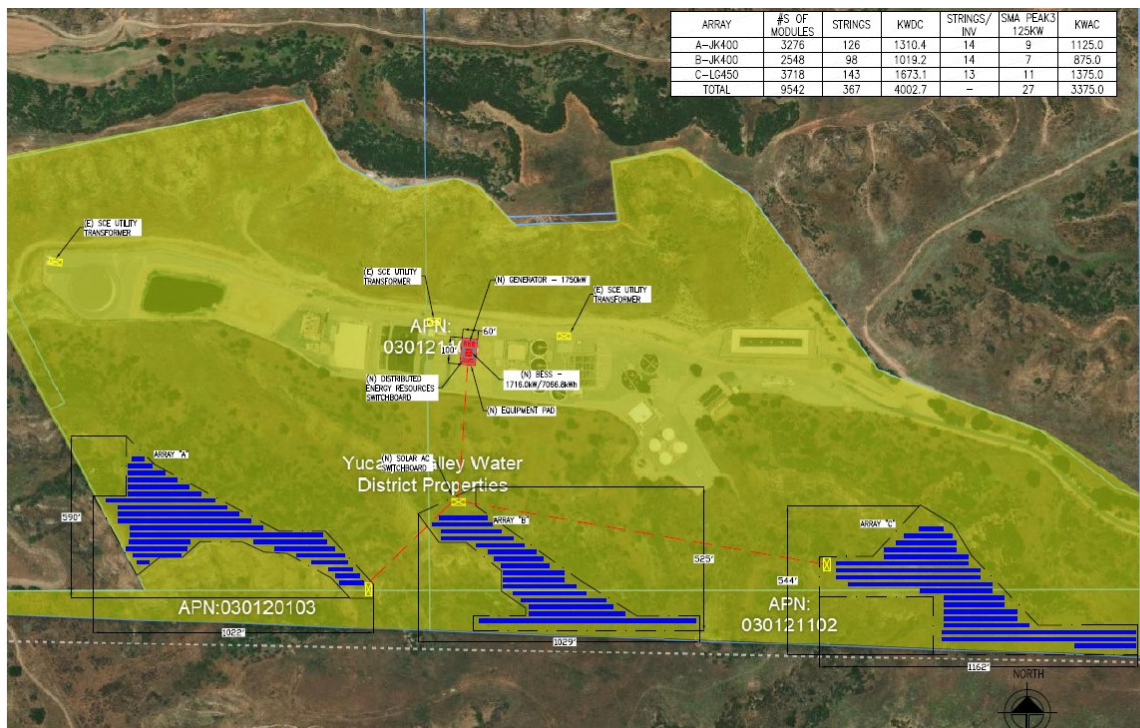
ECM #	Description
RE-01	Solar Photovoltaic Fixed-tilt Ground Mounted Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRF)
B-01	Battery Energy Storage and Microgrid Controls Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRF)
M-01	Natural Gas Backup Generator Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRF)

Site Addresses and System Sizes

ECM #	Facility	Address	Approximate System Size
RE-01	RWRF	880 West County Line Road, Calimesa, CA 92320	4,002.7 kW DC
B-01	RWRF	880 West County Line Road, Calimesa, CA 92320	1,766.7 kW / 7,066.8 kWh
M-01	RWRF	880 West County Line Road, Calimesa, CA 92320	1,750 kW

RE-01: Solar Photovoltaic Fixed-tilt Ground Mounted Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRF)

The PV System will consist of ground mounted PV structures. The precise design and arrangement of the PV System will be determined during final engineering and will be subject to plan check approval. Preliminary layout with location and size of arrays is shown below:



Contractor shall perform the following work:

1. Furnish and install string inverters. String inverters will be mounted on driven piles.
2. Furnish and install PV modules. PV modules to be mounted on galvanized steel purlins per approved drawings.
3. Ground mounted structure will be designed as a fix tilt system with 25-degree maximum tilt. The tilt will be finalized during final design.
4. Steel purlins will be attached to driven steel piers.
5. Steel piers to be installed via vibra-pile methods and are assumed to be installed to a depth of no more than six feet.
6. All structures will have a minimum of eighteen inches of clearance at the lowest point of the structure and finished grade.
7. Perform horizontal boring and/or trenching of existing concrete, hardscape, or asphalt areas as required to route conduits from array structures to new electrical switchgear. Repair any concrete, hardscape, landscape or asphalt damaged by the Contractor to extent required.
8. Perform underground utility survey to locate any existing utilities that are in the path of horizontal boring, vertical boring or trenching.
9. Provide and install electrical conduits and power wiring from the string inverters to the electrical switchgear.
10. Provide and install electrical conduits for communication wiring from the string inverters to the new Data Acquisition System (DAS).
11. Provide one Net Generation Output Meter (NGOM) on the Property to monitor PV production.
12. Tie-in DAS to cellular modem connection or to nearest Customer provided, dedicated IP

address.

13. Fencing will be provided around the PV System arrays. Fencing will be a 6' high chain link, 2" mesh fence.
14. Clear and grub site to the extent required for Solar PV system installation. Array structures will follow existing grade.
15. Provide Stormwater Pollution Prevention Plan (SWPPP), Erosion Control Design, and Drainage Design to the extent required for Solar PV system installation.
16. Provide Best Management Practices (BMPs) to minimize erosion, drainage, and non-stormwater discharges through Project completion.
17. Provide Material Waste Management Plan as needed through Project completion.

B-01: Battery Energy Storage and Microgrid Controls Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRF)

The BESS will consist of Tesla Megapack ground mounted batteries. The precise design and arrangement of the batteries will be determined during final engineering and will be subject to plan check approval. Additionally, contractor will design and install islanding Microgrid controls to incorporate RE-01, B-01, and M-01 (Solar PV, BESS, and the Natural Gas Generators).

Contractor shall perform the following work:

1. Interconnection of the BESS at the Property. Install energy storage modules and prepare for Utility Interconnection.
2. The BESS modules will be installed either indoor or outdoor pending final design effort and coordination with the Customer.
3. Pour concrete pad for new equipment.
4. Provide lockable panels to secure battery components.
5. Furnish and install BESS with required clearances.
6. Properly start-up and commission BESS.
7. Replace main utility breaker with an automated, remotely controllable breaker with a synch check relay.
8. Automated microgrid controls (with optional manual override) to integrate the solar systems described in RE-01 with the BESS described in B-01 and the generator described in M-01.
9. Switchgear modifications may be made to enable the system to island facilities from the grid, so they remain operational in case of a planned or unplanned power outage.

M-01: Natural Gas Backup Generator Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRF)

Provide and install (1) 750 kW Generac SG750 and (2) 500 kW Generac SG500 natural gas reciprocating internal combustion engines (generators) for a total capacity of 1,750 kW. Install new equipment pad and connect generators to either the site's existing utility natural gas supply, or a future Customer provided utility natural gas supply. No onsite fuel storage is provided. The precise design and arrangement will be determined during final design.

Provide and install Distributed Energy Resources (DER) Switchboard to consolidate Solar

PV, BESS, and Natural Gas Generators

1. Properly start-up and commission microgrid. It is assumed that customer load can be used for these processes. No allowances have been made for temporary configurations or load banks.
2. Microgrid is designed to primarily supply energy for site's operation from the solar and battery systems, with the reciprocating engines complementing those as necessary.
3. Final design of the timing of the transition from the utility grid to microgrid operations will depend upon utility interconnection requirements, existing equipment capabilities, outage scenarios and recommended best practices for safe equipment operation.
4. Design assumes that facilities' load profile during an outage will be similar and within the parameters experienced in historical usage and baselines.
5. Power shutdowns to the sites will be required to perform microgrid interconnection, initial commissioning and testing, as well as ongoing maintenance islanding tests as needed to ensure microgrid readiness.
6. System design assumes existing electrical gear is adequately sized to support additional microgrid loads. No allowances other than those specifically described above have been made for modifications to existing switchgear, Customer or utility electrical equipment.

Annual Resiliency Maintenance Services

1. Hold and manage preventative maintenance agreement for natural gas backup generators.
2. Perform quarterly review of electric load creep and control system scheduling changes.
 - a. Report results to Customer with any revisions of coverage estimate.
3. Perform one annual Simulated Resiliency Event Readiness Test:
 - a. Test will be closely scheduled and coordinated with Customer.
 - b. Microgrid system will be placed into island mode simulating a utility electrical outage.
 - c. Contractor Field Service Technicians will be on-site to conduct the test and to observe system behavior.
 - d. Each component of the microgrid and generating facilities will be allowed to operate during the test.
 - e. Contractor will document and review the readiness test results with the Customer.
4. In the event of power outage, the following services will be performed:
 - a. Customer and Contractor will communicate via email as soon as either Party becomes aware that a pre-planned utility power outage (i.e., Public Safety Power Shutoff event) is scheduled.
 - b. Customer and Contractor will communicate via email as soon as either Party becomes aware that a utility power outage has occurred, regardless of whether it was scheduled or spontaneous.
 - c. Customer and Contractor will communicate via email as soon as either Party becomes aware that a utility power outage has ended.
 - d. Post-event review of microgrid performance with Customer:
 - Assess system run-time performance.
 - Calculate the emissions benefit of having renewable based-microgrid vs. diesel back-up.
 - Recommendations for extending the duration of microgrid operation during a utility outage.

- e. Assist with implementing lessons learned from review.

General Project Exclusions and Clarifications:

1. Fire Life Safety, and other work required as a result of San Bernardino County plan-check submission are excluded, except as noted below.
2. Tree Removal and landscape restoration is excluded from the scope of work.
3. Contractor will perform geotechnical investigation prior to final engineering. No allowance has been made for poor soil conditions (liquefaction, rock removal, caving, corrosivity, etc.).
4. Contractor has assumed Construction will be allowed to proceed smoothly and in a continuous flow. No allowance has been made to demobilize and remobilize resources due to schedule interruptions. Work will be performed during normal work hours; no overtime hours are included in the Contract Amount.
5. Temporary utilities are to be provided by Customer at no cost to Contractor (including, without limitation, trailer power, phone lines, construction power, and access to water).
6. Removal and disposal of Hazardous Substances, including asbestos containing materials, to be done by Customer. If Contractor encounters material suspected to be hazardous, Contractor will notify Customer representative and stop further work in the area until the material is removed.
7. Contractor will require the assistance of Customer personnel to secure the Project Location and to provide traffic redirection during rigging operations, and during the move-in and move-out of large equipment.
8. The Scope of Work assumes that, unless specifically identified otherwise, all existing systems are functioning properly and are up to current codes. Contractor will not be responsible for repairs or upgrades to existing systems that are not functioning properly or compliant with current codes. No allowances have been made to bring existing systems up to code. All newly installed systems will be code compliant.
9. No allowance has been made to repair or replace damaged or inoperable existing equipment that is not specifically being replaced under the Scope of Work. When such items are discovered, Contractor will immediately notify Customer representative.
10. Stainless steel hardware, PVC coated materials, cathodic protection, explosion proof material, and reinforced duct banks are excluded. Connection to any existing underground grounding system is also excluded.
11. Contractor shall use industry standard construction means and methods.
12. Customer will provide access to the facilities, laydown areas at the work sites, and a reasonable number of parking spaces for Contractor and Contractor's subcontractor vehicles in parking lots at the facilities.
13. No allowance has been made for underground obstructions or unsuitable soil conditions encountered during trenching or other excavation.
14. Repair or replacement of existing housekeeping pads, concrete pads, or base repair of existing walkway lighting are excluded, except as specifically set forth in this Scope of Work.
15. With respect to Projects with new equipment connecting to the Facility's existing electrical distribution system, Contractor will not be responsible for the electrical integrity of the existing electrical system, e.g., the condition and proper termination of current-carrying, grounded, and grounding conductors, bus taps, protective elements, the proper protection of

- existing wire through knockouts, or missing components. Customer is responsible for providing and maintaining the facility's electrical distribution system that meets the latest NEC and guidelines adopted by the Authority Having Jurisdiction.
16. Customer will be responsible for Southern California Edison (SCE) Interconnection upgrade costs.
 17. Customer will provide sufficient gas lines and gas flows for the new Natural Gas Generators within 20 ft. of the generators' location within six months of Contract Execution. Delays may result in a Contract Price Adjustment.
 18. Customer will construct necessary Fire Lanes to and around proposed array locations, per County Fire Department requirements, within six months of Contract Execution. Delays may result in a Contract Price Adjustment.
 19. Customer will provide Access Roads to and around proposed array locations within six months of Contract Execution. Access roads must be sufficient for equipment and material deliveries. Delays may result in a Contract Price Adjustment.
 20. Customer will be responsible for CEQA permitting and compliance. Work related to CEQA is excluded.
 21. Customer will be responsible for South Coast Air Quality Management District (SCAQMD) permitting and compliance.
 22. All Scope of Work not shown on final permit approved drawings and not required to achieve the Project design criteria noted above is excluded.
 23. Painting, unless specified, is excluded.
 24. Gravel is excluded.
 25. Water hose bibs for washing the panels are excluded. A portable water-tank will be utilized for O&M module washings.
 26. No allowance has been made for screening, bird spikes, or other mitigations to eliminate nesting or occupation of wildlife on or within major equipment. Wildlife debris cleanup is excluded.
 27. Contractor is not responsible for delays caused by the Utility including the failure to obtain, or delay in obtaining, any interconnection agreement, or required approval (including due to failure to make timely inspection), or delays caused by changes or modification to the Scope of Work required by the Utility, other than a failure caused by the action or inaction of the Contractor. Contractor shall be entitled to a Construction Schedule extension that is equitable to the delay caused by the Utility.
 28. For the avoidance of doubt, Yucaipa Valley Water District is responsible for interconnection costs after the Interconnection Point, including any upgrade costs, levied by the Utility.

**EXHIBIT B
CONTRACT PRICE**

Year	Contract Price (\$/kWh)
1	\$0.0847
2	\$0.0847
3	\$0.0847
4	\$0.0847
5	\$0.0847
6	\$0.0847
7	\$0.0847
8	\$0.0847
9	\$0.0847
10	\$0.0847
11	\$0.0847
12	\$0.0847
13	\$0.0847
14	\$0.0847
15	\$0.0847
16	\$0.0847
17	\$0.0847
18	\$0.0847
19	\$0.0847
20	\$0.0847
21	\$0.0847
22	\$0.0847
23	\$0.0847
24	\$0.0847
25	\$0.0847
26	\$0.0847
27	\$0.0847
28	\$0.0847

EXHIBIT C
EXPECTED ENERGY PRODUCTION

Contract Year	Expected Energy Output (kWh)
1	7,381,073
2	7,344,168
3	7,307,447
4	7,270,910
5	7,234,555
6	7,198,382
7	7,162,390
8	7,126,578
9	7,090,945
10	7,055,491
11	7,020,213
12	6,985,112
13	6,950,187
14	6,915,436
15	6,880,859
16	6,846,454
17	6,812,222
18	6,778,161
19	6,744,270
20	6,710,549
21	6,676,996
22	6,643,611
23	6,610,393
24	6,577,341
25	6,544,454
26	6,511,732
27	6,479,173
28	6,446,777

**EXHIBIT D
BUYOUT AMOUNT**

<u>Anniversary of Final Commercial Operation Date</u>	<u>Buyout Amount (\$)</u>
7	\$7,430,419.47
28	\$280,342.98

EXHIBIT E
DEFINED TERMS

“*Affiliate*” means, with respect to any entity, such entity’s general partner or manager, or any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity.

“*Applicable Law*” means any statute, law, treaty, building code, rule, regulation (including, without limitation, anti-glare regulations and Federal Aviation Administration requirements), ordinance, code, enactment, injunction, writ, order, decision, authorization, judgment, decree, protocol, procedure or other legal or regulatory determination or restriction by a court or Governmental Authority of competent jurisdiction, as may be in effect on the Effective Date.

“*Average Offset Electricity Cost*” means the lesser of i) the average cost of electricity purchased from the Utility, and ii) the cost of electricity avoided by the Energy produced by the System, with both costs calculated over a twelve (12) month period ending within 90 days of the Effective Date of this Agreement.

“*Business Day*” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

“*Buyout Amount*” means the amount shown on Exhibit D that corresponds to the year in which the purchase of the System occurs.

“*CEQA*” means the California Environmental Quality Act, codified at California Public Resource Code §21000 *et seq.*, and the applicable state and local guidelines promulgated thereunder.

“*Change in Law*” means any of the following events or circumstances occurring after the Effective Date: (i) an amendment, modification, interpretation, construction, enforcement standard, supplement or other change in or repeal of an existing Applicable Law; or (ii) an enactment or making of a new Applicable Law (excluding a change in any income or franchise tax law, worker’s compensation, payroll or withholding tax law).

“*Code*” means the Internal Revenue Code of 1986, as amended, or any successor federal tax statute.

“*Commercial Operation*” means that a System is capable of generating electricity and all necessary approvals for the sale, delivery and storage of such electricity have been obtained.

“*Commercial Operation Date*” means the date that Supplier notifies Customer that Commercial Operation of a System has been achieved.

“*Concealed Conditions*” means subsurface or otherwise concealed physical conditions at the Premises that Supplier could not reasonably have been expected to discover through Visual Verification in advance of the Effective Date.

“*Contract Price*” means the price of Energy Output set forth in Exhibit B.

“**Contract Year**” means each full twelve-month period following the Commercial Operation Date, and each year thereafter will be based on the succeeding twelve-month period.

“**Customer Event of Default**” means an Event of Default as to which Customer is the defaulting Party.

“**Customer Person**” means Customer, its agents, employees, subcontractors, architects, general contractors, lease/leaseback contractors or other persons acting on behalf of Customer or for whom Customer is responsible.

“” means the California Division of the State Architect.

“**Energy**” means electric energy (alternating current, expressed in kilowatt-hours) generated by the System.

“**Energy Output**” means the actual and verifiable amount of Energy delivered to Customer at the relevant Interconnection Point at any time after the Effective Date, as metered in whole kilowatt-hours (kWh) at the relevant Meter. The Energy Output delivered to Customer at an Interconnection Point shall be deemed to be equal to the energy measured at the relevant Meter; actual energy losses between a Meter and the relevant Interconnection Point shall not affect the Energy Output.

“**Environmental Attributes**” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever titled, attributable to the System, the generation of electrical energy from the System, and the displacement of conventional energy generation, that are in effect as of the Effective Date or that may come into effect in the future. Environmental Attributes include, without limitation, (i) renewable energy credits; (ii) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SO_x), nitrogen oxides (NO_x), carbon monoxide (CO) and other pollutants; and (iii) 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, irrespective of whether such Environmental Attributes accrue for the benefit of Supplier, any Affiliate, or any investor of Supplier.

“**Environmental Conditions**” means the past or present disposal, release or threatened release of any Hazardous Material and/or any other condition that could result in liability under any Environmental Law.

“**Environmental Incentives**” means any and all (i) any investment tax credits attributable to the System (or any component thereof) or Energy Output, (ii) production tax credits attributable to the System (or any component thereof) or Energy Output, (iii) accelerated depreciation attributable to the System (or any component thereof) or Energy Output, (iv) direct third-party rebates or subsidies for generation of energy by a renewable energy source, (v) fuel-related subsidies or “tipping fees” that may be paid to accept certain fuels, (vi) local subsidies received by the generator for the destruction of particular preexisting pollutants or the promotion of local environmental benefits, and (vii) other financial incentives in the form of credits, tax write-offs, reductions, or allowances under Applicable Law attributable to the System (or any component thereof) or Energy

Output, irrespective of whether such Environmental Incentives accrue for the benefit of Supplier, any Affiliate, or any investor of Supplier.

“Environmental Law” means any and all federal, state, and local laws, regulations, ordinances, rules, and requirements of any Governmental Authority that concern the protection of human health or the environment.

“Excusable Event” means an act, event, occurrence, condition or cause beyond the control of Supplier, including, but not limited to, the following: (i) any act or failure to act of, or other delay caused by any Customer Person; (ii) the failure to obtain, or delay in obtaining, any interconnection agreement, or Required Approval (including due to failure to make timely inspection), or delays caused by changes and/or modifications to the Scope of Work required by a Governmental Authority, other than a failure caused by the action or inaction of Supplier; (iii) changes in the design, scope or schedule of the System required by any Governmental Authority or Customer Person; (iv) undisclosed or unforeseen conditions encountered at the Premises, including discovery or existence of Hazardous Material; (v) the failure to obtain, or delay in obtaining, approval of any Governmental Authority for design and installation of any portion of the System, including any further or subsequent approval required with respect to any change in the Scope of Work, other than a failure caused by the action or inaction of Supplier; (vi) information provided to Supplier by any Customer Person or Utility is later found to be inaccurate or incomplete; (vii) any Change in Law; (viii) delay caused by pending arbitration; or (ix) an event of Force Majeure.

“Fair Market Value” means the fair market value of the System Assets, in place, determined by an Independent Appraiser.

“Final Commercial Operation Date” means the date that Supplier notifies Customer that Commercial Operation for all Systems has been achieved.

“Financial Statements” means with respect to a Party, such Party’s most recently available unaudited balance sheet and statement of income and cash flows as of a previous fiscal quarter and such Party’s most recently available audited statement of income and of cash flows, each prepared in conformity with generally accepted accounting principles (GAAP) in the United States of America.

“Financing Party(ies)” means any person providing debt or tax equity financing for the design, development, construction, installation, operation and maintenance of the System, including any trustee or agent acting on their behalf, a lessor under a sale/leaseback transaction or a limited liability company in a partnership flip transaction or any subsidiary of such entities.

“Force Majeure” means any act or event that prevents or delays the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Force Majeure includes but is not limited to: (i) acts of God and other natural phenomena, such as storms, extraordinary seasonal conditions, tornados, hurricanes, floods, lightning, landslides, and earthquakes; (ii) explosions or fires arising from

lightning or other causes unrelated to the acts or omission of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage or vandalism, epidemic, terrorist acts, or rebellion; (iv) any industry or trade-wide national labor dispute or strike or any other strike or labor dispute not directed solely at a contractor or vendor; (v) any Utility power outage at the Premises; and (vi) action or failure to act by a Governmental Authority, including a moratorium on any activities related to this Agreement.

“Governmental Authority” means any federal, state, regional, town, county, city, municipal or local government agency, department or regulatory body having jurisdiction under Applicable Law over the matter in question.

“Governmental Charges” means all applicable federal, state and local taxes (other than taxes based on income or net worth but including sales, use, gross receipts, possessory interest, or similar taxes), governmental charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by a Governmental Authority, independent system operator, utility, transmission and distribution provider or other similar entity, on or with respect to the Energy Output, the Premises, or this Agreement.

“Hazardous Material” 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.

“Independent Appraiser” means an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, certification, experience and training to determine the value of solar energy generating facilities of the size and age and with the operational characteristics of the System. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or within three years before his appointment have been) a director, officer or an employee of, or directly or indirectly retained as consultant or adviser to, Supplier or any Affiliate of Supplier or Customer or any Customer Person or Affiliate of Customer.

“Interconnection Point” means each of the delivery point(s) where the System connects to the existing electrical systems serving the System.

“Law” means any national, regional, state or local law, statute, rule, regulation, code, ordinance, administrative ruling, judgment, decree, order or directive of any jurisdiction applicable to this Agreement, the System, the Premises, or the transaction contemplated hereby.

“Prudent Industry Practices” means those reasonable practices, methods and acts, as they may change from time to time, that (a) are commonly used to own, manage, operate and maintain solar energy generating facilities and associated facilities of the type that are similar to the System,

safely, reliably and efficiently and in compliance with Applicable Laws and manufacturers' warranties and recommendations, **seeking claims as required therein** and (b) are consistent with the exercise of the reasonable judgment, skill, diligence, foresight and care expected of a solar energy generating facility operator in order to efficiently accomplish the desired result consistent with safety standards and Laws, in each case taking into account the location of the System, including climatic, environmental and general conditions. Prudent Industry Practices are not intended to be limited to the optimum practices or methods to the exclusion of others, but rather those practices or methods generally accepted or approved by a significant portion of the photovoltaic solar power industry during the relevant time period.

“Required Approvals” means permits, licenses or other approvals from any federal, state, or local Governmental Authority or other third parties, directly related to and required for the design, installation, construction, and operation of the System, and the sale and delivery of the Energy Output and Microgrid Services.

“Supplier Event of Default” means an Event of Default as to which Supplier is the defaulting Party.

“System Assets” means each and all of the assets of which the System are comprised, including Supplier's solar energy panels, mounting systems, carports, tracking devices, inverters, integrators battery energy storage systems and other related equipment and components installed on the Premises, electric lines and conduits required to connect such equipment to the Interconnection Points, protective and associated equipment, improvements, and other tangible and intangible assets, permits, property rights and contract rights reasonably necessary for the construction, operation, and maintenance of the System.

“System Loss” means loss, theft, damage or destruction of the System or System Assets, or any other occurrence or event that prevents or limits the System from operating in whole or in part, resulting from or arising out of any cause (including casualty, eminent domain, condemnation or Force Majeure).

“Tax Benefits” means the right to all items of income, deduction and depreciation arising from ownership of the System, and any tax credits under the Internal Revenue Code or applicable state law (or in either case any successor law), and any United States Treasury grant or similar program in lieu of tax credits irrespective of whether such items accrue for the benefit of Supplier, any Affiliate of Supplier, or any investor of Supplier.

“Utility” means the local provider of electric transmission and distribution services to Customer at the Premises.

“Visual Verification” means diligent physical inspection without any destructive or invasive action.

EXHIBIT F
RULES OF INTERPRETATION

In this Agreement, unless expressly provided otherwise:

(a) the words “herein,” “hereunder” and “hereof” refer to the provisions of this Agreement and a reference to a recital, Article, Section, subsection or paragraph of this Agreement or any other agreement is a reference to a recital, Article, Section, subsection or paragraph of this Agreement or other agreement in which it is used unless otherwise stated;

(b) references to this Agreement, or any other agreement or instrument, includes any schedule, exhibit, annex or other attachment hereto or thereto;

(c) a reference to a paragraph also refers to the subsection in which it is contained, and a reference to a subsection refers to the Section in which it is contained;

(d) a reference to this Agreement, any other agreement or an instrument or any provision of any of them includes any amendment, variation, restatement or replacement of this Agreement or such other agreement, instrument or provision, as the case may be;

(e) a reference to a statute or other Law or a provision of any of them includes all regulations, rules, subordinate legislation and other instruments issued or promulgated thereunder as in effect from time to time and all consolidations, amendments, re-enactments, extensions or replacements of such statute, Law or provision;

(f) the singular includes the plural and vice versa;

(g) a reference to a person includes a reference to the person’s executors and administrators (in the case of a natural person) and successors, substitutes (including persons taking by novation) and permitted assigns;

(h) words of any gender shall include the corresponding words of the other gender;

(i) “including” means “including, but not limited to,” and other forms of the verb “to include” are to be interpreted similarly;

(j) references to “or” shall be deemed to be disjunctive but not necessarily exclusive, (i.e., unless the context dictates otherwise, “or” shall be interpreted to mean “and/or” rather than “either/or”);

(k) where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of such day; and where a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of such day;

(l) a reference to a Business Day is a reference to a period of time commencing at 9:00 a.m. local time on a Business Day and ending at 5:00 p.m. local time on the same Business Day;

(m) if the time for performing an obligation under this Agreement expires on a day that is not a Business Day, the time shall be extended until that time on the next Business Day;

(n) a reference to (i) a day is a reference to a calendar day unless the defined term “Business Day” is used, (ii) a month is a reference to a calendar month and (iii) a year is a reference to a calendar year;

(o) where a word or phrase is specifically defined, other grammatical forms of such word or phrase have corresponding meanings;

(p) a reference to time is a reference to the time in effect in the State where the System is located on the relevant date;

(q) if a payment prescribed under this Agreement to be made by a Party on or by a given Business Day is made after 2:00 pm on such Business Day, it is taken to be made on the next Business Day; and

(r) whenever a Party's consent, approval, satisfaction, or determination will be required or permitted under this Agreement, and this Agreement does not expressly state that the Party may act in its sole discretion, such consent, approval, satisfaction, or determination will not be unreasonably withheld, qualified, conditioned, or delayed, whether or not such a "reasonableness" standard is expressly stated in this Agreement. Whenever a Party's cooperation is required for the other Party to carry out its obligations hereunder, each Party agrees that it will act in good faith and reasonably in so cooperating with the other Party or its designated representatives or assignees or subcontractors. Each Party will furnish decisions, information, and approvals required by this Agreement in a timely manner so as not to delay the other Party's performance under this Agreement.

**EXHIBIT G
SITE LEASE**

[SEE ATTACHED]

3729057.1

Henry N. Wochholz Regional Water Recycling Facility (“*RWRF*”)

SITE LEASE AGREEMENT

This Site Lease Agreement (this “*Site Lease*”) is made and entered into as of _____ 2021 (the “*Effective Date*”) between Yucaipa Valley Water District, a County Water District (“*Lessor*”), and California Solar 3, LLC, a Delaware limited liability company having offices located at 1360 Post Oak Boulevard, Suite 400, Houston, TX 77056 (“*Lessee*”). Lessor and Lessee are at times collectively referred to hereinafter as the “*Parties*” or individually as the “*Party*.”

RECITALS

A. Lessor and Lessee have entered into a certain Solar Power Purchase Agreement (the “*Agreement*”), wherein Lessee has stated its intent to construct, install, own, operate and maintain a solar energy generating system (“*System*”), as more particularly described in Exhibit A, on the Premises (as defined below), and Lessor has agreed to lease the Premises to Lessee for such purpose. Lessee is referred to as the “*Supplier*” under the Agreement.

B. Lessor owns fee simple title to that certain real property, as more particularly described on Exhibit C (the “*Property*”), upon which the Premises is located. Lessor is referred to as the “*Customer*” in the Agreement.

C. In order to build and operate the System, Lessee requires access to and use of the Premises.

D. Lessee desires to sell to Lessor, and Lessor desires to purchase from Lessee, the Energy Output generated by the System during the Term of (and otherwise in accordance with the terms and conditions of) the Agreement.

E. In order to carry out the terms of the Agreement, Lessor agrees to lease the Premises to Lessee on the terms and conditions set forth in this Site Lease.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements contained herein, the execution of the Agreement by the Parties, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

LEASE

Section 1. Defined Terms; Rules of Interpretation. Capitalized terms used in this Site Lease and not otherwise defined herein shall have the meanings ascribed to them in Exhibit E to the Agreement. The rules of interpretation set forth in Exhibit F to the Agreement shall govern the interpretation of this Site Lease.

Section 2. Site Lease.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, during the Site Lease Term (as defined below):

(i) the exclusive use of approximately 1,775,333 square feet of land, which constitutes a portion of the Property;

(ii) the non-exclusive use of such additional space on the Property as mutually agreed by the Parties, including the Interconnection Point (as defined below), and as reasonably necessary for the installation, operation and maintenance of Lessee's utility lines, cables, conduits, transformers, wires, meters, monitoring equipment and other necessary equipment and appurtenances (collectively, the "*Cabling Space*") running between and among the portion of the Property and the Interconnection Point, and all necessary electrical and other utility sources located on the Property, *provided, that* all such additional space will be mutually agreeable to both Parties and will not cause any undue burden to the daily operations of Lessor;

(iii) the temporary, exclusive use of additional space on the Property immediately adjacent to the Premises as reasonably necessary during the installation, maintenance, repair, replacement, improvement or removal of the System on or from the Premises; the use of Lessor's electricity and water already available on the Property and accessible to the Premises for purposes of construction, cleaning and maintenance of the System. Lessee assumes all risk and liability associated with its use of such utilities; and

(iv) the non-exclusive right of ingress and egress from a public right-of-way over areas of the Property to and from the Premises as reasonably necessary to access the same.

(b) Lessor hereby grants to Lessee such rights of entry, rights of transit, rights of way and other rights to enter, cross and use the Property, limited to the space depicted in Exhibit B, and each part thereof for all purposes and activities in any way related or connected to the operation and construction of the System.

(c) The portion of the Property, the Interconnection Point and the Cabling Space, and the appurtenances thereto granted hereunder, collectively represent the real property leasehold interest of the Lessee (the "*Premises*"), as further described in Exhibit B attached hereto.

Section 3. Delivery of Premises.

(a) Lessor shall deliver the Premises to Lessee on the Effective Date in a condition ready for Lessee's installation of the System and free of debris.

(b) Lessor represents and warrants to Lessee that, as of the Effective Date:

(i) the Premises is: (A) fit for the intended purpose of this Site Lease and the Agreement, (B) in good condition, (C) in compliance with all Laws (as defined in Section 15), and (D) free of any substance or matter defined as a toxic or Hazardous Material;

(ii) there is no existing, pending, or, to Lessor's knowledge, threatened litigation, suit, action, or proceeding before any court or administrative agency affecting the Property, Lessor, or any constituent entity or individual of Lessor, that, if adversely determined, would be reasonably likely to adversely affect

(A) Lessor's ability to perform its obligations under this Site Lease, (B) the Property, (C) this Site Lease, or (D) Lessee's ability to use the Premises as permitted by this Site Lease (including to develop and operate the System); and

(iii) Lessor owns fee simple title to the Property, and there are no leases (including ground leases and master leases), liens, security interests or other encumbrances on the Property, except as disclosed on Exhibit D ("*Permitted Liens*") and Lessor has obtained all necessary consents and non-disturbance agreements to ensure Lessee's continued occupancy of the Property as permitted by the Site Lease.

Section 4. Term.

(a) The term of this Site Lease (the "*Site Lease Term*") shall commence on the Effective Date and, unless terminated pursuant to the terms of this Site Lease, shall expire upon the expiration of the Term or earlier termination of the Agreement *plus* the removal period provided under Section 4.4 of the Agreement (the "*Removal Period*").

(b)

(c) The leasehold interest granted herein is an *in rem* interest of record that burdens and runs with the Property and will not be extinguished or affected by a sale of the Premises completed pursuant to Bankruptcy Code § 363(f), 11 U.S.C. § 363(f).

Section 5. Rent. The Lessee agrees to pay the sum of Ten Dollars (\$10) rent to the Lessor on the Effective Date (the "*Rent*"), as consideration for Lessee's use of the Premises during the Site Lease Term.

Section 6. Use.

(a) Lessee shall use the Premises for the purpose of design, construction, installation, ownership, operation, maintenance, repair, improvement, replacement and removal of the System and uses incidental thereto (the "*Permitted Use*") and for no other purpose without the prior written consent of Lessor.

(b) Lessee shall carry out the Permitted Use in accordance with the Agreement and all Applicable Laws, rules, codes and ordinances.

(c) Without limiting any other provision of this Site Lease, Lessee agrees that Lessee's obligations under the Agreement and this Site Lease shall be performed: (i) in a good and workmanlike manner; (ii) using principles, criteria and standards generally accepted for use in connection with commercial solar power facilities of the same or similar size and type as the System in the United States; and (iii) in accordance with the Agreement and this Site Lease. All engineering work requiring certification shall be certified by professional engineers properly qualified and licensed to perform such engineering services in California.

(i) Lessor acknowledges and agrees that access to sunlight ("*Insolation*") is essential to the System's operation. Accordingly, Lessor shall not permit any interference with Insolation on and at the Premises. Without limiting the generality of the foregoing, Lessor shall not construct or permit to be constructed any structure on the Property, permit the growth of foliage on the Property, or emit or permit the emission of suspended particulate matter, smoke,

fog or steam or other airborne matter on the Property, in each case that adversely affects Insolation of the System. If a Change in Law occurs, or if Lessor becomes aware of any potential development or other activity on adjacent or nearby properties that could result in diminishing the Insolation to the Premises, Lessor shall advise Lessee of such information and reasonably cooperate with Lessee in measures to preserve existing levels of Insolation at the Premises. To the extent any filings, notices or other arrangements are available pursuant to Applicable Law for the purpose of protecting the Insolation of the System, Lessor will cooperate with Lessee in preparing and filing any necessary documentation related thereto.

(d) With twenty four (24) hours notice, Lessee shall have the continuous right to access to the Premises.

(e) Lessor covenants that Lessee shall peaceably and quietly have, hold and enjoy its leasehold interest in the Premises during the Site Lease Term for its Permitted Use of the Premises in accordance with the Agreement and this Site Lease, and Lessor shall cooperate as reasonably requested by Lessee to protect and defend Lessee's leasehold interest hereunder from any other rights or interests arising through Lessor that threaten or challenge such leasehold interest.

Section 7. Installation and Ownership of System.

(a) Lessee shall have the right at any time and from time to time to install the System and other System Assets, and repair, replace, remove, improve, enhance, relocate or replace the same or any portion thereof with new or different items with the same or different specifications so long as the installation of such System and other System Assets is otherwise in compliance with this Site Lease, the Agreement, and all Applicable Laws.

(b) Lessor acknowledges and agrees that, notwithstanding the System's presence and operation on the Premises, (i) Lessee is the exclusive owner and operator of the System, except in the case of a sale-and-leaseback financing (in which case title to the System would transfer to the applicable Financing Party), (ii) Lessor has no ownership or other interest in the System or other equipment or personal property of Lessee installed on the Premises, and (iii) Lessee may remove all or any portion of the System or other equipment or personal property at any time in compliance with this Site Lease and the Agreement. Lessor further acknowledges and agrees that the System is Lessee's personal property and may not be sold, leased, assigned, mortgaged, pledged or otherwise alienated or encumbered (collectively, a "**Transfer**") with the fee interest or leasehold rights to the Property or otherwise by Lessor, any person acting for, on behalf of, through, or for the benefit of Lessor, or any other subsequent owner of such interest in the Property. Lessor shall indemnify, defend and hold harmless Lessee against all losses, claims, costs and expenses (including attorneys' fees) incurred by Lessee in discharging and releasing any lien, encumbrance, pledge, levy or attachment on or with respect to the System, arising by, under or through Lessor. Lessor shall give Lessee at least thirty (30) days written notice prior to any Transfer of all or a portion of the Property identifying the transferee, the portion of Property to be Transferred and the proposed date of Transfer. Lessor shall require any transferee to acknowledge and consent to the terms

of this Site Lease. Lessor agrees that this Site Lease and the rights granted in Section 2 of this Site Lease shall run with the Property and survive any Transfer of the Property.

(c) Lessor acknowledges that notwithstanding the System's presence on the Premises, Lessee or its affiliate or transferee is the exclusive owner of the Energy generated by the System and owner of the Tax Benefits, Environmental Attributes and Environmental Incentives of the System.

(d) Lessor shall not permit any mechanics' or materialmen's lien to be placed upon the Premises or the System or any part thereof for any work performed on the Property during the Site Lease Term or during the six (6) month period prior to the Effective Date and shall, promptly upon discovery of the same provide Lessee with written notice of, and at its sole cost and expense, promptly remove (or cause to be removed) any such mechanics' or materialmen's lien.

(e) Notwithstanding anything to the contrary in this Site Lease or the Agreement, Lessor and Lessee acknowledge and agree that the System is not a fixture to the Property, and Lessor agrees that it will not claim, assert or assist any other entity in claiming or asserting that the System is a fixture to the Property. For the avoidance of doubt, the Lessor and Lessee acknowledge and agree that the System is the personal property of the Lessee.

Section 8. Required Approvals. Lessee's ability to use the Premises is expressly contingent upon Lessee obtaining, after the Effective Date, all certificates, permits, licenses and other approvals (collectively the "*Required Approvals*") that may be required by any federal, state, or local authorities, for the Permitted Use of the Premises. Lessor shall cooperate with Lessee in its effort to obtain such Required Approvals and shall take no action which would adversely affect the status of the Property with respect to the Permitted Use by Lessee. Lessee will carry out the activities set forth in this Section 8 in accordance with all Applicable Laws and in such a manner as will not unreasonably interfere with Lessor's operation or maintenance of the Property. In furtherance of the foregoing, the Parties acknowledge and agree that Lessee's ability to use the Premises is expressly contingent upon its obtaining Required Approvals in accordance with Section 3.1(b) of the Agreement.

Section 9. Maintenance and Security.

(a) Lessee shall be responsible for maintenance of the Premises during the Site Lease Term. Notwithstanding anything to the contrary but subject to Section 9(b), Lessee shall not be responsible for any liabilities, maintenance and repair of the Premises to the extent that such liabilities, maintenance and/or repair was due to an act or omission of Lessor or Lessor's employees, agents, contractors, representatives, tenants or invitees.

(b) During the Site Lease Term, Lessor shall maintain the Property (not including the Premises) reasonably necessary for Lessee's Permitted Use of the Premises, including any foliage and vegetation in good condition and repair. Except as otherwise provided herein, Lessor's maintenance of the Property (not including the Premises) shall be done at Lessor's sole expense. Any repair or maintenance performed by Lessor under this section shall be promptly performed and shall cause the least interference possible to the System and its operation.

(c) During the Site Lease Term, Lessee assumes all liability related to the System, and Lessor shall not be obligated to operate, maintain, repair, replace or have any other obligation related to the System or any other equipment installed by Lessee (subject, however, to any indemnity obligation of Lessor under this Site Lease).

(d) Lessee shall have the right, at its own cost, to undertake reasonable security measures necessary to protect the System and Premises against theft, loss, damage or destruction, including the use of fencing and camera-based or microwave-based security systems, provided that any such security measures shall not interfere with Lessor's SCADA system or any other plant operations or facilities.

Section 10. Removal. The Parties shall comply with the terms for removal of the System as set forth in the Agreement.

Section 11. Event of Default. An "*Event of Default*" means, with respect to a Party (a "*Defaulting Party*"), the occurrence of any of the following:

(a) any representation or warranty made by such Party in this Site Lease is false or misleading in any material respect when made or when deemed made or repeated if such breach is not cured or remedied (including by payment of money to the Non-Defaulting Party) within twenty (20) Business Days after receipt of written notice from the other Party (the "*Non-Defaulting Party*"); or

(b) the failure to perform any material covenant or obligation set forth in this Site Lease if such failure is not remedied within twenty (20) Business Days after receipt of written notice from the Non-Defaulting Party (provided that so long as the Non-Defaulting Party has initiated and is diligently attempting to effect a cure, such cure period shall be extended for an additional period not to exceed ninety (90) days so long as such extension does not have a material adverse effect on the Non-Defaulting Party).

Section 12. Remedies. Upon an Event of Default hereunder, the Non-Defaulting Party shall have the same remedies (with respect to this Site Lease) as provided to it in the Agreement (with respect to the Agreement).

Section 13. Casualty and Insurance.

(a) Subject to **Error! Reference source not found.**, if the Premises are damaged by fire or other casualty, then Lessor shall, at its expense, repair and restore the Premises to substantially their former condition within a reasonable period of time, not to exceed six (6) months after such casualty event, and this Site Lease shall remain in full force and effect.

(b)

(c) Lessor and Lessee shall maintain all insurance policies as required under the Agreement.

Section 14. Condemnation.

(a) If only a part of the Premises is taken by eminent domain or otherwise by way of condemnation such that the balance of the Premises remain suitable for the Permitted Use as reasonably determined by Lessee, then the Site Lease shall not terminate and the Lessor shall exercise commercially reasonable efforts to modify the

Premises as necessary to return them as closely as possible to their condition prior to such taking; *provided, however*, if such taking causes a material interference with Lessee's Permitted Use of the Premises, then the Parties shall meet to discuss a mutually agreeable alternative under this Site Lease to determine if Lessee's Permitted Use can still be accommodated, the Agreement can remain in full force and effect, and Lessee can still sell and deliver the Energy Output to Lessor thereunder.

(b) If all or a substantial part of the Premises are taken by eminent domain or otherwise by way of condemnation so as to render the use of the Premises unsuitable for the Permitted Use as reasonably determined by Lessee, then either Party may elect to terminate this Site Lease on not less than thirty (30) days' prior written notice to the other Party, upon which this Site Lease shall terminate and be of no further force or effect (except for those provisions which survive such termination as provided herein) on the date specified in such notice, subject to the Removal Period. If neither Party elects to terminate this Site Lease pursuant to the previous sentence, Lessor shall exercise commercially reasonable efforts to modify the Premises as necessary to return them as closely as possible to their condition prior to such taking, except that Lessor shall in no event be required to repair, replace or restore any property of Lessee comprising part of the System, which replacement or restoration shall be Lessee's responsibility.

(c) Lessor and Lessee agree that (i) all condemnation awards payable in connection with the taking of all or any portion the Premises shall belong to Lessor and (ii) all condemnation awards payable in connection with the System, any System Asset or the termination of the Site Lease or the Agreement due to condemnation of the Premises, shall belong to Lessee.

Section 15. Compliance With Laws. During the Site Lease Term, Lessor shall maintain the Property (not including the Premises), and Lessee shall maintain the Premises, in compliance with all Applicable Laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including the ADA and laws regulating Hazardous Materials) relating to the Property and the Premises. Lessee shall comply in all material respects with all Applicable Laws relating to the System and Lessee's Permitted Use of the Premises.

Section 16. Liens. Consistent with the requirements and obligations in the Agreement, including the indemnification of Lessor, in connection with its construction, ownership, operation and maintenance of the System, Lessee shall not file (nor permit to be filed by any of its representatives, employees, contractors, subcontractors, consultants or affiliates) any mechanics' or materialmen's liens on all or any portion of the Property (including the Premises). Any such mechanics' or materialmen's liens filed in violation of this Section 16 shall be removed by Lessee in accordance with the notice and cure provisions herein and shall not constitute an Event of Default under this Site Lease.

Section 17. Non-Disturbance Agreement. To the extent that any third party has or gains any interest in the Premises or any other claim, lien, encumbrance or right of possession on or against the Premises, Lessor will promptly obtain a subordination, non-disturbance and attornment agreement, in a form mutually acceptable to Lessee and any such third party in order to evidence: (i) the consent of such third party, their successors and assigns, to be bound by the

terms of the Site Lease and the transactions contemplated herein as a succeeding lessor subsequent to any transfer of or foreclosure on the Premises for the remaining term of the Site Lease; (ii) the acknowledgement by such third party, their successors and assigns, of the continuing right, title and interest of Lessee in and to the Premises and the System without disturbance for the term of the Site Lease; and (iii) the waiver by such third party, their successors and assigns, of any lien or other interest in the System for the term of the Site Lease.

Section 18. Liability and Indemnity.

(a) The Parties hereby acknowledge and agree to the indemnification provisions in the Agreement, and further agree that such provisions shall be applicable to this Site Lease.

(b) Lessee shall indemnify, defend and hold harmless Lessor, its parent, officers, agents and employees of and from any damage, claim, demand, lawsuit or action of any kind for injury to or death of persons, including employees of Lessee or Lessor, and damage or destruction of property, including, but not limited to, property of either Lessee or Lessor, any utility company, or other loss or damage incurred by Lessor, to the extent arising out of the presence, release, transportation, migration, generation, treatment, processing, storage, use or disposal of Hazardous Materials (whether intentional or unintentional, direct or indirect) at, on or from the Premises by Lessee (including the costs of assessment, containment and removal of Hazardous Materials), but only to the extent that such claims relate to Hazardous Materials physically brought onto the Premises by Lessee or Lessee's contractors (and shall specifically not include mere discovery of any existing condition on the Premises). Lessee's obligations pursuant to this Section 18(b) shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the gross negligence or willful misconduct of Lessor or Lessor's contractors, officers, employees, agents, successors, or assigns. Lessee's obligations under this Section 18(b) shall survive the termination of this Site Lease.

(c) Lessor shall indemnify, defend and hold harmless Lessee, its officers, agents and employees (the "*Lessee Indemnitees*") of and from any damage, claim, demand, lawsuit or action of any kind for injury to or death of persons, including employees of Lessee or Lessor, and damage or destruction of property, including property of either Lessee or Lessor, or other loss or damage incurred by Lessee, to the extent arising out of the presence, release, transportation, migration, generation, treatment, processing, storage, use or disposal of Hazardous Materials (whether intentional or unintentional, direct or indirect) at, on, or from the Premises by any person or entity or other source (including the costs of assessment, containment and removal of Hazardous Materials), except for such Hazardous Materials that were physically brought onto the Premises by Lessee or Lessee's contractors, whether or not such claims are related to the actions of the Lessor. Lessor's obligations pursuant to this Section 18(c) shall not extend to claims, demands, lawsuits or actions for liability to the extent attributable to the gross negligence or willful misconduct of Lessee, the Lessee Indemnitees, or their respective contractors, successors or assigns. Lessor's obligations under this Section 18(c) shall survive the termination of this Site Lease.

Section 19. Assignment.

(a) Neither Party shall have the right to assign or transfer, whether voluntarily or by operation of law, any of its rights, duties or obligations under this Site Lease without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the following shall not be deemed an assignment of this Agreement: any (i) sale, assignment, transfer or disposition of the System, directly or indirectly, to an affiliate of Supplier, provided, however, that any such affiliate shall agree to be bound by the terms and conditions hereof and shall have sufficient financial or other operational capabilities as reasonably determined by Customer, or (ii) transaction which results in a change of control of Supplier. Change of control shall be defined in common law, and may be the result of a single or multiple related transactions which result in the cumulative transfer of more than fifty percent (50%) of the voting stock or equity interests of Supplier..

(b) Subject to the foregoing restrictions on assignment, this Site Lease will inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

Section 20. Financing. Notwithstanding anything else in this Site Lease to the contrary, including, without limitation, the terms of Section 19, Lessor acknowledges and agrees that Lessee may finance the acquisition and installation of the System through a loan, lease, or partnership from or with one or more third parties and that Lessee's obligations may be secured by, among other collateral, a pledge or collateral assignment of this Site Lease and a first security interest in the System. To facilitate any such transaction, Lessor (a) consents to the collateral or full assignment by Lessee to its Financing Parties of Lessee's right, title and interest in and to this Site Lease and the System, (b) agrees to take any reasonable actions and provide any documentation reasonably requested by Lessee in connection with such a transaction, and (c) will use commercially reasonable efforts to place its successors and assigns on notice of the ownership of the System by Lessee, the existence of the security interest, and the fact that the System is not part of the Premises or a fixture thereof, as necessary and appropriate to avoid confusion or adverse claims.

Section 21. Jurisdiction; Disputes. The Parties hereby acknowledge and agree to the governing law and dispute resolution provisions in the Agreement, and further agree that such provisions shall be applicable to this Site Lease.

Section 22. Notices. All notices, requests, statements or payments under this Site Lease will be made to the addresses and persons specified in Section 17.1 of the Agreement in accordance with the terms and conditions therein provided.

Section 23. Taxes. Lessee shall pay all personal property taxes, business or license taxes or fees, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, assessments, bonds, levies, fees or charges of any kind which are assessed, levied, charged, confirmed, or imposed by any public authority due to Lessee's ownership and/or use and operation of the System (or any portion or component thereof), except any (i) real property taxes, (ii) personal property taxes relating to the Lessor's Property which is not a part of the Premises, and (iii) taxes computed upon the basis of the net income or payments derived from the Property by Lessor or the owner of any interest therein. Lessor shall be responsible for all applicable amounts in connection with clauses (i) through (iii) of this Section 23. Lessor

disclaims any right, title or interest in and to all tax credits, tax incentives or tax related grants or benefits relating to the System, which are, and shall remain, the exclusive property of Lessee.

Section 24. Non-Waiver. No failure or delay by either Party in exercising any right, power, privilege or remedy hereunder will operate as a waiver thereof. No waiver by either Party of a breach of any term or provision contained herein shall be effective unless signed and in writing by the waiving Party. No consent by either Party to, or waiver of, a breach by either Party, whether express or implied, shall be construed, operate as or constitute a consent to, waiver of or excuse of any other or subsequent or succeeding breach by either Party.

Section 25. Recording. Lessor shall concurrently herewith execute a memorandum of this Site Lease, in the form attached hereto as Exhibit E, which Lessee shall promptly record with the appropriate recording officer. Lessee shall be entitled to, and is hereby authorized to, file one or more precautionary UCC financing statements and/or precautionary fixture filings or similar documents in such jurisdictions as it deems appropriate with respect to the System in order to provide notice of its ownership of the System.

Section 26. Governing Law. This Site Lease will be governed by the laws of the State of California, without giving effect to principles of conflicts of laws.

Section 27. Brokerage Commissions. Lessor and Lessee have dealt directly as principals and neither Party has knowledge of any brokerage commission claimed or payable as a result of the execution of this Site Lease.

Section 28. Severability. If any part, term, or provision of this Site Lease is determined by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality or enforceability of any other part, term or provision of this Site Lease, and shall not render this Site Lease unenforceable or invalid as a whole.

Section 29. Counterparts. This Site Lease may be executed in one or more counterparts, each of which is an original and all of which together constitute one and the same instrument. A signature on a copy of this Site Lease received by either Party by facsimile transmission or electronic signature is binding upon the other Party as an original.

Section 30. Conflict between Site Lease and Agreement. If any provisions of the Site Lease conflict with the terms or provisions of the Agreement, the terms of the Agreement shall control and take precedence.

[SIGNATURE PAGE FOLLOWS]

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

“LESSEE:”

California Solar 3, LLC
a Delaware limited liability company

By: _____
Name:
Title:

“LESSOR:”

Yucaipa Valley Water District, a County Water District

By: _____
Name:
Title:

EXHIBIT A

SYSTEM DESCRIPTION

Supplier will cause EPC Contractor to design, engineer, and install photovoltaic power generating systems (System) at the Premises as provided in the table below:

Solar Generating Facilities to be Installed

Facility	Description	Address	Approximate System Size (kW DC)
RWRf	Solar Photovoltaic Fixed-tilt Ground Mounted Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRf)	880 West County Line Road, Calimesa, CA 92320	4,002.7 kW DC
RWRf	Battery Energy Storage and Microgrid Controls Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRf)	880 West County Line Road, Calimesa, CA 92320	1,766.7 kW / 7,066.8 kWh
RWRf	Natural Gas Backup Generator Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRf)	880 West County Line Road, Calimesa, CA 92320	1,750 kW

EXHIBIT B

PREMISES

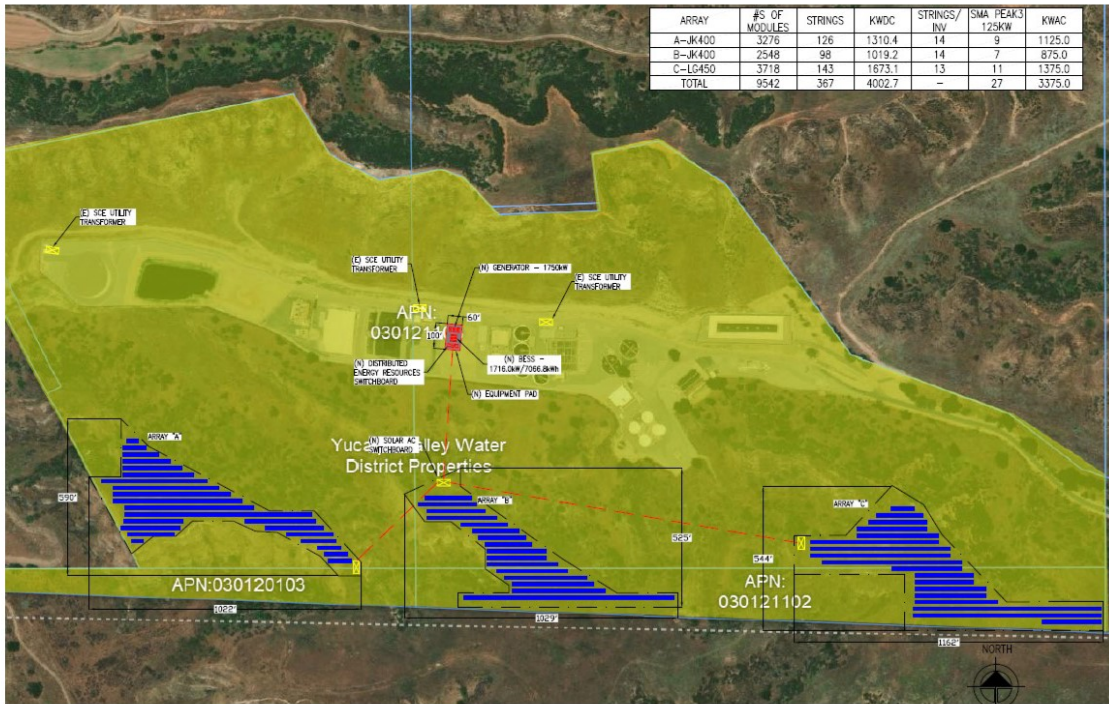


EXHIBIT C

PROPERTY

Address: 880 West County Line Road, Calimesa, CA 92320

Legal Description:¹

¹ Legal Description to be added upon receipt of Preliminary Title Reports

EXHIBIT D

PERMITTED LIENS

EXHIBIT E

MEMORANDUM OF LEASE

[Subject to revisions based on jurisdictional requirements]

This instrument prepared by and
When recorded should be mailed to:

[ENGIE PROJECT COMPANY]
1360 Post Oak Boulevard, Suite 400
Houston, TX 77056
Attn: General Counsel

(SPACE ABOVE THIS LINE FOR RECORDER’S USE ONLY)

MEMORANDUM OF SITE LEASE AGREEMENT

Lessor: _____
Lessee: _____
[ENGIE PROJECT COMPANY]
(or Assignee)
Assessor’s Parcel No.: _____
Property Address: _____

THIS MEMORANDUM OF SITE LEASE AGREEMENT (the “*Memorandum*” is dated for reference purposes only as of _____, 2021 and is made by and between _____, a _____ (“*Lessor*”), with a mailing address of _____ and [ENGIE PROJECT COMPANY], a Delaware limited liability company (“*Lessee*”) having its offices located at 1360 Post Oak Boulevard, Suite 400, Houston, TX 77056. Lessor and Lessee are at times collectively referred to herein individually as the “*Party*” and collectively as the “*Parties*.”

The Parties agree as follows:

Section 1. Site Lease Term. Lessor and Lessee have entered into a Solar Power Purchase Agreement dated as of _____, 2021 (the “*Agreement*”) whereby Lessee has agreed to construct, install, own, operate and maintain a solar energy facility on the Premises described in Section 2 below. Lessor and Lessee have also entered into a Site Lease Agreement (the “*Site Lease*”) as of _____, 2021 (the “*Effective Date*”), dated for a term which shall commence on the Effective Date and shall coincide with the term of the Agreement, *provided*

that the Lessee may have an additional period following the term of the Site Lease to remove the solar energy generation equipment and related equipment (the “**System**”) from the Property as set forth in the Site Lease. The Agreement is for a term of [_____] years after the Final Commercial Operation Date as defined in the Agreement and may be extended upon mutual agreement by the Lessor and Lessee. The Site Lease shall terminate automatically upon termination or expiration of the Agreement, unless earlier terminated or extended pursuant to any provision of the Site Lease.

Section 2. Leased Premises. Lessor leases to Lessee and Lessee leases from Lessor certain real property which is legally described in the *Description of Property* attached hereto as Exhibit A (and such real property are hereinafter sometimes collectively referred to as the “**Property**”), for the design, installation, operation, maintenance, repair, replacement and improvement of a solar electric generating facility that produces electrical energy to be purchased by Lessor pursuant to the Agreement, including, but not limited to, solar energy panels, mounting systems, inverters, integrators and other related equipment more particularly described in the *System Description* attached hereto as Exhibit B and by this reference incorporated herein (collectively, the “**System**”) together with all electrical lines required to transmit electrical energy generated by the System to the delivery point at which electrical energy is to be delivered and received under the Agreement (the “**Interconnection Point**”), together with such additional space for the installation, operation and maintenance of utility lines, cables, conduits, transformers, wires, meters, monitoring equipment and other necessary and convenient equipment and appurtenances (collectively, the “**Cabling Space**”) running between and among the Property, the Interconnection Point, and all necessary electrical and other utility sources located on the Property, together with the non-exclusive right of ingress and egress from a public right-of-way, seven (7) days a week, twenty four (24) hours a day, over the Property and to and from the Premises (as hereinafter defined) for the purpose of design, installation, operation, inspection, maintenance, repair and improvements of the System. The Property, the Interconnection Point and the Cabling Space are hereinafter collectively referred to as the “**Premises.**”

Section 3. Installation and Ownership of System and System Assets.

(a) Lessee shall have the right to install the System and all related transmission lines, cables, fixtures and utilities (collectively, the “**System Assets**”) within the Premises and to make such other installations on the Premises as may be reasonably necessary or desirable in connection with Lessee’s operation of the System in compliance with the terms of the Agreement and all Applicable Laws. Lessor has granted Lessee the right to temporarily use additional space immediately adjacent to the Premises during installation, maintenance, repair, replacement, improvement or removal of the System and other System Assets on the Premises, provided that Lessee provides reasonable notice to Lessor of its intent to temporarily use the space and Lessee takes reasonable efforts not to impact Lessor’s normal course of business. Lessee shall have the right at any time and from time to time to repair, replace, remove, improve, enhance, relocate or replace the System and other System Assets or any portion thereof with new or different items with the same or different specifications so long as the installation of such System and other System Assets is otherwise in compliance with the Site Lease, the Agreement, and all Applicable Laws.

(b) Lessor shall have no ownership or other interest in the System or any System Assets or other equipment or personal property of Lessee installed on the Premises and Lessee may remove all or any portion of the System or any System Assets at any time and from time to time as further provided in the Agreement. Without limiting the generality of the foregoing, Lessor hereby waives any statutory or common law lien that it might otherwise have in or to the System and other System Assets or any portion thereof.

(c) The lien of any third party mortgagee, deed holder, or party to any security document shall not cover the System, any System Assets or Lessee's moveable trade fixtures or other personal property of Lessee located in or on the Premises.

(d) Notwithstanding anything to the contrary in the Agreement or Site Lease, Lessor and Lessee acknowledge and agree that the System is not a fixture and Lessor agrees that it will not claim, assert or assist any other entity in claiming or asserting that the System is a fixture. Lessee will have the right to remove the System in accordance with the Agreement.

Section 4. Provisions Binding on Lessor and Lessee. All of Lessor and Lessee's obligations under the Site Lease, both affirmative and negative, are intended to and shall be binding on Lessor and Lessee, respectively, in accordance with their terms and shall be binding on their respective successors and permitted assigns and shall inure to the benefit of the Parties thereto and their respective successors and permitted assigns. All capitalized terms not otherwise defined herein shall have the same definition as set forth in the Site Lease or if not defined therein, as defined in the Agreement.

Section 5. Purpose of Memorandum. This Memorandum is prepared for the purpose of recordation only to give third parties notice of the Site Lease. It shall not constitute an amendment or modification of the Site Lease and in the event of any conflict between the terms and provisions of the Agreement or the Site Lease and this Memorandum, the terms and provisions of the Agreement, first, and then the provisions of the Site Lease shall control.

[SIGNATURE BLOCKS AND EXHIBITS EXCLUDED]

3668356.1

This instrument prepared by and
When recorded should be mailed to:

California Solar 3, LLC
1360 Post Oak Boulevard, Suite 400
Houston, TX 77056
Attn: General Counsel

(SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY)

MEMORANDUM OF SITE LEASE AGREEMENT

Lessor: Yucaipa Valley Water District
Lessee: California Solar 3, LLC (or Assignee)
Assessor's Parcel No.:
Property Address: 880 W County Line Road, Calimesa, CA 92320

THIS MEMORANDUM OF SITE LEASE AGREEMENT (the "*Memorandum*") is dated for reference purposes only as of _____, 2021 and is made by and between Yucaipa Valley Water District, a County Water District ("*Lessor*"), and California Solar 3, LLC, a Delaware limited liability company ("*Lessee*") having its offices located at 1360 Post Oak Boulevard, Suite 400, Houston, TX 77056. Lessor and Lessee are at times collectively referred to herein individually as the "*Party*" and collectively as the "*Parties*."

The Parties agree as follows:

Section 1. Site Lease Term. Lessor and Lessee have entered into a Solar Power Purchase Agreement dated as of _____, 2021 (the "*Agreement*") whereby Lessee has agreed to construct, install, own, operate and maintain a solar energy facility on the Premises described in Section 2 below. Lessor and Lessee have also entered into a Site Lease Agreement (the "*Site Lease*") as of _____, 2021 (the "*Effective Date*"), dated for a term which shall commence on the Effective Date and shall coincide with the term of the Agreement, *provided that* the Lessee may have an additional period following the term of the Site Lease to remove the solar energy generation equipment and related equipment (the "*System*") from the Property as set forth in the Site Lease. The Agreement is for a term of twenty-eight (28) years after the Commercial Operation Date as defined in the Agreement and may be extended upon mutual agreement by the Lessor and Lessee. The Site Lease shall terminate automatically upon termination or expiration of the Agreement, unless earlier terminated or extended pursuant to any provision of the Site Lease.

Section 2. Leased Premises. Lessor leases to Lessee and Lessee leases from Lessor certain real property which is legally described in the *Description of Property* attached hereto as Exhibit A (and such real property are hereinafter sometimes collectively referred to as the "*Property*"), for the design, installation, operation, maintenance, repair, replacement and

improvement of a solar electric generating facility that produces electrical energy to be purchased by Lessor pursuant to the Agreement, including, but not limited to, solar energy panels, mounting systems, inverters, integrators and other related equipment more particularly described in the *System Description* attached hereto as Exhibit B and by this reference incorporated herein (collectively, the “*System*”) together with all electrical lines required to transmit electrical energy generated by the System to the delivery point at which electrical energy is to be delivered and received under the Agreement (the “*Interconnection Point*”), together with such additional space for the installation, operation and maintenance of utility lines, cables, conduits, transformers, wires, meters, monitoring equipment and other necessary and convenient equipment and appurtenances (collectively, the “*Cabling Space*”) running between and among the Property, the Interconnection Point, and all necessary electrical and other utility sources located on the Property, together with the non-exclusive right of ingress and egress from a public right-of-way, seven (7) days a week, twenty four (24) hours a day, over the Property and to and from the Premises (as hereinafter defined) for the purpose of design, installation, operation, inspection, maintenance, repair and improvements of the System. The Property, the Interconnection Point and the Cabling Space are hereinafter collectively referred to as the “*Premises*.”

Section 3. Installation and Ownership of System and System Assets.

(a) Lessee shall have the right to install the System and all related transmission lines, cables, fixtures and utilities (collectively, the “*System Assets*”) within the Premises and to make such other installations on the Premises as may be reasonably necessary or desirable in connection with Lessee’s operation of the System in compliance with the terms of the Agreement and all Applicable Laws. Lessor has granted Lessee the right to temporarily use additional space immediately adjacent to the Premises during installation, maintenance, repair, replacement, improvement or removal of the System and other System Assets on the Premises, provided that Lessee provides reasonable notice to Lessor of its intent to temporarily use the space and Lessee takes reasonable efforts not to impact Lessor’s normal course of business. Lessee shall have the right at any time and from time to time to repair, replace, remove, improve, enhance, relocate or replace the System and other System Assets or any portion thereof with new or different items with the same or different specifications so long as the installation of such System and other System Assets is otherwise in compliance with the Site Lease, the Agreement, and all Applicable Laws.

(b) Lessor shall have no ownership or other interest in the System or any System Assets or other equipment or personal property of Lessee installed on the Premises and Lessee may remove all or any portion of the System or any System Assets at any time and from time to time as further provided in the Agreement. Without limiting the generality of the foregoing, Lessor hereby waives any statutory or common law lien that it might otherwise have in or to the System and other System Assets or any portion thereof.

(c) The lien of any third party mortgagee, deed holder, or party to any security document shall not cover the System, any System Assets or Lessee’s moveable trade fixtures or other personal property of Lessee located in or on the Premises.

(d) Notwithstanding anything to the contrary in the Agreement or Site Lease, Lessor and Lessee acknowledge and agree that the System is not a fixture and Lessor agrees that it will not claim, assert or assist any other entity in claiming or asserting that the System is a fixture. Lessee will have the right to remove the System in accordance with the Agreement.

Section 4. Provisions Binding on Lessor and Lessee. All of Lessor and Lessee's obligations under the Site Lease, both affirmative and negative, are intended to and shall be binding on Lessor and Lessee, respectively, in accordance with their terms and shall be binding on their respective successors and permitted assigns and shall inure to the benefit of the Parties thereto and their respective successors and permitted assigns. All capitalized terms not otherwise defined herein shall have the same definition as set forth in the Site Lease or if not defined therein, as defined in the Agreement.

Section 5. Purpose of Memorandum. This Memorandum is prepared for the purpose of recordation only to give third parties notice of the Site Lease. It shall not constitute an amendment or modification of the Site Lease and in the event of any conflict between the terms and provisions of the Agreement or the Site Lease and this Memorandum, the terms and provisions of the Agreement, first, and then the provisions of the Site Lease shall control.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum as of the date set forth above.

“LESSEE:”

CALIFORNIA SOLAR 3, LLC
a Delaware limited liability company

By: _____
Name: _____
Title: _____

“LESSOR:”

Yucaipa Valley Water District, a County Water District

By: _____
Name: _____
Title: _____

CERTIFICATE OF ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE _____)

COUNTY OF _____)

On _____, 202__, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of _____ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Notary Seal)

CERTIFICATE OF ACKNOWLEDGEMENT continued

STATE OF ILLINOIS)
COUNTY OF COOK)

On this, the ___ day of _____, 2021, before me, _____, a notary public, personally appeared _____, a duly authorized company representative of

California Solar 3, LLC

known to me (or who proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person(s) acted, executed the instrument for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

_____, Notary Public (Seal)

EXHIBIT A

THE PROPERTY

Address: 880 W County Line Road, Calimesa, CA 92320

Legal Description:¹

¹ Legal Description to be added upon receipt of Preliminary Title Reports

EXHIBIT B**THE PREMISES AND EASEMENTS**

Supplier will cause EPC Contractor to design, engineer, and install photovoltaic power generating systems (System) at the Premises as provided in the table below:

Solar Generating Facilities to be Installed

Facility	Description	Address	Approximate System Size (kW DC)
RWRF	Solar Photovoltaic Fixed-tilt Ground Mounted Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRF)	880 West County Line Road, Calimesa, CA 92320	4,002.7 kW DC
RWRF	Battery Energy Storage and Microgrid Controls Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRF)	880 West County Line Road, Calimesa, CA 92320	1,766.7 kW / 7,066.8 kWh
RWRF	Natural Gas Backup Generator Installation at the Henry N Wochholz Regional Water Recycling Facility (RWRF)	880 West County Line Road, Calimesa, CA 92320	1,750 kW

Board Reports and Comments



Yucaipa Valley Water District



FACTS ABOUT THE YUCAIPA VALLEY WATER DISTRICT

Service Area Size: 40 square miles (sphere of influence is 68 square miles)

Elevation Change: 3,140 foot elevation change (from 2,044 to 5,184 feet)

Number of Employees: 5 elected board members
72 full time employees

FY 2020-21 Operating Budget: Water Division - \$16,716,488
Sewer Division - \$12,869,897
Recycled Water Division - \$1,270,360

Number of Services: 14,440 drinking water connections serving 19,355 units
14,363 sewer connections serving 21,429 units
695 recycled water connections serving 845 units

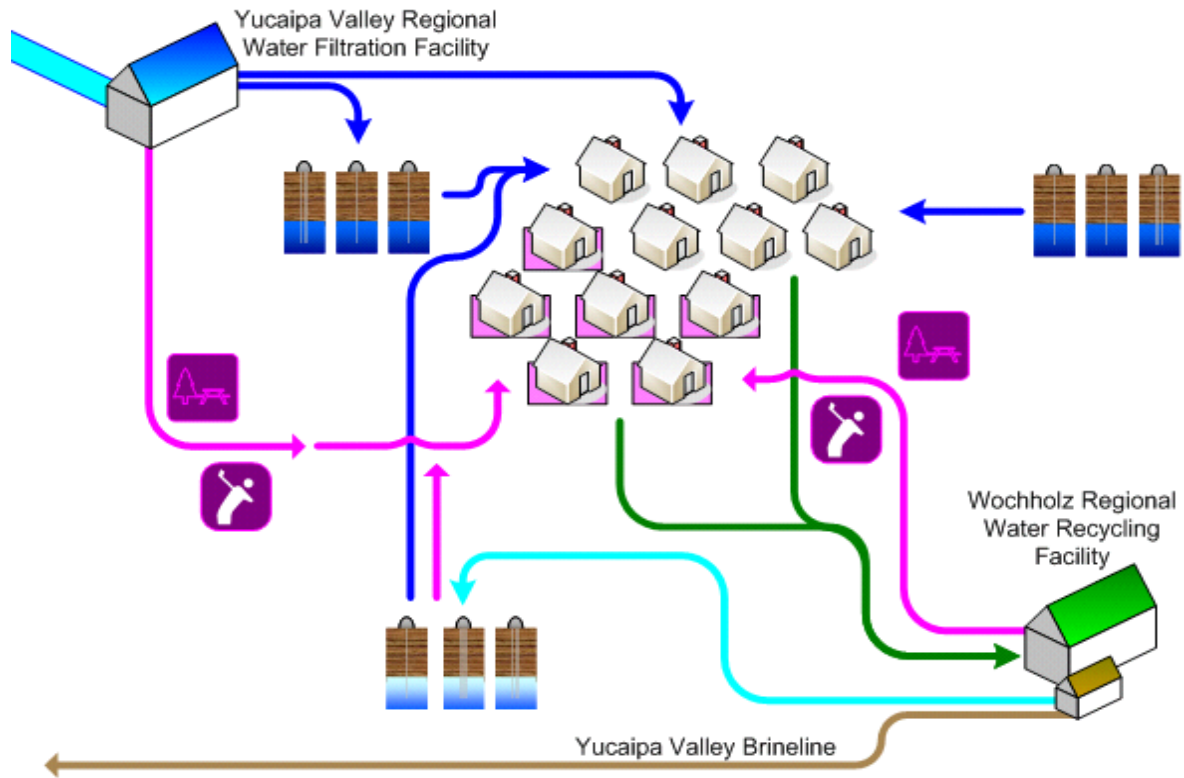
Water System: 234 miles of drinking water pipelines
2,103 fire hydrants
27 reservoirs - 34 million gallons of storage capacity
18 pressure zones
3.376 billion gallon annual drinking water demand
Two water filtration facilities:
- 1 mgd at Oak Glen Surface Water Filtration Facility
- 12 mgd at Yucaipa Valley Regional Water Filtration Facility

Sewer System: 8.0 million gallon treatment capacity - current flow at 4.0 mgd
222 miles of sewer mainlines
4,639 sewer manholes
7 sewer lift stations
1.46 billion gallons of recycled water produced per year

Recycled Water: 32 miles of recycled water pipelines
5 reservoirs - 12 million gallons of storage
0.623 billion gallon annual recycled water demand

Brine Disposal: 2.2 million gallon desalination facility at sewer treatment plant
1.756 million gallons of Inland Empire Brine Line capacity
0.595 million gallons of treatment capacity in Orange County

Sustainability Plan: A Strategic Plan for a Sustainable Future: The Integration and Preservation of Resources, adopted on August 20, 2008.



Typical Rates, Fees and Charges:

- Drinking Water Commodity Charge:

1,000 gallons to 15,000 gallons	\$1.579 per each 1,000 gallons
16,000 gallons to 60,000 gallons	\$2.131 per each 1,000 gallons
61,000 gallons to 100,000 gallons	\$2.435 per each 1,000 gallons
101,000 gallons or more	\$2.668 per each 1,000 gallons

- Recycled Water Commodity Charge:

1,000 gallons or more	\$1.760 per each 1,000 gallons
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- Water Meter Service Charge (Drinking Water or Recycled Water):

5/8" x 3/4" Water Meter	\$16.00 per month
1" Water Meter	\$26.72 per month
1-1/2" Water Meter	\$53.28 per month

- Sewer Collection and Treatment Charge:

Typical Residential Charge	\$44.21 per month
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State Water Contractors: San Bernardino Valley Municipal Water District
San Gorgonio Pass Water Agency



	San Bernardino Valley Municipal Water District	San Gorgonio Pass Water Agency
Service Area Size	353 square miles	222 square miles
Table "A" Water Entitlement	102,600 acre feet	17,300 acre feet
Imported Water Rate	\$125.80 / acre foot	\$399 / acre foot
Tax Rates for FY 2019-20	\$0.1425 per \$100	\$0.1775 per \$100
Number of Board Members	Five (5)	Seven (7)
Operating Budget FY 2020-21	\$48,519,000	\$8,692,000

Imported Water Charges (Pass-through State Water Project Charge)

- San Bernardino Valley Municipal Water District - Customers in San Bernardino County or City of Yucaipa pay a pass-through amount of \$0.270 per 1,000 gallons.
- San Gorgonio Pass Water Agency - Customers in Riverside County or City of Calimesa pay a pass-through amount of \$0.660 per 1,000 gallons. A rate change of up to \$0.857 per 1,000 gallons is pending future consideration by YVWD.





GLOSSARY OF COMMONLY USED TERMS

Every profession has specialized terms which generally evolve to facilitate communication between individuals. The routine use of these terms tends to exclude those who are unfamiliar with the particular specialized language of the group. Sometimes jargon can create communication cause difficulties where professionals in related fields use different terms for the same phenomena.

Below are commonly used water terms and abbreviations with commonly used definitions. If there is any discrepancy in definitions, the District's Regulations Governing Water Service is the final and binding definition.

Acre Foot of Water - The volume of water (325,850 gallons, or 43,560 cubic feet) that would cover an area of one acre to a depth of 1 foot.

Activated-Sludge Process - A secondary biological wastewater treatment process where bacteria reproduce at a high rate with the introduction of excess air or oxygen and consume dissolved nutrients in the wastewater.

Annual Water Quality Report - The document is prepared annually and provides information on water quality, constituents in the water, compliance with drinking water standards and educational material on tap water. It is also referred to as a Consumer Confidence Report (CCR).

Aquifer - The natural underground area with layers of porous, water-bearing materials (sand, gravel) capable of yielding a supply of water; see Groundwater basin.

Backflow - The reversal of water's normal direction of flow. When water passes through a water meter into a home or business it should not reverse flow back into the water mainline.

Best Management Practices (BMPs) - Methods or techniques found to be the most effective and practical means in achieving an objective. Often used in the context of water conservation.

Biochemical Oxygen Demand (BOD) - The amount of oxygen used when organic matter undergoes decomposition by microorganisms. Testing for BOD is done to assess the amount of organic matter in water.

Biosolids - Biosolids are nutrient rich organic and highly treated solid materials produced by the wastewater treatment process. This high-quality product can be recycled as a soil amendment on farmland or further processed as an earth-like product for commercial and home gardens to improve and maintain fertile soil and stimulate plant growth.

Capital Improvement Program (CIP) - Projects for repair, rehabilitation, and replacement of assets. Also includes treatment improvements, additional capacity, and projects for the support facilities.

Certificate of Participation (COP) – A type of financing where an investor purchases a share of the lease revenues of a program rather than the bond being secured by those revenues.

Coliform Bacteria - A group of bacteria found in the intestines of humans and other animals, but also occasionally found elsewhere used as indicators of sewage pollution. E. coli are the most common bacteria in wastewater.

Collections System - In wastewater, it is the system of typically underground pipes that receive and convey sanitary wastewater or storm water.

Conjunctive Use - The coordinated management of surface water and groundwater supplies to maximize the yield of the overall water resource. Active conjunctive use uses artificial recharge, where surface water is intentionally percolated or injected into aquifers for later use. Passive conjunctive use is to simply rely on surface water in wet years and use groundwater in dry years.

Consumer Confidence Report (CCR) - see Annual Water Quality Report.

Contaminants of Potential Concern (CPC) - Pharmaceuticals, hormones, and other organic wastewater contaminants.

Cross-Connection - The actual or potential connection between a potable water supply and a non-potable source, where it is possible for a contaminant to enter the drinking water supply.

Disinfection by-Products (DBPs) - The category of compounds formed when disinfectants in water systems react with natural organic matter present in the source water supplies. Different disinfectants produce different types or amounts of disinfection byproducts. Disinfection byproducts for which regulations have been established have been identified in drinking water, including trihalomethanes, haloacetic acids, bromate, and chlorite

Drought - a period of below average rainfall causing water supply shortages.

Fire Flow - The ability to have a sufficient quantity of water available to the distribution system to be delivered through fire hydrants or private fire sprinkler systems.

Gallons per Capita per Day (GPCD) - A measurement of the average number of gallons of water use by the number of people served each day in a water system. The calculation is made by dividing the total gallons of water used each day by the total number of people using the water system.

Groundwater Basin - An underground body of water or aquifer defined by physical boundaries.

Groundwater Recharge - The process of placing water in an aquifer. Can be a naturally occurring process or artificially enhanced.

Hard Water - Water having a high concentration of minerals, typically calcium and magnesium ions.

Hydrologic Cycle - The process of evaporation of water into the air and its return to earth in the form of precipitation (rain or snow). This process also includes transpiration from plants, percolation into the ground, groundwater movement, and runoff into rivers, streams, and the ocean; see Water cycle.

Levels of Service (LOS) - Goals to support environmental and public expectations for performance.

Mains, Distribution - A network of pipelines that delivers water (drinking water or recycled water) from transmission mains to residential and commercial properties, usually pipe diameters of 4" to 16".

Mains, Transmission - A system of pipelines that deliver water (drinking water or recycled water) from a source of supply to the distribution mains, usually pipe diameters of greater than 16".

Meter - A device capable of measuring, in either gallons or cubic feet, a quantity of water delivered by the District to a service connection.

Overdraft - The pumping of water from a groundwater basin or aquifer in excess of the supply flowing into the basin. This pumping results in a depletion of the groundwater in the basin which has a net effect of lowering the levels of water in the aquifer.

Pipeline - Connected piping that carries water, oil, or other liquids. See Mains, Distribution and Mains, Transmission.

Point of Responsibility, Metered Service - The connection point at the outlet side of a water meter where a landowner's responsibility for all conditions, maintenance, repairs, use and replacement of water service facilities begins, and the District's responsibility ends.

Potable Water - Water that is used for human consumption and regulated by the California Department of Public Health.

Pressure Reducing Valve - A device used to reduce the pressure in a domestic water system when the water pressure exceeds desirable levels.

Pump Station - A drinking water or recycled water facility where pumps are used to push water up to a higher elevation or different location.

Reservoir - A water storage facility where water is stored to be used at a later time for peak demands or emergencies such as fire suppression. Drinking water and recycled water systems will typically use concrete or

steel reservoirs. The State Water Project system considers lakes, such as Shasta Lake and Folsom Lake to be water storage reservoirs.

Runoff - Water that travels downward over the earth's surface due to the force of gravity. It includes water running in streams as well as over land.

Santa Ana River Interceptor (SARI) Line - A regional brine line designed to convey 30 million gallons per day (MGD) of non-reclaimable wastewater from the upper Santa Ana River basin to Orange County Sanitation District for treatment, use and/or disposal.

Secondary treatment - Biological wastewater treatment, particularly the activated-sludge process, where bacteria and other microorganisms consume dissolved nutrients in wastewater.

Service Connection - The water piping system connecting a customer's system with a District water main beginning at the outlet side of the point of responsibility, including all plumbing and equipment located on a parcel required for the District's provision of water service to that parcel.

Sludge - Untreated solid material created by the treatment of wastewater.

Smart Irrigation Controller - A device that automatically adjusts the time and frequency which water is applied to landscaping based on real-time weather such as rainfall, wind, temperature, and humidity.

South Coast Air Quality Management District (SCAQMD) - Regional regulatory agency that develops plans and regulations designed to achieve public health standards by reducing emissions from business and industry.

Special district - A form of local government created by a local community to meet a specific need. Yucaipa Valley Water District is a County Water District formed pursuant to Section 30000 of the California Water Code

Supervisory Control and Data Acquisition (SCADA) - A computerized system which provides the ability to remotely monitor and control water system facilities such as reservoirs, pumps, and other elements of water delivery.

Surface Water - Water found in lakes, streams, rivers, oceans, or reservoirs behind dams. In addition to using groundwater, Yucaipa Valley Water District receives surface water from the Oak Glen area.

Sustainable Groundwater Management Act (SGMA) - Pursuant to legislation signed by Governor Jerry Brown in 2014, the Sustainable Groundwater Management Act requires water agencies to manage groundwater extractions to not cause undesirable results from over production.

Transpiration - The process by which water vapor is released into the atmosphere by living plants.

Trickling filter - A biological secondary treatment process in which bacteria and other microorganisms, growing as slime on the surface of rocks or plastic media, consume nutrients in wastewater as it trickles over them.

Underground Service Alert (USA) - A free service (<https://www.digalert.org>) that notifies utilities such as water, telephone, cable and sewer companies of pending excavations within the area (dial 8-1-1 at least 2 working days before you dig).

Urban runoff - Water from city streets and domestic properties that carry pollutants into the storm drains, rivers, lakes, and oceans.

Valve - A device that regulates, directs, or controls the flow of water by opening, closing, or partially obstructing various passageways.

Wastewater - Any water that enters the sanitary sewer.

Water Banking - The practice of actively storing or exchanging in-lieu surface water supplies in available groundwater basin storage space for later extraction and use by the storing party or for sale or exchange to a third party. Water may be banked as an independent operation or as part of a conjunctive use program.

Water Cycle - The continuous movement water from the earth's surface to the atmosphere and back again.

Water Pressure - Water pressure is created by the weight and elevation of water and/or generated by pumps that deliver water to customers.

Water Service Line - A water service line is used to deliver water from the Yucaipa Valley Water District's mainline distribution system.

Water table - the upper surface of the zone of saturation of groundwater in an unconfined aquifer.

Water transfer - a transaction, in which a holder of a water right or entitlement voluntarily sells/exchanges to a willing buyer the right to use all or a portion of the water under that water right or entitlement.

Watershed - A watershed is the region or land area that contributes to the drainage or catchment area above a specific point on a stream or river.

Water-Wise House Call - a service which provides a custom evaluation of a customer's indoor and outdoor water use and landscape watering requirements.

Well - a hole drilled into the ground to tap an underground aquifer.

Wetlands - lands which are fully saturated or under water at least part of the year, like seasonal vernal pools or swamps.





COMMONLY USED ABBREVIATIONS

AQMD	Air Quality Management District
BOD	Biochemical Oxygen Demand
CARB	California Air Resources Board
CCTV	Closed Circuit Television
CWA	Clean Water Act
EIR	Environmental Impact Report
EPA	U.S. Environmental Protection Agency
FOG	Fats, Oils, and Grease
GPD	Gallons per day
MGD	Million gallons per day
O & M	Operations and Maintenance
OSHA	Occupational Safety and Health Administration
POTW	Publicly Owned Treatment Works
PPM	Parts per million
RWQCB	Regional Water Quality Control Board
SARI	Santa Ana River Inceptor
SAWPA	Santa Ana Watershed Project Authority
SBVMWD	San Bernardino Valley Municipal Water District
SCADA	Supervisory Control and Data Acquisition system
SGMA	Sustainable Groundwater Management Act
SSMP	Sanitary Sewer Management Plan
SSO	Sanitary Sewer Overflow
SWRCB	State Water Resources Control Board
TDS	Total Dissolved Solids
TMDL	Total Maximum Daily Load
TSS	Total Suspended Solids
WDR	Waste Discharge Requirements
YVWD	Yucaipa Valley Water District